INDUSTRIAL RELATIONS RESEARCH ASSOCIATION SERIES

Proceedings of the Forty-Eighth Annual Meeting

January 5-7, 1996
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Paula B. Voos, Editor

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PREFACE

The 48th Annual Meeting of the Industrial Relations Research Association was held in San Francisco, California, January 5-7, 1996. Many attendees experienced an unanticipated extension of their stay in beautiful San Francisco when a major snowstorm closed virtually all airports in the Northeast. Others were not as fortunate and wound up stranded en route at airports in Chicago, Dallas, and Minneapolis.

The San Francisco meetings were memorable not only to those trying to return to the East Coast but to all of those who attended the impressive array of more than thirty symposium and workshop sessions. Topics ranged from historical perspectives on the Wagner Act to workplace redesign in the service sector, from industrial restructuring and training initiatives to African-American IR scholarship. Workshops on employee ownership and profit sharing, gender and arbitration, the contingent workforce, employment ADR, labor relations in the San Francisco hospitality industry, and a training session on conducting workplace investigations were particularly well attended. The heads of the NLRB, NMB, and FMCS participated in a distinguished panel addressing developments at their respective agencies. Labor and work folk singer Joe Glazer entertained attendees with a medley of historical and current ballads.

The *Proceedings of the 48th Annual Meeting* contain several special features. In addition to our customary Refereed Papers competition, paper presenters in all sessions were offered the opportunity to compete for publication of a longer length paper. As a result, the Proceedings contain three longer papers by Carol Haddad, Edward Gullason, and Frits Pil and John Paul MacDuffie. In addition, a report by the IRRA Committee on NAFTA appears at the conclusion of the volume. The committee, chaired by Anil Verma, was appointed by IRRA President Walt Gershenfeld to report to the membership on developments related to free trade and its consequences for labor and industrial relations.

The Association has published 48 volumes of papers presented at the annual meeting. It is a major undertaking each year and involves the substantial contribution of the authors, editors, and production staff. In particular, we recognize the meticulous copyediting of Proceedings Copyeditor Jeanette Zimmerman and the exceptional production work of Michael Dolan, Joan Forman, and Dona Lewis at Pantagraph Printing, Bloomington, Illinois. It is no small task to copyedit, proofread, and produce a single,

unified volume from the papers of more than 125 authors submitted in different computer formats, reference styles, and grammatical structures. We thank Jeanette and the Pantagraph staff for their tireless efforts.

Kay B. Hutchison
Administrator and Managing Editor

Paula B. Voos
Editor-in-Chief

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IRRA ANNUAL REPORTS

I. PRESIDENTIAL ADDRESS

Future Industrial Relations: A Guide for the Perplexed

WALTER J. GERSHENFELD
Arbitrator

There's the story of the three decision makers who happen to be baseball umpires explaining how they make decisions. The first one says, "I call them as I see them." The second retorts, "I call them as they are." The third appears to look down at the other two as he explains, "They are as I call them." I won't claim either the perfection of the second or the influence of the third, but I can promise to stay close to the message of the first umpire.

In this address, I will examine some of the significant changes in labor and management affecting labor relations, the evolving social contract, checking for life in the Dunlop Commission Report, particularly part 3 which calls for greater use of alternative dispute resolution (ADR) in employment disputes, examining aspects of education and training, and a possible greater role for the Federal Reserve Board in employment stimulation. Finally, I will highlight the utility of IRRA input as we face globalization and changing governmental priorities involving all aspects of industrial relations.

Changes in Labor and Management

I begin with the observation that labor and management exhibit confusion in the way they function in today's industrial relations environment. Most observers agree that the central labor federation, the AFL-CIO, gradually lost influence in promoting labor's interests over the past twenty or more years. This occurred when many decentralized, constituent unions were losing membership and were not able to pick up the slack. There were, of course, exceptions in creative efforts despite membership loss, such as the Steelworkers. However, the new leadership of the AFL-CIO,

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spearheaded by John Sweeney of the relatively dynamic Service Employees International Union, recognizes the need for a strong centralized effort if ground is to be regained in organization and collective bargaining. In passing, I note the delicate balance between the international unions who need centralized help and the proposed new megaunion composed of the former International Association and Machinists, United Automobile Workers, and United Steelworkers of America. It will be able to function with far more decentralized authority than the rest of the labor movement.

The labor movement, to be successful, will have to give more than lip service to new approaches and markets. The approximately thirty million individuals who do some or all of their work at home, inclusive of part-time and contingent workers, count many who can benefit from a well-thought-out associate membership program. It would include health insurance and pension coverage made available at reasonable cost through unions. While the labor movement may not be able to achieve bargaining rights for many of these employees, labor can be an important voice in promoting their concerns with management and government. For example, too many new Ph.D.s are living a marginal existence teaching at part-time rates at three or four colleges and universities. Through the American Federation of Teachers, the National Education Association, and the American Association of University Professors, labor can provide needed voice.

One important area in which unions can have greater involvement is advocacy in arbitration for unorganized employees under employer-promulgated ADR plans for discharge cases. Labor, to be successful, will also need to walk away from confrontational tactics designed to bring the public into disputes. Increasingly, the public perceives unions as a business and not as a movement, and tactics will have to be adjusted accordingly. Bridge building is not the same as bridge blocking. Positive labor stories such as those chronicled by Art Shostak in *For Labor's Sake* need to become more common.

We should keep an eye on a French import. The general strike has not been a major factor in this country, but a coalition of labor and students could be powerful. We have, unfortunately, households where the breadwinner(s) are out of work, and a child or children face unconscionably high tuition bills. That's a formula for trouble.

Management has a problem as to who speaks for it. There was a time when the National Association of Manufacturers (NAM) was clearly the central voice for management in labor relations. Today we have a variety of trade associations—the NAM, Chambers of Commerce, Round Table, Labor Policy Association, and others—speaking for management. I note that the Labor Policy Association is growing in stature as a management voice.

The management message is somewhat mixed. Much of management perceives use of skilled legal talent as the answer to efforts to unionize the workforce. The lesson has been driven home that delay in defining the bargaining unit, holding elections and, if the union still manages to be successful, delay in negotiating a first agreement can negate the efforts of unions. The other side of the picture is management's recognition of the importance of unleashing the contributions to productivity, quality, and safety which can best come from the workforce on the shop, office, or other floor, particularly with union assistance when a union is present. There is at least some doublespeak when management says, "We value your input, but it's best made without the presence of union, even if you want one."

A background issue today is the social contract. The old one stated that if you work hard, the company will respect your contribution with pay, benefits, and retirement. Obviously, it was not universal, but it was sufficiently present to be meaningful. Now with takeovers and globalization, the contract at one extreme is that you're being paid to work today, and there is little more that you can expect from a future which management may not be able to control. Nevertheless, there is a continuum to a new type of positive social contract for today's world. The new, healthy social contract, still rare, says we will try to pay you fairly, keep you informed (open-books management), seek your input, and help you with notice (perhaps beyond that required by WARN—Worker Adjustment and Retraining Notification Act). We will also try to segment your retirement coverage (beyond that required by ERISA—Employee Retirement and Income Security Act) to protect your interest in that area. In exchange, we expect your best efforts.

The positive social contract recognizes that capital and technology can and will flow among nations. The big difference in global competition may well be people and the environment in which they work.

It's interesting to note that the International Labor Organization (ILO) is promoting a social clause in conventions and agreements signed by member countries. The clause requires the countries involved to avoid unacceptable social behavior in the workplace such as sweatshops and child labor. The latter is a growing concern as weaker developed nations try to catch up to the nations that are moving ahead to meaningful industrialization. Secretary of Labor Robert Reich has indicated his support for fair competition, particularly in the needle trades. The complex dimensions of the problem can be seen when I tell you that Levi Strauss, maker of the famous jeans, uses more than 600 subcontractors in many parts of the world. Fortunately, they have been a leader in standard setting. I note that NAFTA (North America Free Trade Agreement) calls for proper labor standards in member countries.

Dunlop Commission Report

In the midst of these developments, the Commission on the Future of Worker-Management Relations, the so-called Dunlop Commission, was formed three years ago. The commission recognized an opportunity to bring management and labor together in parts 1 and 2 of the commission charge. Part 1 emphasized new cooperative approaches for enhancing workplace productivity, and part 2 stressed better methods of structuring collective bargaining and improving the opportunity for employee choice for collective bargaining representation. The commission did not deal with striker replacements, but the commission hoped that labor and management would see tradeoffs in parts 1 and 2, facilitating both a more productive society and one in which employee voice could be exercised, if desired. So far, it hasn't worked.

Part 1 stemmed from the key National Labor Relations Board (NLRB) *Electromation*[1] decision. The NLRB found that a company violated Section 8(a)(2) of the Labor Management Relations Act when it sponsored an independent group to improve productivity and quality when a union was present. Section 8(a)(2) was originally written to stop the employer practice of creating company unions as a device to avoid unionization. The problem today is that many of these new company-formed groups were not formed to avoid unionization. Basically, they were established to enhance productivity and quality in a high-performance, competitive market. The Dunlop Commission felt that so long as these plans/committees are not used as a device to avoid unionization, they can serve a useful function.

Meanwhile, unions had been suffering from a string of NLRB decisions which hampered their organizational efforts. Illustrative is *Lechmere*,[2] which denied union access to employees in a supermarket parking lot. Other emerging work locales, such as shopping centers, also create access problems for unions. Even with access, unions found management's legal talent successful in delaying representational elections and making it difficult to achieve a first agreement if organizational efforts managed to be effective. The commission recommended better access, quicker elections, and raised the possibility of compulsory arbitration for first agreements.

As noted earlier, the reaction was a hostile one from both parties. Neither would give an inch in order to gain something it needed. Jeffrey McGuinness, president of the Labor Policy Association said, "We would like public policy to support workplace changes." David Silberman, director of the AFL-CIO's Task Force on Labor Law, took the position that "we oppose such a change in 8(a)(2) on principle, and there will be no compromise."

Most observers feel that the election of a Republican Congress shortly before the issuance of the Dunlop Commission Report ended any chance for a negotiated arrangement. It is assumed that the parties will now pursue their agendas separately. In fact, that is exactly what has happened with the new Congress. A pending Republican-sponsored proposal (termed TEAM) permits employers to establish consultative groups without almost automatically violating 8(a)(2). The original proposal did not distinguish between union and nonunion situations, but that has been changed.

In any event, my expectation is that until and unless both labor and management develop a level of maturity, which is not now present, and realize that they are not in a zero-sum environment, we will see exclusionary proposals from each side over the next decade. Assuming that, at some time late in this century or early in the next, each party elects both a president and a Congress, there will be legislative changes favoring each side's agenda. The prognosis is not good from the point of view of stability, in that whatever is achieved by one party will be a target for undoing by the other. Again, I believe both labor and management can gain from an effective tradeoff, just the thing envisioned by John Dunlop and other commission members. Like many fact-finding reports initially rejected by both parties, the Dunlop Report may yet become the basis for a reasonable settlement of the real interests of the parties.

Curiously, part 3 of the Dunlop Report may turn out to be the most important aspect of the report. The commission recommends greater use of ADR in dispute resolution for both statutory and nonstatutory disputes. The underlying concerns were dismissals under the employment-at-will doctrine and the growing backlog of cases faced by regulatory agencies (over 100,000 in the case of the Equal Employment Opportunity Commission—EEOC). Management is split on part 3. Some officials see it as a reasonable way to end employee suits, many of which have resulted in high-price judgments or settlements. Others feel it would represent an unwarranted intrusion on a management right. Labor started out with a uniform point of view that such plans were thinly veiled devices to prevent unionization by usurping a primary role of unions; that is, representation of employees in the grievance procedure. That position is changing as some unions conclude that representation of nonunion employees in discharge cases can be an effective organizing tool.

The Dunlop Commission enhanced union interest when it introduced quality standards including equal access by both sides to choice of an advocate as well as an arbitrator. A recent protocol for statutory disputes, sponsored by a number of concerned organizations, made the same points about access to neutrals and advocates. There is a problem, in my estimation, in

that the *Gilmer*[3] decision provides for finality under a preemployment agreement to use arbitration in a statutory dispute. I believe the previous *Gardner-Denver*[4] approach of leaving a statutory right open after arbitration is more appropriate and likely to win the day.

Earlier, there was a well-thought-out proposal that encouraged states to adopt model employment legislation, but it has not caught on. My best guess is that whatever legislation takes place in the employment-at-will area will be national legislation. I note that national legislation would be in line with ILO Convention 158, which calls for just cause dismissals and has been adopted by many industrialized nations. We're conspicuous in our failure to adopt ILO conventions, and this might be a good place and time to change the situation.

Employment and Training

The concerns here include finding work, making certain it is performed under fair labor standards, and achieving a sound retirement. Affirmative action is a current issue under dispute with regard to finding work. The problem here is that affirmative action is a catchall phrase used to cover everything from recruitment to selection and upgrading. The distinction is important in that all parties, from the most conservative to liberal, should be in agreement about recruitment. That is, all members of the relevant employment universe should have a reasonable opportunity to be in the pool from which individuals are selected for hire or upgrading. The fact that all people have a chance to be considered should not be in question. Whatever we choose to do as a society with regard to targets, quotas, or set asides warrants full discussion.

The workplace emphasis in the United States lately has been on high-performance firms and workplace teams. Flexibility in learning and doing a variety of jobs has been critical, particularly in areas involving substantial skill. Clearly, we will proceed down these paths, but two cautions are in order.

One, while my observations are admittedly subjective and stem from arbitral exposure to workplaces, I find that perhaps 20% to 25% of skilled-trade personnel, particularly in maintenance crafts, do not want to be cross-trained. Yes, a carpenter is now willing to throw an electrical switch, but a number of current craftspersons are proud of their skill and are willing to forego a premium to concentrate on their craft. At the least for this generation, this will have to be considered as we plan high-performance workplaces.

Second is that despite what I said above, we must make more progress in getting away from strict craft (academics read "departmental") training

lines. As a Nobel prize winner once said, "I'm not a donkey. I don't have a field." Also, while we are moving ahead, we must have more compact apprenticeships. I serve on the board of a Philadelphia organization concerned with employment and training. One of our most popular programs is a six-month machinist training opportunity. We have a diverse universe of individuals in the program, but the best performers have been the Asian-American immigrants, particularly individuals from Cambodia and Laos. Following necessary remediation, they come to the machinist program early in the morning, work through their breaks eagerly, take a minimum time for lunch, and employers are hiring them after three months as competent, if introductory, machinists. The effort suggests that dedication and concern, à la Horatio Alger, can pay off in shorter time frames. Check with someone near you with gray hair if Horatio Alger is not instantly familiar.

Let me enter a footnote about language remediation. In the agency we have the most sophisticated approaches imaginable available for the teaching of English, including computer programs. However, a staff member came up with a simple device which has had an important effect on our work with individuals needing language remediation. One of the first things an immigrant wishes is a driver's license. We have lots of training manuals, but our trainer reasoned properly that an immigrant needed to learn things from the Pennsylvania Driver's Manual in order to obtain a driver's license. Accordingly, we use the driver's manual in our language program, and we get a superb response from the trainees.

This brings me to the fact that we have a large number of individuals in our society who require some form of remedial assistance if they are to be employable. I've begun that part of the discussion with language remediation, but there are many individuals with other disabilities affecting their role in the workplace. These include the physically and mentally disabled as well as those with educational limitations. I don't know of any accurate count of these individuals, but I believe we can agree that we are dealing with millions, and the strategy for a high-performance workplace is simply not appropriate for these groups. The American with Disabilities Act provides for some workplace adjustments for the disabled, but it does not offer the training support needed to fully integrate the educationally disabled into the workplace. The sad part of the story is that we have learned so many applicable lessons, but we need the will (and some bucks) to make them effective.

To illustrate, under the unfelicitously named Manpower Development and Training Act (MDTA) in the '60s, we learned about upgrading the

large number of individuals who were then part of what were known as labor pools in companies. Typically, the next job up from the labor pool was a semiskilled position, often beyond the educational attainment of labor-pool members. We discovered that semiskilled jobs could be broken into components. Labor-pool members could be taught, reasonably expeditiously, to perform one of these components, frequently on company time. The ability to handle a better-paying job often led the individual to pursue additional education and training on the individual's own time.

We have some service positions for which such an approach could be useful. We frequently look down our noses at low-paying service jobs such as are found in the fast-food industry, but there are a substantial number of individuals for whom these are an important part of becoming self-sufficient, albeit at a minimum level. In many cases the company involved can provide limited training resources, often not enough for individuals with disabilities. Our agency's work with disabled individuals has led us to a coaching and ghost approach.

With the cooperation of the hiring organization, one of our staff members becomes adept at performing all nonmanagerial positions in a fast-food restaurant. The employer agrees to hire referred individuals whose performance we guarantee. We prepare them at the worksite for a limited number of duties on a kind of coaching basis. The coach fades away as mastery occurs and then reappears to assist the employee with a new set of duties. The approach works, and all involved are pleased with it.

There is an underlying value in these training efforts which requires verbalization. It states that high performance is not enough if we are going to be a successful society meeting the workplace needs of its members. We must also be a *high-inclusion society.*

Macro Concern

We came out of World War II with the recognition that the high employment levels achieved during the War were not sustainable. The memory of significant, double-digit unemployment rates from the Great Depression were very much with us. Keynesian emphasis on purchasing power was present. Accordingly, it was no surprise when the Employment Act of 1946 was passed and signed into law calling for the federal government to promote "maximum employment." I note that an earlier version of the bill was termed the Full Employment Act, but nevertheless, the successful law requires a major role for the federal government in maximizing employment.

Let's add to the mix the Humphrey-Hawkins Act. The official name for the law is the Full Employment and Balanced Growth Act of 1978. The law is concerned with both employment and inflation. It requires the president

and the Federal Reserve Board to present annual plans to Congress for containing inflation and growing employment. True, flexibility in dealing with these goals is present, but my concern is that the Fed has taken the "easy" way out and concentrated on inflation at the expense of employment.

Every student of introductory macro economics hears the professor explain that we know how to maximize employment, and we know how to contain inflation. The problem involves balancing the often contradictory ends simultaneously. My charge here is that the Federal Reserve Board, which has done a magnificent job in the inflation area, has not properly addressed its responsibility as to employment.

In this time of budgetary concerns, the Fed should be a voice in government for the maintenance of high levels of employment as well as inflation control. There are some employment emanations from the Federal Reserve Board, but I submit the time has come for it to move employment to a major priority. Their proper governmental role is particularly poignant when we consider the likelihood of layoffs of large numbers of government employees in the near future. With the rationalizing cutbacks and downsizing affecting many employees in private firms, we have a new underclass of capable individuals with little support for their reappearance in the world of work. The Fed, instead of trying to avoid this responsibility, should be leading in trying to meet it.

IRRA's Role

We at the IRRA are fortunate in that we are probably the single most appropriate organization to deal with boundary-crossing concerns such as I have covered above. Although labor economists and human resource professionals, for example, may have an additional organizational identification elsewhere, we provide one of the best opportunities for them to try their ideas and research out on the diverse parties and specialists in the field.

Our work will and should be important as government examines and reexamines its task in everything from labor and employment law to defining its goals and priorities. Our panels will be considering the questions of today which include the degree to which globalization is a force and/or of what type in the labor/employment world. We will also be examining the impact of employee involvement in production, quality, and safety, and the overall effect on what has been termed the transformation of industrial relations. We need to consider questions ranging from reductions in Bureau of Labor Statistics programs to a reasoned look at the now vulnerable role of labor attachés.

I'm pleased that we have begun some of this work systematically by such measures as establishing a North American Free Trade Agreement

Committee to provide us with annual data. We also have an IRRA track in the valuable Federal Mediation and Conciliation Service biennial program on labor-management cooperation. We'll keep and expand these efforts.

Finally, I'm aware that some observers believe that loss of one-half of the labor movement justifies our being labeled somewhat irrelevant as an area of study and an organization. First, we cover the full range of industrial relations which is not just labor relations. Second, while we admittedly have a strong emphasis in that area, the relevant point is this: If a phenomenon arrived on the American scene *de novo* with more than fifteen million members and a substantial, derived effect on at least that number and more, society would be awed, and economists, political, and other social scientists would be studying it in depth. Strikes, although far less frequent than before, still cause headlines in our newspapers, and we need to understand their cause and effects.

The IRRA provides information to many constituencies. Among them are decision makers who, regardless of how they make their decisions, should have an opportunity to benefit from our research and analytical contributions. We do not want history to take a dim view of us. Winston Churchill noted, "History will be kind to me. I know, for I intend to write it." IRRA historians, while notable, do not have that luxury.

Endnotes

[1] *Electromation, Inc.*, 309 NLRB No. 163, 1992-93 CCH NLRB 17,609 (1992).

[2] *Lechmere Inc. v. NLRB*, 502 US 527, 112 S.Ct. 841, 117 L.Ed.2d 79 (1992).

[3] *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 55 FEP Cases 1116 (1991).

[4] *Alexander v. Gardner-Denver*, 415 U.S. 36, FEP Cases 81 (1974).

References

American Arbitration Association. Forthcoming. "A Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising Out of the Employment Relationship." *Dispute Resolution Journal.*

Cutcher-Gershenfeld, Joel. 1995. "Labor Relations: The Next Fifty Years." Unpublished paper presented at 50th anniversary celebration of New York State School of Industrial and Labor Relations, December, Philadelphia, PA.

Nair, Keshavan. 1995. "A Clue from Gandhi." *Sky* (May), pp. 26-30.

New York State School of Industrial and Labor Relations. 1995. *Institute of Collective Bargaining* (ICB) Briefings, Vol. 1, no. 2, pp. 3-4.

Shostak, Arthur, ed. 1995. *For Labor's Sake.* Lanham, MD: University Press of America.

U.S. Departments of Labor and Commerce. 1994. *Fact Finding Report: Commission on the Future of Worker-Management Relations.* Washington, DC: U.S. Government.

U.S. Government. 1995. *Summary Report of the Federal Reserve Board to Congress.* Washington, DC: U.S. Government.

II. WAGE INEQUALITY, TRADE, TECHNOLOGY, AND INSTITUTIONS

Skill Intensity and Industrial Price Growth

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The U.S. and most other industrialized countries have experienced a decline in employment of less skilled workers relative to skilled workers in the past two decades.[1] Also, in the last fifteen years many industrialized countries have experienced a rise in relative wages for more highly skilled workers. These trends are consistent with a shift in relative demand in favor of skilled workers. Three primary explanations have been considered for these developments: skill-biased technological change, increased international competition, and institutional changes.

If an expansion in international trade with countries that are relatively abundant in less skilled workers accounts for the inward shift in demand for less skilled workers in the U.S. labor market, the Stolper-Samuelson (1941) theorem would predict that relative prices of goods produced in industries that more intensively use less skilled workers would fall.[2] By contrast, the implications of skill-biased technological change for price growth are *ambiguous*.

Lawrence and Slaughter (1993) examine the relationship between import and export price growth and skill intensity across 30 industries between 1980 and 1989 and find that price growth has been somewhat *slower* in skill-intensive industries. They interpret this finding as evidence that technological change, not international trade, is the main cause of labor market shifts. Bhagwati (1991) reaches a similar conclusion by studying import and export prices. Sachs and Shatz (1994) and Leamer (1993),

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however, conclude that less skill-intensive industries have experienced somewhat slower price growth.

The lack of a strong, positive relationship between price growth and skill intensity is inconsistent with many explanations of labor market shifts, including increased international competition, declining unions, and many forms of technological change. This paper uses newly available Bureau of Labor Statistics (BLS) data on product market prices in finished-goods manufacturing industries to provide further evidence on the relationship between price growth and skill intensity.

Price Growth and Skill Intensity

The estimation models linking price growth to skill intensity used in the previous literature have been rather ad hoc. For example, Lawrence and Slaughter (1993) simply estimate a bivariate regression of price growth on the fraction of workers in an industry who are classified as production workers. One obvious limitation of this model is that production workers' share of sales differs across industries.

If profit is zero (or constant) and technology is stable, price growth in an industry with four inputs—unskilled labor, skilled labor, intermediate goods, and capital—can be written:

$$\dot{P}_i = \alpha_{U_i} \circ \dot{W}_{U_i} + \alpha_{S_i} \circ \dot{W}_{S_i} + \alpha_{I_i} \circ \dot{P}_{I_i} + \alpha_{K_i} \circ \dot{I} \quad , \tag{1}$$

where $\dot{P}_I$ is the proportionate increase in the goods price in industry i, α_U is "unskilled" labor's share of sales, $\dot{W}_U$ is the proportionate growth in wages for unskilled workers, α_S is "skilled" labor's share of sales, $\dot{W}_S$ is the proportionate growth in wages for skilled workers, α_I is intermediate goods' share of sales, $\dot{P}_I$ is the proportionate growth in intermediate goods prices, α_K is capital's share, and $\dot{r}$ is the proportionate growth in the cost of capital.[3] If technology changes, equation (1) would still hold for "effective prices," which subtract off total factor productivity (TFP) growth from goods price growth.

It especially is useful to estimate a random coefficients model, which includes the skilled and unskilled labor shares, instead of their interactions with wage growth:

$$\dot{P}_i = b_1 \alpha_{U_i} + b_2 \alpha_{S_i} + \dot{P}_{I_i} \alpha_{I_i} + \dot{I} \alpha_{K_i} + \varepsilon_i \quad , \tag{2}$$

where the expected values of b_1 and b_2 equal average wage growth of unskilled and skilled workers, respectively. A necessary implication of the Stolper-Samuelson (1941) explanation of trade-induced widening wage

inequality is that prices are growing relatively faster in the skill-intensive industries ($b_2 > b_1$). Furthermore, $b_2 - b_1$ should equal the observed difference in average wage growth between skilled and unskilled workers.

Lastly, notice that the error term, ε in equation (2) arises for several reasons, including sampling errors in price growth, measurement errors in all the variables, omitted inputs, TFP growth, and possible changes in noncompetitive behavior.

Data

Unpublished, publicly available data on prices from the BLS were assembled to examine the price-skill relationship. Goods prices are from the Producer Price Index (PPI) survey for January 1989 and January 1995. This is a survey of 80,000 items. The BLS attempts to adjust prices for changes in the quality of the goods. The items for "finished processor" industries were aggregated by BLS to four-digit SIC industries. There are 163 finished processor industries in total, out of some 450 four-digit SIC manufacturing industries.[4] Additionally, the BLS produced a special tabulation of intermediate goods prices for each industry. Specifically for each industry, intermediate goods prices were calculated as the weighted average of the industry's input prices, with input shares (based on the 1987 input-output tables) serving as weights.

Data on labor's share and intermediate goods' share were derived from the Annual Survey of Manufacturing (ASM). For each industry, labor's and intermediate goods' shares were calculated for 1989, 1990, and 1991, and the average of these three values was used. Capital's share was calculated as one minus the sum of labor's share and intermediate goods' shares. The cost of capital is assumed to equal the prime loan rate in every industry. The share of workers who are production workers is from the ASM. I also calculated the average education of workers for each industry using the Current Population Survey (CPS).[5]

Estimates

Following the previous literature, column 1 of Table 1 presents estimates of price growth equations that include the share of workers in an industry who are production workers as a measure of skill intensity. All regressions are estimated by weighted least squares (WLS), using 1988 sales as weights. In contrast to Lawrence and Slaughter's (1993) findings, the regression shows a negative and highly statistically significant relationship between price growth and the fraction of workers who are production workers. The magnitude of this effect is close to Sachs and Shatz's (1994) estimate. Sachs and Shatz estimate that between 1978 and 1989 the price

TABLE 1
Regressions of Price Growth on Skill Intensity

Independent Variable	Mean [SD]	(1)	(2)	(3)	(4)
Intercept	—	0.164 (0.029)	0.050 (0.031)	0.021 (0.020)	-0.190 (0.091)
Fraction Production Workers	0.708 [0.151]	-0.113 (0.042)	—	—	—
Production Workers' Share	0.112 [0.053]	—	-0.049 (0.135)	—	—
Nonproduction Workers' Share	0.077 [0.056]	—	0.333 (0.121)	—	—
Unskilled Labor's Share (α_u)	0.109 [0.081]	—	—	0.002 (0.007)	—
Skilled Labor's Share (α_s)	0.077 [0.059]	—	—	0.541 (0.105)	—
Average Education Level	12.627 [0.899]	—	—	—	0.021 (0.007)
$\alpha_i \circ \dot{P}_i$	0.061 [0.028]	0.813 (0.244)	0.893 (0.245)	0.891 (0.229)	0.886 (0.243)
$\alpha_k \circ \dot{r}$	-0.052 [0.026]	-0.533 (0.267)	-0.716 (0.282)	-0.860 (0.261)	-0.584 (0.264)
R^2		0.120	0.124	0.230	0.131

Notes: Dependent variable is proportionate Increase in Output Prices, 1989-95. Mean [SD] of dependent variable is 0.155 [0.080]. Standard errors are in parentheses. Regressions were estimated using WLS, where weights are 1988 value of shipments. Sample size is 149.

of a good for an industry in decile 9 of the fraction of production workers increased by 9% less than the price for an industry in decile 1. The estimate in column 1 implies that an increase in the fraction of production workers by 40 percentage points (approximately the difference between decile 9 and decile 1 in Sachs and Shatz's data), yields a price decline of 4.5% in the 6 years between 1989 and 1995; extrapolating to 11 years yields about a 9% decline. Because production workers' share of sales is only 11% on average in these industries, price changes of this magnitude would require large wage declines if companies are to maintain constant profits, other things being equal.

There are two important limitations of the specification in column 1. First, labor's share varies across industries, so an industry with a higher fraction of workers who are production workers may not have a higher share of production labor in costs. Second, the production worker classification is a crude measure of skill intensity. The first problem is remedied in column 2, which includes production workers' share of sales and nonproduction workers' share of sales as explanatory variables, in place of the fraction of workers who are production workers.[6] Industries with a high share of production labor in sales experienced much slower price growth than industries with a high share of nonproduction labor in sales. The difference between the production and nonproduction share coefficients is .33 (p-value = .07), which implies substantially less wage growth of production workers than nonproduction workers, if the industries maintain constant profits.[7]

To address the second limitation, I examine two additional measures of skill intensity. First, I break down labor's share into unskilled labor's share and skilled labor's share by assuming each worker's pay consists of two additive components: payment for unskilled labor and payment for skilled labor. The unskilled component of each worker's pay is assumed to equal the average annual earnings of a high-school dropout. Thus for each industry, unskilled labor's share (α_u) is calculated as $\alpha_u = (N^{\circ}W_u)/(\text{Sales})$, where N is the number of workers, W_u is the average annual earnings of a high-school dropout, and Sales is the value of shipments. Skilled labor's share (α_s) is calculated as $\alpha_s = (\text{COMP} - N^{\circ}W_u)/\text{Sales}$, where COMP is the total labor compensation in the industry.

The results in column (3) indicate that prices are growing much faster in industries with a high skilled labor's share. Recall that the difference between the coefficients on skilled and unskilled labor's share represents the differential wage growth between the two groups required to maintain constant profits. The difference between the coefficients on skilled and unskilled labor's share is 0.54 (p-value < .001). An unweighted regression yields a smaller differential of .23 (p-value = .015). To compare these estimates to

actual wage growth, as a rough approximation I use the median wage of high-school dropouts for unskilled workers and the median wage for workers with a college degree or higher for skilled workers. Between 1989 and the first quarter of 1995, the (nominal) median weekly earnings of high-school dropouts increased by 3%, while the (nominal) median weekly earnings of workers with a college degree or higher increased by 22%, according to CPS data. Thus the observed relative decline in wages of unskilled workers is less than the amount implied by price changes associated with differential skill shares in the weighted regression and about the same as implied by the unweighted regression.

As a final measure of skill intensity, column 4 includes the average education of workers in the industry. Consistent with the earlier findings, this regression indicates that prices are rising more quickly in industries that tend to have workers with a higher level of average education (t-value = 3.0). For example, between 1989 and 1995, prices grew about 5% more in the industry at the ninth decile of the education distribution (13.5 years of education) compared to the industry at the first decile (11 years of education).

Lastly, note that the coefficient on the share of intermediate goods times its price growth is insignificantly different from one in all of the regression models, as predicted by the model in equation (1). Capital's share times the proportionate change in the interest rate has a negative and significant effect in the models, however. This anomaly may result from the difficulty of measuring changes in the cost of capital, which is proxied crudely by the change in the prime loan rate here.

Conclusion

Some economists have considered the weak relationship between product price growth and skill intensity a major reason for downplaying the role of international trade in changing the wage structure (e.g., Bhagwati 1995). The results summarized here provide evidence that price growth was relatively lower in less skill-intensive finished-goods industries between 1989 and 1995. This finding is consistent with increased international competition causing shifts in the wage structure as well as with several other explanations. For example, some forms of technological change, declining unionization, and the fall in the real value of the minimum wage also would be expected to generate a positive relationship between price growth and skill relationship. Unfortunately, the product price evidence is less successful at sorting out various explanations for changes in the wage structure than is often believed.

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Endnotes

[1] See, for example, OECD (1994:chap. 4).

[2] See Leamer (1995) and Freeman (1995) for a discussion of these issues.

[3] This equation is obtained by manipulating the total differential of the zero-profit condition. The model used here is discussed in more detail in Krueger (1995).

[4] Finished-goods industries are those in which more than 75% of output goes to final demand. The sample used here consists of 149 industries because Annual Survey of Manufacturing data are unavailable for some industries and because PPI data are unavailable for some finished-goods industries. In ongoing work I am analyzing data for nonfinished-goods industries as well.

[5] Average education was derived from the 1989-1991 Outgoing Rotation Group Files of the CPS. The CPS data are available at the 1980 three-digit CIC level. The CIC classifications were converted to 1977 SIC codes and then to 1987 SIC codes.

[6] Because nonwage compensation is unavailable for production workers in the ASM data, production workers' share was calculated as production worker wage and salary times the ratio of total compensation in the industry to total wages and salary in the industry, divided by sales. The average production worker's share for the years 1989-91 was used. Nonproduction workers' share was calculated as labor's share minus production workers' share.

[7] An unweighted regression yields a differential of .18 (p-value = .40).

References

Bhagwati, Jagdish. 1991. "Free Traders and Free Immigrationists: Strangers or Friends?" Russell Sage Foundation Working Paper #20.

_____. 1995. "Trade and Wages: Alternative Theoretical Approaches." Unpublished paper, Columbia University.

Freeman, Richard. 1995. "Are Your Wages Set in Beijing?" *The Journal of Economic Perspectives*, Vol. 9, no. 3 (Summer), pp. 15-32.

Hall, Robert. 1994. "Comment: Trade and Jobs in U.S. Manufacturing." *Brookings Papers on Economic Activity*, Vol. 1, pp. 74-77.

Krueger, Alan. 1995. "Labor Market Shifts and the Price Puzzle Revisited." Unpublished paper, Princeton University.

Lawrence, Robert Z., and Matthew J. Slaughter. 1993. "Trade and U.S. Wages in the 1980s: Giant Sucking Sound or Small Hiccup." *Brookings Papers on Economic Activity*, Vol. 2, pp. 161-226.

Leamer, Edward E. 1993. "Wage Effects of a U.S.-Mexico Free Trade Agreement." In Peter Garber, ed., *The U.S.-Mexico Free Trade Agreement*. Cambridge, MA: MIT Press, pp. 57-162.

_____. 1995. "A Trial Economist's View of U.S. Wages and 'Globalization.'" Unpublished paper, UCLA.

Organization for Economic Co-operation and Development. 1994. *The OECD Jobs Study: Evidence and Explanations*. Paris: OECD.

Sachs, Jeffrey D., and Howard J. Shatz. 1994. "Trade and Jobs in U.S. Manufacturing." *Brookings Papers on Economic Activity*, Vol. 1, pp. 1-84.

Stolper, Wolfgang, and Paul A. Samuelson. 1941. "Protection and Real Wages." *Review of Economic Studies*, Vol. 9, pp. 58-73.

Did Technology's Impact Accelerate in the 1980s?

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Virtually all of the literature on the causes of the increase in wage inequality invokes skill-biased technological change as a central factor. It is notable, however, that neither have the economic conditions necessary for this causal linkage been articulated, nor has the empirical evidence been shown. In this paper we attempt to partially correct this omission.

Our understanding of the role that technology has been said to play in the growth of wage inequality leads us to examine (1) the impact of technology in particular time periods so as to assess whether its impact has accelerated over time and (2) technology's impact on five "wage quantities" (i.e., we disaggregate the workforce by wage levels to examine the effect of technology on different types of workers).

Our findings do not support the contention that technological change has been a central driver of increased male wage inequality. In fact, we find that technological change became less skill-biased in the 1980s relative to the 1970s. In this short paper we show these results for men only, but our longer version confirms similar findings for women.

The Technology Story: Strengths and Limitations

Labor economists have long invoked skill-biased technological change to explain certain types of skill premiums evident in the structure of demand. The current version of this analysis in the economics literature starts with the notion that the recent (post-1979) growth in education differentials, particularly the college wage premium, has occurred while there has been a significant growth of the share of the workforce with a college degree. The growth of the relative employment of those with more education while their relative price increased implies that demand for education, or in economists' parlance: "skill," was growing faster than the supply.

The literature also maintains that the relative demand for education is primarily driven by changes within industries and not by changes in the composition of employment across industries (a factor equated with

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trade/deindustrialization). Thus the within-industry phenomenon of rising education differentials and increased utilization of more skilled workers is thought to be the consequence of skill-biased technological change.

This paper's empirical work operates within this framework and examines two main issues:

1. If technology is the driving force behind the growing use of relatively highly paid, highly skilled workers within industries, then one would expect the industries with the fastest or most technological change to be the industries with the greatest increase in the utilization of more high-wage (or high-skilled) workers. This seems to be a necessary condition for the technology story.

2. Since technological change has been a longstanding powerful force shaping the composition of labor, it is important to know to what degree, if any, the impact of technological change was greater in the 1980s relative to the past. The discussion of technology's role in growing wage inequality presumes that we have entered a new era of technological change signified by the computer revolution. If so, either the rate of introduction of new technologies or the types of technologies being introduced is creating a qualitatively new situation in today's workplace and creating an enhanced demand for cognitive skills. Some analysts have explicitly talked in terms of a "technology shock" (Krugman 1994). This widely expressed view assumes an acceleration of technology's impact on relative demand and thus motivates our test for acceleration.

The definition of the "impact of technological change" adopted in this paper is based on what we estimate: the impact of equipment investment, computerization, and research and development, which captures the effect of capital deepening, capital upgrading, process innovation, computerization, and any associated change in work organization. Our measurement captures the effects of changes in the rate of introduction of new technologies as well as changes in the types of technologies. Broader definitions of technology are possible, the broadest being any change in the way goods and services are produced. Besides being difficult to quantify, a broader definition necessarily includes practices and processes which include speedup, imposition of unsafe working practices, temporary employment, and other practices that do not have the unambiguous progressive connotation associated with "technological change."

We examine the impact of technological change through only one channel: changes in employer's demand for different types of labor, i.e., changes

in the composition of skill demand. We believe this mechanism to be at the core of the technology story. Other mechanisms may be possible, but we have not seen them elaborated. For instance, technological advances in communications have made it easier to locate production offshore or in rural areas, but this has no effect on the skill intensity of production.

Measuring Technology's Impact

Our empirical analysis attempts to estimate the impact of technological change on the composition of labor demand within industries in particular time periods. These estimates provide the basis for examining the way that technology shapes demand and how the pattern has shifted over time. We are particularly interested in whether technology's impact on the "unskilled" workforce was more adverse in the 1980s than in the 1970s.

The effect of technological change can differ across time periods because of shifts in the rate of technological change and/or changes in the skill bias (perhaps from a qualitative shift in the type of new technologies such as computerization). The rate of introduction of new technologies is proxied in our work by the movement of several "technology indicators." We estimate the skill bias for specific technological indicators in specific time periods by regressing within-industry changes in the composition of employment on changes in technology indicators.

Specifically, we estimate variations of the following model:

$$y_{it} = \alpha + \beta_1 80s + \beta_2 90s + \sum_{k=1}^{3} \beta_k TECH_{it} + \sum_{j=1}^{3} \beta_j TECH_{it} 80s + \sum_{m=1}^{3} \beta_m TECH_{it} 90s + \varepsilon \quad (1)$$

The subscript i denotes the unit of observation, i.e., the industry; we observe changes within 34 (19 manufacturing, 15 nonmanufacturing) private sector industries over three time periods (1973-79, 1979-89, 1989-94), resulting in 102 observations. It is noteworthy that our data include the entire private sector and are not limited to manufacturing, as in most of the literature. The subscript t denotes one of the three time periods noted above. Alpha is the constant term; 80s and 90s are dummies equal to one in their respective time periods and zero otherwise. Epsilon is an iid error term. All nondummies are measured as annualized changes. The dependent variable is a measure of change in the composition of employment, i.e., wage quantities. The independent variables in the vector "TECH" are changes in our technology indicators: accumulation of equipment per worker, computers per worker, and R&D. We interpret equation (1) as a reduced form model with the technology indicators shifting demand and

supply shifts captured by the time period dummies. In doing so, we build on the earlier work of Berman, Bound, and Griliches (1993).

The parameters in (1) are estimated by weighted least squares. Since all variables are measured as first differences, we do not fix effects. As we expect changes in larger industries to disproportionately affect changes in the wage structure, we control for the relative size of each industry by weighting the regressions by male employment shares. These shares are simply the average of the employment by industry at the two endpoints of each period.

This reduced-form model permits us to test the technology hypothesis.[1] The coefficients on the technology indicators measure the "complementarities," or "skill bias," of technology indicators with particular types of workers; the interactions with the time period dummies allow these complementarities to shift across time periods.

We measure an industry's utilization of low-, middle- or high-wage workers with "wage quantities," or the share of workers in a fixed wage range within an industry. We calculate wage quantities for five groups within each industry where the wage quantities are defined relative to the 1979 private sector wage distribution. We chose the percentiles—0-20, 21-50, 51-75, 76-90, and 91-100—so that we would clearly separate the bottom and the top half, have a measure of low-wage employment (the 20th percentile roughly corresponds to the share of workers earning "poverty level" wages in 1979), have groups which aggregate to the bottom 75% (the noncollege-educated share of employment), and be able to separate out the highest wage workers. We focus on wage quantities so as to address the effect of technology on *wage* inequality rather than the more limited topic of expanded education premiums. In other work we directly estimate technology's impact on the two dimensions of wage inequality: demand for education and "residual" or within-group wage quantities.

If one assumes that wage levels correspond to skill levels, observable and unobservable, then wage quantities provide the most comprehensive measure of skill utilization by industry. In any case, the wage quantities capture the dimension in which we are most interested: Is there an association between technological change and the share of workers in low-paying, middle-paying, or high-paying jobs?

We use three indicators of technological change. Two are measures of capital accumulation: the changes in the gross real equipment stock and gross computer stock per full-time equivalent. These are drawn from BEA's tangible wealth series and full-time equivalents (FTEs) from the NIPA series.[2] Research and development activities by industry were proxied, as in Allen (1993), by the share of scientists and engineers in each industry, derived from the CPS.[3] Since computers are included in equipment, the

coefficient on the computer variable shows the extent to which the effect of this specific type of investment differs from that of equipment.

Estimating "Technology Impact" in a Time Period

The impact of technology on demand for different types of labor may occur through either an increase in complementarities holding technology constant, an increase in technological change with constant complementarities, or some combination of these two effects. In order to test the different impact of these effects by time period, we develop a set of estimates of the impact of technology on the composition of employment in the 1970s, 1980s, and 1990s by multiplying the complementarities specific to each period by the average within-industry change in the appropriate technology indicator for the time period. By differencing this result between time periods (e.g., the 1980s effect minus the 1970s effect), we can determine whether technology's effect accelerated between two time periods.

Specifically, we compute

$$TI_t = \sum_{k=1}^{2 \text{ or } 3} B_{kt} \circ \overline{TECH_{kt}} \qquad (2)$$

TI is the impact of technology on a dependent variable in one of three time periods (i.e., t=70s, 80s, or 90s). The coefficients used in (2) are those relevant to the particular time period and the variables of interest. We generate predictions for each of the three time periods for two models with and without the growth in computer accumulation. Thus k includes either only the changes in equipment accumulation and R&D or these changes plus those of computerization. Likewise, TECH bar is the average within-industry change of each of these technology indicators. Calculating differences in these predictions (along with their standard errors) allows us to identify the statistical significance of acceleration of trends across time periods.

Results

The data tell a technology story, but it is not the conventional one. Table 1 reveals that the shifts in complementarity in the 1980s for the two lowest wage groups (0-20% and 20-50%) were favorable to them (except computers for the 20-50% group), indicating a decline in the technology bias against these groups. The corresponding trend is that technology became less associated with the use of high-wage workers (the 75-90% and the 90-100% groups) in the 1980s than in the 1970s.[4] In contrast, technological change in the 1980s was less favorable to upper middle-wage men (the 50-75% group) as the interaction term with equipment; R&D and computerization with the 1980s was negative in every case (although none is statistically significant).

TABLE 1

The Effect of Technology Indicators on Male Wage Quantities, 1973-94[1]

Independent Variable[2]	Share 0-20% (1)	Share 0-20% (2)	Share 20-50% (1)	Share 20-50% (2)	Share 50-75% (1)	Share 50-75% (2)	Share 75-90% (1)	Share 75-90% (2)	Share 90-100% (1)	Share 90-100% (2)
Equip	-0.000	-0.011	-0.164**	-0.155**	0.017	-0.020	0.076	0.116**	0.072**	0.069**
	(0.045)	(0.523)	(0.055)	(0.066)	(0.049)	(0.058)	(0.047)	(0.057)	(0.028)	(0.034)
Equip * T80	0.011	0.008	0.121**	0.123*	-0.050	-0.016	-0.051	-0.089	-0.031	-0.025
	(0.050)	(0.058)	(0.062)	(0.073)	(0.055)	(0.064)	(0.053)	(0.062)	(0.031)	(0.037)
Equip * T90	-0.043	-0.086	0.124**	0.103	0.009	0.098	-0.020	-0.064	-0.071**	-0.051
	(0.050)	(0.062)	(0.061)	(0.079)	(0.054)	(0.069)	(0.053)	(0.067)	(0.031)	(0.040)
SciShare (Sci)	-1.765*	-1.849*	-1.882	-1.808	-0.447	-0.747	3.256**	3.586**	0.837	0.818
	(1.005)	(1.013)	(1.229)	(1.276)	(1.094)	(1.114)	(1.053)	(1.090)	(0.623)	(0.645)
Sci * T80	1.095	1.226	2.444*	2.335*	-0.598	-0.288	-2.641**	-2.978**	-0.300	-0.294
	(1.143)	(1.146)	(1.397)	(1.443)	(1.244)	(1.259)	(1.198)	(1.232)	(0.709)	(0.730)
Sci * T90	1.055	1.178	2.537*	2.473*	0.118	0.381	-2.963**	-3.290**	-0.747	-0.741
	(1.112)	(1.115)	(1.359)	(1.404)	(1.210)	(1.226)	(1.165)	(1.200)	(0.689)	(0.710)
Comp		0.005		-0.004		0.017		-0.018		0.001
		(0.013)		(0.016)		(0.014)		(0.014)		(0.008)
Comp * T80		0.016		-0.012		-0.012		0.015		-0.007
		(0.019)		(0.024)		(0.021)		(0.021)		(0.012)
Comp * T90		0.043		0.015		-0.062**		0.021		-0.017
		(0.027)		(0.033)		(0.029)		(0.029)		(0.017)
Adj R^2	0.52	0.53	0.30	0.29	0.02	0.04	0.52	0.51	0.16	0.15
N	102	102	102	102	102	102	102	102	102	102

*p < 0.10

**p < 0.05

[1] Weighted by industry shares of female employment.

[2] All models were estimated with a constant term and time dummies for the 1980s and 1990s (not shown).

The estimated technology impacts presented in Table 2 reinforce this new technology story. Technological change was less biased in the 1980s

TABLE 2

Technology Impact on Annual Change in Male Wage Quantities, 1973-94

Dependent Variable	Men			
	Without Computers (1)		With Computers (2)	
% 0-20				
1. 1973-79	-0.123	(0.142)	-0.066	(0.210)
2. 1979-89	-0.026	(0.062)	0.503	(0.358)
3. 1989-94	-0.126	(0.057)**	0.429	(0.274)
4. 80s Less 70s	0.097	(0.156)	0.569	(0.416)
5. 90s Less 70s	-0.003	(0.154)	0.495	(0.345)
6. 90s Less 80s	-0.101	(0.084)	-0.073	(0.451)
% 20-50				
1. 1973-79	-0.684	(0.175)	-0.734	(0.265)**
2. 1979-89	-0.060	(0.076)	-0.472	(0.451)
3. 1989-94	0.023	(0.069)	0.151	(0.345)
4. 80s Less 70s	0.624	(0.190)**	0.262	(0.523)
5. 90s Less 70s	0.708	(0.188)**	0.885	(0.435)
6. 90s Less 80s	0.084	(0.103)	0.623	(0.568)
% 50-75				
1. 1973-79	0.027	(0.155)	0.228	(0.231)
2. 1979-89	-0.163	(0.068)**	-0.046	(0.394)
3. 1989-94	-0.004	(0.062)	-0.536	(0.301)
4. 80s Less 70s	-0.189	(0.170)	-0.274	(0.457)
5. 90s Less 70s	-0.031	(0.167)	-0.764	(0.380)**
6. 90s Less 80s	0.159	(0.092)*	-0.490	(0.496)
% 75-90				
1. 1973-79	0.481	(0.150)**	0.259	(0.226)
2. 1979-89	0.109	(0.065)*	0.016	(0.385)
3. 1989-94	0.096	(0.059)	0.127	(0.295)
4. 80s Less 70s	-0.372	(0.163)**	-0.242	(0.447)
5. 90s Less 70s	-0.384	(0.161)**	-0.132	(0.371)
6. 90s Less 80s	-0.012	(0.088)	0.111	(0.485)
% 90-100				
1. 1973-79	0.300	(0.089)**	0.312	(0.134)**
2. 1979-89	0.140	(0.039)**	-0.001	(0.228)
3. 1989-94	0.011	(0.035)	-0.171	(0.174)
4. 80s Less 70s	-0.160	(0.097)*	-0.313	(0.265)
5. 90s Less 70s	-0.289	(0.095)**	-0.484	(0.220)**
6. 90s Less 80s	-0.129	(0.052)**	-0.171	(0.287)

*$p < 0.10$
**$p < 0.05$

than the 1970s for the bottom half (see line 4), with a lessening of the skill bias being statistically significant for the 20-50% group in model (1). *There is definitely no support for an accelerated technology effect working against the bottom half in the 1980s.* Again, the corresponding effect is a *weaker* association between technological change and the use of high-wage workers (the 75-90% and 90-100% groups) in the 1980s, a shift which is statistically and quantitatively significant. That is, *technological change in the 1980s relative to the 1970s was less adverse for the bottom half and less favorable to the highest paid 25%.* The middle-wage group (50-75%), corresponding to the better-paid, noncollege-educated workforce, were also technology losers in the 1980s as their utilization declined in the industries which had the most technological change.

Conclusion

In contrast to the role typically assigned to technology, our results provide evidence against an accelerated technology impact in the 1980s. We find a quantitatively large (half percent a year, adding up the two highest wage groups) and statistically significant *deceleration* of technology's effect in the 1980s versus the 1970s or the 1990s versus the 1970s (0.7% annual deceleration). Technology was more favorable to the bottom half of men in the 1980s and 1990s than in the 1970s, directly contradictory to the notion that the bottom half was being left behind because their skills cannot keep up with technological change. There is, however, an adverse technology shift against the upper-middle-wage men and the higher-wage men.

Our findings are *not* that technology has no impact on the wage structure in any time period. We continue to be convinced of the central role played by technology in driving the skill upgrading of workers over the long term. Rather, we do not find any increased association of technological change with the increased utilization of the most-educated or best-paid workers, i.e., no acceleration.

Acknowledgment

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Endnotes

[1] Both Berndt et al. (1992) and Berman et al. (1993) use similar models. Neither, however, test for acceleration.

[2] We did not have NIPA FTEs for 1994, so we took the ratio of FTEs in 1993 to BLS payroll employment (by industry) in 1993 and multiplied that ratio by BLS 1994 employment.

[3] Ignoring this bias should force the coefficient on this variable to have an expected value of one.

[4] The sole exception is computers which went from being adverse for the 75-90% groups to being essentially neutral in the 1980s.

References

Allen, Steven G. 1993. "Technology and the Wage Structure." Unpublished paper, North Carolina State University.

Berndt, Ernst R., Catherine J. Morrison, and Larry S. Rosenblum. 1992. "High-Tech Capital Formation and Labor Composition in U.S. Manufacturing Industries: An Exploratory Analysis." National Bureau of Economic Research Working Paper No. 4010. Cambridge, MA: NBER.

Berman, Eli, John Bound, and Zvi Griliches. 1993. "Changes in the Demand for Skilled Labor within U.S. Manufacturing Industries: Evidence from the Annual Survey of Manufacturing." National Bureau of Economic Research Working Paper No. 4255. Cambridge, MA: NBER.

Krugman, Paul. 1994. "Past and Prospective Causes of High Unemployment." Mimeo, Stanford University.

Labor Market Institutions and Gender Differences in Wage Inequality

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A large number of studies have investigated the causes of the growth in earnings inequality in the United States during the 1980s (see Levy and Murnane 1992 for a survey). Many studies have identified the relative decline in demand for less skilled workers—due to expanding international trade and technological change—as the key factor in these changes.

There remain a number of empirical puzzles, however, that this explanation cannot easily account for. First and foremost, earnings inequality did not rise as much in countries like France and Germany that were exposed to similar changes in the relative demand for less skilled workers (Freeman and Katz 1993). In addition, wage inequality in the United States increased faster among women than among men during the 1979-1988 period, especially in the lower end of the wage distribution. This is inconsistent with the widespread view that less skilled men were concentrated in manufacturing occupations more adversely affected by the relative changes in labor demand than less skilled women.

In this paper we argue that changes in labor market institutions go a long way toward resolving these empirical puzzles. We show that 30% to 45% of the increase in male and female wage inequality between 1979 and 1988 can be attributed to the decline in unionization (Card forthcoming; Freeman 1993) and to the erosion in the real value of the minimum wage (DiNardo, Fortin, and Lemieux 1996). This explains an important part of the differential growth in inequality between the United States and countries such as Canada, France, or Germany where labor market institutions remained stable during this period.

In the case of men, deunionization and the decline in the minimum wage both played an important role in the rise in wage inequality. Deunionization contributed to the "disappearance" of the middle of the distribution, while the fall in the minimum wage played a key role in the collapse of the bottom of the distribution. By contrast, deunionization had little impact on the female wage distribution, while the decline in the minimum

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wage reshaped dramatically the lower end of this distribution. This explains why inequality expanded faster in that part of the distribution for women than for men.

It is interesting to note that the 1973-1979 period, unlike the 1979-1988 period, witnessed a strengthening in labor market institutions—rising minimum wage and rising unionization rate—and a decline in wage inequality. We find the contribution of stronger institutions to the decline in inequality between 1973 and 1979 to be a mirror image of the contribution of weaker institutions to the rise in inequality between 1979 and 1988. Finally, the analysis of the most recent 1988-1992 is less informative because there was very little change in wage inequality during this period.

Labor market institutions played an even more dramatic role in changes in the distribution of wages among the whole workforce (men and women together). We find that deunionization and the erosion of the real value of the minimum wage account for 50% to 70% of the rise in wage inequality between 1979 and 1988. This suggests that the greater part of the changes in inequality during this period is due to changes in unionization, minimum wages, and in the way jobs and wages are allocated between men and women.

Data and Estimation

We use data from the May 1973 Current Population Survey (CPS) and from the 1979, 1988, and 1992 Merged Outgoing Rotation Group files of the CPS to study the evolution of the distribution of hourly wages over the last two decades. Our samples consist of workers aged 16 to 65. The use of actual hourly wages, as opposed to weekly earnings, proves to be critical to the identification of the role of the minimum wage. We graph the density of real log wages in Figures 1 through 3 using weighted kernel methods. The weights used to compute all the statistics presented in this paper are the product of the CPS sample weights with usual hours of work. This procedure is used to avoid putting excessive weight on minimum wage workers who often supply a limited number of hours to the market.

We simulate the effect of changes in the minimum wage and in the rate of unionization using the following estimation procedure. The impact of a change in the real value of the minimum wage is obtained by contrasting the actual wage distribution with the counterfactual distribution that would have prevailed if the real value of the minimum wage had remained constant. Consider, for instance, the decline in the real minimum wage from \$2.90 in 1979 to \$2.11 (in 1979 dollars, \$3.35 in 1988 dollars) in 1988. Roughly speaking, we estimate the counterfactual density by replacing the section of the 1988 density below the 1979 value of the minimum wage

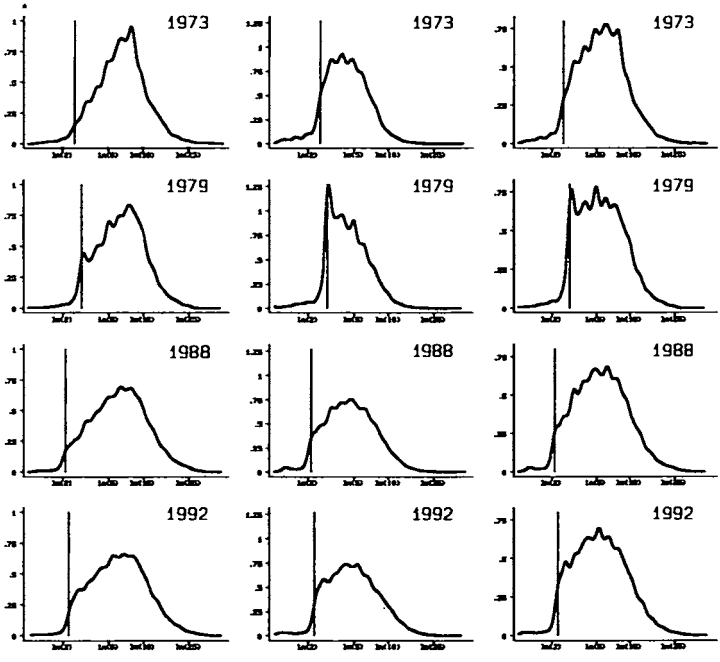
with the section of the 1979 density below the minimum wage, adjusting for changes in individual characteristics. We use a similar but reverse procedure for the 1973-1979 and 1988-1992 periods during which the real value of the minimum wage increased. Note that in 1979 dollars, the minimum wage increased from $2.52 to $2.90 between 1973 and 1979, that is from 46% of the median wage for men (64% for women) to 57% of the median wage (74% for women). Between 1988 and 1992, it increased from $2.11 to $2.25, that is from 41% of the median wage for men (49% for women) to 45% of the median wage (52% for women). Similarly, the effect of changes in the unionization rate is obtained by contrasting the actual distribution of wages with the counterfactual distribution that would have prevailed if the unionization rate had remained as in the base period. Consider for instance the decline in unionization among men from 32% to 21% between 1979 and 1988 (comparable numbers are 17% and 13% for women). The counterfactual distribution is obtained putting more weight in 1988 on union workers than on nonunion workers to simulate what would happen if unionization rates were switched back to their higher 1979 levels. Details on all the estimations issues addressed in this paper are provided in DiNardo, Fortin, and Lemieux (forthcoming).

Discussion of the Results

The density of log wages for 1973, 1979, 1988, and 1992 (in constant 1979 dollars) for men, women, and all workers are reported in Figure 1. The vertical line in each graph represents the real value of the minimum wage in the period. The most striking feature in Figure 1 is the extent to which the shapes of the distributions are affected by the minimum wage. This is especially true for women in 1979 for which the minimum wage is actually the mode of the distribution. As is well known, there is also a clear widening of all the distributions between 1979 and 1988. Changes in wage distributions are best illustrated by plotting the difference in the density of wages at two points in time. These density differences show precisely where in the distribution the most dramatic changes occur. The results presented in Figure 2 indicate once again the dramatic role played by the minimum wage.

Consider the case of women, which is the most telling. For each time period, there is a systematic increase in the density around the new value of the minimum wage and a systematic decrease around the old value of the minimum wage. Note also that the changes in density are proportional to the magnitude of the change in the real value of the minimum wage. This explains why the 27% decrease in the minimum wage between 1979 and 1988 has a big impact on changes in densities, while the 6% increase between 1988 and 1992 only has a small impact.

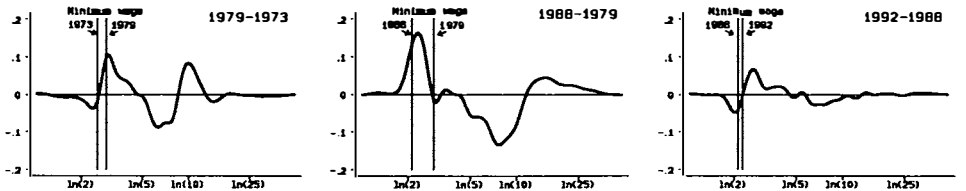
FIGURE 1
Kernel Density Estimates of Real Log Wages



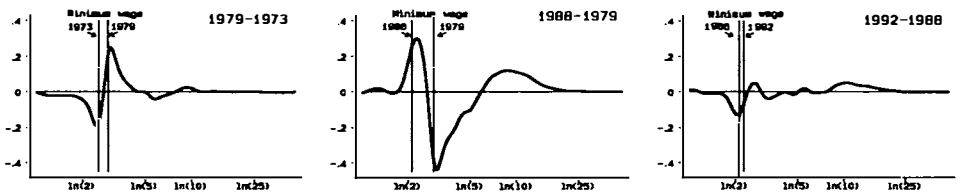
(a) Men (b) Women (c) All Workers

The pattern of changes in male densities around the minimum wage is slightly different. For the periods 1973-1979 and 1979-1988, the increase in density around the new minimum wage is not matched by a decrease around the old minimum. Other forces, such as a decline in the relative demand for less skilled workers, were already pushing many workers toward the minimum wage. As a result, the number of men "joining" the pool of minimum wage workers at the new minimum exceeds the number of men "leaving" the pool at the old minimum. There is another important difference between men and women during the period 1979-1988. The large decrease in the male density—around $10—is matched by a significant increase in the female density in this section of the distribution. These changes partly cancel out, which explains why there is little change in the density for all workers (panel c of Figure 2) in this part of the distribution. This suggests that part of the economic progress of women during this period may have been made at the expense of men in the middle of the distribution.

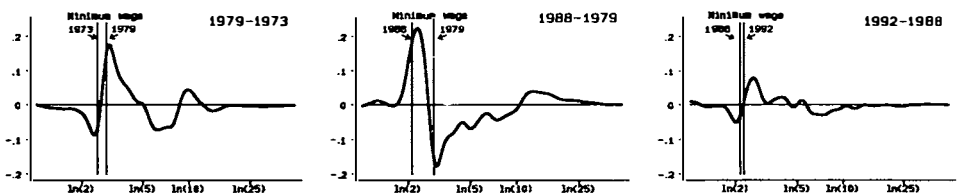
FIGURE 2
Smoothed Differences in Densities



(a) Men



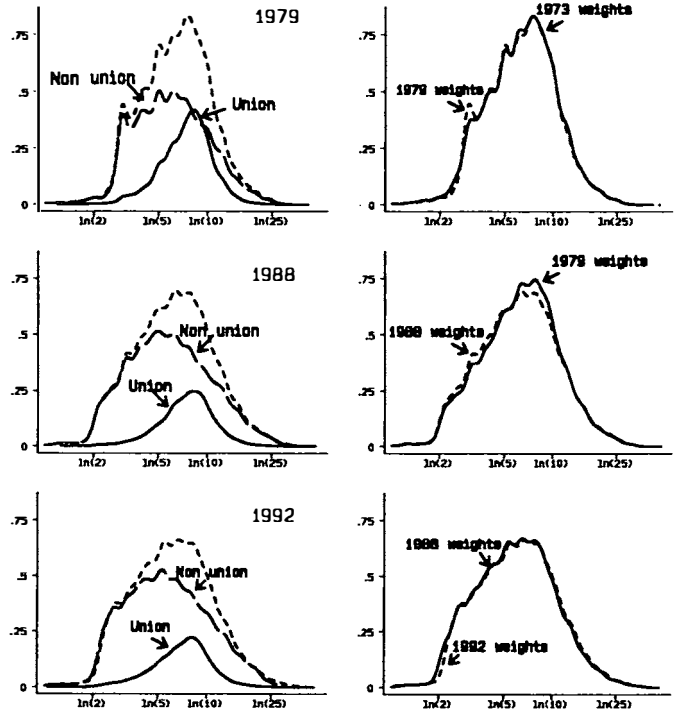
(b) Women



(c) All Workers

An alternative explanation for the decrease in the middle section of the male density is the decline in unionization. Panel a of Figure 3 presents the density of male wages in the union and the nonunion sector for 1979, 1988, and 1992. As is well known, there is much less wage dispersion in the union than in the nonunion sector. Deunionization is a source of rising inequality as it puts more weight on the more unequal nonunion distribution in the overall distribution of wages. Panel b of Figure 3 contrasts the actual density of male wages with the counterfactual density obtained by holding the unionization rate at its base period level. For instance, the figure in the middle of panel b shows the difference between the actual 1988 density ("1988 weights") and the counterfactual density obtained by "reweighting" union workers to get back the 1979 unionization rate ("1979

FIGURE 3
Changes in Unionization Rates



(a) Densities form the union and nonunion sector

(b) Weighted sum of the union and nonunion densities

weights"). The figure shows that a significant fraction of the decline of the density (around $10) is due to deunionization.

Once the impact of changes in institutions on the density of wages has been estimated using the procedures described above, measures of wage dispersion such as the standard deviation of log wages, the Gini coefficient, and the difference between the 90th and the 10th percentiles of log wages are computed from the estimated densities. The results reported in Table 1 confirm the importance of institutions in the recent changes in wage inequality. Depending on the measure of wage inequality used, changes in institutions account for 30% to 40% of the change in male wage inequality between 1979 and 1988. While the effect of the minimum wage is concentrated in the bottom of the distribution (10-50 differential), the effect of deunionization occurs higher up in the distribution (50-90 differential).

By contrast, the effect of deunionization is negligible for women. Since the effect of institutions is mostly due to changes in the minimum wage, it is concentrated in the bottom of the distribution (10-50 differential). Since more women than men are affected by changes in the minimum wage, this explains why inequality in the lower part of the distribution grew much faster among women than among men during the 1980s. Table 1 also indicates that institutions contributed significantly to the decline in wage inequality between 1973 and 1979.

During this period, the minimum wage increased by 15% while the unionization rate among men remained stable. Finally, the 1979-1988 decline in the minimum wage played an even larger role in changes in wage inequality among men and women combined. Depending on the inequality measure used, it explains between 39% and 63% of the rise in inequality during this period.

Conclusion

In this paper we present graphical and quantitative evidence on the important role played by changes in labor market institutions in the rise in inequality during the 1980s. Market forces like trade and technology that are beyond the control of policy makers were thus not the only factors involved in the recent increase in wage inequality. Our results show that the decision to freeze the minimum wage at $3.35 from 1981 to 1990 had a dramatic impact on the lower end of the wage distribution. Other decisions like firing the PATCO strikers in 1981 may have also contributed to the increase in inequality by accelerating the decline in the rate of unionization.

We also find that wage inequality among the whole workforce increased relatively less than among men and women taken separately. In other

TABLE 1

Changes in Measures of Wage Dispersion: 1973-1979, 1979-1988, and 1988-1992

	1973-79:			1979-88:			1988-92:		
		Effect of:			Effect of:			Effect of:	
	Total Change	Minimum Wage	Unions	Total Change	Minimum Wage	Unions	Total Change	Minimum Wage	Unions
Men:									
Standard Deviation of Log Wages	-0.013 [-2.7]	-0.005 (35.1)	-0.003 (25.6)	0.072 [13.6]	0.018 (24.8)	0.010 (14.3)	0.004 [0.7]	0.000 (—)	0.003 (—)
10-90	-0.004 [-0.2]	-0.002 (—)	-0.009 (—)	0.195 [14.2]	0.049 (25.3)	0.021 (10.7)	0.020 [1.3]	-0.001 (-7.5)	0.009 (44.2)
10-50	0.015 [2.1]	-0.003 (-20.8)	0.002 (10.5)	0.076 [10.4]	0.050 (65.7)	-0.019 (-25.6)	-0.005 [-0.7]	-0.001 (—)	-0.001 (—)
50-90	-0.018 [-3.0]	0.001 (-4.7)	-0.010 (59.9)	0.119 [18.5]	-0.000 (-0.4)	0.040 (33.7)	0.025 [3.5]	0.000 (1.7)	0.010 (40.0)
Women:									
Standard Deviation of Log Wages	-0.032 [-7.5]	-0.009 (28.8)	0.001 (-1.8)	0.090 [19 6]	0.027 (30.2)	0.003 (3.2)	0.011 [2.1]	0.002 (20.9)	0.001 (8.5)
10-90	-0.017 [-1.7]	-0.044 (262.0)	0.007 (42.2)	0.328 [28.6]	0.148 (45.1)	0.004 (1.3)	-0.019 [1.4]	-0.004 (-19.9)	0.002 (11.4)
10-50	-0.001 [-0.3]	-0.046 (—)	-0.005 (—)	0.243 [47.2]	0.150 (61.7)	-0.010 (-4.1)	-0.019 [-3.0]	-0.003 (16.6)	-0.000 (0.8)
50-90	-0.016 [-2.7]	0.003 (-17.1)	0.001 (-7.9)	0.085 [13.4]	-0.002 (-2.5)	0.014 (16.9)	0.037 [5.4]	-0.001 (-1.6)	0.002 (6.1)
All Workers:									
Standard Deviation of Log Wages	-0.023 [-4.7]	-0.006 (28.8)	-0.003 (14.8)	0.060 [11.5]	0.023 (38.8)	0.005 (9.2)	-0.000 [-0.0]	0.003 (—)	0.002 (—)
10-90	-0.044 [-3.5]	-0.015 (34.0)	-0.009 (21.1)	0.192 [14.1]	0.117 (61.1)	0.012 (6.0)	-0.009 [-0.6]	0.005 (—)	0.003 (—)
10-50	-0.065 [-10.7]	-0.015 (22.9)	0.004 (-6.4)	0.137 [20.9]	0.119 (86.8)	-0.018 (-13.2)	-0.020 [-1.9]	0.006 (-30.7)	-0.002 (10.3)
50-90	0.021 [3.3]	0.000 (0.0)	-0.013 (-62.4)	0.070 [10.0]	-0.002 (-2.4)	0.030 (42.6)	0.011 [1.5]	-0.001 (1.7)	-0.008 (-2.8)

Note: Difference as a percentage of average value in bracket, percent of total variation explained in parentheses.

words, changes in the distribution of male wages were partly offset by corresponding changes in the distribution of female wages.

Inequality in the whole workforce increased by even less once we account for changes in the minimum wage and in the rate of unionization. Analyses that focus on men and women separately and ignore the role of labor market institutions thus overstate largely the recent increase in wage inequality. Note, however, that even if changes in the distribution of male wages are offset by opposite changes in the distribution of female wages, this does not mean that wage losses of husbands are offset by wage gains of their wives. If wages of husbands and wives are positively correlated (assortative matching), the relative stability of the wage distribution among the whole workforce may hide important changes in the distribution of family income. Future work on the welfare consequences of the changing structure of wages should thus focus on the interaction between the distribution of male and female wages and the distribution of family income.

References

Card, David E. Forthcoming. "The Effect of Unions on the Structure of Wages: A Longitudinal Analysis." *Econometrica*.

DiNardo, John, Nicole M. Fortin, and Thomas Lemieux. Forthcoming. "Labor Market Institutions and the Distribution of Wages, 1973-1992: A Semiparametric Approach." *Econometrica*.

Fortin, Nicole M., and Thomas Lemieux. 1995. "Rank Regressions, Wage Distributions, and the Gender Gap." Unpublished paper, Department of Economics, University of Montreal, Montreal, Canada.

Freeman, Richard B. 1993. "How Much Has De-Unionization Contributed to the Rise in Male Earnings Inequality?" In Sheldon Danziger and Peter Gottschalk, eds., *Uneven Tides: Rising Inequality in America*. New York: Russell Sage Foundation, pp. 133-63.

Freeman, Richard B., and Lawrence F. Katz. 1993. "Rising Wage Inequality: The United States vs. Other Advanced Countries." In Richard B. Freeman, ed., *Working under Different Rules*. New York: Russell Sage Foundation, pp. 29-62.

Levy, Frank, and Richard Murnane. 1992. "U.S. Earnings Levels and Earnings Inequality: A Review of Recent Trends and Proposed Explanations." *Journal of Economic Literature*, Vol. 30, no. 3 (September), pp. 1331-81.

DISCUSSION

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Each paper deals with a possible villain in rising wage inequality: international trade, "institutions," and technology. Note that a finding that the culprit is technology would be welcomed by someone who prefers *no* public policy reaction since only trade and institutions can be affected readily by regulation. But none of the papers suggest that the problem is technology. Mishel and Bernstein say the opposite.

Krueger's paper points to a difficulty in the international trade literature. Many trade economists have a need to favor free trade. When theory supports the idea, they are happy; when it does not, they look for some overriding empirical evidence. Counteracting this bias is what the Krueger paper is all about.

The roots of the free-trade predisposition go back to Ricardo, whose comparative advantage example is still celebrated in trade textbooks. Often neglected is the fact that Ricardo showed only that free trade was better than *no* trade. But that choice was not the issue facing Britain in the early 1800s when he wrote. Then, as now, the issue was free trade vs. *restricted* trade. Ricardo subtly changed the question to "prove" his point. But it is easy to cook up Ricardian-style examples in which restrictions are better than free trade. So Ricardo failed theoretically while triumphing politically. More striking is the modern trade literature. Having formulated theories of strategic trade policy (beneficial restrictions), trade economists shrink from the implications and simply assert its nonapplicability in practice.

Using the Stolper-Samuelson frameworks, Krueger finds evidence that the large factor endowment of unskilled labor in the outside world aggravates American wage inequality. When the Stolper-Samuelson paper originally appeared in the late 1930s, trade economists at first resisted its implication that trade could produce losers as well as winners. Later the logic was grudgingly accepted but inevitably dismissed as a curiosity contradicted by empirical evidence.

In the latest version of this debate, we have labor economists such as Krueger putting forward the theoretically supported hypothesis that U.S.

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imports of unskilled labor-intensive products reduce demand for domestic unskilled labor and adversely affect wages at the bottom of the pay scale. Meanwhile, most trade economists—on whose theories this hypothesis is based—rush to find contradictory evidence. The idea of international labor arbitrage through trade is unappealing to them since wage inequality is unappealing. Because so many trade economists will not even entertain the implications of their own theories, a political vacuum has been created. Advocacy of anything other than totally free trade as a national policy is left to flakes and extremists; mainstream politicians are afraid even to consider alternatives.

The empirical contradiction that has been sought by trade economists has been in the price arena, i.e., in the product market rather than the labor market. In theory, the relative price of unskilled labor-intensive products should fall if unskilled wages are adversely affected by trade. Krueger's evidence should quiet the opposition, although I doubt that it will. But it might be noted that the key linkage in the trade-to-inequality story is displacement of demand for domestic unskilled labor via displacement of domestic suppliers of products intensive in such labor. (Such displacement, I might note, could result from the trade pattern and/or the trade deficit.) The price story is an intermediate element which can be obscured by data and conceptual problems.

Fortin and Lemieux focus on the separate impacts of institutions—unionization and minimum wages—on male and female wage inequality. There is a conceptual difference between minimum wage determination and unionization. The former can be viewed as an exogenous political decision; the latter may be influenced by economic trends. Fortin and Lemieux cite President Reagan's firing of the air traffic controllers as an important influence on unionization. In my own view, deunionization in the 1980s was the result of various forces, including the rise of the union/nonunion wage differential in the 1970s and increased uncertainty in product markets. The latter, in turn, can be attributed to exogenous political decisions to deregulate certain sectors and to external forces such as gyrating exchange rates and the rise of new sources of competition. Two deep back-to-back recessions in the early 1980s also played a role. Uncertainty creates employer demands for flexibility which collide with the traditional system of union rulemaking.

In any case, Fortin and Lemieux's attention to institutional influences is instructive. Historically, there have been two protectors of the employee interest in the U.S.: unions and personnel departments. Union coverage fell dramatically in the past decade and a half in the private sector. Personnel executives now seem anxious (self protectively, to be sure) to assert that

they no longer resemble their soft predecessors and that they now are engaged in making top-level strategy. Whether that is so or not, the number of personnel executives fell during 1990-94; evidently, firms no longer feel the need to have managers charged with looking after the employee interest.

We live in interesting times. Employers tell employees not to count on them for job security, health insurance, or pay increases. Congress hints that Social Security and Medicare may not materialize as expected. At the same time, the median baby boomer ages into his/her forties, an age at which security, health care, and rising incomes become important and retirement no longer seems a faraway prospect. Wage inequality widens, as the papers in this session point out, and appears to drive recent political volatility. The question is whether the resultant pressures of these trends can continue to be dissipated or whether "something" disjoint will happen. Who says we can't have laboratory experiments in the social sciences? But are we sure we want to?

III. RESEARCH IN SOUTHERN LABOR HISTORY

Cracking a Solid Front: The Emergence and Growth of a Nonunion Sector in the Southern Paper Industry

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The paper industry emerged from World War II as one of the most thoroughly unionized of any industry in the United States. Even among southern mills, more than 95% of production workers were covered under collective bargaining contracts. However, the solid front of unionization began to crack in the mid-1970s, and by 1995 approximately one-fifth of blue-collar employment in southern pulp and paper mills was nonunion. The purpose of this study, which is part of a much larger one reported elsewhere (Kaufman 1996), is to identify and explain the factors responsible for this trend.

Industry Overview

The paper industry is divided into primary and secondary sectors. The primary sector includes pulp, paper, and paperboard mills (SIC 261, 262, 263). The secondary sector of the paper industry consists of a variety of "converting" operations in which the paper or paperboard (e.g., cardboard) is manufactured into an end product. This study focuses on the primary segment of the industry and, in particular, mills located in the southern part of the country.

The primary sector of the pulp and paper industry had been and continues to be one of the most heavily unionized industries in the American

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economy. Since the mid-1970s, however, a modest-sized but nonetheless noticeable slippage in the unionization rate has occurred in the industry. Based on several data sources, I estimate that union density declined from 98% among blue-collar workers in southern primary pulp and paper mills in the early 1970s to roughly 80% today (also see Eaton and Kriesky 1994).

A second picture of the unionization/deunionization trend in the southern paper industry is provided by unpublished data from the American Forest and Paper Association (AFPA) on the date of establishment and union status of individual pulp and paper/board mills in the South. Of the 116 mills in the data set (not all paper companies belong to AFPA, so the data set is a sample, not a census, of southern mills), 87 (75%) began operation prior to 1970, and 29 (25%) began operation since 1970. Of the 87 pre-1970 mills, 79 (91%) had union representation as of 1995. Investigation reveals that the eight nonunion mills were either small, specialty paper/board mills and/or were operated by companies that had their roots in the South, began as relatively modest-sized entrepreneurial or family-run ventures, and gave high priority to maintaining union-free status. By way of contrast, a large majority of the organized mills were owned by large Fortune 1000-type companies, most of whom were originally headquartered outside the South and first had unions in their northern and western mills.

Of the 29 mills built since 1970, 22 (76%) are nonunion as of 1995. According to persons knowledgeable of the industry, the last new primary mill in the South to be organized was in 1977 as the result of a voluntary card check recognition at the McGehee, Arkansas, mill of the Potlatch Company. Of the 17 pulp and paper/board mills built in the South since the Potlatch mill began operation, none have been organized by a union.

Mead-Stevenson: The Mother Mill of the Nonunion Sector

The first significant crack in the near-solid front of unionization in large primary mills occurred in 1975, when a new paperboard mill built by the Mead Corporation in Stevenson, Alabama, began production. That this mill was to be the opening wedge in the development of a nonunion sector in the southern paper industry was neither intended at the time by the company nor foreseen by either industry or union leaders.

Prelude to Stevenson

The story of the Stevenson mill begins in the late 1960s and involves several executives and managers in the Paperboard Group of the company (one of several Mead product groups). Principal among them were Greene Garner, group president; John Cleveland, group vice president of human resources; and Jack Murdoch, internal employee relations consultant.

The first step was a four-day conference in September 1972, at St. Petersburg, Florida, called "Insights into Productivity." Over fifty Mead executives and managers including CEO James McSwiney, were invited to attend (Carr 1989:108-114). In a significant departure from tradition, newspaper reporters, academics, consultants, union leaders (including Joseph Tonelli, president of the newly formed United Paperworkers International Union), and government officials interested in QWL programs were also invited. Garner sought to highlight the need for new management and human resource methods by examining the operation of four Mead container plants. The presentations painted an eye-opening picture of industrial plants caught in a low productivity/low employee morale syndrome.

After hearing the bad news, several speakers addressed alternative approaches to improving the performance of these plants. One presenter was Louis Davis, a business school professor and member of the Institute of Industrial Relations at UCLA, who at the time was the nation's leading academic expert on a newly emergent but relatively unknown management concept called "socio-technical job design" (STJD). Davis explained the principles of STJD and made a persuasive case for its adoption. Shortly after the conference, a decision was made to allow Murdoch to implement the social system side of STJD at a small greenfield corrugated box plant then under construction at Covington, Georgia (the engineering work and layout of equipment had already been completed). Murdoch put in place many of the attributes of what later became known as a "high-performance" workplace: semiautonomous work teams, multiskilling and cross-functional training, pay for knowledge, an all-salaried workforce, and a flat organizational structure that eliminated front-line supervisors and most middle management. Within a short time the plant was the division's top performer.

Given the successful experience at Covington, Garner gained approval of McSwiney to try a full-blown STJD system at a new, state-of-the-art greenfield paperboard mill planned for the small town of Stevenson, Alabama. This would be the first application of STJD to a continuous process facility in the United States. Garner and his colleagues were thus rolling the dice on a new system of management and work design that at the time had been tried at only a handful of sites in the world.

Socio-Technical Job Design

Although Davis had independently come to some of the basic principles of socio-technical job design, it first originated and gained prominence in the early 1950s through the work of Eric Trist, Frederick Emery, and a

small group of other researchers associated with the Tavistock Institute of Human Relations in London, England (see Davis and Taylor 1972; Trist 1981). It was in many respects the direct antithesis of the techno-bureaucratic model that grew out of the principles propounded by Frederick Taylor, Henry Ford, and Max Weber. The name "socio-technical" comes from the proposition that every system of production is composed of two interdependent subsystems—a technical system (the technology and equipment) and a social system (the relation of people to the job and each other), and for best organizational performance, the two subsystems must be jointly designed to achieve the best "fit."

By the late 1960s, STJD had been applied in a half dozen plants and mills in Scandinavia and North America. One of the first STDJ projects in America and one that received widespread publicity at the time was a General Foods dog food plant in Topeka, Kansas (see Ketchum 1975). From these early experiments an STJD "model" slowly evolved that served as the basis for the work system at the Mead mill at Stevenson. The most important of these principles are the following (Walton 1974):

- Self-managing work teams. These deemphasize a division of labor into a one-man/one-job system in favor of groups that take collective responsibility for performing a set of interdependent tasks and engage in a certain amount of self-management.
- Whole tasks. Jobs are enlarged so that each worker has a wider and more complex set of tasks to perform. More importantly, the teams are given ownership over a greater number of functions, such as inventory scheduling, quality inspection, and interviewing and selection of job candidates.
- Flexibility in work assignments. Flexibility in work assignments among team members is promoted by a variety of devices, such as temporary reassignment from one position to another to cover for absences or vacations, temporary redivisions of work in order to accommodate a change in manning levels, movement through task clusters of ascending skill or difficulty, and periodic rotation to different jobs.
- Supervision. Supervisors delegate many of their traditional functions of motivating, coordinating, and controlling to the teams. Some first-line supervisors and middle managers are made redundant, allowing a reduction in head count. Those that remain shift roles. They now provide technical support and training to the teams, manage coordination between key "boundaries" in the production system, and work with internal and external customers.
- Information systems. Information is distributed widely and made easily available to production employees on input and output variables affecting their team operation and the plantwide production system. Periodic

meetings and internal communications are used to regularly update employees on plant performance levels, the company's financial performance, and competitive conditions in the industry. Meeting rooms and break-out areas adjacent to the shopfloor are included to facilitate team meetings and training sessions.

- Reward systems. Compensation systems are changed to an all-salaried workforce. Some type of a pay-for-knowledge system is also added in which workers earn additional pay for mastering new skills or tasks. Some type of gainsharing system linked to the plant's productivity and/or financial performance is also common.
- Symbols of status and trust. Efforts are made to enhance the status of production workers, reduce status differentials between managers and workers, and communicate trust in workers' responsible exercise of self-regulation. Examples include the elimination of time clocks, an open parking lot, and a common entrance for both managers and production employees.
- Training and recruitment. Much greater expenditures are made on training of both production workers and managers. A significant share of the training is on social and problem-solving skills, such as understanding individual differences, group dynamics, and conflict resolution. Greater attention is also paid to the screening and selection of new employees in order to assure a good fit between the person and the work culture.

Implementation at Stevenson

Preliminary engineering work had already begun on the Stevenson mill when CEO McSwiney gave the go-ahead in 1973 to try a STJD system. Louis Davis was hired as an external consultant to the design team, while Cleveland and Murdoch headed up the internal team of Mead people. The unusual decision was also made to add several operating and staff managers to the design team, including the mill's IR manager Gary Peters. In other mill projects the design work was the sole province of the production and engineering departments.

The STJD system put in place at Stevenson contained nearly all of the eight features described above. Individually, none of these features was first introduced in the paper industry at Stevenson, as other companies in the 1960s had experimented with teams, pay for knowledge, and other such innovations. The unique aspect of Stevenson, however, was that all eight features were adopted as a package and designed from a total systems perspective.

Because the mill design at Stevenson incorporated numerous innovations in both the technical and social systems, numerous start-up problems and complications arose during the first year of operation. As a result, some

employees soured on the STJD features of the mill and exerted pressure to return to a more traditionally structured mill operating system. Although the UPIU had originally supported STJD, shortly after the mill's completion, it reversed course and took a more hostile stance to it. Although the company had expected the mill to be organized and worked cooperatively with the UPIU toward that end during the construction phase of the project, once the union changed course, the company decided to try to keep the mill nonunion. Two representation elections were held at the Stevenson mill, and the union lost both.

STJD and Union Avoidance: From Serendipity to Strategy

The developments at the Mead-Stevenson mill did not go unnoticed in the rest of the paper industry, and on two counts. After the mill's initial start-up problems were solved, it quickly became a world leader in its class in terms of productivity and cost. And from the perspective of corporate executives, an alluring by-product of the STJD system was that the workforce twice voted down union representation. Suddenly new options were available for strategic thinkers.

According to persons knowledgeable of the paper industry, while the initial STJD project at Mead-Stevenson was not done for union avoidance reasons, soon afterwards a number of companies made a strategic decision at the highest levels to pursue the nonunion option in new mills. This decision was not taken lightly, nor at the time was it the obvious best choice. Since nearly all major-sized paper companies were thoroughly organized, they had to carefully balance the benefits to be gained from pushing a nonunion strategy at new mills versus the costs of strained, possibly bitter labor relations with the UPIU at existing mills. Some might not have taken the nonunion route in earlier years, but a combination of events and developments in the late 1970s/early 1980s pushed the companies to take an increasingly confrontative position with the unions in organized mills and a more explicit, deliberately pursued union avoidance strategy in unorganized mills.

The driving force behind the companies' "get tough" policy was the need to rein in costs and boost profitability (Birecree 1993). The industry had turned in only a mediocre profit performance in the 1960s and 1970s. During the ten-year period 1970-1979, for example, in only two years did paper companies earn a return on net worth that exceeded the average of all manufacturing firms. The squeeze on profitability came from both the revenue and cost side. On the revenue side, companies had to contend with greater international competition, two bouts of wage-price controls, and a macroeconomic environment of stagflation. More threatening to profits were developments on the cost side.

By the end of the 1970s, concern was growing among the paper companies that their cost structures were becoming increasingly top-heavy and noncompetitive. The pressure on costs came from a variety of sources: a significant slowdown in productivity growth after the early 1970s, a sharp appreciation of the American dollar in the early 1980s, and rising interest rates and capital costs. Added to these pressures was the unprecedented rapid growth in labor cost. As an indication, the ratio of average hourly earnings in paper mills to average hourly earnings in the private nonagricultural economy stood at 1.16 in 1960, increased only slightly to 1.18 in 1970, but then zoomed upward to 1.35 in 1980, and peaked out at 1.56 in 1986. While direct labor cost became a growing concern to paper companies and source of conflict in collective bargaining, restrictive work rules and other impediments to improved productivity ranked even higher as an irritant to the industry. Over the years, the unions had negotiated a myriad of work rules that in various ways restricted the companies' flexibility in using labor or forced them in various situations to pay extra compensation.

The success of STJD at Mead-Stevenson thus occurred at a time when the industry was coming under greater competitive pressure and, hence, was searching for ways to boost profit margins and control costs. It was this constellation of environmental forces, rather than a visceral antiunion attitude on the part of management, that caused most paper companies to shift toward a much more hard-nosed labor relations strategy vis-à-vis their unions. This strategy was played out on two fronts. One was in new greenfield paper mills where STJD principles were incorporated both to realize productivity and quality gains and to keep the workforce nonunion. Implementation of this strategy was significantly constrained, however, by the modest number of new mills that could be put in place due to huge capital costs, scarcity of available sites and accessible timber reserves, and increasingly onerous environmental regulations. Indeed, by the mid-1990s construction of new integrated paper mills had come to a virtual halt.

Given the limited room with which to play the nonunion card, most paper companies pursued productivity gains and cost relief through a second strategic route (Walton, Cutcher-Gershenfeld, and McKersie 1994). This was at the bargaining table where they demanded extensive contract concessions from the unions and took strikes and permanently replaced workers to win them. This strategy reached its most adversarial point in 1987 with a series of strikes and lockouts at mills of the International Paper Company (Eaton and Kriesky 1994).

After this episode, and having won many of the contract concessions they started out to get in the late 1970s, most paper companies in the 1990s sought to put their relations with their UPIU on a more cooperative

and constructive basis. Part of the impetus was to accelerate the adoption of STJD work systems in unionized mills, a goal that management perceived required union support and collaboration if it was to be successful.

Conclusion

Up to the mid-1970s the primary sector of the southern paper industry was almost completely unionized. Since then a small but growing nonunion sector has emerged. The birthplace of the nonunion sector in the paper industry is Stevenson, Alabama, where a new paperboard mill owned by the Mead Corporation began operation in January 1975. The mill was the first in a continuous process industry in the United States to incorporate a nontraditional or "socio-technical" work system. This system not only yielded substantially higher productivity and lower cost than traditionally designed mills but also significantly reduced employees' desire for union representation. Although union avoidance was not a strategic goal of the Mead Corporation when the mill was designed and built, the mounting pressure on paper companies in the late 1970s/early 1980s to curb labor cost and boost profit margins caused many of them to rethink their traditionally accommodative relationship with the United Paperworkers International Union. Part of this rethinking involved a strategic choice to try to keep new, greenfield paper mills nonunion through use of the same type of nontraditional work system pioneered at Mead-Stevenson. This approach proved extremely successful, as the union has not organized a single new primary paper mill in the southern United States in the last twenty years.

References

Birecree, Adrienne. 1993. "Corporate Development, Structural Change and Strategic Choice: Bargaining at International Paper Company in the 1980s." *Industrial Relations*, Vol. 32, no. 3 (Fall), pp. 343-66.

Carr, William. 1989. *Up Another Notch: Institution Building at Mead*. New York, NY: McGraw-Hill.

Davis, Louis. 1966. "The Design of Jobs." *Industrial Relations*, Vol. 6, no. 1 (October), pp. 21-45.

Davis, Louis, and James Taylor, eds. 1972. *Design of Jobs*. New York, NY: Penguin.

Eaton, Adrienne, and Jill Kriesky. 1994. "Collective Bargaining in the Paper Industry: Developments since 1979." In Paula Voos, ed., *Contemporary Collective Bargaining in the Private Sector*. Madison, WI: Industrial Relations Research Association, pp. 25-62.

Kaufman, Bruce E. Forthcoming. "The Emergence and Growth of a Nonunion Sector in the Southern Paper Industry." In Robert Zieger, ed., *Recent Essays in Southern Labor History*. Knoxville: University of Tennessee Press.

Ketchum, Lyman. 1975. "A Case Study of Diffusion." In Louis Davis and Albert Cherns, eds., *The Quality of Working Life*, Vol. 2. New York, NY: The Free Press, pp. 138-65.

Trist, Eric. 1981. *The Evolution of Socio-Technical Systems*. Occasional Paper No. 2. Toronto, Ontario: Ontario Quality of Working Life Center.

Walton, Richard. 1974. "Innovative Restructuring of Work." In Jerome Rosow, ed., *The Worker and the Job: Coping with Change*. New York, NY: The American Assembly, pp. 145-76.

Walton, Richard, Joel Cutcher-Gershenfeld, and Robert McKersie. 1994. *Strategic Negotiations*. Boston, MA: Harvard Business School Press.

"Rights Which Have Meaning": Challenging Texas's Union Solicitation Restrictions in the 1940s

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Rights articulation by courts as a result of litigation can be viewed both as an attempt to assert and/or define such rights and as a way of altering expectations and self-conceptions. The latter thrust, in particular, can help create the sense of collective identity necessary for the political mobilization of a group. As legal sociologist Stuart Scheingold writes in *The Politics of Rights*, "rights can be useful political tools" as "litigation can politicize individual discontents and in so doing activate a constituency, thus lending initial impetus to a movement for change." By demonstrating "that individuals are not isolated in their discontents and that these discontents have a status in the law," litigation helps establish a collective identity and stimulate action. Two of the more recent examples of this process were the *Brown v. Board of Education* and *Roe v. Wade* Supreme Court decisions, each of which clearly added an organizing stimulus to the civil rights and women's rights movements (Scheingold 1974; Turk 1976; Black 1973; Zemans 1983; Bowles and Gintis 1986).

For southern workers in the 1940s, caught in the legalistic net of a powerful antiunion political system, litigation with the potential that Scheingold writes about might have served as a stimulus to wider unionization and political realignment. This paper is a study of one such unsuccessful legal mobilization effort by the Congress of Industrial Organizations (CIO), which sought to use litigation to challenge the region's antilabor ethos. In particular, it very briefly notes the genesis and evolution of its test case, *Thomas v. Collins*, and then analyzes in more detail the basis of the U.S. Supreme Court's decision. It concludes by assessing the reasons underlying the final opinion's problematical use for group mobilization.

The History of *Thomas v. Collins*

The Texas law which *Thomas v. Collins* challenged passed in 1943 and required anyone who solicited union membership to obtain a license from

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the secretary of state. It was one of many such laws spreading throughout the South in reaction to the industrial union gains of the mid-1930s. Southern industrialization stimulated by the war was a particular target of a CIO seeking outlets for further growth, and conservative elites reacted with legislation designed to hamper possible advances. It was unclear, however, how they would fare if tested. Since 1939 the CIO, along with the American Federation of Labor (AFL), had achieved notable Supreme Court victories protecting union rights from such local restrictions. In *Hague v. CIO* (1939) the Court ruled that broad and discriminatory ordinances barring peaceful picketing, mass assembly, and leafleting were unconstitutional restrictions of First Amendment rights. In the AFL case of *Thornhill v. Alabama* (1940) and its companion case, *Carlson v. California* (1940), the Court held that laws barring peaceful informational picketing were unconstitutional free speech restrictions. Indeed, by 1942 the conservative Supreme Court of the 1930s had given way to the liberal Roosevelt Supreme Court of the 1940s. To socially-minded litigators such as CIO General Counsel Lee Pressman, the time appeared propitious to press forward a challenge to state and local incursions into rights guaranteed by federal law (*Thomas v. Collins* 1945; *Hague v. CIO* 1939; *Thornhill v. Alabama* 1940; *Carlson v. California* 1940; Fine 1984).

Therefore Pressman convened a CIO general counsels' conference to develop a strategic response. United Auto Worker attorneys Maurice Sugar and Ernest Goodman argued that the industrial federation should challenge laws such as Texas's (which seemed obviously unconstitutional) in a highly visible way, thereby gaining public support in the process. The UAW lawyers convinced UAW President R.J. Thomas, also a CIO vice-president, to go to the Houston area to publicly solicit union memberships during an oil workers organizing campaign without first having obtained the necessary state license. They fully expected Texas state officials to arrest Thomas for that effort, which they did, and then they appealed Thomas's conviction under the law, with the assistance of Pressman's office, all the way through the Texas Supreme Court. As expected, the lower courts uniformly ruled that the statute was a valid exercise of a state's right to control business activity. Subsequently, Lee Pressman, along with UAW counsel Ernest Goodman, appealed to the Supreme Court in 1943, participated in two oral arguments during 1944, and received the final decision in January 1945 (Goodman 1989; *Thomas v. Collins* 1945).

In the development of the Supreme Court case, Pressman and his cocounsel challenged the state law on a variety of constitutional grounds. However, in their brief they included one particular argument of special significance which had the potential to transform the decision into the type

of catalyst Scheingold writes about. In the first section of their brief, the CIO lawyers argued that a nexus existed between individual worker constitutional liberties already defined by the court as worthy of protection *and* the collective right to unionize. It was only *through labor organizations*, Pressman and his colleagues maintained, that employees could truly exercise these important constitutionally protected First Amendment rights. Begging the Court to give "broader consideration" to this aspect of the case, they pleaded for the Court to confront in its decision how far it would permit states to go "in rendering ineffective the rights declared and guaranteed to working men and women" by recent prolabor decisions such as *Hague* and *Thornhill*. The type of state legislation now in front of the court posed a great danger to "the ability of employees to exercise those rights in the only manner in which, in the main, those rights can be made realistically effective, namely, through mutual and concerted action on the part of employees" (Appellant's Brief 1944).

The rights declared protected in a case such as *Thornhill* were both individual and collective. An individual's right to carry a picket sign informing the public of a labor dispute thus was "a right which has meaning only to the extent that an individual employee is free to call upon fellow employees to join him in the exercise of the right." In the context of labor organization drives these two elements were inseparably bound; freedom of association presupposed freedom of speech. Moreover, free speech could not exist without the right to disseminate that speech through collective formations. You could not legitimately "distinguish between the right to think and speak and the right to call upon others to join in organization for the spreading of thoughts and ideas." The Texas statute and lower court decisions did not adequately consider that the very purpose of employee organizations was to effectuate individual purposes through collective activity, and thus the reason for "assembling into organizations," while individual in origination, had to be collective in effectuation. "Labor organizations exist and act, and the organization for which Appellant spoke in the present case exists and acts, solely for the purpose of exercising and effectuating the rights assured . . . ." To exercise their right to free speech, employees have chosen spokesmen from "their own ranks" to exercise it for them. It would be physically impossible, for example, for an individual employee to exercise his or her own free speech in relationship to all other coemployees of a multiplant employer across the nation, and hence the necessity for spokespersons who should be free of restraint (Appellant's Brief 1944).

It was therefore impossible for the state of Texas to claim that it had adhered to the principles of *Hague* and *Thornhill* when its law clearly undercut those rights. How could "a plea to employees to join in common

organization for the better effectuation of civil rights . . . be treated in the same category as an attempt to sell stock," the CIO attorneys asked. "Solicitation for membership and participation in labor organization is no mere abstract exercise in liberty." Laws and court decisions already recognized the right to collective bargaining, to which the issue at hand was clearly related. "Thus, the freedom of the individual worker to speak effectively through his organization in collective bargaining is, in a very practical and direct way, dependent upon his freedom to solicit his fellow workers to join with him." Previous Supreme Court decisions, the union lawyers insisted, both implicitly and explicitly supported this interpretation (Appellant's Brief 1944).

In effect, the CIO attorneys were asking the Court to enunciate, as component of its decision, the legitimacy of *group-related* constitutional rights, integrally related to yet still distinct from R.J. Thomas's individual constitutional right to free speech. A bold proclamation along these lines might have effects beyond the individuals involved. No doubt, the lawyers believed that such could be the result of litigation because they, like many citizens, as Scheingold observes, maintained "an instinctive, if inchoate, understanding of the political importance of law in a society which associates legal values so closely with political legitimacy." Elevating the political legitimacy of unions in the South via this route would certainly aid in the struggles ahead (Scheingold 1974).

The *Thomas* decision proved terribly contentious for the Supreme Court. In the first month of consideration, liberal activist Justice Wiley Rutledge, first in the minority and afterwards in the majority after a tentative switch of votes, wrote numerous drafts to hold his slender coalition together. Typically, Rutledge's opinions were written to conform with his sense of justice with the legal rationale supplied ex post facto. And in *Thomas* he was apparently having difficulty holding, among others, liberal activist Justice William Douglas on the reasoning outlined in his early drafts (Harper 1965).

In those early drafts, Rutledge had found where justice lay for him. In essence, Pressman's theory of the case had made a deep impact on the justice's articulation of the constitutional rights involved. Stating that legislation could not forbid union officials from speaking freely, Rutledge affirmed that there "is strong reason to support this view when the prohibition includes both general and specific invitation, as it does here, in the fundamental rights of the union as well as those of the individual who speaks. What is basically at stake is the right of unions to existence as well as the right of workingmen to unite for protection of their common and legitimate aims" (Rutledge 1944; Harper 1965).

Justice Rutledge then went on to review the legally protected rights to freedom of association granted workers under federal statutes and protected by the Constitution. Although unions were subject to reasonable restrictions, which the Court was not now determining, they had a "basic right to existence which legislation cannot unduly impair" as part of democratic rights belonging to all. "The right of unions to exist includes the right to maintain themselves and thus to secure adherents—to expand within limits which no doubt may be imposed in the public interest." In short:

> It follows that, except for particular disability in special circumstances, the right to join unions cannot be taken away by the state. Nor can the right generally of unions and their members to ask and persuade others to join. These individual rights underlie the very existence and maintenance of unions. And legislation which would forbid them would strike directly at their existence as also at the rights of workingmen to unite and associate, and plainly would be invalid.

Within legitimate limits the state could impose some control, Rutledge acknowledged; however, "there is a right both of existence and of expansion. And those rights are both within the area of free discussion and assembly and within their protections. Although no decision here has put the matter exactly thus, we think it is implicit in the various ones which have marked out some of the boundaries. 'Free trade' in ideas was not meant solely for persons in intellectual pursuits. 'Free trade in ideas' means free trade in assembly and association. It means free trade also in the opportunity to persuade to action, not merely to describe facts," Rutledge asserted. Recent decisions had affirmed employers' rights to free speech on labor matters. And they protected "no less the employees' converse right. In our system the right of association for lawful ends, except in corporate form, is a common right. But, while varying degrees of regulation will be appropriate for different organizations, there is a core of common right to maintain membership, and thus the institution itself, which cannot be taken away."

Thus Rutledge had clearly been swayed by the CIO's contentions. By the beginning of June, however, as the other justices responded to the drafts, Rutledge excised the bold assertions of union institutional protections grounded in individual constitutional rights. Apparently, no majority existed in support of the language. The issue of unionism almost disappeared completely; it became incidental to the constitutional issues at hand. The final majority consisted of Rutledge, Frank Murphy, Hugo Black, and William Douglas—the Court's liberal activist wing—on Rutledge's final

reasoning, and the more conservative New Dealer, Robert Jackson, for reasons enunciated in a separate concurrence. As Rutledge's biographer noted, the *Thomas* opinion would become one of the handful of Rutledge's First Amendment opinions likely to be "read, reread, studied and cited as long as the Republic endures." It became as preeminent a phrasing of the "preferred position" theory of First Amendment constitutional rights as one could find for many years. In its final casting, however, it focused almost exclusively on R.J. Thomas's individual constitutional right to free speech (Goodman 1989; Harper 1965).

Confronted "again with the duty our system places . . . to say where the individual's freedom ends and the State's power begins," Rutledge's final opinion asserted that it was "the character of the right, not of the limitation, which determines what standard" should be used. Citing the controversial "clear and present danger" standard, he argued that "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation" of First Amendment rights. American tradition, he contended, made it imperative that the Court should "allow the widest room" for discussion and the "narrowest range [for] its restriction . . . " (*Thomas v. Collins* 1945).

But in so doing, the Court was *not* using as the basis for its determination the broader contentions of the parties, either those of Texas or the CIO. In regard to the latter, Rutledge significantly wrote that the Court should not impose constitutional protections "because . . . interests of workingmen are involved or because they have the general liberties of the citizen." Those factors did not entitle their organizations to what Rutledge characterized as special group privileges. "In applying these principles to the facts of this case," the liberal justice continued, "we put aside the broader contentions both parties have made and confine our decision to the narrow question" whether the application of the Texas law violated individual First Amendment rights (*Thomas v. Collins* 1945).

As to such rights, they found a constitutional violation. The law restricted Thomas from speaking and his listeners from hearing what he had to say. "The threat of the . . . power of contempt, and of arrest for crime, hung over every word." As to the state's contention that while Thomas had the right to laud unionism in the abstract as long as he did not solicit membership, the majority found no logic. Such a law "compels the speaker to hedge and trim. He must take care in every word to create no impression that he means, in advocating unionism's most central principle"—that workers should unite—that "he not actually ask those present to take action to do so." Freedom of speech would be at an end when "labor leaders" were thus forced only to engage in "innocuous and abstract discussion of the

virtues of trade unions and so becloud even this with doubt, uncertainty and the risk of penalty . . . . " "Of course," Rutledge went on to clarify, "espousal of the cause of labor is entitled to no higher constitutional protections than the espousal of any other lawful cause. It is entitled to the same protection" (*Thomas v. Collins* 1945).

Thus in sum, the votes of the majority justices in the *Thomas v. Collins* decision rested on their constitutional objections to state legislation which restricted the *individual's* right to speak freely. As a New Deal lawyer friend of Justice Rutledge, Howard Mann wrote him shortly after the announcement of the decision, "your opinion is a masterful job and one of the [best], if not the best, thing[s] you have done. Teachers in constitutional law should use this case as governing the whole problem of freedom of speech." The arguments made by [the] CIO's lawyer were certainly broad and sweeping, he correctly noted. Rutledge had performed a splendid work of judicial craftsmanship in laying the basis for the decision as he did. He informed the justice that he should not be too much concerned, as Rutledge often was, with how many opinions he had the opportunity to write. "The history of American jurisprudence will not remember how many opinions you wrote each year," he closed, "but it will long remember opinions of the caliber of this one" (Mann 1945).

Rights without Meaning

To Lee Pressman and his colleagues, though, Court-articulated rights which did not take into consideration making those rights effective—making them "have meaning" through explicit recognition of the institutional prerequisites necessary to bring them to social reality—were deficient. While Pressman and his cocounsels took comfort in winning the case, it was in some ways an unsatisfying victory, for they saw themselves as leaders of a collective social movement. For a brief period from the mid-1930s to the mid-1940s, it seemed that collective answers to society's problems were on the ascendancy. Unfortunately, even the most liberal members of the Court found it much more unifying to focus on the vestation of individual constitutional rights than to contemplate their collective dimensions. Most likely, this reflected differing varieties of liberal ideology. For some elite liberals it was far more difficult to acknowledge that for many individuals in a stratified society some constitutional rights *had* to be collectively effectuated.

The rejection of that contention had ramifications beyond the immediate issues in the case. First, a decision that emphasized the communitarian dimensions of rights *and their union-relatedness* would have impacted on later federal policy. A significant feature of the Taft-Hartley Act of 1947

was its importation of a strong element of *individualism* into the decision to unionize. Overcoming the strong prounion collectivist thrust of Rutledge's first draft, grounded in a broad *constitutional* interpretation, would have been more difficult to achieve than a simple shift in statutory language.

Secondly, as Scheingold observes, "judicially asserted rights" also need to be thought of in part "as political resources of unknown value . . . ." For the CIO lawyers seeking to stem what appeared to them a rising political-legislative reaction against unionism, a *Thomas v. Collins* decision of the nature that they pleaded for could have been such a "political resource" for industrial union organizing in the South. "Whether or not people actually learn their rights," he writes, "is less important than that they begin to believe that they have rights. What counts is that they cease subliminating their grievances and begin to seek redress" (Scheingold 1974).

As it was though, the liberal coalition that was the New Deal could not harmonize its varied ideologies except, ultimately, in the way that it did. The underlying potential of *Thomas v. Collins* to serve as a rallying point for heightened union organizing drives—in the way that *Brown v. Board of Education* did for the civil rights movement or *Roe v. Wade* did for the women's movement—never came to pass. Even though it was possibly the most favorable time to thrust such litigation forward to the Supreme Court, in the end it seemed that the only union-related rights which would have meaning in the United States were individual ones.

References

Appellant's Brief, *Thomas v. Collins*. 1944. *U.S. Supreme Court Records and Briefs*. Washington, DC: Congressional Information Service Microform.

Black, Donald J. 1973. "The Mobilization of Law." *Journal of Legal Studies*, Vol. 2, no.1 (January), pp. 125-49.

Bowles, Samuel, and Herbert Gintis. 1986. *Democracy and Capitalism*. New York: Basic Books, pp. 152-75.

Carlson v. California. 1940. 310 U.S. 106.

Fine, Sidney. 1984. *Frank Murphy: The Washington Years*. Vol. 3. Ann Arbor: University of Michigan Press.

Goodman, Ernest. 1989. Oral History Interview with Gilbert J. Gall, December 27, Detroit, MI.

Hague v. CIO. 1939. 307 U.S. 496.

Harper, Fowler V. 1965. *Justice Rutledge and the Bright Constellation*. Indianapolis, IN: Bobbs-Merrill.

Mann, W. Howard. 1945. Letter to Wiley Rutledge, January 19, Box 118. Wiley Rutledge Papers, Manuscripts Division, Library of Congress, Washington, DC.

Rutledge, Wiley. 1944. First and Second Drafts, *Thomas v. Collins* Opinion. Case No. 569, October 1943 Term, May 24, Box 105. Wiley Rutledge Papers, Manuscripts Division, Library of Congress, Washington, DC.

Scheingold, Stuart A. 1974. *The Politics of Rights: Lawyers, Public Policy, and Political Change.* New Haven: Yale University Press.

Thomas v. Collins. 1945. 323 U.S. 516.

Thornhill v. Alabama. 1940. 310 U.S. 88.

Turk, Austin T. 1976. "Law as a Weapon in Social Conflict." *Social Problems*, Vol. 23, no. 3 (February), pp. 276-91.

Zemans, Frances Kahn. 1983. "Legal Mobilization: The Neglected Role of Law in the Political System." *American Political Science Review*, Vol. 77, no. 3 (September), pp. 690-703.

DISCUSSION

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The pulp and paper industry, as described in great and illustrative detail by Bruce Kaufman, stands at the brink of yet another downturn in its market (*Wall Street Journal* 12/19/95). Given the worsening environment, it will be extremely interesting to see which direction labor relations in the pulp and paper industry takes and whether this will lead to a further expansion of nonunion capacity.

Kaufman argues the United Paperworkers International Union (UPIU) is partially to blame for the rise of the nonunion sector in the southern primary pulp and paper industry because they (1) pushed up labor costs "too far in the 1970s and early 1980s," (2) resisted "needed modifications in productivity-blocking work rules and work practices," and (3) dragged their feet "on implementation of new high-performance work systems." In addition, Kaufman argues that the long-term news for UPIU is bad in that they have not successfully organized a major new pulp or paper mill in the last twenty years. Kaufman concludes that this lack of successful organizing "strongly suggests that the union has fundamentally lost touch with its customers and no longer provides a service that most workers are willing to pay for."

I would strongly disagree with this last conclusion and would in fact argue the reverse: UPIU's "problems" stem not from its weaknesses but from its strength as an effective but highly traditional business union. The lack of organizing among nonunion workers, as well as UPIU's ability to bargain high labor costs (seen as a negative by Kaufman but a positive by the rank and file and union), and UPIU's initial and often continued resistance to many of the new work systems can all be traced back to UPIU's effective following of a classic business unionism approach.

While nonunion greenfield site workers have not given majority support to UPIU organizing drives, unionized plants in the southeast (i.e., right-to-work) states typically have more than 90% of their potential membership signed up. UPIU's high membership is at least partially due to their effectiveness at providing secure, high-paying, high-benefit jobs in

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typically low-income rural areas, with a degree of job protection (via effective grievance handling) uncommon among employers in this region.

UPIU members and local leaders often remain distrustful of management's efforts to introduce new work systems because their organizational history has taught them to be so. Despite the relatively stable labor-management relationship typical of pulp and paper plants, they have been managed, as Kaufman points out, in a traditional Tayloristic manner which promotes distrust and conflict between labor and management. UPIU members and local leadership are extremely wary of the potential union undermining powers of participation schemes for two good reasons: (1) management and union have a shared history of Tayloristic work organization that is extremely hard to change (note Kaufman's discussion of the Mead-Stevenson plant's problems in training established managers in STJD), and (2) the majority of participative programs were unilaterally developed and implemented (Kriesky and Brown 1992; Simpson 1992).

Despite this history, high-performance work systems are now endorsed by most international and local UPIU leadership. However, such endorsement should not be taken to mean blanket acceptance. UPIU's International President Boyd Young is typically described by his industry counterparts as possessing "a strong, firm handshake with fish hooks hidden in it." If one can generalize, this stance is replicated at a local level. UPIU locals often trade workplace flexibility for economic advances. Indeed, surface acceptance of participative programs often masks (from management) a cynical but sophisticated approach to these programs that seeks to maintain union control and insists that some economic gain is given in return for participation. In addition, UPIU has entered into a high-level, cooperative partnership with company executives to focus on creating shared wealth through joint efforts to (1) lobby on behalf of health care reform and control health care costs, (2) aggressively fight environmental regulation, and (3) "identify and examine those issues and practices in the paper industry which show potential for mutual gain for labor and management" (Southern Pulp and Paper Industry 1995).

While UPIU's adherence to a business unionism philosophy has served them and their membership extremely well in the last forty to fifty years, this same model has inherent restrictions that limit its ability to be an effective organizing union. UPIU has an organizational deficit with regard to organizing. As Kaufman explains, UPIU has not had to aggressively organize pulp and paper mills for some forty to fifty years. Consequently, UPIU lacks the will, the resources, and an effective message with which to organize nonunion mills. Further, while the industry remains 70% to 80% organized, and with most of the firms either wall-to-wall union or with only

one nonunion plant, the membership has little interest in expending substantial organizational resources on high risk, low probability of success attempts to organize resolutely nonunion facilities.

References

Kriesky, Jill, and Edwin Brown. 1992. "Implementing Employee Involvement: How Paper Companies Gain Local Union Support." *Employee Rights and Responsibilities Journal*, Vol. 5, no. 2 (June).

Simpson, Jimmy. 1992. "Job Classification Consolidation and Workrules Flexibility in Southern Paper Plants." Dissertation, University of Alabama, Tuscaloosa.

Southern Pulp and Paper Industry. 1995. *Southern Pulp and Paper Industry, Labor Management Council: Workshop on Industry Best Practices.* Flyer, CLEAR, University of Alabama at Birmingham.

Wall Street Journal. 1995. "Paper Industry's Two-Year Boom Is Beginning to Fold." (December 19).

DISCUSSION

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These papers shed light on various aspects of labor history in the South: the legal issues arising out of a restrictive Texas labor law, unorganized agricultural workers in Florida, and the largely unionized workers in the paper industry. Because of time constraints, my comments will be limited to the papers presented by Gilbert Gall and Cindy Hahamovitch.

Gall begins with an intriguing concept: the use of "rights" by the labor movement as a mobilizing force. He shows how labor activists in the CIO embarked upon a bold legal strategy of challenging a Texas law that required organizers to register with the state before soliciting members. The purpose was to find a means of transcending individual rights and staking out a new set of collective rights for unions. The eventual ruling by the Supreme Court, however, revealed an unwillingness by the Court, even with a liberal majority, to frame constitutional issues in collective terms.

The paper makes several important contributions. We learn more about Lee Pressman, the CIO's legal counsel, who argued the case brilliantly before the Court. Labor history has usually focused on the dynamic leaders and militant activists. While the role of legal counsel has generally remained obscure, anyone who has worked with unions knows that lawyers are often deeply involved in union activities. In Gall's paper we also see the very real limits of legal thinking on labor issues in the U.S. Even the most liberal justices could not find a way to reconcile individual and collective rights. Witness in Gall's paper the steady erosion of CIO supporter Justice Rutledge's arguments against the Texas law. Meanwhile, opposition to the CIO's challenge viewed unions solely through the lens of business. Finally, Gall's paper is useful in pointing to the interface between federal and state labor laws in the period between the passage of the Wagner Act in 1935 and the Taft-Hartley amendments of 1947.

Given Gall's interest in the possibilities for mobilizing around the issue of rights, however, one wonders whether or not this case ever mobilized anyone into action. Did anyone actually believe they possessed rights

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which were threatened by the Texas law? Was there any CIO campaign to mobilize unionized workers around the case?

Cindy Hahamovitch has studied agricultural workers in Florida during the years of World War II. Unlike the CIO members in Gall's research or the paperworkers in Bruce Kaufman's paper, the agricultural workers in Florida were mostly immigrant workers who rarely organized themselves into unions. Nevertheless, Hahamovitch's research reveals the possibilities for positive change in the tight labor market conditions of the war years. Thus while the CIO and AFL unions were making strong headway in industrial settings during the war years, agricultural workers in Florida also made important gains.

Hahamovitch's main contribution is to give voice to these workers, who generally lacked union organization, a labor press, or political activists eager to articulate their grievances. Beyond that, Hahamovitch shows how labor policy evolved in this particular market. She shows how experimental New Deal policies, which were aimed at assisting agricultural workers to improve their living standards, quickly gave way to wartime policies aimed almost solely at preventing shortages of farm workers. Thus during the war years, as growers sought to maintain adequate sources of labor, the agricultural workers became "soldiers on the food production front."

Her study suggests the importance of federal intervention in bolstering weak state and local labor standards, but further exploration of this aspect would be welcomed, especially since the protections afforded industrial workers under the National Labor Relations Act did not extend to agricultural workers. More discussion about gender issues and the relations between African-American and Jamaican workers would also help to round out the story.

Both papers suggest implications for contemporary industrial relations. The demise of the CIO case against the Texas law probably does not bode well for ongoing efforts by the union movement to reform labor laws. The passage of the Wagner Act and the Court's subsequent ruling on its constitutionality occurred in a unique setting: the dramatic revival of the union movement, the emergence of a "labor problem" that demanded attention at the national level, and a rough political consensus on the need for a new framework for resolving labor-management conflict. As Gall shows, even under the most favorable conditions the American legal system retains a strong hostility to the granting of collective rights to workers. In the current setting, opening up the existing law to reform could likely result in changes that would be harmful to the struggling labor movement.

Hahamovitch points to the difficulties in organizing immigrant workers. On one level, this problem occurs when immigrant workers compete with

indigenous workers in certain labor markets. For example, tensions between African-American and Latino workers have been observed in Los Angeles around hiring and promotion issues. In a larger sense, union organizers face a real dilemma: How can unions organize and control local labor markets if a seemingly unlimited supply of immigrant workers are available to replace organized workers?

In adding to our knowledge of labor's past, these papers raise issues that are vital to its future.

IV. EMPLOYEE REPRESENTATION IN ECONOMIES IN TRANSITION

Employee Ownership and Control: Evidence from Russia

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Recent studies have begun to investigate diverse theoretical and empirical issues concerning the consequences of reform processes in transitional economies for labor-management relations.[1] The pivotal importance of corporate governance for successful transition has been stressed by many transition theorists (e.g., Aghion, Blanchard, and Burgess 1994). Attention has been drawn not only to ownership (especially whether firms are privately or state-owned) but also to control (by insiders or outsiders) and—in the case of insider control—whether the controlling group are managers or workers (Bim, Jones, and Weisskopf 1994). For reasons including easier access to capital markets, the conventional wisdom is that firms with outside ownership are more efficient than firms with insider ownership (e.g., Boycko et al. 1993). And for reasons including allegedly superior solutions to agency problems, it is argued that the most efficient form of insider ownership is manager (rather than worker) ownership (e.g., Earle et al. 1995).

These theoretical issues concerning new forms of enterprise ownership and control are all the more salient because employee ownership has proven to be a widespread feature of the privatization process in several transition economies (Nuti 1995). This development has been somewhat unexpected and generally unwelcomed by most economists, yet to date the empirical evidence on the nature as well as the effects of corporate governance in

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transitional economies is quite slim. While there have been some important early attempts to chart patterns of corporate governance,[2] these studies usually suffer from problems including the difficulty of obtaining data for large samples of firms, the need to undertake empirical work by identifying corporate governance with the main owner, and limited information on the dynamics of ownership and on the links between ownership and control.

Using new enterprise-level data for samples of firms in St. Petersburg, Russia, we report in this paper new findings relevant to the structure of corporate governance in transitional economies. Our report constitutes the first stage in what will be a longer-term, cross-national, collaborative project whose *eventual* aim is to make progress over existing studies in investigating these complex issues. The process of data collection is ongoing; this paper, based on findings only from one city in Russia, should be viewed as a report of work in progress.

Conceptual Framework

We begin by classifying firms by ownership. An *open joint-stock company* issues publicly traded ownership shares; the company's assets are owned by individuals in proportion to their share holdings, and the firm is controlled by those who own a controlling packet of shares. A *closely held firm* is owned and operated by a person or group closely attached to the firm as owner(s) and/or manager(s). In the case of open joint-stock companies, two alternative possibilities with respect to the exercise of effective control over enterprise operations may be distinguished: predominant ownership by *insiders* or by *outsiders*. Insiders include all the people working in the enterprise. An insider-controlled firm may be effectively controlled by its managers, by its workers (either directly or indirectly—e.g., via a workers' council), or by some combination of the two. Outsiders include those whose attachment to the enterprise is based on an ownership stake rather than on work within the enterprise. Outsiders may be individual owners or shareholders, or they may be institutional shareholders (i.e., financial intermediaries such as investment trusts).

The case for *open joint-stock companies*—and an active capital market in company shares—rests mainly on the putative advantages of such a system in raising capital funds, in allocating those funds flexibly among competing enterprises, and in disciplining managers. Outsider control means that enterprise decisions will be guided primarily by the objective of maximizing returns on investors' capital. The justification for this approach is that only outsiders can be expected to proceed rapidly with enterprise restructuring, not hesitating to liquidate unprofitable assets and to dismiss redundant workers; moreover, outsiders are more likely to be able to mobilize

new resources to invest in the enterprise and less likely to be able to evoke and to rely on soft government budget constraints. Critics question whether stock markets actually perform their intended functions effectively, especially in the context of formerly centrally planned economies with very underdeveloped capital market institutions. Advocates of *closely held* firms argue that such firms are more likely to be characterized by a focused, tightly knit, flesh-and-blood ownership group with a strong stake in enterprise performance—as compared with the alternative of external ownership of joint-stock companies.

The outsider-control model has several variants, depending on the locus of effective control and the terms on which shares are made available to buyers. On the one hand, there could be open sale of shares in corporatized state enterprises in the hope that a "strategic (core) investor" (domestic or foreign) will turn up and take over control or in the expectation that an active stock market will discipline management, even in a context where share ownership is widely dispersed among many small investors. On the other hand, there could be established strong financial intermediary institutions (holding companies, mutual funds, etc.) which are expected to buy controlling packets of shares in companies and proceed to restructure and monitor them. There also exists, however, the possibility of a different outcome in the event that no external strategic investor takes over control (because shares are diffused to many small investors, or because the bulk of the shares can't be sold and remain in the hands of state property agencies), no appropriate financial intermediary institutions emerge, and no well-functioning capital market develops. This default outcome is that the locus of effective control over the "privatized" state enterprises really does not change—it continues to be run by previous managers, influenced by workers, with government authorities continuing to take a strong interest in the enterprise.

In *insider-controlled* firms, the security and stability of the enterprise and its workforce will weigh more heavily in decision making. Many economists believe that insider ownership, in general, and worker ownership, in particular, will result in economic performance inferior to that of externally owned and controlled firms (e.g., Hinds 1990). It is argued that the perceived interests of enterprise workers are likely to conflict in important respects with the long-run interests of their enterprise. It is held that workers will underinvest in capital equipment, that productivity will be low as worker-owners expend little effort, and that layoffs will be resisted. The conventional wisdom is that significant employee ownership will have detrimental effects on enterprise performance and undermine the ability of newly privatized firms to undertake meaningful restructuring (e.g., Frydman et al. 1993b).[3]

However, some types of insider-owned structures (i.e., companies owned and operated by their former managers) with a strong voice for workers can be justified on several grounds (Ben-Ner 1993). This is especially the case when insider-owned structures exist in combination with participatory human resource management policies (Ben-Ner and Jones 1995). Insider ownership and control is arguably more conducive to enterprise stability and long-term employment relationships and thus may contribute to better economic performance in a number of ways. The closer alignment of the goals of the different economic agents within firms may better motivate workers to join in restructuring efforts and to better use their accumulated experience and firm-specific knowledge. In particular, if enterprise success is reflected in a higher stock price, ownership by nonmanagerial employees (as well as managers) will have a direct positive effect; the interest of the firm is then more aligned with the interest of its employees. For several reasons these interest alignment effects can be expected to be more significant in firms in which the precise institutional arrangements enable broad participation by employees (not restricted to executives) and in which employee ownership constitutes a significant part of the average employees' wealth.[4]

Goal alignment effects of employee participation via information sharing (e.g., small group activities) are more subtle (but not necessarily weaker) than effects through ownership. Small group activities may provide valuable opportunities for both management and workers to learn about each other in a more cooperative atmosphere than traditional collective bargaining settings and thus develop stronger trust. With stronger trust, sharing vital business information with workers will help convince them that it is in their interest to improve productivity and firm performance. Various forms of employee participation may play an important role of providing employees a voice in the firm and thus reduce the costs of exit from the firm, saving specific human capital. In the absence of unions, these arrangements may provide the sole voice mechanism, while in the presence of unions they may supplement the direct voice mechanism of unions. Also, greater enterprise stability may encourage more salvaging of still useful capital stock, and it may help to avoid a cascade of business failures due to the shutdown of one key enterprise in a productive structure still characterized by an inflexible network of input sources and output outlets.

Institutions

With the above conceptual framework in mind, we now consider key aspects of the legal arrangements and institutional structures concerning enterprise ownership and employee participation in Russia.[5] Employees in

medium- and large-scale Russian enterprises, voting as members of their worker collective, could choose from among three privatization options.[6] While all the options provided for insiders to purchase blocks of shares at concessional rates, it was the option enabling workers and managers to buy as much as 51% of company shares which was chosen overwhelmingly by the enterprises being privatized. This outcome reflects a very strong commitment by managers and workers to maintaining insider control.

One of the key channels through which employee *participation* can take place is through employee ownership. There is also the possibility of the state mandating employee participation, for example, through statutory provision for works councils or board-level representation (codetermination). However, to date this policy has not been adopted in Russia (and the option does not seem to have been provided for in many transitional economies).

Another potential avenue for employee involvement is through membership in trade unions. In transitional countries where plural trade unions now exist, this potential might have been realized through employees joining either unions that have succeeded the former official unions or in new trade unions that are also independent of the state. But whereas in many transition countries a substantial number of employees have elected to join trade unions without precursors (Jones 1995b), in much of Russia it appears that to date employees have chosen overwhelmingly to affiliate instead with successor unions (Jones 1995a). From enterprise visits in Russia we have found evidence of new structures through which trade union leaders may be able to participate in decision making with management, and we have gained the impression that quasi-codetermination arrangements might be a significant mechanism in decision-making processes. In many transitional economies, turbulent conditions can permit some employee participation even without formal *de jure* changes. In Russia the worker collective often continues to be an important body; as we have noted, it played the key role in choosing options for medium- and large-scale firms that were privatized (Bim et al. 1993).

Data and Empirical Findings

Because of the variety of choices made with respect to privatization of Russian enterprises, we would expect very different patterns of *ownership* to be emerging within Russia.[7] The available evidence supports this view; but it also shows that in the majority of medium- and large-scale Russian enterprises, privatization has led to predominantly insider ownership, and this has typically facilitated managerial rather than worker control.[8] Thus far, the largest body of evidence is survey data by Blasi (1995) for firms throughout Russia. Using various measures, he finds that in 1993 worker

ownership typically coexisted with managerial control and that this had not changed much a year later.

There are currently few data available at the enterprise level with which to gauge what is actually happening with respect to the distribution and dynamics of ownership and the relations between ownership and control. The enormous difficulties of undertaking field work in Russia means that studies must often be based on small samples and that details on the often complex links between ownership and control are often very sketchy. As a result, there is not much systematic evidence concerning linkages between structures of ownership and formal mechanisms for control (e.g., board composition, joint labor-management committees) and employee influence and the dynamics of ownership and formal control and employee influence.

To provide additional information on some of these matters, we arranged for surveys to be administered to two samples of firms in the St. Petersburg region.[9] The first of these samples was administered in 1993 to 72 manufacturing firms in St. Petersburg. All of the firms in the sample had operated as state-owned enterprises during the Communist era, but some had been privatized and others not. Of the 72 firms, 67 provided information that was usable. The second sample was administered in 1994 to 60 manufacturing firms; in this sample most of the firms had already been privatized. This was a completely different and smaller sample than in the previous year; nearly all of the firms that were approached provided at least partial information.

The information we obtained on the structure of enterprise ownership is reported in Table 1. The data in part A show that, on average, firms in our first sample had 36% insider ownership, of which 4% was managerial ownership.[10] But when we restrict attention to firms that had been privatized, the corresponding figures are considerably higher—63% and 8%.

Among firms in the second sample (Table 1, part B), we see that there is again evidence of substantial insider ownership in privatized (joint stock) firms. In almost two-thirds of the cases (24/37), insiders owned a majority of shares. In *all* cases there was some insider ownership.

Table 2 details different dimensions of employee involvement; again our findings are based on the two samples previously discussed. From the first sample we have data on board composition for 41 privatized firms in 1993 (see Table 2, part A). These show that, on average, insiders accounted for about 45% of members of the board of directors—considerably less than the average share of insider ownership. In most cases (26 of 41) employee representation on the board amounted to 10% to 25% of the total (compared to employee ownership levels that average more than 55%). By contrast, about one in six members on the board was a manager—about twice as high as the average level of managerial ownership.

TABLE 1
Employee Ownership (St. Petersburg)

A. Sample 1: Share Ownership by Group (%)

	Insiders		Outsiders	Total
	Employees	Managers		
All Firms	32	4	64	100
Privatized Firms	55	8	37	100

B. Sample 2: Distribution of Share Ownership (Joint-Stock Firms)

	Insiders		Outsiders	
% of Ownership	No. of Firms	(%)	No. of Firms	(%)
75-100	13	(35)	4	(11)
50-75	11	(30)	9	(24)
25-50	8	(22)	11	(30)
10-25	5	(13)	3	(8)
0-10	0	(0)	10	(27)
Total	37	(100)	37	(100)

From both samples we gathered information on employee perceptions of influence on four key issues. In both cases information was solicited both at the time when the questionnaire was administered (i.e., 1993 for the first sample and 1994 for the second sample) as well as for an earlier time (1991 in each case). Data were gathered from both privatized and nonprivatized firms. In assessing employee participation, a five-point scale was used (with 1 representing a very low degree of employee influence, 2 and 3 reflecting moderate employee influence through mechanisms such as consultation and the provision of information, 4 indicating that management and workers jointly decided an issue, and 5 reflecting employees perceiving that they alone make decisions on an issue). However, since there were no responses of 5, Table 2, part B, contains only four categories.

From Table 2, part B, we see that for firms in both samples, levels of employee influence were typically perceived as quite modest. Thus the bulk of respondents felt that in four issue areas—method of privatization, choice of supervisors, wage policy, and employment policy—there was either no employee influence (administration decides) or a modest amount of employee influence (falling well short of management and workers jointly deciding). For example, this is the case in 1993 for the first sample in 39 of 50 responses concerning privatization and in 46 of 56 cases concerning employee influence on employment policy. For both samples there is some evidence that employee influence was relatively weakest concerning issues of employment and wage determination and relatively strongest concerning choice of supervisors.[11]

TABLE 2

Control and Employee Influence (St. Petersburg)

A. Sample 1: Board Composition in Privatized Firms, 1993 (N = 41)

Insiders	(%)			Outsiders	(%)	Total	(%)
Workers	(%)	Managers	(%)				
12	(29)	7	(16)	22	(55)	41	(100)

B. Sample 1: Distribution of Worker Composition of the Board, 1993

Percent	# of Firms	(%)
50-100	6	(15)
25-50	9	(22)
10-25	26	(63)
0-10	0	(0)
Total	41	(100)

C. Sample 1: Employee Influence, Privatized and Nonprivatized Firms, 1991

	Privatization		Supervisor		Wages		Employment	
	Privatized	Nonprivatized	Privatiz.	Nonpriv.	Privatiz.	Nonpriv.	Privatized	Nonprivatized
(1) None	12	6	4	2	27	10	21	7
(2) Small	12	5	13	5	15	4	22	7
(3) Moderate	25	4	38	10	14	3	11	3
(4) Co-determination	5	0	0	0	0	0	0	0
N	54	15	55	17	56	17	54	17
Mean	2.42	1.87[1]	2.62	2.47[2]	1.77	1.59[3]	1.82	1.77[4]
Std. Dev.	(1.01)	(0.83)	(0.62)	(0.72)	(0.83)	(0.79)	(0.75)	(0.75)

[1] Difference in means, t-stat = 2.07 (.05 significance)
[2] Difference in means, t-stat = 0.82
[3] Difference in means, t-stat = 0.71
[4] Difference in means, t-stat = 0.24

TABLE 2 (*Continued*)
Control and Employee Influence (St. Petersburg)

D. Sample 1: Employee Influence, Privatized and Nonprivatized Firms, 1993

	Privatization		Supervisor		Wages		Employment	
	Privatized	Nonprivatized	Privatiz.	Nonpriv.	Privatiz.	Nonpriv.	Privatized	Nonprivatized
(1) None	21	7	10	5	36	14	29	11
(2) Small	18	8	18	1	12	5	17	5
(3) Moderate	9	3	28	16	8	3	10	6
(4) Co-determination	2	0	0	0	0	0	0	0
N	50	18	56	22	56	22	56	22
Mean	1.84	1.78[1]	2.32	2.50[2]	1.50	1.50[3]	1.66	1.77[4]
Std. Dev.	(0.93)	(0.73)	(0.77)	(0.86)	(0.74)	(0.74)	(0.77)	(0.87)

[1] Difference in means, t-stat = 0.90
[2] Difference in means, t-stat = 0.34
[3] Difference in means, t-stat = 0.00
[4] Difference in means, t-stat = 0.56

E. Sample 2: Employee Influence, 1991 and 1994

	Privatization		Production		Wages		Employment	
	1991	1994	1991	1994	1991	1994	1991	1994
(1) None	3	2	23	24	14	19	21	25
(2) Small	7	6	24	23	30	32	22	22
(3) Moderate	12	5	6	6	9	2	10	6
(4) Co-determination	1	0	0	0	0	0	0	0
N	23	13	53	53	53	53	53	53
Mean	2.5	2.2	1.7	1.7	1.9	1.7[1]	1.8	1.6[2]
Std. Dev.	(0.7)	(0.7)	(0.7)	(0.7)	(0.7)	(0.5)	(0.7)	(0.7)

[1] Difference in means of wages in 1991 and 1994, t-stat = 1.69.
[2] Difference in means of employment in 1991 and 1994, t-stat = 1.47.

It is interesting to note that the evidence from the first sample in both 1991 and 1993 suggests that the degree of employee participation is not substantially different for firms which have been privatized (and in which employees typically own many shares) and for firms which remain in the state sector. For example, in 1993 both the average levels of employee participation on particular issues as well as the distribution of responses is quite similar. Moreover, t tests typically[12] indicate that there are no statistically significant differences in the average level of perceived employee participation for privatized and nonprivatized firms.[13]

Finally, in both samples there is evidence that in 1993 and 1994, compared to the situation that prevailed during the final days of the Communist era in 1991, there has been some slight fall in the perceived degree of employee influence on particular issues. This reduction in employee perceptions of influence is especially pronounced in firms that have privatized. For example, comparisons of the average level of participation on an issue for 1993 and 1991 for privatized firms in the first sample always reveal a fall in employee influence. A similar picture prevails using data for the second sample of firms (which lumps together privatized and nonprivatized firms).

Conclusions

In this paper we have used new data for enterprises in St. Petersburg, Russia, to obtain findings on several issues relating to employee ownership and employee participation. These findings are derived mainly from new enterprise-level data that are being collected from ongoing collaborative projects not only in Russia but also in Bulgaria, Estonia, Latvia, and Lithuania. It must be stressed that for a variety of reasons our results are only preliminary. Not only are our samples rather small, but we are able to examine only some of the ownership and participation variables which theory suggests are pertinent. Bearing in mind these important caveats, our findings are as follows.

On the nature and scope of employee ownership we find, as have others before us, that insider (manager and employee) ownership is quite prevalent in Russian firms that have been privatized. In many firms insiders are the predominant owners. However, there are substantial differences in ownership patterns.

On the nature and scope of employee participation, we find that the amount of employee influence on enterprise decision making in several areas is generally rather low. This is the case not only in firms which remain in the state sector but also in firms with high employee ownership. There is, to be sure, some variation in employee participation, though no firms appear to be "worker controlled."

If these results are corroborated in subsequent work, they will have several implications for the often heated debates about privatization processes which in many transitional economies have somewhat unexpectedly resulted in a substantial amount of employee ownership. We find that employee ownership has typically not been accompanied by much employee influence on enterprise decision making (to the extent that this can be judged by employees' own perceptions). We find similarly that there is not much employee influence in state firms yet to be privatized. There does not appear to be much support for the claim that either state-*owned* firms or employee-*owned* firms are worker-*controlled*. Our findings suggest that in transition economies privatization does not produce fundamental changes in inherited patterns of corporate governance.

Acknowledgments

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Endnotes

[1] These include changes in trade unions and related labor market institutions (e.g., Freeman 1993) and wage-setting arrangements (e.g., the essays in Boeri 1994).

[2] These include Blasi (1995) and Earle et al. (1995) for Russia and Murell and Korsun (1994) for Mongolia. See also Jones (1994) for Bulgaria.

[3] There are, of course, many other forces besides ownership structure that potentially affect enterprise performance. Historical factors and the institutional and regulatory framework may be especially important in firms in transitional economies (Clague and Rausser 1992; Coopers and Lybrand 1993). In an uncertain environment managers and workers may form strategic alliances and focus on short-term survival, and the scale of inter-enterprise debt is also clearly important (Ickes and Ryterman 1993).

[4] Analogous arguments can be developed for profit sharing. While many argue that profit-sharing plans are subject to the "free rider" problem, arguably this will be alleviated when workers develop a strong long-term commitment to the company and/or when workers engage in active peer monitoring. Also, information sharing can he thought of as a mechanism to facilitate the development of a long-term commitment to a firm by its workers. It follows that the favorable productivity effects of financial participation are complemented by information sharing.

[5] For information on other survey countries, see Mygind (1994) and Jones (1995a).

[6] For general accounts of privatization in former communist countries, see Frydman et al. 1993a; EBRD 1994; and Estrin 1994. For Russia, see Bim et al. 1994; Boycko et al. 1993; and Linz 1995.

[7] There is also substantial diversity in patterns of ownership within and across other transition economies. For the Baltics, see Mygind (1994).

[8] These findings are similar to those reported earlier by Boycko, Schleifer and Vishny (1993) and Ash and Hare (1994).

[9] Again, this is part of an ongoing data collection process that *eventually* will include detailed data that will be comparable in coverage across several countries and which will be collected in cooperation with the relevant statistical authorities. These data will cover many areas, including information on the distribution and amounts of ownership amongst employees, managers, key groups of outsiders and the state. Concerning employee involvement, there will be detailed information on structures and patterns of control over time by key agents, though the different institutional arrangements will likely mean that such information will not be directly comparable. By comparison, the data discussed in this paper are much more limited, and the samples are largely samples of convenience.

[10] The outsider 64% ownership includes private individuals, private firms, and state agencies; in enterprises yet to be privatized, most, if not all, shares are in the hands of state agencies.

[11] To some degree this pattern reflects the structures that prevailed in the former U.S.S.R.; while wages and employment were centrally determined, employees had considerable influence in other areas including election of supervisors. See Jones (1995a).

[12] The single exception is for the issue of privatization in 1991. At that time a variety of procedures for privatization (including the role of employees in choosing a privatization option) were being actively discussed.

[13] To explore some of these relations further, we examined correlation coefficients between employee ownership and various measures of employee influence. Typically, we found a negative relationship between employee ownership and employee participation—i.e., increases in employee ownership are associated with reductions in employee influence. So far as board composition is concerned, the correlation coefficient is only 0.07. A simple regression accepts the hypothesis that there is no correlation between employee ownership and employee membership on the board.

References

Aghion, P., O. Blanchard, and S. Burgess. 1994. "The Behavior of Firms in Eastern Europe, Preprivatization." *European Economic Review*, Vol. 38, pp. 1327-49.

Ash, Timothy N., and Paul G. Hare. 1994. "Privatization in the Russian Federation: Changing Enterprise Behavior in the Transition Period." *Cambridge Journal of Economics*, Vol. 18, pp. 619-34.

Ben-Ner, Avner. 1993. "Organizational Reform in Central and Eastern Europe: A Comparative Perspective." *Annals of Cooperative and Political Economy*, Vol. 64, no. 3, pp. 329-65.

Ben-Ner, Avner, and Derek C. Jones. 1995. "Employee Participation, Ownership and Productivity: A Theoretical Framework." *Industrial Relations*, Vol. 34, no. 4 (October), pp. 532-54.

Bim, Alexander S., Derek C. Jones, and Thomas E. Weisskopf. 1993. "Hybrid Forms of Enterprise Organization in the Former U.S.S.R. and the Russian Federation." *Comparative Economic Studies*, Vol. 35, no.1, pp. 1-37.

_____. 1994. "Privatization in the Former Soviet Union and the New Russia." In Saul Estrin, ed., *Privatization in Central and Eastern Europe*. Harlow, Essex, England: Longmans.

Blasi, Joseph. 1995. "Russian Labor-Management Relations: Some Preliminary Lessons from Newly Privatized Enterprises." In *Proceedings of the Forty-Seventh Annual Meeting* (Washington, DC, Jan. 6-8). Madison, WI: Industrial Relations Research Assn., pp. 225-34.

Boeri, T., ed. 1994. *Unemployment in Transition Countries: Transient or Permanent?* Paris:OEDC.

Boycko, M., A. Schleifer, and R. Vishny. 1993. "Privatizing Russia." Brookings Papers on Economic Activity, No. 2.

Clague, C., and G.C. Rausser, eds. 1992. *The Emergence of Market Economies in Eastern Europe.* Cambridge, MA: Blackwell.

Coopers and Lybrand. 1993. *The Legal, Regulatory and Institutional Framework for Business and Investment in Albania, Bulgaria, the Czech and Slovak Republics, Estonia, Hungary, Latvia, Lithuania, Poland, and Romania.* Report prepared for the Commission of the EEC, Brussells.

Earle, J.S., S. Estrin, and L. Leshchenko. 1995. "Ownership Structures, Patterns of Control and Enterprise Behavior in Russia." Mimeo, Central European University.

EBRD. 1994. *Transition Report*, October, London.

Estrin, Saul, ed. 1994. *Privatization in Central and Eastern Europe.* England: Longmans.

Estrin, Saul, A. Gelb, and I. Singh. 1995. "Shocks and Adjustment by Firms in Transition: A Comparative Study." *Journal of Comparative Economics*, Vol. 21, no. 2 (October), pp. 131-53.

Freeman, Richard. Forthcoming. "What Direction for Labor Market Institutions in Eastern and Central Europe?" In O. Blanchard, ed., *The Transition in Eastern Europe.* Cambridge, MA: NBER.

Frydman, R., E. Phelps, A. Rapacznski, and A. Schliefer. 1993a. "The Privatization Process in Russia, Ukraine and the Baltic States." CEU Privatization Reports, Vol. 2, Budapest, London/New York.

_____. 1993b. "Needed Mechanisms of Corporate Governance and Finance in Eastern Europe." *Economics of Transition*, Vol. 1, no. 2, pp. 171-207.

Hinds, M. 1990. "Issues in the Introduction of Market Forces in Eastern and Central European Socialist Economies." Mimeo, World Bank, Washington, DC.

Ickes, B.W., and R. Ryterman. 1993. "From Enterprise to Firm: Notes for a Theory of the Enterprise in Transition." Mimeo, Pennsylvania State University.

IMF. 1993. *Latvia-Recent Economic Developments* (April).

Jones, Derek C. 1994. "The Nature and Effects of Corporate Governance in Transitional Economies: Evidence from Bulgaria." Working Paper 9419, Hamilton College, Dept. of Economics.

_____. 1995a. "Successor Unions in Transitional Economies: Evidence from St. Petersburg." *Industrial and Labor Relations Review*, Vol. 49, no. 1 (October), pp. 39-57.

_____. 1995b. "Successor Unions and the Evolution of Industrial Relations in Former Communist Countries." Working Paper 95/1, Hamilton College, Dept. of Economics, and forthcoming in *Advances in Industrial and Labor Relations.*

Linz, S.J. 1995. "Russian Labor Market in Transition." *Economic Development and Cultural Exchange*, Vol. 43, no. 4 (July), pp. 693-716.

Murrell, P., and G. Korsun. 1994. "Ownership the Morning After." Mimeo, University of Maryland.

Nuti, Mario. 1995. "Employeeism: Corporate Governance and Employee Ownership in Transitional Economies." Mimeo, London Business School.

Mygind, Niels. 1994. "Socialism in Transition." Mimeo, University of Copenhagen.

What Can Unions Do in Transition Economies?

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Independent unions from Solidarnosc in Poland to the Miners Union in the U.S.S.R. played a major role overturning communist dictatorships. New independent unions supported reforms throughout East Europe, often recognizing that the transition to market economy might, in the short run, reduce the living standards of their members. As promoters and mobilizers for reform, these unions broke with the old official unions who distributed some social benefits to members and, in some cases, represented worker interests in government and party deliberations, but only in the narrow confines of the existing system.

Since the collapse of communist dictatorships, the position of unions in East Europe and the former Soviet Union has changed greatly. The movement to markets, the economic problems faced by states, and the need to impose budget disciplines on state businesses has seemingly left unions—new and independent or successors to the official unions—with little power. The benefits that communist unions distributed to their members, such as low-cost meat, housing, holiday resorts, and other enterprise-based perks, are disappearing with marketization. Increasing unemployment, privatization, restructuring of firms, and the failure of many enterprises to meet payroll obligations are new challenges that unions must cope with. The economic realities of transition economies make it difficult for unions to operate as in "normal" economies and raises the question of this paper: What role, if any, can unions perform for their members and their societies?

The Situation Facing Unions

The rate of union membership has fallen from the mandatory 100% under communist dictatorship to rates more typical of workforces in Western Europe. In one sense, unions have lost membership while gaining

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independence. In another sense, however, free and independent unionization was effectively zero under the communist dictatorships and has risen to moderate levels. Table 1 gives estimates of the rate of unionization in transition economies in 1991 using the Central and East European Eurobarometers 2 (Oct 1991) survey. The table records the sample size and union density rates for the adult population (which includes pensioners) and for those who were employed (either reported as employed or as working for the government) and gives density rates by sector. The table shows that, save for Russia and two Baltic states which had been incorporated in the Soviet Union (Latvia and Estonia), densities were already below half by 1991—a far cry from the days of universal enforced membership. In Poland, which was the first transition economy, the density among the employed was a bare 20%. Overall, the unweighted average of the densities for the employed, 51%, is only modestly above the comparable unweighted average for 18 OECD-European countries, 45% (OECD 1994: Table 5.7). In contrast to the West, where despite rising unionization among women, men continue to make up a majority of union members, a modest majority of members are women in the transition economies.

To a greater extent than in the West, union membership in transition economies is concentrated in the state sector. Unions have failed to organize workers in the new growing private sector and have not maintained membership among the unemployed. Unionization in private firms is largely a "residual" resulting from privatization of state enterprises. Table 1 reports unionization rates for public sector employees, those working for the government and those working in state-owned enterprises; for employees in cooperatives; and for those in the private sector, including joint ventures. The last column gives the gap in density between state-owned enterprises and the private sector. Unions in Poland are effectively nonexistent in the private sector, while in other countries they have substantially lower densities than in the public sector. The differences in density by sector, combined with continued sizeable employment in government and state-owned businesses, create a situation in which the *vast majority of union members are in the public sector*. By contrast, while public sector unionization has been rising in OECD countries, more than 60% of union members were in the "market sector" in roughly the same period, according to OECD figures (OECD 1991: Table 4.6).

In many countries the former official or communist unions have won the struggle for membership against the unions formed in opposition to the communist dictatorships. The Eurobarometer data here seem unreliable in many cases, and we rely on other sources for this conclusion. In Poland the old official union, OPZZ, has a larger membership than Solidarnosc and is

TABLE 1

Unionization in Eastern and Central European Transition Economies, 1991

Country	Sample Size[a]	Union Density						
		Adults (1)	Employed (2)	Government (3)	State-Owned (4)	Cooperative (5)	Priv/Joint Venture (6)	State-Private (4)-(6)
Albania	951	.41	.44	.57	.58	.14	.24	.34
Bulgaria	924	.30	.54	.58	.59	.44	.44	.15
Czechoslovakia	1033	.43	.55	.70	.67	.28	.14	.53
Estonia	964	.62	.76	.60	.90	.58	.31	.59
Hungary	973	.34	.45	.55	.61	.18	.18	.43
Latvia	912	.64	.74	.74	.86	.61	.58	.28
Lithuania	959	.26	.34	.31	.40	.16	.31	.09
Poland	993	.14	.20	.30	.32	.24	.04	.28
Russia	917	.70	.80	.91	.88	.49	.73	.15
Romania	909	.35	.44	.54	—	.34	.13	.41
Unweighted Average		.42	.53	.58	.61	.35	.31	.33

Notes: [a]Sample size is for the basic union density numbers. Sizes for other groups are smaller.

Source: Calculated from *Central and East Europe Eurobarometers*, 3 (October 1991).

viewed by many as the more important voice of workers. In Hungary the LIGA union movement has far fewer members than the ex-communist unions and obtained only a modest proportion of votes in elections over the disposition of union resources (Freeman 1994). In the Czech Republic the velvet revolution change in union leadership left standing the previous structure. Labor in Croatia has fractured into five federations; the largest is Savez Samostalnih Sindikata Hrvatska (SSSH or SAVEZ the Union of Autonomous Trade Unions of Croatia), the successor to the ex-official trade union.

Still, the situation differs across countries, and even within countries new and old labor federations are constantly realigning themselves politically. In Albania, for example, the largest union federation is the Confederation of Independent Trade Unions of Albania (BSPSh), which was founded after the political changes and has between three and four times the membership of the second largest organization in the country, the successor organization to the old official union—the Confederation of Albanian Trade Unions (KSL).

But given the collapse of communist dictatorships, the election of new governments with whom the old official unions had no ties, and the election of reformed communist parties in some countries, the key question is not so much the origins of particular unions as their independent operating character.

The transition has been more costly to ordinary workers than many expected. Unemployment rose, output fell, earnings differentials widened, and employment dropped in the formal sector in most countries. While it is difficult to compare living standards over time, given the shortage of goods under communist rule and unmeasured gray market activity, it is clear that the real earnings of the state workers who constitute the bulk of union members has dropped in many countries. Surveys show that 51% of Hungarians regard their position as having worsened as a result of the change in regimes (versus 26% who say they are better off). The same is true of 51% of Slovakians (versus 32% better off). While a majority of Poles, Czechs, and East Germans report themselves as better off, the minority that says they are worse off is still sizeable (Ferge 1995: Table 11). Those who report improving situations tend to be young, white-collar, educated employees. In Russia the rise in inequality and growth of poverty appears to exceed anything previously seen (Brainerd forthcoming). Labor demand is likely to continue to shift during transition in favor of the higher paid against the normal working people represented by unions.

Governments have been hard-pressed to maintain public spending given macroeconomic constraints. The shift of activity to the private sector has reduced the ability of the state to tax: The self-employed do not pay

payroll taxes, small firms may evade these taxes, and the underground or gray economy is based largely on the desire of both parties to the transaction to evade taxes. World Bank data show that between 1987 and 1992 the share of government revenues in GDP fell from 55% to 43%. Government spending fell less rapidly, from 54% to 49% of GDP (Krumm, Milanovec, and Walton 1994:4). Kornai (1995:16) has written that for Hungary "tax revenues must rise . . . . In the struggle between tax evaders and tax officials, the former have proved much the sharper and more resourceful." The bottom line is that the state cannot provide the social benefits—the safety net—that it once did. In some cases it can no longer afford to fund health care or the level of pensions needed for a reasonable poverty-level life for retirees. For unions this implies that they cannot readily lobby the state for benefits for workers.

The Feasible Set of Union Activities

In the transition setting outlined above it is easier to say what unions cannot do than what they can do. Unions cannot negotiate real wage increases from firms that are struggling to survive. Unions cannot call for massive strikes to redistribute output. Unions cannot demand that the state increase the social wage when the state lacks the financing to do so.

To add to the problems facing unions, moreover, they have inherited many problems left over from their past. With universal compulsory membership, the former official unions never had to organize workers—much less organize workers in a difficult environment. The administrative tasks of a union—maintaining membership lists, collecting dues from members, publishing a newsletter, education, and organizing—have to be learned anew, with wide variation in competency among unions. The battle among unions over who would inherit the often valuable properties and resources of the official unions has led to increased factionalism and competition among the unions. It has further had the dubious result of freeing some unions from reliance on membership support for financial survival, making them less interested in organizing new members than in retaining existing resources.

What then, if anything, can and should unions do in a transition economy? We believe that unions have an important role to play in the transition from communist dictatorship to market economy and that absent a substantial union input into economic decisions at the firm and national level, the transition may produce greater inequality than is necessary and may risk more substantial backlashes than the election of reformed communists that has occurred in Poland and Hungary at this writing.

The first and most important task for unions is to maintain sufficient presence that governments do not ignore employee current interests in the name of the future communist—pardon—capitalist heaven. In particular, unions must monitor the disposition of productive assets from state firms to guarantee that privatization is not robbery. And as the unions and others are learning that not all privatization plans are equal, they might also consider a far more assertive role in the privatization—including leading a public dialogue over what activities, services, and goods should be provided by the private sector and what should be retained by the public sector. Maintaining a presence in the workplace is important because when economies improve (as some have already begun to) and there are rents or returns to distribute, unions can be an important vehicle for ensuring that workers share in the benefits as they have (more than) shared in the costs of transition.

Staying alive means that unions will have to learn how to organize workers in an environment with no compulsory membership provisions. There are two important emerging groups where unions are losing out and where an organizing strategy is essential for the future: the new private enterprises and the unemployed. An organizing strategy for these groups could mean taking a leaf out of the old official union book and providing some services to members in the new private enterprise sector or creating an organization of the unemployed to assist in job search, communications, and advocacy for the unemployed. Developing an organizing strategy for these groups would also provide unions with an opportunity for testing new forms of unionism, as unions will need to evolve organizationally along with all other institutions.

A second task for unions is to engage in the normal union role of protecting workers against arbitrary management decisions and providing a mechanism for labor input into firm decision making. The principle vehicle for this in Western Europe are works councils (Rogers and Streeck 1995). These councils differ in their functioning across countries, depending on their history and specific legal status, but in almost all instances, unions play an important role in animating their activity. Unions in East and Central Europe have had an ambivalent attitude toward works councils. We believe that they should approach councils positively, looking upon them as a way to enhance their shopfloor presence. When Eastern European countries join the European Union, as several will in the next few years, they will be subject to the Social Charter and be involved in European-level works councils. This should give a spark to unions, for this is a world where "social cohesion" is a goal of national policy and states rely on the "social partners" for operating.

The third role for unions is to participate in national discourse on unemployment; preservation of social standards, where that is fiscally feasible; and issues regarding the distribution of national resources traditionally controlled by the state. To a far greater extent than in Western countries, East Europe leadership consists of intelligentsia that is open to intellectual discourse and policy guidance. However, whereas the economy in many East and Central European countries is changing rapidly, there is considerable decay and stagnation in areas of social concern. The labor relations and social policy systems in transition are in flux. This should provide an opening for labor to initiate and influence change, rather than simply being a subject and reactor to change. While a few unions have attempted to play this initiator role, such as LIGA in Hungary, they have either lacked the ability to mobilize support to back their demands or have been content to see their role as influencing political parties and to let others initiate the changes.

The most positive role model for the unions of Eastern and Central Europe is, in our view, the labor movement in South Africa, another society going through radical transformation. The South African union movements have been more aggressive in assuming a major role for labor in national forums on economic and social transition. Organized labor in South Africa has promoted a tripartite structure on national policy issues and has demanded that it be recognized as a full partner in all national, sectoral, and regional economic reconstruction forums. And it has been prepared to back its demands with economic and political protest action when necessary. The South African labor movement sees itself as a partner with the state and business in change, and it rejects the view that labor must confine its activities to either lobbying for its members interests or working within the electoral arena. To be sure, South African labor has acquired this position because of its role in the overthrow of apartheid and in providing much of the leadership for the new ANC government, but it has maintained a major role through its ability to continue to mobilize its base. While it would be unrealistic to expect the weaker Eastern and Central European unions to play as central a role in national policy making in the near future, the South African unions still offer an important model.

A fourth role for unions is to assist in the democratization of society and to be a training center for workers to learn self-organization. Civil society, as East Europeans describe it, needs intermediate institutions to monitor and translate for their members what is going on, to explain and educate. And it requires organizers, people with the skills to build mass participatory, democratic organizations. Political parties often do some of this, but unions have the potential for being more representative and for forging

worker solidarity in an increasingly fragmented and divided society. It can assist in uniting workers to press for their concerns. An important issue here is also the extent to which unions can organize and line up with workers outside workplaces, including the unemployed and the pensioners.

These four things—monitoring and influencing privatization, representing workers at the level of the firm through works councils, representing workers on national forums and organizations, and serving as the institutional voice for workers in an emerging civic society—are very different from enterprise collective bargaining in the Anglo-Saxon sense. This does not, however, mean that the U.S.-U.K.-Canadian experiences are irrelevant to these unions. U.S.-U.K.-Canadian unions have built up expertise in organizing under difficult conditions (not all that successfully in many cases) on which the unions of East and Central Europe can draw. At the same time, the unions in East and Central Europe are still a long way from being considered "social partners" in national decision making and have much to learn from the Western European experience. They have an opportunity to develop a new type of unionism that could combine the strengths of both worlds—the variety and innovation of the Anglo-Saxon unions along with the broad representation provided by unions in the EU countries.

References

Brainerd, Elizabeth. Forthcoming. "Essays on the Russian Labor Market in Transition." Dissertation in progress, Harvard University.

Freeman, Richard B. 1994. "What Direction for Labor Market Institutions in Eastern and Central Europe?" In Oliver Blanchard, Kenneth Froot, and Jeffrey Sachs, eds., *The Transition in Eastern Europe*, Vol. 2. Chicago, IL: University of Chicago Press and NBER.

Ferge, Zsuzsa. 1995. "The Evaluation of Freedom, Security, and Regime Change." Euroconference on Social Policy (Lisbon, November 8-11).

Kornai, Janos. 1995. "The Dilemmas of Hungarian Economic Policy." Collegium Budapest/Institute for Advanced Study, Discussion Papers No. 18, November.

Krumm, Kathie, Branko Milanovic, and Michael Walton. 1994. "Transfers and the Transition from Socialism." World Bank Policy Research Working Paper 1380, November.

OECD. 1991. *Employment Outlook July 1991*. Paris: OECD.

_____. 1994. *Employment Outlook July 1994*. Paris: OECD.

Rogers, Joel, and Wolfgang Streeck, eds. 1995. *Works Councils*. Chicago, IL: University of Chicago Press and NBER.

Privatization, Unions, and Employer Associations

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Privatization has consistently been mentioned by both scholars and practitioners as being one of the most vital elements of transformation of the command economies of Eastern Europe toward more democratic forms of government and new industrial relations systems (Thirkell, Scase, and Vickerstaff 1995; Soulsby and Clark 1995; Egorov 1995). Pluralistic and democratic societies include unions or some other form of workers' interest representation and often negotiations with an employer or employer association. Privatization is considered to be critical in a transitional period for two reasons: (1) as a guarantee that the current change process in these former command economies will irreversibly establish successful pluralistic and democratic societies and (2) to enable these countries to restructure their entire economic systems using a Western-based pattern of multiplicity of corporate ownership (Egorov 1995). The objective of this paper is to assess the current stages of privatization in several countries in Eastern Europe as they are related to the development of post-communist industrial relations systems. These countries include Bulgaria, Romania, Poland, Hungary, the Czech and Slovak Republics, and the former Yugoslavia. We acknowledge that this list of countries does not include all of Eastern Europe. However, the scarcity and reliability of data from Eastern Europe limits our population selection. This paper first looks at the impact of the process of privatization on unions. Second, we review the responses of employers to privatization and their relationship to unions. Finally, we discuss future changes and new strategies by unions and employers.

Impact on Unions

Unions under communism had the dual role of being both subordinate to the state and also placing the economy under the control of the union. Unions came to be described as "transmission belts" or as an apparatus utilized by the Communist party for the enforcement of their policies (Jones 1992). A single union generally represented all of the employees in an

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enterprise, and most industries were organized by a very small number of large unions (Bain and Hester 1995). Union duties were usually confined to a limited set of activities and normally consisted of the administration or allocation of social funds for housing, holidays, kindergartens, and other social welfare benefits (Thirkell, Scase, and Vickerstaff 1994). The communist-dominated unions controlled all of the social funds of enterprises and, therefore, could exert this power as an inducement to workers to join their organizations. Workers were essentially forced to join unions but now have the choice of not participating. However, these social funds are no longer controlled at the enterprise level but are under the state's control, and these unions have shifted their attention to the national political stage (Thirkell et al. 1994).

Employee participation in the management and decision-making process under socialism varied by country. Most countries had participation systems that were highly developed, whether they operated through enterprise or works councils at the firm level or at lower organizational levels within the firm, such as the brigades found in Bulgaria and Czechoslovakia (Thirkell et al. 1994). One change in the industrial relations systems in Eastern Europe has been the emergence of dual forms of employee representation in addition to the already established unions (Thirkell et al. 1995). These dual forms include multiple unions (Bain and Hester 1995), worker participation in works councils (Lipton and Sachs 1991; Szell 1992; Serediak 1991), employee collectives (Szell 1992), and brigades (Cziria 1995). In every country new unions and confederations have emerged to provide competition to the previously state-supported union or federation. However, in most of Eastern Europe a single union or union federation is still dominant in terms of size of membership and control of union assets (Bain and Hester 1995).

Privatization has also affected the interests of the workers. In Hungary the Decree of September 12, 1992, gives the employees consultative rights regarding all matters affecting them under privatization (Egorov 1995). The rights of workers' councils to approve the decisions to sell the state-owned firms' assets or enter into an existing trading company and buy or sell shares of corporate stock was reaffirmed in Poland in March 1990 (Bain and Hester 1995). The Act on State Enterprises of May 1, 1990, in Czechoslovakia provided for the composition of an equal number of nominees for boards of directors of both owners and employees (Egorov 1995). However, even though there are differences in the labor codes that have been enacted in the Eastern European countries, the unions still remain the most significant channel for the representation of worker interests at the enterprise level (Thirkell et al. 1995).

Another change is in union density. The density rate under communism was generally more than 90%, but the increases in unemployment rates;

the emergence of smaller, nonunion, service-oriented businesses; and the takeover of social funds which were controlled by the union will continue to erode union strength (Thirkell et al. 1994). It has also been suggested that the former unions have "discredited" themselves with many employees because of their former roles under the communist system, and this has also inhibited union membership (Egorov 1995).

Collective bargaining is a feature of the new industrial relations systems in all of the Eastern European countries (Bain and Hester 1995). Some examples include the National Commission for the Coordination of Interests in Bulgaria, which represents the interests of the employee, employers, and the government (Jones 1992). The new Labor Code of 1993 has further expanded the scope for collective bargaining and allows for negotiation of the national, regional, and enterprise levels for all the terms and conditions of employment (Petkov and Gradev 1995). In Poland most agreements are concluded at the national level, but both sectoral and firm-level agreements are allowed (OECD 1993). The National Council of Coordination of Interests in Hungary has the authority to decide on both minimum and maximum wage increases that can be granted at the firm level, and collective bargaining can also be conducted at the enterprise level (Szell 1992). It is also quite evident that in the smaller firms in the retail, trade, and service sectors of Eastern Europe (such as Poland and the Czech Republic), management doesn't negotiate with unions, since there are none (Thirkell et al. 1994).

In addition to privatization affecting unions, the unions have also affected privatization. They have participated in the development of government policies through lobbying and political pressure in the election process (Egorov 1995). Political pressure is crucial to the development in Eastern Europe of new national political parties. Unions claim to represent not only the interests of their own members but also those of other large sections of the countries' population, such as retired pensioners and the increasing number of unemployed (Thirkell et al. 1994). By claiming a larger constituency, unions seek to influence the legislative bodies to enact privatization laws that are favored by the unions, such as offering a greater percentage of enterprise purchase vouchers to a firm's employees or by discounting the purchase vouchers.

The second approach to political power is to become a "social partner" within the framework of tripartite arrangements. This gives the unions a voice at the table. Some form of tripartism has been enacted in all of the countries of Eastern Europe (Egorov 1995). The European Commission (EC) has encouraged and assisted in the formation of tripartite groups in Eastern Europe as a precondition for membership in the European Union

(EU). National tripartite councils were created in Hungary in 1988, in Bulgaria in February 1990, in Poland in September 1992, and in Czechoslovakia in 1990 (Thirkell et al. 1994).

Whether the tripartite arrangements cover broad or narrow issues is generally dependent on the balance of power between the government and the unions. Some examples of topics of either current or past tripartite agreements have included provisions on wage increases, pensions, and wage indexation for prices in Hungary, Bulgaria, Czechoslovakia, and Poland; social security provisions and enterprise taxation schemes in Hungary; and unemployment benefits and food subsidies in the Czech Republic (Thirkell et al. 1994).

Table 1 shows the change in employment in privatized firms between 1990-1992, the level of employment in privatized firms in 1992, and a classification of the industrial relations systems based on labor legislation for six Eastern European countries. The highest levels of privatization are in the Czech Republic, Hungary, and Poland. These three countries were already involved in the privatization process prior to the end of communism and are further along in their efforts. Two of the countries, the Czech Republic and Poland, also have a high enactment of labor law. All of the six countries in Table 1, regardless of their level of privatization and IR classification, have legally enacted most of the characteristics of Western IR systems.

TABLE 1

Privatization and Industrial Relations Systems

Country	Change in Privatization 1990-1992[1]	% of Privatization in 1992[2]	IR System[3]
Bulgaria	4.0	14.1[a]	Moderate
Czech Republic	11.8	50.0[c]	High
Slovakia	12.1	17.0[a]	Moderate
Hungary	1.8	35.8[a]	Moderate
Romania	5.1	12.0[a]	Moderate
Poland	10.8	44.4[b]	High

[1] The percentage change in employment in privatized firms.

[2] Percentage of total employment in privatized firms.

[3] The classification of the industrial relations system as either high, moderate, or low was based on the enactment of legislation dealing with collective bargaining, works councils, permittance of strikes, arbitration, tripartite wage setting, and wage indexing.

Sources: [a] The World Bank; estimates as of 1992.
[b] The World Bank; estimates as of 1991.
[c] OECD; estimates as of 1992.

Impact on Employers

Employers' interests under communism were represented by a body affiliated with the state-owned enterprises, which were also the largest enterprises and employers. A major effect of privatization in Eastern Europe has been the emergence of employers as an interest group distinct from the state's interests. The number of private employers has grown substantially in all of the countries (Egorov 1995). In all of the countries except Poland, which established the Confederation of Polish Employers in 1989, the development of private employers' associations has closely paralleled the creation of tripartite bodies. More employer associations are being formed in the different sectors of each country (Thirkell et al. 1995).

Labor relations have also been affected by managerial strategies. These strategies are being shaped by three factors: the disintegration of the Soviet market, which was the largest importer and market for the output from the Eastern European countries; the changes in ownership of these enterprises, which present management with both threats and opportunities; and the internal restructuring of the firms, which has been precipitated by the above two factors.

In formerly state-owned firms, the collapse of their chief trading partner, the Soviet Union, has left them in the position of looking at new methods of retaining their market position or alternatively devising new strategies aimed at establishing new markets (Thirkell et al. 1994). These attempts to find new markets have included the establishment of joint ventures with Western companies, along with complex barter deals with the former Soviet markets (Thirkell et al. 1995). In most of these firms the overriding consideration for managers has been the survival of the enterprise. This has taken most of their attention and energy. Many managers in this climate seek to avoid consultation or direct participation with the unions or employee representatives on employment-related issues such as employment levels, layoffs, wages, and benefits (Thirkell et al. 1994).

The major threat to management from privatization is the imposition of additional outside financial control (Thirkell et al. 1995). These controls can serve to limit the freedom of some managers in exercising their authority in many management decisions. However, the opportunities that result from privatization are crucial and include the securing of additional capital needed for technological improvements, along with the possibility of managers personally securing a substantial and, in some cases, controlling block of shares in the newly privatized enterprise (Thirkell et al. 1994).

The internal restructuring of the firm is usually done by top management. This gives them more autonomy (Thirkell et al. 1995) and the possibility of additional personal dividends and benefits (Egorov 1995). A common

feature of restructuring has been to reduce costs by reducing corporate staffs. This restructuring has also caused the top management of these organizations to gain a much greater measure of control over many institutional and organizational decisions and, in some cases, has also led to less interaction with unions on matters concerning the running of the enterprise (Thirkell et al. 1994).

Conclusion

There is a pressing need in Eastern Europe for additional joint venture activities with Western companies in order to secure the additional capital that is necessary to finance further privatization efforts and market reform. However, right now these firms are going to Asia. Along with joint ventures in Eastern Europe could come the adoption of many of the characteristics of Western industrial relations systems. The desire of the Eastern European countries to become members of the European Union also encourages them to enact the rules of Western IR systems, particularly in the area of trilateral negotiations over wages and employment issues, whether or not they intend to fully implement these rules.

The large state-owned enterprises will probably remain unprivatized in the near future. The desire of governments to maintain their political stability and power depends upon its ability to keep unemployment and inflation rates under control. By not privatizing these large firms, it is easier to maintain the employment of workers that would otherwise be laid off. Unions in these state-owned enterprises are stronger than those in the privatized firms. They are able to exert pressure on the government to achieve some of their goals and objectives, and the unions may exert political pressure to remain state-owned.

Newly privatized and recently established firms appear to either marginalize unions or further restrict the collective bargaining process. The result of this may well be that employers will gain more freedom to react in a competitive market economy, while unions will lose more of their bargaining power. This accentuates the reality that much of the current labor legislation is actually very weak in practice and has not produced a complete labor-management relationship.

There also appears to be a move away from any form of employee representation other than that of unions. All of the Eastern European countries, except Hungary, have repealed or replaced previous legislation mandating the establishment of employee work councils which had been very active prior to World War II. This should strengthen the position of these unions versus other forms of employee representation as competition.

The unions in Eastern Europe have been forced to pursue their goals through legislation and the political process rather than through collective bargaining at the enterprise level, since they do not yet possess the economic power in the private sector to force employers to meet their demands.

References

Bain, Trevor, and Kim Hester. 1995. "Eastern Europe after the Berlin Wall: What New Systems of Work Force Governance Will Evolve?" Paper presented at the 10th International Industrial Relations Research Association World Congress (Washington, DC, May 31-June 4, 1995).

Cziria, Ludovit. 1995. "The Czech and Slovak Republics." In John Thirkell, Richard Scase, and Sarah Vickerstaff, eds., *Labor Relations and Political Change in Eastern Europe*. London: UCL Press Limited, pp. 61-80.

Egorov, Vladislav. 1995. "Privatization and Labor Relations in the Countries of Central and Eastern Europe." Paper presented at the 10th International Industrial Relations Association World Congress (Washington, DC, May 31-June 4, 1995).

International Monetary Fund. 1994. *World Economic Outlook*. Washington, DC: IMF.

Jones, Derek C. 1992. "The Transformation of Labor Unions in Eastern Europe." *Industrial and Labor Relations Review*, Vol. 45 (April), pp. 452-70.

Lipton, David, and Jeffrey Sachs. 1991. "Privatization in Eastern Europe: The Case of Poland." In Vittorio Corbo, Fabrizio Coricelli, and Jan Bossak, eds., *Reforming Central and Eastern European Economies: Initial Results and Challenges*. Washington, DC: The World Bank, pp. 231-51.

OECD. 1993. *The OECD Employment Outlook*. Paris: OECD.

Petkov, Krastyu, and Grigor Gradev. 1995. "Bulgaria." In John Thirkell, Richard Scase, and Sarah Vickerstaff, eds., *Labor Relations and Political Change in Eastern Europe: A Comparative Perspective*. London: UCL Press Limited, pp. 31-59.

Serediak, Martin S. 1991. *Some Aspects of International Industrial Relations*. Quebec: Universite Laval.

Soulsby, Anna, and Ed Clark. 1995. "Privatization and the Restructuring of Enterprise Social and Welfare Assets in the Czech Republic." *Industrial Relations Journal*, Vol. 26, no. 2 (June), pp. 97-109.

Szell, Gyorgy. 1992. *Labor Relations in Transition in Eastern Europe*. Berlin: Walter de Gruyter.

Thirkell, John, Richard Scase, and Sarah Vickerstaff. 1994. "Labor Relations in Transition in Eastern Europe." *Industrial Relations Journal*, Vol. 25, no. 2 (June), pp. 84-95.

_____. 1995. *Labor Relations and Political Change in Eastern Europe: A Comparative Perspective*. London: UCL Press Limited.

DISCUSSION

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Richard Freeman and Elaine Bernard conclude that unions should work within the constraints they face to grow the economic pie, because there is no sense in fighting over the crumbs available now. Kim Hester and Trevor Bain argue that unions are not doing enough to advance the aims of high wages and favorable work conditions.

In the planned economies of Central and Eastern Europe prior to the transition, all workers were union members. Unions were controlled by the Communist party and were granted a good slice of the economic pie by the party. This provided things like vacation resorts and cheap foodstuffs to be shared by union members. Unions did not fight over wages or job security. Wages were set by central planners, and officially unemployment was zero. There was no need to either organize or strike. Union strength came from political position, not economic leverage or bargaining skill.

At the core of the pretransition union structure were national industrial unions within each state monopoly. Above these were confederations of unions which operated at the national and regional levels. Union structures within enterprises were labor collectives, production committees, and brigades. The brigades were essentially work teams, the production committees were groups of work teams, and the labor collectives provided management input to organize production at the enterprise level. The focus of union leaders and work teams was to meet production quotas.

The current relative strength of state-controlled versus independent unions is not clear from any of the session papers. Table 2 in Freeman and Bernard shows union membership density in state and private enterprises, but it does not show the shares of party-controlled and free unions. Derek Jones (1995) provides some insight on successor unions from a survey of union leaders in and around St. Petersburg, Russia, in 1993. In that region Communist party membership is no longer a necessary credential for union leaders, and there is greater decentralization and democracy in unions. Present union structures still reflect the way state-owned industry was organized. Unions without party-controlled precursors are weak and

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rare. The economic vitality of the enterprise determines the strength of the union. Staffing levels of national and regional union confederations have shrunk by up to 70%, in part because of reduced union property holdings. Despite diminished union presence, Freeman and Bernard argue for continued political participation. Unions might exploit popular sympathies left over from recent universal membership.

On privatization and unions, Derek Jones (1995) cites Russian law, which provides that in medium and large enterprises the labor collective, which is union leadership at the enterprise level, has a major influence on decisions about the form of privatization. Hester and Bain could strengthen their paper by investigating similar provisions for other countries in the region. In the *neuen bundesländern* of Germany, when a state-owned monopoly is privatized, smaller enterprises are established by insider managers who select the efficient segments of the former monopoly and try to abandon the remaining hulk. The resulting unemployment problem is huge, as must be the impact on union strength. What are the successor rules for unions in the smaller efficient enterprises and in the large state remnants? Are the same techniques for union busting that are practiced in the West possible under laws in the former communist states of Eastern and Central Europe?

Freeman and Bernard argue that now is not the time for unions to strike for wage gains, while Hester and Bain assert that wage bargaining skills must be developed. The high level of general price inflation experienced in most of the transition countries means relative price flexibility. So that even with rules like percentage wage increase ceilings or wages fund growth linked to productivity gains, there is reason for union advocacy on wages.

Freeman and Bernard outline a noble mission for unions in the transition period! They recommend unions monitor and influence privatization at the enterprise level, advocate national legislation favorable to unions, and intervene with employers for individual union members. They cite tripartite groups as a useful mechanism for channeling input. Such groups are well established in Hungary and Poland. In both countries national, regional, and local employment policy is largely guided by tripartite labor market committees.

In a recent paper in the *International Labor Review* (Hethy 1995), the political state secretary in the Hungarian Ministry of Labor documented a great tripartite effort in Hungary. In the summer of 1994 the newly elected ruling coalition in Parliament made up of Socialists and free Democrats joined together in an effort to construct a comprehensive social and economic agreement to cover the four years of government. The forum for

deliberations was the tripartite National Council for Reconciliation of Interests, which includes six union confederations and nine employer organizations. While the effort ultimately failed, due largely to austerity measures resulting from International Monetary Fund targets for the central budget deficit, it achieved a dialogue and established a basic framework for policy formation.

From these papers we see that unions in the developing market economies of Central and Eastern Europe should cooperate to grow the economic pie, while at the same time refining bargaining skills to ensure a prominent place at the future banquet table.

References

Jones, Derek. 1995. "Successor Unions in Transitional Economies: Evidence from St. Petersburg." *Industrial and Labor Relations Review*, Vol. 49, no. 1 (October), pp. 39-57.

Hethy, Lajos. 1995. "Anatomy of a Tripartite Experiment: Attempted Social and Economic Agreement in Hungary." *International Labor Review*, Vol. 134, no. 3, pp. 361-76.

V. REFEREED PAPER SESSION: LABOR AND EMPLOYMENT LAW

The Association between Employees' Group Attitudes and Procedural Justice Perceptions

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The issue of workplace fairness represents a primary concern of labor relations and human resource management (Sheppard, Lewicki, and Minton 1992). Organizational researchers have found that employees' perceptions of fairness are not only affected by the distributive justice of outcomes they receive but also by their evaluations of the procedural justice of processes that determine outcomes (Greenberg 1990). One of the most consistent findings in research on procedural justice has been that perceptions of fairness are enhanced by procedures that allow employees to have process control or voice in procedures that affect them (Lind and Tyler 1988). Procedural justice researchers have proposed several models to explain the psychological processes and the antecedents, such as voice, that influence procedural and distributive justice evaluations. A recent theory that has been proposed is Lind and Tyler's (1988) group-value model that posits group membership as a primary determinant of fairness evaluations.

The group-value model asserts that individuals' perceptions of procedural justice are strongly affected by their membership in and identification with the various groups they are associated with. In their theory, Lind and Tyler (1988) proposed that "attitudes toward the group might well affect procedural justice judgments" and that "a member who held the group in high esteem might see that group's procedures as fairer simply

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because the group endorses these particular procedures" (p. 232). With respect to work environments, this proposition suggests that employees' attitudes toward their work group(s) are associated with their perceptions of the procedural justice of organizational policies and procedures. In organizational environments, an employee's primary work group typically includes his/her supervisor-subordinate dyad as well as the associations he/she has with coworkers.

The following reports the results of a study that examined the group-value model. The study investigated the association between individuals' attitudes toward their work groups and their procedural justice perceptions. Specifically, the study investigated the attitudes of staff nurses toward their supervisors and their coworkers and the significance of these attitudes in explaining variance in their evaluations of the fairness of organizational procedures.

Research Need

A few studies have examined the group-value model. For instance, Tyler (1994) conducted several studies based on interviews of individuals who had had contact with legal authorities. The results of these studies supported the group-value model by finding that relational issues (e.g., individuals' beliefs in the neutrality of the decision maker, their social standing, and their trust in the decision makers) were more important determinants in explaining fairness perceptions than outcome issues. In addition, Conlon (1993) examined the procedural and distributive justice perceptions of people who appealed parking violations and also found that relational issues represented important antecedents of justice perceptions.

Studies of the group-value model have not examined the association between attitudes toward work groups and procedural justice evaluations in organizational settings. The purpose of this study was to respond to this need by examining Lind and Tyler's (1988) proposition in an organizational setting. The research question addressed was whether organizational members who have positive attitudes toward their work groups (i.e., supervisor and coworkers) have higher perceptions of the procedural justice of organizational policies than employees who have less positive attitudes. The study analyzed the amount of incremental variance explained by indicators of employees' attitudes toward their supervisors and their coworkers. Predictor variables included employees' attitudes toward their supervisor, attitudes toward their coworkers, and perceptions of their in-group and out-group status.

In order to remove spurious effects, several control variables were included. First, organizational citizenship behavior (OCB) was controlled

for because research has found support for a relationship between perceptions of procedural justice perceptions and dimensions of OCB (Moorman 1991). OCB refers to work behaviors that are discretionary and not related to the particular organization reward system. Second, demographic similarity was controlled for because research has found that evaluative perceptions and satisfaction may be influenced by the aggregate distance score of combined demographic differences (Turban and Jones 1988).

Method

Data Collection and Sample

The data used in this study were collected at a medium-size hospital located in the Midwest. The nursing services department assisted with the data collection process that involved administering separate questionnaires to staff nurses and their supervisors. The research utilized a dyadic design; each staff nurse was matched with her/his supervisor. Participation in the study was completely voluntary, respondents completed an informed consent form, and respondents were assured of the confidentiality of their survey responses. The number of staff nurses and supervisors who participated was 95 and 28, respectively. This sample represented 47% of the hospital's 201 total staff nurses and 88% of the total nursing supervisors. Of the staff nurses, 91 were female and 74% were married. The mean age of the staff nurses was 33 years, the mean organizational tenure was 4.87 years, and the mean job tenure was 34.2 months. Of the supervisors, all were female and 75% were married. Their mean age, organizational tenure, and job tenure were 32 years, 7.42 years, and 31.8 months, respectively.

Criterion Variable—Procedural Justice Evaluation

Evaluations of procedural justice were assessed by survey questions that asked subordinate employees to rate the fairness of specific and salient organizational procedures. Procedures included promotions, pay increases, performance appraisals, terminations, and bonuses. Responses were assessed using a five-point Likert-type scale, anchored by "extremely unfair" to "extremely fair." Since multiple regression was used for data analysis, the scale ratings were summed in order to produce a "single, more reliable index of procedural justice" (Lind and Tyler 1988:243). The coefficient reliability estimate was .86.

Predictor Variables

First, ATTITUDE TOWARD SUPERVISOR was assessed by measuring subordinates' satisfaction with their supervisors using the Job Descriptive Index

(JDI) (Smith, Kendall, and Hulin 1969) items for satisfaction with supervisor. The coefficient alpha reliability estimate was .87.

Second, ATTITUDE TOWARD COWORKERS was assessed by measuring subordinates' satisfaction with their coworkers using the JDI (Smith et al. 1969) items for satisfaction with coworkers. The coefficient alpha reliability estimate was .85.

Third, IN-GROUP and OUT-GROUP status of subordinates was assessed using six items created for this study. This six-item measure assessed on a five-point scale how often the subordinate felt he/she received in-group treatment by the supervisor. The responses were anchored from 1 = "rarely" to 5 = "very often." The coefficient alpha reliability estimate was .79.

Control Variables

ORGANIZATIONAL CITIZENSHIP BEHAVIOR (OCB) was included as a control variable and was measured using items from the OCB instrument created by Batemen and Organ (1983). Data were provided by the supervisors regarding how each subordinate rated on each of the OCB items. The seven-item scale was assessed on a seven-point scale anchored by 1 = "unsatisfactory" to 2 = "outstanding." The coefficient alpha reliability estimate was .75.

Second, a composite variable was created for DEMOGRAPHIC SIMILARITY following Turban and Jones (1988). Race and marital discrepancy was coded as the same (0) or different (1). Age, job tenure, and organizational tenure discrepancies were the absolute differences between the supervisor and subordinate. Each discrepancy score was divided by its respective standard deviations, summed, and then reversed so that larger scores indicated greater similarity.

Analysis

Consistent with the study's purpose of determining whether organizational members' attitudes toward their work group are associated with their evaluations of the fairness of organizational procedures, hierarchical regression was used. Hierarchical regression was used in order to specify the order in which the variables were introduced into the equation. Hierarchical regression allows the causal priority to be defined, spurious relationships to be removed, and the incremental validity of the predictor variables to be determined (Hays 1994).

First, the control variables were entered into the model in the order of OCB followed by demographic similarity. It was felt that because of the research support for the relationship between dimensions of OCB and fairness (Moorman 1991) and the inconsistent results of some of the demography

research (Napier and Ferris 1993), that the control variables should be entered in this order. Next, the predictor variables were entered in the following order: satisfaction with supervisor, in-group and out-group, satisfaction with coworkers. The attitude toward supervisor variable was entered as the first predictor variable because the primary work group for subordinates in the organization studied was the supervisory-subordinate dyad.

Results

Table 1 shows the intercorrelations, means, and standard deviations of the variables entered in the regression equation. A perusal of Table 1 reveals no apparent problems with multicollinearity. Table 1 indicates that each measure of attitude was significantly related to the procedural justice evaluation criterion variable.

TABLE 1
Means, Standard Deviations, and Intercorrelations of Study Variables

Variable	*M*	*SD*	1	2	3	4	5	6
1. PJ Evaluation	19.19	4.25	—					
2. OCB	27.64	5.08	.37	—				
3. Demographic Similarity	1.63	2.99	.25	.25	—			
4. Coworker Attitude	44.34	9.41	.29	.20	.30	—		
5. In-group Out-group	17.02	4.74	.49	.29	.06	.29	—	
6. Supervisor Attitude	43.16	10.49	.68	.40	.06	.18	.48	—

Note: $r \geq .25, p < .01$; $.25 < r < .20, p < .05$; $.20 < r < .10, p < .1$; $r \leq .1$, *ns*.

Table 2 presents the results from the hierarchical regression analysis. OCB and demographic similarity were entered in the order specified above, and the results indicated that these control variables did have an effect on fairness perceptions. Next, each predictor variable was entered after the two control variables had been entered in order to determine the amount of incremental variance due to each predictor variable over and above that due to the control variables. The results indicated that the predicator variables did account for significant incremental variance beyond the control variables. ATTITUDE TOWARD SUPERVISOR accounted for considerable incremental variance of procedural justice evaluations (ΔF = 15.16, R^2 change = .18, $p < .001$) beyond the control variables. Next, IN-GROUP/OUT-GROUP (F change = 4.13, R^2 change=.05, $p < .05$) followed by ATTITUDE

TABLE 2
Hierarchical Regression Results
Dependent Variable: Procedural Justice Evaluation

	B	Beta	df	R^2	ΔR^2	ΔF	Sig *F*
Control Variables:							
OCB	0.02	0.03	1, 63	0.09	0.09	6.29*	0.01
Demographic Similarity	0.11	0.09	2, 62	0.12	0.03	2.19	0.14
Predictor Variables:							
Supervisor Attitude	0.13	0.31	3, 61	0.30	0.18	15.16*	0.00
In-group Out-group	0.15	0.19	4, 60	0.34	0.05	4.13**	0.05
Coworker Attitude	0.09	0.25	5, 59	0.39	0.05	4.60**	0.04
Constant	6.55						

TOWARD COWORKERS (ΔF = 4.60, R^2 change = .05, $p < .05$) also accounted for a proportion of incremental variance of procedural justice evaluations. Together these results supported the group-value's proposition that organizational members' attitudes toward their work groups are associated with their fairness evaluations. Employees who had positive attitudes toward their work groups had higher procedural justice evaluations of organizational activities than employees who had less positive attitudes.

Discussion

Research in organizational justice has consistently supported the importance of procedural justice in employees' evaluations of the fairness of organizational activities and outcomes (cf., Greenberg 1990). The group-value model provides an explanation of the psychology of procedural justice in terms of group identification or attitudes toward group membership. This study examined the association posited by the model between individuals' attitudes toward their groups and their perceptions of procedural justice.

The results of this current study suggest that employees' perceptions of the fairness of organizational procedures are related to their attitudes toward their work groups. The findings indicate that employees may perceive the fairness of particular procedures differently as a result of their varied identification with their work group(s). Consequently, while earlier procedural justice research has highlighted the importance of improving organizational procedures, e.g., by granting employees an opportunity for voice (cf., Lind and Tyler 1988), this research points to the importance of improving work-group identification. An implication is that efforts or intervention by managers toward facilitating employees' group identification or

sense of work-group membership may contribute to their acceptance of organizational procedures. For instance, efforts by supervisors to make subordinates feel that they occupy a respected position and are valued members of their work group(s) may contribute to an enhancement of their perceptions of the fairness of organizational procedures endorsed by the work group.

Notwithstanding the insight derived from this research, it is not without limitations. Primary is the fact that the study utilized cross-sectional and correlational data. Consequently, the direction of the association between attitudes toward group membership and perceptions of procedural justice could not be determined. While an association was evident from the data, whether causality flows from attitude toward the group to fairness perception or from fairness perceptions to attitude toward the group could not be determined. Second, the employees surveyed were all in the same organization and worked the same occupation. While the hospital setting used in this study required close interaction between supervisors and subordinates, other settings may require closer interaction with coworkers or even groups outside of the organization. In response to these limitations, future research should attempt to utilize longitudinal data that could permit the determination of causality and should assess the role of employee attitudes toward their group membership in a variety of organizational settings and among different occupational groups.

References

Bateman, T.S., and D.W. Organ. 1983. "Job-Satisfaction and The Good Soldiers: The Relationship between Affect and Employee 'Citizenship.'" *Academy of Management Journal*, Vol. 26, no. 4 (December), pp. 587-95.

Conlon, D.E. 1993. "Some Tests of the Self-Interest and Group-Value Models of Procedural Justice: Evidence from an Organizational Appeal Procedure." *Academy of Management Journal*, Vol. 36, no. 5, pp. 1109-24.

Greenberg, J. 1990. "Organizational Justice: Yesterday, Today, and Tomorrow." *Journal of Management*, Vol. 16, no. 5, pp. 399-432.

Hays, W.L. 1994. *Statistics*. 5th ed. Fort Worth, TX: Harcourt Brace Publishers.

Lind, E.A., and T. Tyler. 1988. *The Social Psychology of Procedural Justice*. New York: Plenum.

Moorman, R.H. 1991. "Relationship between Organizational Justice and Organizational Citizenship Behaviors: Do Fairness Perceptions Influence Employee Citizenship?" *Journal of Applied Psychology*, Vol. 76, no. 6 (December), pp. 845-55.

Napier, B.J., and G.R. Ferris. 1993. "Distance in Organizations." *Human Resource Management Review*, Vol. 3, no. 4, pp. 321-57.

Sheppard, B.H., R.J. Lewicki, and R.J. Minton. 1992. *Organization Justice*. New York: Lexington Books.

Smith, P.C., L.M. Kendall, and C.L. Hulin. 1969. *The Measurement of Satisfaction in Work and Retirement: A Strategy for the Study of Attitudes*. Chicago: Rand McNally.

Turban, D.B., and A.P. Jones. 1988. "Supervisor-Subordinate Similarity: Types, Effects, and Mechanisms." *Journal of Applied Psychology*, Vol.73, no. 2 (May), pp. 228-34.

Tyler, T.R. 1994. "The Psychology of Procedural Justice: A Test of the Group-Value Model." *Journal of Personality and Social Psychology*, Vol. 57, no. 5, pp. 830-38.

State-Level Labor Law Initiatives

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Perhaps the most significant single factor contributing to the decline in the proportion of unionized workers in the U.S. has to do with shortcomings and inequities of the National Labor Relations Act (NLRA). One response of unions to frustration with the inherent weaknesses of the NLRA and the chronic ineffectiveness of the NLRB has been attempts at labor law reform. However, it is now evident that even minimally necessary reforms are far beyond the political reach of unions. Even prior to the conservative sweep of mid-term elections, the mere threat of a filibuster successfully blocked labor's primary legislative effort at labor law reform—merely barring the "permanent replacement" of strikers. In this context this paper explores an unconventional approach to labor law reform—turning political and legal attention from efforts at federal reform to a state-level strategy.

The traditional view of labor and liberals has been that left to their own in regulating labor relations, states would not do a good job of protecting their citizens' rights to workplace representation; national minimum standards were necessary. Fear of state initiatives has continued, perhaps longer than has been appropriate. It is worth noting the significant growth of progressive state initiatives in many areas of employment law, particularly in the area of governmental protection of individual worker rights; for example, due process and employment-at-will (St. Antoine 1992). Further, the globalization of the product market renders less critical, though still relevant, the concept of maintaining a level playing field among the fifty states by "taking wages out of competition." Moreover, there is an immense growth of geographic-specific service sector jobs. These jobs cannot move internationally nor across state borders, so they are less relevant to interstate competition in labor costs. Finally, the broad possibility of state-level labor law initiatives has been broached by some of the nation's leading labor relations scholars. These individuals include Richard Freeman (1984), Paul Weiler (1983), Michael Gottesman (1990), and William Gould (1993).

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The proposals below neither suggest nor require the elimination of federal standards; they merely elaborate certain categories of opportunities for expanding state-level activity complementing the basic purposes of the National Labor Relations Act: (1) judicial: court interpretations of the preemption doctrine; (2) administrative: the NLRB under current law may decline jurisdiction or cede it to the states; (3) legislative: federal and/or state legislation could enlarge the existing scope of state labor relations jurisdiction.

Judicial Avenues for State-Level Activity

In 1959 with *Garmon*,[1] the Supreme Court ruled that "in the absence of an overriding state interest, such as that involved in controlling violence, state courts must defer to the exclusive competence of the NLRB in cases in which the activity that is the basis of the litigation is *arguably subject* to the protections of Section 7 or the prohibitions of Section 8(b) of the NLRB" (emphasis added). However, in his pathbreaking article, Gottesman (1990) argues that preemption correctly applies to only one category of cases, those which lie on a continuum between protected and prohibited conduct, in which case he agrees that the expertise of a national board must prevail for the sake of consistency and efficiency. For example, in *Garmon* the issue was whether a state court could award damages to an employer experiencing losses arising out of a union's peaceful picketing. The Court held that the state could not be permitted to exact damages arising out of workers' exercise of rights granted by federal law, that because picketing was *to some extent protected and to some extent prohibited*, it was up to the NLRB to determine the limits of legality. To allow states to make such potentially conflicting determinations would be improper because this was the domain of the expert agency created for just this purpose.

Gottesman contends that in areas not on a continuum—where federal law clearly and unequivocally prohibits certain conduct—states should have leeway to pass and enforce laws regulating the same behaviors, even if they are more stringently enforced than under NLRA. Gottesman cites three areas not on a continuum, where state intervention would not pose the danger of states erring by drawing the line differently than might the NLRB: (1) union organizer access to certain premises, (2) continuation of union bargaining rights in cases of change of ownership, and (3) judicial recourse under state laws in cases of discharge for union activity.

The most significant of these from the perspective of union organizing is discharge for union activity. The language of the NLRA clearly prohibits such discharges, and there is no conceivable reason to protect such discharges. There is, thus, no risk if states move to protect workers against

such discharges consistent with contemporary prohibitions against discharges in violations of public policy (e.g., whistle-blowing and sexual harassment). More than 40 states currently acknowledge some departure from the employment-at-will doctrine, and 36 states find discharges illegal if contrary to public policy. Ironically, the sole exception is where the discharge is based on a violation of one public-specific policy—firing for union activity. The states are presently preempted from permitting tort suits arising from this particular illegal act. If state court remedies for discrimination against workers illegally fired were permitted, a major weakness of NLRA would be relieved.

Nor is the question of union access to employer premises to communicate with employees during organizing drives on Gottesman's continuum. Clearly such access is important to organizers. The NLRB recognizes *some* right to access: for instance, in cases such as lumber camps where access to workers outside of work is not feasible. Gottesman believes that union access to company premises can and should be enlarged by the states because it is the states with their police power that have primary jurisdiction with regard to private property. Since the employer obviously has access to the workers on its property, this balancing comports with the notion of informed choice which makes freedom a real option.

A third area Gottesman finds not logically preempted by federal law is states' right to protect bargaining rights in cases of change of ownership. In an era of increasing mobility of capital and revolving door ownership, this protection is important. State legislative initiatives dealing with this problem have been discouraged by the prospect of preemption.

In a recent article Drummonds (1993) also argues for greater latitude for a state role in labor-management relations, particularly with respect to suits allowed under Section 301 of the NLRA. Drummond advocates "that we unleash the states in the labor law area and develop a body of law entailing much less preemption of state regulation of the relationship between unions and management. . . . This would bring labor law in line with the larger development that we have observed across the broad area of employment law."

Administrative Avenues for State-Level Activity

A second broad avenue encouraging or permitting more decentralized, state-level regulation of labor-management relations would require NLRB administrative decisions that fall within powers already possessed by the Board. These administrative avenues fall into two specific areas: (1) *declining* jurisdiction within the latitude granted by the Act or (2) *ceding* jurisdiction to states under the terms of the Act.

Declining Jurisdiction

Under Section 14(c)(2) of NLRA, the NLRB has the authority to decline jurisdiction over certain industries. States have power to pick up this jurisdiction in cases where the NLRA declines to grant coverage to workers. To this day, the general belief is that impact on interstate commerce is the standard applied by the NLRB in asserting or declining jurisdiction and that this standard is relatively straightforward in its application. Yet a closer examination will reveal that jurisdictional standards have historically not remained static nor have they been consistently applied. In its early years, the NLRB had broad authority to determine jurisdiction. During this developmental period when union growth was rapid, the increased demands on the Board led it to decline jurisdiction on a case-by-case basis, at least partly based on workload (Millis 1950). This practice generated uncertainty among businesses and unions. Therefore, in 1950, dollar limits came to be used as a partial standard, thus increasing the number of enterprises covered.[2] However, in 1954 the Board's dollar yardsticks were revised upwards. This caused considerable contraction of coverage of independent and chain retail stores and other small businesses. The specific reason the Board gave for so decreasing federal authority over some enterprises was the expectation that states would respond by enacting their own state labor relations laws. Congress specifically stated its wish to encourage such legislation.

In 1957 with *Guss v Utah Labor Relations Board*,[3] the Court held that whenever the NLRB has jurisdiction, *even if it declines to exercise it*, states may not assert jurisdiction and apply their own labor laws. Rather, the NLRB would have to specifically, and by agreement, cede jurisdiction to a state, as provided by Section 10(a) of the NLRA. The *Guss* decision caused a significant jurisdictional problem in that it created a vacuum, a no-man's land, in which coverage was provided neither by the federal nor the state agency. Recognizing the anomaly, Congress in 1958 increased the Board's budget in order to permit a lowering of the dollar standards used to define businesses that "affect interstate commerce." This action succeeded in reducing but not eliminating the lacuna (Whitney 1955).

In 1958 President Eisenhower recommended greater state control over labor relations, and the following year Congress passed the Landrum-Griffin amendments. The Labor-Management Relations Act thereafter included Section 14(c)(1), which empowers the NLRB to decline jurisdiction "where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction. . . ." Section 14 (c)(2) goes on to provide that "nothing in this Act shall be deemed to prevent or bar any agency or the courts of any State

from assuming and asserting jurisdiction over labor disputes over which the Board declines to assert jurisdiction." In short, states were granted specific authority to fill the vacuum in cases where jurisdiction was not asserted by the NLRB.

Also note that the Board in the 1959 Landrum-Griffin law was authorized to decline jurisdiction over the hotel and motel industry. Congress provided this power because the Supreme Court in 1958 ordered the NLRB to take jurisdiction over that industry.[4] In 1971 the Board also declined jurisdiction over other businesses, for example, horse and dog racing and physicians' medical practices.[5] Until 1970 the NLRB had declined jurisdiction over private colleges and universities, but in *Cornell University* this was reversed.[6] However, the Supreme Court's *1980 Yeshiva* decision, by determining that professors were managers, had effectively undermined NLRB protection of their right to unionize. Other areas in which the Board did not initially have nor take jurisdiction (but later gained jurisdiction as a result of changes in law or Board policy) include hospitals, nonprofit organizations, and lawyers.

In sum, there exist a number of businesses, industries, or sectors over which the Board's denial or assertion of jurisdiction has historically shifted, based not on a consistent definition of interstate commerce and the national government's prerogative to assume jurisdiction over such commerce. The NLRB has the right to decline jurisdiction in these industries over which it assumed jurisdiction subsequent to the passage of Landrum-Griffin.[7] The list is not long, but the point is that there is significant maneuvering room within current NLRB guidelines that would present an opportunity permitting state-level action.

Ceding of Jurisdiction

Section 10(a) of the Taft-Hartley amendments to NLRA grants power to the Board to cede to the states jurisdiction over specific industries, stating that:

> the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, *unless* the provision of the State or Territorial statute applicable to the determination of such cases by such agency is *inconsistent* with the corresponding provision of this Act or has received a construction inconsistent therewith (emphasis added).

Ceding thus could occur by agreement on a state-by-state basis. However, such ceding has been requested only once. A request by Minnesota was refused by the Board[5] because Minnesota law was inconsistent with NLRA in that strikes and lockouts were prohibited and binding interest arbitration required—a significant and substantive departure. No other request for ceding has ever been presented; this approach thus represents an unexplored, but potentially profound, avenue for state-level activity. The critical point is that the law does not require that state laws be "consistent"; rather, the law allows the NLRB to cede jurisdiction "unless" the law of the state in question is "inconsistent" with federal law. The consistent/inconsistent distinction is an important one that could substantially affect future rulings, yet it is often treated as if it were a distinction without a difference.

Section 10(a) states that the Board may "cede to such agency jurisdiction over *any* cases in *any* industry" (emphasis added) except for certain listed industries. What are the industries in which it is most logical that the Board should cede? Perhaps those referred to in Section 14(c)(1) "involving any class or category of employers, where . . . the effect . . . on commerce is not sufficiently substantial. . . ." In other words, those where the product (or more likely, service) is primarily local in nature so that the effect of a strike or lockout on interstate commerce would be *de minimus*; for example, retail stores, restaurants, hotels and motels. Many of these, as well as other service organizations, are businesses which meet the Board's (very minimal) "interstate commerce" test, yet their economic impact is predominantly local.

Legislative Initiatives for State-Level Activity

There are two types of legislative initiatives which would expand the possibilities for state-level labor relations activity: the federal government could limit its reach; state governments could expand theirs. Legislation narrowing NLRB authority would be entirely consistent with the mood of the current Congress. Weiler (1990) suggests that a combination of a conservative ideological predilection to reducing the role of the federal government and for giving more latitude to the states, together with a Machiavellian willingness by senators like Orrin Hatch and Jessie Helms to permit states like New York and Massachusetts to impose more prounion or proworker legislation on *their* local employers, might combine to make Congress willing to permit states more latitude. Weiler suggests that the dollar threshold for NLRB jurisdiction should be increased so as to exclude most small businesses. Further, he proposes defining a small business as *any* firm with 25 or fewer employees. Weiler argues that one political advantage of such a step would be to reduce significantly the influence of the small business lobby as a major obstacle to reform of NLRA itself.

In addition to federal legislative action, there is room and need for state actions of two sorts. Many states do not have any labor legislation for the private sector; states having such laws could make them even more consistent with the purposes of NLRA, thereby strengthening the case for ceding. At this time in history we would agree that in many states the political climate is no more prolabor than is the Congress. But the advantage of this proposal is that it can be done one state at a time, whenever the political pendulum permits.

Another area for state action is in any event already occurring—expanded employment rights for all workers. The presence of a broad range of worker benefits—universal health care, overtime restrictions, mandatory holidays and vacations, etc.—in Canada and Europe serves to reduce significantly the incentive for employer resistance to unionization. It should be emphasized that these legislative initiatives are not preconditions for the judicial and administrative steps described above.

Conclusion

Some may perceive state initiatives as the opening of Pandora's box. Since jurisdiction is not declined on a state-by-state basis but at a national level, the benefit of stronger laws in some states might result from denying or declining jurisdiction; but this may be counterbalanced by absent or weak laws in other states. While a legitimate concern, the problem is not so weighty as to warrant out-of-hand rejection of an idea whose time may have come. Of course *ceding* can only be done to states with labor laws not inconsistent with the NLRB. Manufacturing is therefore unlikely to be significantly affected by any declining or ceding of jurisdiction. It is in construction, a quintessentially local industry, and geocentered service activities—both of which far exceed manufacturing in share of Gross Domestic Product—in which these state initiatives will be tested.

The state-level approach can provide an important laboratory for experimentation as in the Canadian provinces, where many innovations began at the provincial level and then spread. Public sector unionism, the sole sector in which unionism has grown, is primarily the product of state labor laws. Protections against wrongful dismissal have evolved at the state level. Thirteen states have laws regulating plant closing or relocations, protections which go beyond the federal WARN Act (Gould 1993). An example of an effective federal-state labor law combination is the Fair Labor Standards Act, which, because it provides only for *minimum* wages and *maximum* hours, leaves room for states to require improvements—and some do. Nine states have already moved beyond federal OSHA standards to mandate workplace safety committees (Rosia 1993).

The positive potential of state initiatives, however, should not be overstated. Workers' Compensation, because it is left *entirely* to the states, is a hodgepodge of benefit levels stimulating cutthroat competition. Unemployment Compensation benefits vary wildly among the states because federal standards are so low and lax. ERISA (Employee Retirement Income Security Act) has been used to undermine state prevailing wage laws.[9]

Ironically, until now the sole exception to federal preemption of state legislation in labor relations has been the antiunion right-to-work laws which contribute to low union density. States' rights ought to be a two-way street. The current Board, consistent with its efforts to enforce the purposes of the act more efficiently, should explore the latitude which it enjoys by law to be creative and experimental. So, too, should Congress and the states be creative and experimental.

Endnotes

[1] *San Diego Building Trades Council v. Garmon*, 359 U.S. 206 (1959).

[2] NLRB, 16th Annual Report, U.S. Government Printing Office, Washington, DC, 1951.

[3] *Guss v. Utah Labor Relations Board*, 353 U.S. 1 (1957).

[4] *Hotel Employees Local 255 v. Leedom*, 358 U.S. 99 (1958).

[5] *Centennial Turf Club, Inc.*, 192 NLRB 698 (1971); *Alameda Medical Group, Inc.*, 195 NLRB 312 (1972).

[6] *Columbia University*, 97 NLRB 424 (1951); *Cornell University*, 183 NLRB 329 (1970).

[7] Seventeen states currently have private sector labor law legislation.

[8] *State of Minnesota*, 219 NLRB 1095 (1976).

[9] *Keystone Chapter of Associated Building & Contractors Inc. v. Thomas P. Foley, Secretary of Labor and Industry, Commonwealth of PA* U.S. 0459 (1992).

References

Drummonds, Henry H. 1993. "The Sister Sovereign States: Preemption and the Second Twentieth Century Revolution in the Law of the American Workplace." *Fordham Law Review*, Vol. 62, pp. 469-543.

Freeman, Richard, and James Medoff. 1984. *What Do Unions Do?* New York: Basic Books.

Gottesman, Michael. 1990. "Rethinking Labor Law Preemption: State Laws Facilitating Unionization." *Yale Journal on Regulation*, Vol. 7, no. 2, pp. 355-426.

Gould, William. 1993. *Agenda for Reform*. Cambridge: MIT Press.

Millis, Harriet. 1950. *From the Wagner Act to Taft-Hartley*. Chicago: University of Chicago Press.

Rosia, Shirley. 1993. "Deadly Record Clear: OSHA Needs Reform." *AFL-CIO News*, April, p. 12.

St. Antoine, Theodore. 1992. "The Model Employment Termination Act: Fairness for Employers and Employees Alike." *Labor Law Journal*, Vol. 43, no. 8 (August), pp. 495-503.

Weiler, Paul. 1983. "Promises to Keep: Securing Workers Rights to Self-Organization Under NLRA." *Harvard Law Review*, Vol. 43, pp. 351-65.

_____. 1990. *Governing the Workplace*. Cambridge: Harvard University Press.

Whitney, Fred. 1955. "NLRB Jurisdictional Policies and the Federal-State Relationship." *Labor Law Journal*, Vol. 6, no. 1 (January), p. 4.

Comparable Worth: The Ontario Experience

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In January 1988 a new comparable worth or "pay-equity" law took effect in Ontario, Canada. The law mandates what is the strongest and most pervasive comparable worth policy in the world. Its scope includes not only public sector employees but all private sector employees in firms with at least ten workers as well. Moreover, the Ontario law is proactive, as opposed to merely complaints-based. That is, instead of merely affirming the principle of comparable worth but then leaving to women the burden of proving whether their pay is commensurate, the Ontario law places the burden on employers to base their pay levels on comparable worth.

Despite the sweeping scope of the Ontario law, it seems to have not attracted all that much attention in the U.S. Perhaps this is due to the fact that the comparable worth movement in the U.S. has lost some momentum in recent years, at least on the legislative front. Or perhaps it is due to the fact that most people in the U.S.—even many economists—seem to know little about the comparable worth concept. In any case, with the North American Free Trade Agreement (which links the U.S., Mexico, *and* Canada), policies such as comparable worth have considerable potential to affect labor costs and, ultimately, competitiveness. After all, Canada is the U.S.'s leading trade partner, with Ontario's share the largest (57%) of the provinces.

It is the purpose of this paper to describe and analyze the new Ontario pay system and evaluate its experience so far. The Ontario pay-equity policy has spawned a number of surveys commissioned by the Pay Equity Office regarding the smoothness of the implementation process and the effects up to the present. After reviewing the results of these surveys, we will summarize the findings of a survey of private sector employers that we conducted in the summer of 1994.

Pay Equity in Ontario

Ontario has had an equal pay law since 1951. Yet, many argued that the overall male-female pay gap was not shrinking at a sufficiently rapid pace

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(see Table 1), hence the perceived need for a stronger pay policy designed to narrow the gap. Clearly, not all of the difference in male and female pay is due to discrimination. However, in the opinion of some experts, a good part of the gap—perhaps as much as one-fourth to one-third—is due to the "historic undervaluation of the work done by women" (Pay Equity Commission 1992:2). As we shall discuss later, however, the question of how much of the gap is truly due to discrimination continues to be a major source of controversy.

TABLE 1
Female-Male Earnings Ratios in Ontario, Full-time Workers, Various Years

Year	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Female-Male Earnings Ratio	.631	.632	.624	.646	.644	.629	.646	.654	.648	.674	.66	.698	.719

Source: Statistics Canada (1994).

To achieve pay equity in their workplaces, employers in Ontario must undertake the following steps (Pay Equity Commission 1992, 1993). First, they must select a pay-equity plan or plans: There must be one pay-equity plan for each bargaining unit and one for all nonunion employees in each of an employer's establishments. All employees in a given geographic division must be treated as one establishment. Second, male and female job classes must be determined: A job class is a set of positions that have similar duties and responsibilities, require similar qualifications, and have the same range of compensation. A male job class is defined as one in which men hold at least 70% of the positions in that class; a female job class is one in which women hold at least 60% of the positions. The Pay Equity Act then allows each firm to select its own job evaluation system, as long as the system is "gender neutral" and incorporates the four factors of skill, responsibility, effort, and working conditions. After the selection of the job evaluation system comes the specification of the various subfactors and "levels" corresponding to each of the major factors. Finally, the assignment of weights (which should reflect the company's values, products, and services) to each of the factors and subfactors takes place.

Once the job evaluation process is complete, the relative compensation levels of female and male job classes of similar value must be compared. Where the compensation of a female job class is less than that of a male job class of similar value (a "comparator"), upward pay adjustments are called for.

Issues and Controversies Surrounding the Act

Not surprisingly, there have been a number of criticisms of the Ontario Pay Equity Act and its provisions. The criticisms have come both from those who feel that the Act is an unwarranted interference into the workings of the labor market, which will have deleterious side effects, and from others who feel that the Act has not gone far enough to combat pay discrimination against females.

Proponents of the Pay Equity Act and its provisions often point to the fact that the male-female pay gap for full-time workers in Ontario is currently about 72%. When factors other than discrimination are controlled for, the pay gap narrows. But as Gunderson and Riddell (1993) have stated, even after controlling for a wide range of wage-determining variables, "a pure wage gap appears to remain. . ." (p. 555). Yet critics counter that no one can really be sure as to how much—if indeed any—of the remaining pay gap is due to discrimination.

The fact that it is not possible to ascertain the true proportion of the male-female earnings gap due to discrimination may not be a strong argument against comparable worth, since the important question is *whether* systematic pay discrimination exists against women, not what its precise magnitude is. A more serious criticism of the Ontario pay-equity process is that it relegates pay determination to job evaluation, rather than to market forces of supply and demand. As some critics state, the problem with comparable worth is that it attempts to subvert the market. However, proponents reply that this is precisely what it was intended to do because the market has undervalued women's work (MacKinnon 1990:42).

It would seem that the most serious problem with substituting job evaluation for the market in pay setting is the fact that job evaluation is a very subjective process. This subjectivity can mean differences among experts in the job factors selected, in the assignment of weights to the factors, and in the number of points assigned to factor categories. As a result, there is no single universally agreed-upon system of job evaluation (U.S. Commission on Civil Rights 1985:32).

One last set of criticisms voiced by opponents of the Ontario pay-equity law is that it is likely to produce certain unexpected consequences. For example, some economists predict that in raising the pay of women, pay-equity policies may also lower their employment levels. The Employment Equity Act of 1994, which would have required Ontario businesses to move toward a workforce that reflected the percentage of women (and other minorities) in their communities, was meant to serve as a counterweight. However, Michael Harris, Ontario's newly elected premier, has vowed to repeal this affirmative-action law by year's end (Frum 1995:A12).

It is interesting to observe that most of the criticism (in the Canadian research literature, at least) directed at Ontario's pay-equity law seems to have come from *proponents*—rather than opponents—of comparable worth. The criticisms have tended to concern the following: the gaps in coverage, the absence of a monitoring system, and the exceptions.

Regarding the coverage question, according to the Act, comparisons of the worth of male and female jobs must only be made *within* establishments, not across establishments. What this means is that the Act effectively excludes many women working in firms in which the labor force is mostly female. The reason, of course, is that within such firms there are few---or no—male comparators (Robb 1990:17). Some critics contend that the number of women working in establishments with few or no male comparators is very high (see, e.g., McDermott 1990:12.) However, this situation has now changed since the 1993 amendments to the Act, which mandated "proportional value" and "proxy" comparisons for unmatched female job classes.[1]

The absence of a monitoring system has also evoked criticism. According to McColgan (1993:278), "The failure of the legislation to require any monitoring of pay equity makes it impossible to determine the extent to which employers may have manipulated job comparison systems." As McColgan explains further, because the nature of job evaluation is characterized by subjectivity and judgment, it is therefore possible for the employer to manipulate the process of comparing job values to achieve pay equity at the lowest possible cost—or perhaps even sidestep it altogether. It is noteworthy that as of January 1995, the Pay Equity Commission has begun to randomly select private sector employers with at least 100 employees to check for compliance. According to Jack Hughes (of the Review Services Branch of the Pay Equity Office), the commission began its monitoring program due to pressure from employers and bargaining agents.

Finally, one of the more controversial features of the Pay Equity Act is the matter of exceptions. According to Sections 8(1) and 8(3), differences in the pay of males and females in job classes of equal value are permitted in the following instances: where there is a formal seniority system for temporary training positions, where there is a temporary skills shortage within an area, where there exists a formal merit plan in situations involving red-circling, and for "casual" workers (Pay Equity Commission 1992:6). The exceptions, not surprisingly, have been criticized by some proponents of pay equity: They are seen as yet another opportunity for employers to evade their legal responsibility of bringing about equal pay.

Effects of the Pay Equity Act

Having looked at the provisions of the Act and the criticisms directed toward it, we now turn to the question of the effects of Ontario's pay-equity

policy so far. The Pay Equity Office has commissioned five studies of the effects of pay equity in Ontario: The first two studies covered the public sector and large private sector employers (those with 500 or more employees), the third study looked at medium-sized private sector employers with 100-499 employees, the fourth report was for small private firms employing from 50-99 workers, and the fifth report surveyed those private sector firms employing 10-49 employees. Probably the most striking finding emerging from these studies is that the pay-equity adjustments have been quite small. For example, they averaged 2.6% of total payroll for public sector employers, 0.7% for large private sector employers, and 0.5% of payroll for small private sector employers. These small adjustments, particularly in light of the 28% wage gap between men and women, have been used as support for the suspicion that employers may have manipulated the choice or administration of job evaluation plans to minimize their impact. These adjustments also indicate that pay equity was much more costly for the public sector to implement: Public sector pay-equity adjustments were about four times higher than those in the private sector.

In response to the clear need for further research on the effects of the Ontario Pay Equity Law (see, e.g., the plea by Gunderson and Riddell 1991:172), we undertook a small survey of 27 private sector firms in the Toronto area during the summer of 1994. It was our hope to address some of the controversial issues that had not been tackled in the earlier studies—e.g., the effects that pay-equity adjustments have had on such factors as employment, morale, productivity, and collective bargaining. Perhaps the Pay Equity Office's sponsorship of previous surveys meant that respondents had not been fully forthcoming. The sample contains a disproportionate number of large firms, but this should not be too problematical because a majority of women are employed by large firms in the private sector. Besides, it was our intention to elicit detailed case information about particular employer experiences with the pay-equity process rather than to use our results for formal statistical inference. Some of the more interesting of our findings are discussed below; more detailed interview information is available from the authors.

According to the studies commissioned by the Pay Equity Office, it seems that overall satisfaction with the pay-equity process is inversely related to firm size: on average, the smaller the company, the less positive the pay-equity experience. Our interviews yielded a similar impression: On average, smaller firms found the whole process very onerous and expensive and felt that the "benefits" (e.g., being forced to institute a formal job evaluation system) were meager. This is certainly understandable. Relatively speaking, pay equity was much more costly for small business to implement

because small firms tend not to have the personnel or procedures in place that larger companies have.

As Deschenes (1990:65-66) points out, the benefits of pay equity to employers may be twofold: improved efficiency from the mandated rationalization of employers' compensation practices or greater productivity on the part of those employees receiving adjustments. Only 28% of our sample of firms made no (or moderate) changes to their job evaluation systems. The vast majority of our sample (72%) had nothing in place before pay equity or made substantial changes to preexisting compensation systems. Hence the potential efficiency gains from improved job-content data and more systematic human resource practices may be large.

Regarding the potential productivity gains, for the overwhelming majority of firms the people interviewed felt that pay equity had no significant effect on productivity, morale, turnover, or job satisfaction. There were, however, a few exceptions to this general finding; e.g., at one firm white-collar workers were apparently "insulted" by the comparisons made with blue-collar workers. Our findings as to pay equity's minimal effects on productivity, turnover, and morale provide little support for the assertion that higher wages might contribute to lower turnover and increased productivity. Our findings are consistent with those of Deschenes (1990), who reports that it is unlikely that employees benefiting from pay-equity wage adjustments will be any more productive. Indeed, one consultant whom she interviewed said that "if recipients of wage adjustments believe they are getting only what is owed them, there is no incentive for increased productivity" (p. 92).

The overwhelming majority of the firms interviewed made all required pay-equity adjustments immediately, probably because the impact on the total payroll was small: For 92% of our sample of firms the cost of all required pay-equity adjustments was less than 1% of annual payroll. Therefore, pay equity did not adversely affect firms' competitiveness or lead to wage spirals or bankruptcies as many in the business community had feared (Deschenes 1990:34). Because for the vast majority of firms the pay-equity process led to small changes in most of their female employees' compensation, many people interviewed used these small changes as evidence that they had been doing it right all along anyway. Consequently, pay equity was considered by some as a waste of time and money.

Of the firms that provided us with information about the percentage of the female workforce that received pay-equity adjustments, the overwhelming majority (92%) gave these adjustments to about 30% or fewer of their female employees. In fact, the majority of firms in our sample (57%) gave adjustments to 10% or fewer of their female employees. What about the

average size of these payouts? For the firms that would reveal this information, it was clear that the amounts were very modest: The average adjustment appeared to be about 4% or 5% of the female employee's base salary.

We uncovered many different instances of violations of the requirements of the Act—some unintentional, some not. For example, one person interviewed revealed that at her former employer, job classes were "juggled" so that the drivers who were paid Teamster rates would not be used as a comparator. Another person told of his former employer's strategy to avoid pay-equity adjustments: increasing the pool of employees so that it would always be possible to find a man who is paid less, so that no adjustments are necessary.

About ten firms in our sample were able to provide somewhat detailed information on their pay-equity experience with unions. Here are a few of the interesting findings. In all cases except one, the unions negotiated pay equity separately from the normal collective bargaining process. One person interviewed said that this was because collective bargaining was "difficult enough without pay equity." Although the Act does allow for union bargaining to create gaps again once "equity" has been reached, none of the firms that we interviewed has had such gaps recur, nor do they feel that this will become an issue in the future. Employers with unions had argued (in the deliberations that led to the Pay Equity Act) that pay equity would contribute to labor tension (see Deschenes 1990:35). We found, however, that unions' experiences with pay equity were relatively benign, and in the vast majority of cases, the pay-equity process with unions was a nonissue.

Differences in the pay of males and females in job classes of equal value are permitted where there exists a formal merit plan. Yet, several firms in our sample still determine merit pay in an ad hoc fashion, which is technically not allowed under the Act. However, almost half of the firms that we interviewed still have merit pay—i.e., pay for performance—that is determined on the basis of an annual performance evaluation. And about one-quarter of our sample of firms newly instituted a merit-pay program, thanks to pay equity. This finding is important in understanding the potential benefits from pay equity because research has shown that merit plans seem to be productivity enhancing (Deschenes 1990:75-77).

Concluding Comments

Ontario's law has been called the "cutting edge" in pay equity. However, there seems to be a consensus amongst those we interviewed—even those in favor of pay equity in principle—that the Pay Equity Act was poorly drafted. Some have even said that "Ontario is a prime example of how *not* to do pay equity" (Deschenes 1990:84). Our survey supports the

findings of other researchers in that most employers, although agreeing with pay equity in principle, found the Act to be a "suboptimal solution" to eliminating wage inequities. The reason was that many employers felt that occupational crowding accounted for a larger portion of the male-female wage differential than pay equity could redress.

What about the macroeconomic impact of pay equity? Table 1 presents data showing the trend in the female-male earnings ratio in Ontario both before and after the Pay Equity Act of 1987. It is clear that there was a rise in the ratio after 1988, and regressions reveal that the rise is statistically significant.[2] However, it should be stressed that the increase in the ratio is not necessarily the result of pay-equity legislation, because similar increases in the female-male earnings ratio have been observed in other countries where pay-equity policies have not been vigorously pursued (e.g., the United States).

The pay-equity process has been somewhat burdensome to employers, but not to the extent predicted by many during the consultative process. And overall, there do not appear to have been substantial undesirable consequences for employees, employers, or Ontario's economy. But could this just be because pay equity has not been attained—i.e., many employers simply did the bare minimum or, worse, manipulated the data?

Finally, it appears unlikely that productivity increases will follow from the pay-equity payouts to (mostly) female employees. However, enhanced productivity may result from better job data which came about as a by-product of the pay-equity process. Firms that institute merit-compensation practices may also be more likely to experience enhanced employee performance. Thus, perhaps, pay equity will yield improvements, although not in the ways initially expected. Whether these potential benefits outweigh the costs of compliance, however, is a matter for future research.

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Endnotes

[1] The proxy method, unlike the proportional-value method, is restricted to the public sector. The proportional-value method simply consists of requiring that the relative pay levels of males and females reflect the relative valuation of their jobs.

[2] The regression was the following:

$$\ln(wf/wm) = \underset{(-2.00)}{-12.502} + \underset{(2.30)}{.00726\,(Time)} + \underset{(1.98)}{.0505\,(Act_{t-1})},\ R^2 = 0.786,\ DW = 1.37$$

where ln(wf/wm) is the natural log of the female-male earnings ratio, Time is a time trend variable, and Act_{t-1} is a dummy for the passage of the Pay Equity Act, lagged one year. (The t-values are in parentheses.) Lagging the Act variable by two years yields similar results.

References

Deschenes, Muriel. 1990. "Pay Equity in Ontario: Equity and Efficiency Revisited." Master's Thesis, The University of Western Ontario.

Frum, David. 1995. "Ontario Quake: Tax Rates Suffer Most." *Wall Street Journal*, June 12, 1995, p. A12.

Gunderson, Morley, and Craig Riddell. 1991. "Economics of Women's Wages in Canada." *International Review of Comparative Public Policy*, Vol. 3, pp. 151-76.

_____. 1993. *Labor Market Economics*. Toronto: McGraw-Hill.

MacKinnon, Carrie. 1990. "The Implication of Pay Equity on Job Evaluation Systems." In David Conklin and Paul Bergman, eds., *Pay Equity in Ontario: A Manager's Guide*. Halifax, N.S.: Institute for Research on Public Policy and National Centre for Management Research and Development, pp. 31-47.

McColgan, Aileen. 1993. "Legislating Equal Pay? Lessons from Canada." *Industrial Law Journal*, Vol. 22, no. 4 (December), pp. 269-86.

McDermott, Patricia. 1990. "Pay Equity in Ontario: A Critical Legal Analysis." Unpublished paper, Pay Equity Conference, Center for Research on Public Law in Public Policy, Osgoode Hall Law School, York University.

Ontario. *Pay Equity Act*. 1987. Revised Statutes of Ontario 1990, c. P.7, as amended. Toronto: Queen's Printer for Ontario.

Pay Equity Commission. 1992. *Questions and Answers: Pay Equity in the Workplace*. Toronto: Pay Equity Commission.

_____. 1993. *Step by Step to Pay Equity. The Workbook. Vol. 1*. Toronto: Pay Equity Commission.

Robb, Roberta. 1990. "Equal Pay for Work of Equal Value in Ontario: An Overview." In Michael G. Abbott, ed. *Pay Equity: Means and Ends*. Kingston, Ont.: John Deutsch Institute for the Study of Economic Policy, Queen's University, pp. 16-20.

Statistics Canada. 1994. *Earnings of Men and Women, 1992*. Catalogue 13-217. Ottawa: Ministry of Industry, Science and Technology.

U.S. Commission on Civil Rights. 1985. *Comparable Worth: Issue for the '80s*. Washington, DC: U.S. Commission on Civil Rights.

VI. INDUSTRIAL RESTRUCTURING AND TRAINING INITIATIVES

Changes in the Unionized Construction Industry in Northeast Ohio

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The unionized construction industry in northeast Ohio has begun a reexamination of its business practices and the relationships among its stakeholders. Like the construction industry nationwide, upon reconsideration, many local construction engineers, contractors, and building trade unionists believe that the industry restructuring and the beginnings of union/open shop competition in the last decade were detrimental to all industry stakeholders. More specifically, cost pressures and destructive competition have resulted in the following: devaluation of capital projects (no longer perceived as value added), the decimation of corporate engineering departments and construction engineering firms, deskilling of the building trades, increasing predatory competition between union and open/merit shops companies, the proliferation of jurisdictional disputes within the building trades leading to labor unrest, the lowering of profit margins, and the reductions in the standard of living of construction workers as a result of cost shifting.

The Builders Association of Eastern Ohio and Western Pennsylvania and the Western Reserve Building Trades Council, in conjunction with owners and other industry stakeholders, have begun a program to increase cooperation and to reduce the effects of destructive competition. Program goals are to attract new business and revitalize established regional enterprises by

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remaining competitive and providing a stable labor environment for new construction and capital projects.[1]

Environmental Changes in Northeast Ohio, 1974-1994

The economic crisis and industrial transformations over the last two decades had a profound effect on the unionized construction industry. Except for normal contractions associated with the business cycle, the construction industry was prosperous prior to 1974. The combination of plentiful work (new construction and repair work), a skilled labor force, and a strong union contractor/building trades alliance (which protected labor standards and wage rates) resulted in an industry that was profitable and provided stable work opportunities and a good standard of living. An end to this prosperity occurred with the economic upheaval caused by the deindustrialization; disinvestment; and decline in the steel, mining, pottery, and related industries.

This upheaval denied the construction industry important work opportunities on new construction and repair work: rather than engaging in new construction, the closed industrial sites often provided inexpensive settings to start new businesses. Also, many dislocated industrial workers entered the construction labor market and began to compete for the limited work opportunities. Some of these workers were highly skilled trade union members who found that their mechanical and electrical skills were easily transferable to the construction industry. Simply as matter of economic survival and desperate for work, others entered the construction industry with little more than a "pickup truck and a toolbox." The Ohio Bureau of Employment Statistics estimates that the five-county area of northeast Ohio bordering Pennsylvania has approximately 12,000 construction workers.

Nonunion, open shop contractors found a large labor pool in the dislocated industrial workers and the unemployed unionized tradesmen. By taking advantage of the labor market conditions, these contractors were able to underbid unionized contractors by hiring many of these unemployed workers at rates substantially below the prevailing wage.

Impact on the Unionized Building Trades

The decline in new and project construction and large influx of both skilled and unskilled workers into the construction labor market had a devastating impact of the building trades. This can be seen by analyzing man-hours worked per year for unionized contractors who were members of the Builders Association of Eastern Ohio and Western Pennsylvania (Howe 1993).[2]

Between 1973 and 1993, the man-hours worked in the construction industry dropped from 5,639,125 to 3,267,180. At the height of the economic recession/regional depression in 1983, 1984, and 1985, the man-hours dropped as low as 2,433,488. While there has been a gradual increase since 1985, it is clear that the man-hours worked in unionized construction has been reduced on the order of 40% since 1973.

This decline is even more pronounced when viewed from the perspective of individual trades. Unionized bricklayers, laborers, painters, drivers, operating engineers, ironworkers, and carpenters have experienced the most serious reductions in man-hours worked with reductions well over 40%. However, the reductions in man-hours worked by unionized glaziers, roofers, cement masons, and sheet metal workers was not as pronounced, declining somewhat under 40%.

It is unknown just how much of the decline in unionized construction man-hours worked was due to economic conditions or open shop contractors (Cockshaw 1992). Yet there is no doubt that open shop competition has had a definite impact on these man-hours. In some cases this has simply meant that unemployed unionized workers or displaced workers worked for nonunion contractors (receiving lower wages and fringe benefits) on certain construction projects. In other cases open shop contractors have opted to bring nonunion workers from other regions of the country to work on construction projects. The result in either case has been reduced work opportunities and lower wages and benefits in the regional construction industry. The reductions in work opportunities and the appearance of open shop competitors in northeast Ohio resulted in another form of competition—interunion. As employment opportunities declined and as the materials and technology used in construction changed, the lines between traditional work jurisdictions within the building trades were blurred or ignored. Building trade unions and, in some cases, industrial unions, like United Steelworkers District 50, found themselves fighting for limited jobs. This allowed union contractors to whipsaw unions and to engage in concessionary bargaining while still claiming to work "union."

Impact on Union Contractors

Like other employers, union contractors were affected by changes in the 1980s economic environment. The decline in construction projects and increased competition from low-wage nonunion operators placed pressure on union contractors to reduce costs. Owners perceived new or project construction in cost terms rather than as value-added to product or enterprise as they had in the past.

The devaluation was exacerbated by governmental tax abatement policy which encouraged new construction and devalued current buildings. Some owners/corporations found it less expensive to build new facilities to attain tax abatements, only to disinvest when the abatement period was over and find another community that would provide another tax abatement. Consequently, new construction often focused on cost rather than overall quality and increased the use of new materials and technology. In some cases, such as working with prefabricated materials, the ease of handling, connecting, and constructing had a deskilling impact on construction labor resulting in the increased use of semiskilled workers on construction projects. In other cases the new materials and technology required the retraining of skilled trades and the revamping of apprenticeship training programs. All these conditions together necessitated work rule changes in collective bargaining agreements.

A final cost pressure on union contractors emanated from the illicit activities of some open shop contractors circumventing workers' compensation, unemployment insurance, and wage-and-hour laws. This was accomplished by calling their employees "independent contractors" (technically circumventing the laws) or simply paying their employees in cash and having them work "off the clock" (in some cases also done to avoid paying various fringe benefits including health care). In still other cases general contractors subcontracted to smaller contractors who had "made sweetheart deals" with their employees to pay straight time for overtime hours and avoid paying fringe benefits on certain jobs and working "scale" on others. According to industry sources, this widespread illicit activity allowed open shop contractors to substantially underbid unionized contractors by 15% or more "off the top." Lack of enforcement, secrecy of the bidding process, relatively short job duration, and ease of entering and withdrawing from the construction industry all invited open shop contractors to engage in these illicit activities. Although widely reported nationally and the subject of hearings before the House Consumer and Monetary Affairs Committee, few union or honest open shop contractors and/or regulatory agencies challenged these unlawful acts (Cockshaw 1993).

Collective Bargaining

As suggested earlier, unionized building trades were forced to engage in concessionary bargaining during the last decade. While actual compensation (wages, health insurance, and pension) increased between 1984 and 1993, when adjusted for inflation, real compensation fell by as much as 20% in some trades. Trades suffering the greatest declines were the bricklayers, electricians, floorcoverers, laborers, painters, plasters, roofers, and drivers (Builders Association 1983-94).

In some ways the decline in real compensation understates the effect on the tradesmen's standard of living. As occurred in other industries, construction wages were diverted increasingly to health insurance and pensions. Compensation costs mask the even greater declines in real wages—30% in some cases. When combined with the reduced man-hours of work, the decline in real wages contributed to the general decline in disposable income and the standard of living of construction workers.

The concessionary bargaining over work rules and premium pay in northeast Ohio narrowed the compensation differential between union and open shop contractors. This was merely a codification of what was happening at individual worksites. In some instances, the intense competition with open shop and interunion competition resulted in informal special project agreements between the building trades and union contractors that waived many forms of premium pay and formal work rules.

In a review of the regional construction industry agreements, the most significant negotiated changes in premium pay and work rules fell into three basic areas: nonwork pay, premium pay, crew size, and manning requirements. In terms of nonwork pay, cost savings were achieved as a result of negotiated reductions in subsistence, short day, offsite fabrication, showup and travel pay. Premium pay was also reduced for double time paid for daily overtime and Saturdays and for second and third shifts. Finally, crew sizes were reduced, crew makeup changed to include more subjourneymen (both apprentices and helpers), and work rules were generally relaxed. These changes not only reduced costs but increased productivity and flexibility on job assignments at individual worksites.

Overall, it is difficult to calculate the total cost savings from changes in work rules and premium payments in regional construction industry agreements over the last decade. However, according to national studies by the Construction Labor Research Council between 1982 and 1992, concessionary bargaining over premium pay and work rules cut contract costs by 40% (Cockshaw 1992b).

The Construction Alliance and Job Targeting

Changes in the labor market resulted in disputes over work jurisdictions and, in turn, caused dissention within the labor and construction communities. While largely internal, occasionally the quarreling surfaced in the form of poor coordination and cooperation on job sites, reduced quality, and/or outside picketing of both union and mixed construction sites. Such activities increased bickering within the building trades and, in several cases where construction sites were shutdown, hurt the labor community and union contractors.

To improve cooperation and coordination job sites and attract construction projects, construction professionals, union contractors, and the building trades joined together to form the Construction Alliance. The alliance's mission statement states that it was "committed to economic viability of union construction, job opportunities for building trade members, the business success of union contractors and the satisfaction of our customers. Our commitment to customers is quality work, performed efficiently and on schedule" (Construction Professionals 1993).

To accomplish its mission, the Construction Alliance developed a checklist of ten job performance commitments to its customers. The job commitment checklist covered a range of activities (including more than 70 separate job site guarantees) involving preplanning; planning; bidding; prejob conferences for contractors and support personnel; prejob conferences between general contractor, subcontractor, and unions; weekly job review meetings; onsite working relationships; inspections; job completion; and postjob meetings. In essence, any owner/customers would be guaranteed total and complete cooperation and coordination by the regional construction community (from site developers to architects to contractors to tradesmen to common laborers). Perhaps the most important commitment, and most controversial to some tradesmen, was an agreement by the alliance signatories that there would be no work stoppages, slowdowns, or job interruptions for any reason including jurisdictional disputes.

The regional construction industry has also expanded its use of job targeting by permitting formal negotiated special project rates for specific construction undertakings. The differential rate is an extension of the "residential rate" concept used for many years in the construction industry. But in the 1980s some unions expanded their use of multiple rate structures. For example, the Carpenters introduced a "light commercial rate" (90% of scale) used on nongovernment and nonprevailing wage construction projects of under $250,000.

Not widely discussed in unionized settings are informal nonnegotiated individual project rates. That is, some unionized contractors and building trades members have "tacit understandings that they will work for scale on some jobs and below scale on others." The reason given for such agreements is to maintain continuity of employment with an individual contractor and to give "their" contractor a competitive edge in bidding work.

Endnotes

[1] Except as otherwise stated, the information contained in the monograph was obtained by interviews, materials and labor agreements, and/or an open-ended survey on construction industry stakeholders in northeast Ohio. Given stakeholder concerns,

participation in the survey and interviews was on a "not for attribution" basis. Consequently, where possible, perceptions and survey results were compared to research trends contained in secondary sources. Of particular importance were the industry research publications of the Construction Labor Research Council and the trade journal, *Cockshaw's Construction Labor News and Opinion.* A copy of the survey is available upon request.

[2] The man-hour data were developed using certified audits of unionized contractors who are members of the Contractors Association of Northeast Ohio and Western Pennsylvania.

References

Builders' Association of Eastern Ohio and Western Pennsylvania. 1984-93. "Changes in Wage Rates and Fringe Benefit Payments."

Cockshaw, Peter. 1992a. "Union vs. Open Shop Market Comparisons." *Cockshaw's Construction Labor News and Opinion*, Vol. 22, no. 7 (July), pp. 1-4.

_____. 1992b. "Union Construction's Strict 'Diet' Pays Off." *Cockshaw's Construction Labor News and Opinion*, Vol. 22, no. 11 (Nov.).

_____. 1993. "Do You Have To Cheat To Compete." *Cockshaw's Construction Labor News and Opinion*, Vol. 23, no. 6 (June).

Construction Professionals of Eastern Ohio and Western Pennsylvania. 1991. *The Construction Alliance: Ten Commitments*. Youngstown: Builders Association of Eastern Ohio and Western Pennsylvania.

Howe, Des. 1993. *Report of the Certified-Audits of the Construction Advancement Program of Northeast Ohio and Western Pennsylvania* (October 23).

Kennedy, Ted. 1992. "Managing Change in the 21st Century." Engineering Construction Conference of the American Institute of Chemical Engineers (San Francisco, CA, September 15).

The Contribution of Canadian Sectoral Training Councils to Training Strategy and Practice

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Workforce training and development should be viewed as a "win-win" industrial relations issue. According to some leading theorists, firms can improve their competitive standing by following a "mutual gains" strategy that places high value on skill upgrading and investments in training, employee participation, teamwork, and other innovative work practices (Kochan and Osterman 1994). Yet employers typically underinvest in training—particularly for production and trades employees (Reich 1992). According to a 1994 survey, only 40% of all U.S. organizations with 100 or more employees provide formal training to production workers (Filipczak 1994). Canadian workers fare no better; a national survey of Canadian firms revealed that 32% of technical/trades employees received formal training—a figure below the national rate of 36% (CLMPC 1993). And while Canadian employers may train greater numbers of workers than the federal and provincial governments, they fall short on the duration of training provided—3.5 weeks by Ontario firms in contrast to 26 weeks for government-funded programs (Meltz 1990).

Even where training expenditures are substantial, labor organizations are rarely treated as equal partners in the decision-making process unless jointly governed administrative mechanisms are in place at the workplace and/or national levels. Joint training programs have indeed proliferated in the United States over the past decade. Joint training centers established between the United Automobile, Aerospace and Agricultural Implement Workers Union (UAW) and each of the "Big Three" automotive firms are cases in point. Other joint training initiatives exist in the steel, electrical, aerospace, glass, telecommunications, and service industries (Marschall 1994). While these collaborations have produced innovative programs and services, they are firm specific, not sectorwide, and therefore benefits are not diffused across an entire industry. Moreover, they function without government support, except for the occasional state or federal grant.

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Canada's joint sectoral training councils present yet another model—one that is worthy of emulation by U.S. unions, firms, and governmental agencies. A joint sectoral training council is an industrywide body of employer and trade union representatives that works to address human resource issues from a strategic and coordinated perspective. Though bipartite in nature, they are born of negotiated funding agreements between government at the federal and provincial levels, companies, and labor unions.

To better understand the structural, operational, and philosophical features of these organizations, the author conducted case study research on three of the most prominent manufacturing sector councils: The Canadian Steel Trade and Employment Congress (CSTEC), the Sectoral Skills Council of the Canadian Electrical and Electronics Manufacturing Industry (SSC), and the Automotive Parts Sectoral Training Council (APSTC). The councils selected for study vary in longevity, structure, stated objectives, and philosophical orientation.

Data were collected primarily through structured interviews with 31 council and subcommittee members representing labor and management in equal numbers. Sampling was stratified to provide variability on council membership tenure, size of firm, technological sophistication of firm, level of union staff affiliation, union/nonunion company affiliation, and gender. Council cochairs and staff directors were automatically included. Interviews averaged one hour in duration and were tape recorded, and questions centered on council formation, priorities, decision-making structures and practices, linkages to plant-level activities, and success measures. The interviews were supplemented by direct observation of council meetings, review and analysis of council-generated documents pertaining to council structure, objectives, operational requirements and accomplishments, and review and analysis of published studies and reports on sectoral councils and labor market policy.

Factors Giving Rise to Council Formation

The Canadian manufacturing sector experienced great turbulence during the 1980s due to heightened global competitiveness. Pressures were imposed by U.S. industries and headquarters offices in the areas of trade and corporate restructuring and by consumer markets and business customers. Canadian industries responded in a variety of ways, including massive downsizing, workplace reorganization, and investments in high-technology equipment and systems. The skill implications of these changes pointed to the need for well-trained workers with high-level basic and technical skills, capable of performing optimally under changing conditions of work.

The Canadian government was committed to developing a federal human resource strategy that linked economic growth and competitive advantage with skills upgrading. Employment and Immigration Canada's (EIC) Industrial Adjustment Service (IAS) went beyond its original mandate to fund human resource studies in key manufacturing industries like electrical and electronics and provided start-up funds for the establishment of bipartite sectoral or industrywide training and adjustment initiatives (CLMPC 1990). These activities nicely complemented the Canadian Jobs Strategy, a comprehensive labor market program introduced by the Conservative government in 1985 (CLMPC 1991), which provided a $20 million grant that helped to launch the Canadian Steel Trade and Employment Congress (CLMPC 1990). Provincial governments also promoted a sectoral, bipartite strategy. In Ontario, for example, the Ministry of Skills Development played this role until the Ontario Training and Adjustment Board was created in 1993.

Formation of the Steel Industry Council

The Steel Trade and Employment Congress (CSTEC), which grew out of a national industry conference in 1985 and was formally incorporated in 1986, was the first labor-management sectoral council to have been established at a national level in Canada. It was born of the turbulence that faced the Canadian steel industry and labor-management relations during the early 1980s. Major steel strikes had occurred at Stelcō and Algoma in 1981, and the collective bargaining agreements at these firms expired in 1984 against a backdrop of severe economic recession. During bargaining it was recognized that there were long-range problems facing the industry that might need to be addressed outside of the confines of the collective bargaining process.

The most significant challenge was diminished access to the U.S. steel market, due in large part to quotas imposed on Canadian steel in 1984 by U.S. President Reagan. Canadian steel producers found little support on trade issues from their industry association—the American Iron and Steel Institute (AISI)—and recognized that they had to lobby the U.S. Congressional Steel Caucus on their own. Canadian companies knew that the support of the union—the United Steelworkers of America (USWA)—was crucial to their efforts to negotiate a steel trade agreement.

Compounding this problem of access to the U.S. market was the global overcapacity of the steel industry, which led to serious layoffs at Canadian mills. The Canadian USWA recognized that labor adjustment policies and programs were needed and that action beyond collective bargaining was needed to fully address the needs of members who were no longer actively

employed in the industry. Labor concluded that the support of employers had to be enlisted in order to develop effective adjustment programs. Thus the issues confronting the industry presented an opportunity for labor and management to work jointly on issues of mutual concern.

Late in 1984 following the steel negotiations, Gerard Docquier, national Canadian director of the USWA, initiated contact with John Allen, CEO of Stelco and a preeminent business leader in the industry, and the two leaders discussed the need to combine forces on issues of mutual interest. During the spring of 1985 in Sault Sainte Marie, CEOs from all of Canada's major steel companies met with top leaders of the Steelworkers Union to confer for two days about trade, technological change, and employment issues. The parties agreed in principle that a structure was needed to promote ongoing dialogue and mutually beneficial activity, and they issued a joint statement about the need for access to the U.S. market along with a commitment to lobby in concert on this issue.

Out of this meeting was born a formal organization called the Canadian Steel Trade Conference, which was formally incorporated a year later in May 1986. At its third annual conference in November 1987, the organization added the term "employment" to its name and became the Canadian Steel Trade and Employment Congress (CSTEC), thereby formally declaring that labor employment and adjustment issues were as important as trade issues to the organization. A year later Canadian steel companies formed the Canadian Steel Producers Association. Employment and Immigration Canada provided start-up funding for CSTEC and loaned one of its staff members to serve as CSTEC's first executive director.

Formation of the Electrical and Electronics Industry Council

The electrical and electronics industry in Canada faced a number of challenges in the mid-1980s. The recession early in that decade had contributed to significant job loss among hourly paid workers whose job levels fell by 15.5% in a single year between 1981 and 1982 (JHRC 1989). Although employment levels in the industry as a whole began to rebound by 1983, job growth was concentrated in higher-skilled salaried occupations and away from factory production and trades (JHRC 1989).

These occupational and skill shifts were noted in a 1987 human resources report—the culmination of a two-year study sponsored by the federal government (Employment and Immigration Canada) in collaboration with unions and companies in the industry. The study highlighted the technological and structural changes taking place in the sector and raised serious questions about whether industry skill levels were keeping abreast of these trends. Compounding the upheaval in this sector was corporate

restructuring initiated by parent firms which were typically based in the United States. A joint dialogue between the vice president of industrial section of the CWC Union and the vice president for employee relations at RCA had in fact begun in 1985 at the onset of the study.

The report's findings were discussed at a sector seminar held in July 1987, sponsored by the Electrical and Electronic Manufacturers Association of Canada (EEMAC) and the two leading unions in the industry—the Communications and Electrical Workers of Canada (CWC) (since renamed the Communications, Energy, and Paperworkers Union or CEP) and the International Brotherhood of Electrical Workers (IBEW). Representatives of government and the educational communities were also in attendance. The principal outcome of this meeting was the establishment of a joint steering committee of union and company representatives to further probe the issues raised at the seminar. The steering committee met for the first time in October 1987, and federal funding was subsequently sought and obtained to create a more formal structure and process for jointly developing a human resource strategy for the industry.

The ensuing work of the joint committee and five subcommittees led to a comprehensive assessment study, released in January of 1989, and ultimately to the Declaration of Trust signed on July 11, 1990, which marked the official founding of the Sectoral Skills Council of the Canadian Electrical and Electronics Manufacturing Industry. The signatories to this document were EEMAC, the CWC, the IBEW, and the United Steelworkers of America (USWA). The council's primary mandate was "to provide a forum for discussion, by business and labor, of the major human resources issues facing the industry, outside the collective bargaining process" (SSC 1990).

A series of basic principles were also articulated. One was that council process not replace collective bargaining. Another was that "co-operation and mutual trust are essential to the council's implementation of a Human Resources Strategy to ensure the continued viability of the industry." Finally, it was agreed that while consensus decisions were the most desirable, "the Council's reports will reflect the endorsement of the majority, but not necessarily all of its participants" (SSC 1990).

According to the top-level management and union representatives, a central motivation for the council's formation was the underlying belief that a more cooperative labor-management relationship would enhance the competitive posture of the Canadian electrical and electronics industry, as well as improve the job security prospects of employees, or in the worst case smooth the adjustment process in the event of layoff. Skills upgrading was an issue that both parties felt a stake in. One senior management council member described the reasons behind the council's establishment:

> Initially, it wasn't even called the Sectoral Skills Council . . . it was a joint labor-management forum within the industry to start some dialogue between management and unions involved in the sector on critical issues like training, technological change, education . . . to see if there were some common solutions to these sorts of problems. The industry was faced with a dramatically changing competitive situation with the emergence of global competition; tech change was rampant, not only at the product level but at the process level as well . . . and a lot of concern about the future drove the initial discussions.

As was the case in the steel sector, dramatic changes in the electrical and electronics sector prompted labor and corporate leaders to seek common ground in the development of a comprehensive human resource strategy.

Formation of the Auto Parts Council

The newest of the three councils studied, the Automotive Parts Sectoral Training Council (APSTC) was founded on October 29, 1991, by a formal agreement between the Canadian Auto Workers Union (CAW) and the Automotive Parts Manufacturers' Association (APMA). One of the driving factors, according to APSTC's first management codirector, was that the industry had been in a growth mode during the 1988-90 period, and there was a shortage of personnel. The APMA was being "inundated with requests for help with training by a number of its members." This prompted the APMA to seek federal and provincial training dollars, and the federal government responded by requesting more information on the population that was to be trained and the specific types of courses that were needed. At that point the employer association realized that it lacked detailed data on training needs at member firms, and the federal government offered to fund a study of human resource planning needs, provided that it was overseen by a labor-management steering committee. The CAW and APMA agreed, a contractor was hired, and the study was conducted during 1989-90.

The study revealed a trend toward upskilling in the industry. Whereas one-third of the jobs in the industry were classified as skilled or semiskilled in 1985, this figure was expected to increase to two-thirds by 1995. Yet close to half of the workforce was found to be poorly equipped in the areas of literacy and numeracy skills. The study led to the formation of the Automotive Parts Sectoral Training Council—an approach to training that was being encouraged by Employment and Immigration Canada under the Conservative government, which was urging industries to take over the

responsibility for human resource planning and training. Employment and Immigration Canada provided $100,000 in start-up funds to hire the initial APSTC staff and get the council established. The government of Ontario provided the council with another $100,000 to keep it running during the six months of bargaining that ensued.

The council focused its work on the training needs of production workers—a group that was identified in the study as key to future industrial restructuring. Existing training had been directed toward supervisory and trades personnel, and according to one labor representative, "most production workers got virtually no training at all." The council codirectors identified curriculum design experts and by March 1992 developed a three-year plan designed to train a potential population of 55,000 workers for three weeks each year. Because it was judged to be impossible to obtain that amount of release time, according to plant managers, a schedule of one week of training per year over three years was established. Detailed budgets were calculated for each phase of the training plan—curriculum design and development, curriculum delivery, training plan administration, and communications and marketing. The cost of the plan was $40 million, and extensive negotiations with the federal and provincial governments commenced.

These discussions produced three separate agreements with the province of Ontario and with the government of Canada. The funding formula was designed to produce one dollar from the province and one dollar from the Canadian government for every dollar that industry contributed to the training fund. Each government introduced certain stipulations pertaining to the use of its contributions. For example, provincial monies could not be used for the council's administrative costs, but federal funds could be used to administer and market the program during the first three years, after which time the council was meant to develop a plan for self-sufficiency.

Monies from both governments were provided for training development, design, and delivery. The Ontario government stipulated that before third-year funding would be released, an evaluation of the effectiveness of the first two years was required. Similarly, Ontario training monies could not be used for wage reimbursement costs, while federal labor market dollars could. Ontario funds were used to cover actual curriculum development and delivery costs, including books and materials and salaries of community college instructors.

The agreements set a maximum contribution of $6 million by each government over the life of the three-year agreement, yielding a maximum of $18 million when the industry contribution of $6 million is added in. Thus even with the industry contribution added in, the original projected budget

of $40 million underwent considerable downscaling. One innovative way of defraying costs devised by the council was to persuade firms to contribute to an administrative fund at a per capita rate of ninety cents per training hour per employee. However, because the actual start-up of training occurred much later than originally anticipated and at considerably lower volume, the council ran into serious problems in financing its administrative costs during its first two years of operation. Part of the reason for this was the tremendous cost involved in developing a high-quality, sectorwide program.

Council Structure and Objectives

The structural features that are common across the three councils studied are (1) unions (or employee representatives in nonunion firms) have equal membership on council boards and committees at the national and plant levels, (2) decisions are made by consensus, and (3) firms are represented individually and operate in collaboration with industry trade associations. Moreover, all of the councils work to provide human resource development opportunities for employees in their respective industries.

Nonetheless, the three councils differ notably in structure, objectives, priorities, and operation. As is indicated in Table 1, CSTEC's training and adjustment activities are overseen by an 18-member joint committee. Worker adjustment services, which include peer counseling, financial and career planning, training referral, small business start-up, and job search/job placement assistance are offered through plant-level joint committees. From 1988 to 1994, 67 such committees have provided assistance to over 11,000 employees—approximately 90% of those laid off in the industry. Some of the assistance has come in the form of training referral, and more than 90% of those who have enrolled in training have completed it. CSTEC also maintains a computerized National Job Bank. Approximately 75% of retrained workers have found new, mainly non-steel jobs, with no loss of pay on average.

Training programs for the currently employed are funded by cost-sharing agreements negotiated between CSTEC and federal and provincial governments. Training fund monies may be used to finance categories of training deemed "eligible"; these include basic skills, steel industry general skills, industry-specific technical skills, on-the-job training that is combined with formal instruction, and certain types of union-designed and delivered training. Both hourly and salaried employees are eligible to receive the training. Joint training committees at the workplace level are responsible for all facets of training program administration, including needs assessment, training plan formulation, program evaluation, and budgeting. To

TABLE 1
Structural Features of Councils

	CSTEC (Steel)	Sectoral Skills (Electrical/Electron)	APSTC (Auto Parts)
Date of Incorporation	1986	1990	1991
Membership	27 corporate members; 47 local union members	113 companies; 7 national unions	26 companies; APMA; CAW
Decision-making Bodies	12-member Board of Directors (L/M); 14-member Steel Trade Committee; 18-member Training and Adjustment Committee	12-member council; 3 subcommittees—Training, Education, and Joint Administration Committee	12-member Board of Directors (8 voting members); 3 committees—Curriculum, Executive, Evaluation
Administrative Coordination	1 nonaligned executive director; 11 additional professional, field and support staff	Secretariat consisting of 1 nonaligned director, 1 labor associate, & 1 mgmt associate	2 Comanaging directors: 1 labor and 1 mgmt.
Major Focus	Worker adjustment programs; training for active workers; trade policy lobbying	"Upside" training for currently employed workers to maintain/grow jobs	Development and delivery of an Auto Parts Certificate Program
Employees Served	11,000 - adjustment; 23,000 - training	40,137 represented by member firms	1,600 completed 1 wk of program as of spring 1994
Training Program Administration	Decentralized via (workplace) Joint Training Committees	Decentralized via joint Workplace Training Committees	Centralized—few joint training committees, but local selection of APC participants

Note: Data in this table are from February 1995, unless otherwise stated.

maximize the portability of training, CSTEC is currently negotiating transfer agreements with community colleges to obtain credit equivalency/certification for CSTEC courses.

Current membership of the Sectoral Skills Council of the Canadian Electrical and Electronics Manufacturing Industry (SSC) consists of a broad range of firms—large, small, high-tech, low-tech, unionized, nonunion, Canadian-owned and foreign-owned multinational companies. The

Sectoral Skills Council is the most diverse of the councils studied—not only in the types of firms represented but also in its union membership. As Table 1 indicates, seven different national unions belong to the council. In addition to the Communications Workers (now known as the Communications, Energy and Paperworkers Union—CEP), and the IBEW, council members include the USWA, the International Association of Machinists and Aerospace Workers (IAM), the Laborer's International Union, the International Federation of Professional and Technical Employees, and the Canadian Auto Workers Union.

SSC activities center around training for hourly and salaried employees that falls into certain categories. These are (1) basic skills and trades upgrading, (2) general (non-job-related) training and education, (3) employee group-directed training, and (4) peer counselor training for plants facing full or partial closure. One of the distinguishing features of the SSC is its extensive network of joint workplace training committees (JWTCs), which are the route through which workplaces can access training funds. JWTCs assess training needs, plan training programs, recruit participants, and administer training resources. As of January 31, 1995, 140 JWTCs were operating in both unionized and nonunion firms. Committee membership consists of equal numbers of employer and employee representatives.

Council subcommittees are active and vary in size from 8 to 16 members. The Training Subcommittee oversees the use of the training fund and supports the joint workplace training committees. The Education Subcommittee works with colleges, universities, and high schools to improve their responsiveness to labor and management-articulated industry needs. One of their more recent initiatives is a push for "universal recognition" of courses by colleges. The Joint Administration Committee works on skilled trades and apprenticeship issues. It is developing industrywide skill standards and implementing a certificate program for trades employees that enables upgrading and portability.

Because of industry needs for skilled production workers and union needs for members' job security, the Automotive Parts Sectoral Training Council (APSTC) concentrated its efforts on the creation and delivery of an Auto Parts Certificate Program with an emphasis on generic, portable skills that provide a base for more advanced training. It was the hope of the Canadian Auto Workers Union (CAW) that such an approach would enhance the job security of production employees by providing them with credentials that would be recognized throughout the automotive parts industry.

The program is intended (1) to promote awareness of changes in technologies and work systems and awareness of the economic factors driving

these changes; (2) to develop foundation skills in communications, computer use, and statistical problem solving; and (3) to support workplace participation and continuous learning.

The APSTC differs from CSTEC and SSC both structurally and philosophically. Instead of having one nonaligned director, whether operating alone (CSTEC) or in conjunction with labor and management associates (SSC), the auto parts council has a dual director structure---one representing management and the other aligned with labor. This reflects a clear delineation of labor and management views. As one union representative stated: "This wasn't about developing partnerships and competitive coalitions and workplace change. What we were trying to establish was a good and effective training program." Another difference is the CAW's strongly articulated view that workers should not contribute their own money to training funds. Thus the funding formula used provides for a one-third split between employers, provincial governments, and federal governments.

Distinctive Features of Canadian Sectoral Training Councils

Government Support

One clear difference between joint training programs in Canada and the U.S. is the level of government support attached to the Canadian sectoral councils. As previously mentioned, bipartite training and adjustment activities are considered vital to Canadian human resource development policy, and federal and provincial governments have therefore played a supportive role at the outset by providing significant financial and staff resources through negotiated sectoral agreements. The government strategy behind these agreements is to "increase private sector training funds that might otherwise not have been committed; to foster cooperation between labor and management on training and human resources issues; to develop a commitment to high-quality, portable training; and to ensure that training is accessible to all equity groups" (OMSD 1993).

Sectoral agreements provided the initial funding that enabled start-up of the three councils studied. Although funding formulas differ by council and province, all of them provide for government-industry cost sharing, with companies typically paying one-third to one-half of training fund costs. While the SSC fund specifies a 25% employee contribution, it has never been levied, since employers cover this portion. Government agencies also provide staff support to the councils; representatives attend council meetings and offer advice pertaining to federal/provincial requirements and services.

Government support is critical to all of the councils studied, not only from a funding and resource perspective but from a governance perspective. Government funding agreements specify bipartite council governance structures at the national and plant levels. This equal membership permits labor leaders to participate jointly in all decisions without being obligated to match industry contributions to training funds. As is true in the United States, company contributions are viewed by unions as representing employee contributions in the form of deferred wage increases. But in Canada, government funding provides unions with an independent source of leverage.

Council members have expressed concerns over the limited time frame of the funding agreements; and with recent budget cuts at the federal and provincial levels, there has been increased rhetoric in government circles about the need for council self-sufficiency. Nonetheless, council members noted that government dollars spent on sectoral training are wise investments in human capital, since they leverage private sector contributions, and since training needs and strategies are determined by the parties who best understand the present and future skill requirements of the industry. It is expected, therefore, that government funding will continue.

Industrywide Focus

Unlike U.S. joint training programs, the Canadian sectoral training councils have industrywide membership and focus. This permits them to leverage training resources and expertise across individual plants and firms. For example, CSTEC developed a series of training needs assessment tools that were applicable throughout the steel industry. Similarly, APSTC's Auto Parts Certificate Program is designed to develop cognitive and developmental skills that are generic and portable throughout the industry. In the electrical and electronics sector, the SSC works with postsecondary institutions to develop articulation agreements so that courses taken at one college or university are recognized for credit at another. This strategy is linked to the creation of industrywide skill standards for purposes of upgrading and portability.

The industrywide focus also brings variety and a richness of experience into each council. With a mixture of firms and in some cases unions participating, no single ideology or corporate culture dominates council activities. Participating firms differ on the basis of size, market segment, and technological sophistication, and at times there is as much disagreement within management and labor ranks as between the two sides. Yet these differences are a source of strength in fashioning programs that are relevant across an entire industry sector.

Scope of Activity

Sectoral training councils focus on training program *design* as well as delivery—an area that is normally considered a management right. In some cases design means determining curricular and course content and modes of delivery but using external training and organizations and consultants to perform needs assessments and develop and deliver training modules. In other cases, especially with the Auto Parts Certificate Program, the council retains control over all aspects of curriculum development and delivery.

Sectoral councils, therefore, offer unions opportunities to have a voice in training issues that fall outside of the scope of what is typically included in collective bargaining agreements, which tend to focus more on equitable access to training than on training content and instructional design. As one union leader noted:

> CSTEC . . . provides a vehicle for the union to have a say in how the whole [training] thing's going to happen. Without the structure that's there, we'd still be sitting in the back seat saying: "It's completely management's prerogative." And all we'd be doing would be banging our fist on the table at the local level, saying: "We don't think this is right." And they'll say: "Well, too bad, we're going to do it anyway." I think there's a definite structure there that will give us a say in how things will happen overall.

By their involvement in training program design and not merely program administration, unions have actually made training more effective—even by the admission of company representatives. One high-ranking employer representative to the SSC explained:

> Many companies . . . don't really get serious about training. They establish budgets . . . [but] maybe if there's a business downturn or the margins are getting skinnier, the CEO will say: "Well, let's reduce it across the board." What we're doing here is to say that this 1% training fund cannot be touched—it is not subject to business downturns. It is dedicated for training and training alone. This is a big step forward. We are also, through the Joint Workplace Training Committees [say]ing to the companies, "Could you please [share] your training plan for next year with us, and we will use our 1% to integrate with that plan?" That request forces a discipline that hitherto has not been in many companies, to put together a training plan and budget. I think this is one of the very significant leverages in establishing a training culture.

This sentiment was echoed by another company representative belonging to the same council:

> In total, I am absolutely certain [the linkage of council programs to company training strategy] is better than it used to be. That's because there is more attention given to it. Before there was always this great idea that there would be a training plan . . . but in terms of a business manager's life it's not his most important activity. Whereas now we have committee[s] that [are] chewing away at it. . . . It's better than it ever was. . . .

Company officials from the auto industry council added that "training in this industry is crisis-oriented, not long-range." Other management and labor representatives noted that although most companies in the auto parts sector lack human resource strategies, the Auto Parts Certificate Program has provided production workers with basic learning skills that enable them to master more difficult technical skills.

Success Measures of Sectoral Councils

One measure of success is the proliferation of joint sectoral councils since CSTEC was established in 1986—at least 35 formed by 1992. Each council can boast specific successes in particular areas. For example, as already mentioned, CSTEC's adjustment committees have served 90% of laid-off workers in the industry. On the training side, CSTEC has developed 10 generic training courses in basic skills, steel-industry general skills, and specific technical skills, and more such courses are underway. CSTEC has also signed a national agreement with 19 colleges in 6 provinces to develop a system of national course accreditation and recognition and prior learning assessment.

The Sectoral Skills Council has developed an expansive scope of coverage, with more than 113 companies and 7 national unions belonging to the council, representing more than 40,000 employees. It also has the most extensive system of plant-level committees, with 147 joint workplace training committees in operation. This council is also developing skill standards with industrywide recognition and is working collaboratively with colleges and universities to promote universal recognition of courses.

The Auto Parts Council has had its greatest success in the development of an extensive and pedagogically innovative curriculum. The certificate program is designed to provide 120 hours of generic, portable skills training over a three-month period at a rate of 40 hours per year. The program embodies principles of adult learning in two very important ways. One is that the curriculum is designed to be developmental, so that basic courses

serve as a foundation for more advanced learning. Secondly, the program uses "peer trainers"—production workers who are selected and trained to deliver program instruction. This is intended to break down psychological barriers to learning by providing instructors who are familiar with trainees' jobs and experiences.

Above all, council success is best described by the intangible benefits that are derived from participatory labor-management programs. The sectoral training councils are recognized throughout the industries they serve as providing leadership on training program development and delivery. Moreover, council members themselves speak of success measures like achieving joint decisions, arriving at consensus, building plant-level involvement in training issues, and increasing college access for production and trades employees. This study was not intended to measure council effectiveness. Nonetheless, it is important to note the success of joint sectoral councils in improving the human resource development system in Canada.

Lessons for U.S. Joint Training Initiatives

As the Canadian sectoral councils demonstrate, there is benefit in sharing ideas and resources across company and union lines. Innovative curricula, training tools and curricula, and delivery modes should be shared across and perhaps between sectors. This does not happen with regularity in the U.S. For example, when one automotive industry national joint training center established its Paid Educational Leave Program, it borrowed very little from a preexisting program of the same title sponsored by its counterpart at another auto firm. This is because these joint centers, which are sponsored by the same union but at different companies, operate autonomously and seek to provide unique programs, even when certain elements and topics are generic to the industry as a whole. This is not only a costly strategy but also one which makes it difficult to diffuse institutional learning and best practice across an entire industry sector. Such learning could be spread across sectors as well through organizations like the Human Resources Development Institute of the AFL-CIO.

A second lesson to be derived from this study is the value of government financial and organizational support for labor-management training initiatives. The sectoral joint training model falls squarely between two U.S. Labor Department offices: the Office of the New American Workplace and the Employment and Training Administration. The latter views its mandate as keeping a distance from labor-management activities that might fall under the scope of the former, and the former is sorely underfunded. And now with Republican Congressional leaders intent on slashing

human and social service programs and budgets, federal support for joint training programs is doubtful. State support may be more likely, but without federal support as well, it is difficult for training programs to adopt a national coverage orientation.

Above all, this study is a lesson in empowerment and in the value-added nature of union participation in training and adjustment programs. By assuming the role of equal partner, labor has made program decisions that positively affect and empower thousands of employees. The benefits flow far beyond the shopfloor and clearly enrich the very fabric of training programs. This combination of better-trained and learning-oriented employees and more effective training programs enhances the competitive posture of participating industries and advances the practice of participatory decision making in a labor-management context.

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References

CLFDB. 1993. *First National Industry Sectors Conference* (Toronto, Canada, November 16-17, 1992). Ottawa: Canadian Labor Force Development Board.

CLMPC. 1990. *Report of the CLMPC Task Forces on the Labor Force Development Strategy*. Ottawa: Canadian Labor Market and Productivity Center.

_____. 1991. *The Canadian Jobs Strategy: Directions for Change*. Ottawa: CLMPC.

_____. 1993. *1991 National Training Survey*. Ottawa: CLMPC.

Filipczak, Bob. 1994. "1994 Industry Report—An Overview of Employee Training in America." *Training*, pp. 32-71.

Haddad, Carol J. 1995. *Sectoral Training Partnerships in Canada: Building Consensus through Policy and Practice. Final Report to the Government of Canada*. Ypsilanti, MI: Eastern Michigan University, Department of Interdisciplinary Technology.

JHRC. 1989. *Connections for the Future: A Human Resources Strategy for the Canadian Electrical and Electronics Manufacturing Industry*. Ottawa: Canadian Electrical and Electronics Manufacturing Industry.

Kochan, Thomas, and Paul Osterman. 1994. *The Mutual Gains Enterprise: Forging a Winning Partnership among Labor, Management and Government*. Boston: Harvard Business School Press.

Marschall, Daniel. 1994. *An Overview of Union-Involved Joint Training Programs*. Washington, DC: AFL-CIO Human Resources Development Institute.

Meltz, Noah. 1990. "The Evolution of Worker Training: The Canadian Experience." In L.A Ferman, M. Hoyman, J. Cutcher-Gershenfeld, and E.J. Savoie, eds., *New*

Developments in Worker Training: A Legacy for the 1990s. Madison, WI: Industrial Relations Research Association.

OMSD. 1993. *Background Information—Sectoral Agreements.* Toronto: Ontario Ministry of Skills Development.

Reich, Robert. 1992. "Training a Skilled Work Force: Why U.S. Corporations Neglect Their Workers." *Dissent*, Vol. 39, pp. 42-6.

Sharpe, Andrew. 1992. "The Role of Business-Labor Sectoral Initiatives in Economic Restructuring." *Quarterly Labor Market & Productivity Review*, No. 1-2, pp. 26-37. Ottawa: Canadian Labor Market and Productivity Center.

SSC. 1990. *The Sectoral Skills Council.* Ottawa: Sectoral Skills Council.

VII. FIRST CONTRACTS: CURRENT RESEARCH

Union-Free Bargaining Strategies and First Contract Failures

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"I'll never do any goddamn business with a union." This was the reaction of Reed Welch, owner of S&S Screw in Sparta, Tennessee, after the IAM won an NLRB election among 75 employees at his small factory on March 18, 1992. Welch then hired a new plant manager who negotiated with the IAM, reaching agreement on everything except economics. This was apparently too much for the owner, who fired the plant manager and disavowed the entire package. S&S Screw was ultimately held accountable by the NLRB for various ULP violations, including bad faith bargaining and discrimination against union members. But an order to bargain proved meaningless because support for the union had dissolved in the face of Welch's fury. With only nine supporters remaining, the IAM withdrew in December 1994. Cases like S&S Screw certainly seem to lend credence to those who attribute the high rate of first contract failures to illegal activity by employers. Unions, several academic studies, and the Dunlop Commission have traced the problem to bad faith surface bargaining. While admitting that "mistakes get made," employers and their allies have challenged this conclusion, arguing that unrealistic union demands contribute to the difficulty of first contract negotiations and noting that hard bargaining by management is not a violation of the law. The objective of this paper is to investigate what happens during first contract negotiations, especially the unproductive ones that do not result in an agreement. Complete files were reviewed of 54 first contract cases collected by the AFL-CIO Industrial Union Department in 1993. Nineteen of these cases were updated during

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1995 with follow-up interviews. Interpretation of the case studies was facilitated by a detailed analysis of 195 responses to a 1994 first contract survey conducted by the AFL-CIO Task Force on Labor Law. The original research was supplemented with a review of recent NLRB decisions on surface bargaining and hard bargaining.

Employers' Union-Free Bargaining Strategies

There are a variety of empirically valid explanations for the failure to achieve first contracts: plant closings, extended legal appeals of union election wins, illegal surface bargaining by the employer, legal hard bargaining by the employer, and unproductive bargaining in spite of good faith negotiations. As is documented more completely in a companion article, the root of the problem lies in employers' union avoidance objectives. Following initial certification of a union, approximately one-half of employers continue to look for ways to remain union free. Although not all succeed, the majority of these antiunion employers never sign a first contract. It turns out that the predominant route to union avoidance *after* a union NLRB election win is through carefully crafted negotiating strategies. Most of the rest of this paper relies on representative cases to illustrate different approaches to collective bargaining followed by firms intent on avoiding a first contract.

Technical Refusals to Bargain

Employers who have decided to avoid dealing with the union by pursuing legal appeals will eventually be forced either to negotiate or to refuse to bargain. Because decisions regarding unit determination and election conduct cannot be appealed beyond the NLRB, employers may refuse to bargain in order to force a ULP case. Adverse ULP decisions *can* be appealed to the federal courts, giving the employer the opportunity to raise objections to the election. A 1992 letter from Clean Sweep Janitorial Services in Springfield, Illinois, to the SEIU after the company lost an election challenge describes this option: "Because we do not believe that the election results are a fair indicator of the support for [the union] among our employees, we are not prepared to bargain at this time. . . . We are informed that the only way this decision may be tested in the federal courts is by refusing your request for bargaining."

Cases like New Frontier are referred to as *technical refusals to bargain*, since the objective is to challenge the election. These technical violations serve to delay bargaining indefinitely, creating a burden for the union which must struggle to maintain interest and support; the employer's union-free objectives are thereby enhanced. When the IBEW won a May 1991 election to represent the workers at Tempco Electric Heater's Wood

Dale, Illinois, facility, the company complained that the workers were intimidated, coerced, and misled into voting for representation. After their election challenge was rejected, Tempco refused to bargain, forcing a ULP charge. The NLRB's automatic finding of a violation was appealed to the Seventh Circuit Court. The court's July 1993 decision noted that Tempco "has not even come close" to showing that workers were intimidated or coerced by the union and called the charges "far fetched." Though "far fetched," the company's refusal to bargain for two years while pursuing its appeal had accomplished its purpose. Negotiations never got off the ground, workers lost interest, the union was decertified, and the company's union-free status was preserved.

Defiant Bargaining

Some employers practice *defiant bargaining*; they openly violate the legal requirement to bargain in good faith, apparently based on their assessment that the benefits of remaining union free clearly outweigh the costs of noncompliance. The S&S Screw case described in the introduction is an example of this approach. Defiant bargaining is a viable option because the penalty for violating the duty to bargain in good faith is so weak. In most cases all the NLRB can do is order the company to resume negotiations, which may be futile. In December 1989 AFSCME won an election in a unit of blue-collar, clerical, and technical employees at Neumann Medical Center in Philadelphia. Bargaining commenced on February 15, 1990, and over the next six months ten sessions were scheduled, but five were canceled by the hospital's attorney, Martin Sobol. He then informed the union that the hospital would not negotiate any further. Charges were filed, and eventually a settlement was accepted requiring Neumann to post a cease-and-desist notice and to resume negotiations. In direct violation of the settlement, the hospital continued to refuse to bargain. The penalty was a second settlement reached March 31, 1991, which was identical to the first. One month later, Sobol notified AFSCME that the hospital was "in possession of objective considerations indicating that the union no longer represents a majority of employees" and that it was withdrawing recognition. The union filed charges, a trial was scheduled, and just prior to the hearing date the hospital entered into another settlement agreement requiring it to bargain in good faith. In December 1995, six years after certification, there is still no contract.

Evasive Bargaining

Many employers and attorneys have eschewed blatant violations and have avoided reaching agreement on a first contract more artfully. One

common approach is to endeavor to comply with the law's requirement for good faith bargaining while evading resolution of essential issues. If successful, *evasive bargaining* drags out the negotiating process, frustrates the union representative and the workers, and eventually results in decertification. An example of an attorney who pushed this approach too far will help establish its outer bounds.

Broad Reach Management in Falmouth, Massachusetts, retained the services of attorney Patrick Egan to represent the company in negotiations with SEIU Local 767, which had won a January 1992 election at Freedom Crest Nursing Home. Negotiations commenced in March, and the first six sessions held over four months were devoted to Egan's questioning about the meaning of virtually every word in the union's proposed contract. For example, Egan took issue with the term "workers," arguing that "employees" should be used. For a finding of surface bargaining, NLRB precedent requires scrutiny of the overall conduct of the employer. In this case, Broad Reach's administrator openly discussed with supervisors the plan to frustrate the bargaining process, solicited employees to circulate a decertification petition, and engaged in discriminatory actions against union supporters. A finding of bad faith bargaining was based on Egan's conduct *and* the other violations.

Two cases involving another lawyer help distinguish between acceptable and marginally unacceptable evasive bargaining. Kelvin Berens (of Omaha, Nebraska) was retained by Shanefelter Industries in Uniontown, Pennsylvania, to represent the company in first contract negotiations with the UMWA, which had won an April 1991 election. Berens set an antagonistic tone, disparaging the union and leveling insults and personal attacks at union representatives. He also refused to meet frequently, and when bargaining sessions were held, he would read the newspaper while the union presented its proposals. The UMWA filed its first bad faith bargaining charge in July 1991, but it was rejected. Berens continued to belittle the process, engaging in idle banter about cattle ranching, skiing, amusement parks—anything to kill time and prolong negotiations. Finally in May 1992, the NLRB issued a complaint and scheduled a hearing. Shortly before the hearing date Shanefelter reached a settlement agreement; the company agreed to bargain in good faith and to refrain from "reading newspapers during collective bargaining meetings" and from "disparaging and belittling union representatives."

Subsequently, Berens demeanor improved and he made concessions on a few noncontroversial items, but he offered no constructive proposals on economics, the grievance procedure, seniority, union security, dues checkoff, or other fundamental issues. He scheduled negotiations only when

pressed and then would meet two days in a month or three days in two months. Progress was delayed by his need to consult about union proposals with Shanefelter officials (they did not participate in negotiations). The union filed a series of bad faith bargaining charges between November 1992 and the end of 1993 but in each case withdrew the charge under pressure from the NLRB regional office: "Always orally, [they] told us that meeting a couple of times every couple of months is not a refusal to bargain . . . and the employer is not required to make any movement."

A second case involving Berens reveals a slightly different tack. The UFCW won an election at Long Prairie Packing's St. Paul, Minnesota, plant in June 1991. The company took two months to decide on Berens as chief negotiator, and as at Shanefelter he sat at the table alone. This time he was cordial and cooperative, the epitome of politeness. He never refused to meet, but he would postpone meetings. Negotiations centered around the union's proposals. Berens asked detailed questions about the union's intentions for each item. Progress was excruciatingly slow, and clauses were accepted only after "we dotted every i." Berens did not present many proposals from the company. Whenever a matter came up related to plant operations he would defer agreement in order to check with the plant manager. As the months wore on, bargaining committee members became impatient and quit the team one by one. After a year with no substantive progress in sight, the UFCW lost a decertification vote by a two-to-one margin.

Peremptory Bargaining

The fourth union-free bargaining strategy is best described as *peremptory bargaining*. As with evasive bargaining, negotiating sessions are infrequent and there is no apparent interest in reaching agreement. Unlike evasive bargaining, the employer presents unambiguous proposals. The objective is to adopt a non-negotiable position which is likely to be unacceptable to the workers and/or the union. The rigidity often relates to something either essential to workers if independent representation is going to be meaningful or fundamental to the union's institutional objectives. Three cases will illustrate the dominant form of peremptory bargaining.

At Dawn Frozen Foods in Crown Point, Indiana, the workers vote'd for representation by the BCTW in March 1991. The company retained attorney Robert Bellamy to handle negotiations. Bargaining commenced in late June with sessions held only about once a month because of Bellamy's full calendar. On some issues the two sides reached accommodation, even agreeing to a wage increase which was implemented about six months into the talks. The company's position was unyielding on three clauses: Bellamy

absolutely refused to consider dues checkoff, union security, or plant visitation rights for union representatives.

After the union rejected the company's final offer in June 1992, the company implemented a strong antiunion campaign in the week preceding a decertification vote. On the day before the vote, Bellamy sent a letter to the BCTW, which was copied and distributed by supervisors to every worker. The conclusion was blunt: "If you do not believe me when I say that something is FINAL, go ask the UAW in Cambellsville, Kentucky. After I gave a final offer, they went on strike over an *open shop clause* . . . permanent replacements were hired, the union is now gone" (emphasis added). By narrowing the dispute to union security, dues checkoff, and access, Bellamy backed the union into a corner. Although of primary importance to unions, the centrality of these issues to effective representation is likely to be understood only by the most involved members. The BCTW was decertified.

Two other cases involve employers' contract proposals which would effectively renounce any legitimate protection for workers on the job. Bethea Baptist Home in Darlington, South Carolina, retained attorney Julian Gignilliat to bargain with the UFCW after an August 1989 election. Gignilliat adopted an antagonistic stance, rejecting information requests and refusing to include provisions in the contract after agreeing to them verbally. More relevant to the current discussion, he was unyielding on several proposals: employment-at-will language with no "just cause" provision; a two-step grievance procedure ending with the nursing home administrator; an insistence on the employer's right to discipline employees for off-work activities; and an "integrity clause" allowing the employer to install hidden cameras, dyes, and powders to detect employee theft. Dues checkoff would be accepted only as a package with the employer's proposals for employment-at-will and the grievance process.

In the Bethea case, ULP charges against the employer were eventually upheld by the NLRB in a January 1993 decision. A surface bargaining finding was based on the "conduct in its totality," including not only the rigid positions but also Gignilliat's other actions and the employer's discriminatory behavior away from the table. The parties resumed negotiations under the NLRB's order in March 1993, and Gignilliat withdrew some of the more onerous proposals, such as the integrity clause, but retained his insistence on strong employment-at-will language and his opposition to just cause and grievance arbitration. Another year of negotiations produced no movement, and as of December 1995, negotiations were at a standstill.

A similar case also involving Gignilliat helps to clarify acceptable peremptory bargaining. The IBEW won representation rights for a small

unit of workers at Coastal Electric Cooperative in Walterboro, South Carolina, in January 1990. This case was free of violations away from the table, and the only contested behavior was the employer's inflexible position on key issues. Bargaining did not begin until July, and there were only ten sessions over the next eighteen months. The employer's position on employment-at-will was clearly stated by Gignilliat in a letter to the IBEW negotiator: "The co-op does not require the union's agreement to have employment-at-will. As far as this issue is concerned, the union's 'non-agreement' is as good as its agreement." The other items in dispute were the employer's insistence on merit pay and its refusal to consider either just cause or grievance arbitration.

Although an ALJ found that Coastal's inflexibility was evidence of surface bargaining, the NLRB overturned with specific reference to differences between this and the Bethea case. A June 1993 decision concluded that "the Respondent's various positions, although indicative of hard bargaining, are not inherently unlawful, and its failure to make concessions, in the absence of other indicia of bad faith, is not a sufficient manifestation of bargaining with intent to avoid agreement." In reaching its decision, the NLRB noted explicitly that "management's reservation of authority was limited by whatever the parties agreed to elsewhere in their contract." Gignilliat's implementation of the peremptory bargaining strategy at Coastal Electric clearly depicts the employer's union-free objective. A contract that preserves management-at-will, subject only to limitations elsewhere in the agreement, which omits just cause, codifies merit pay, and is subject to interpretation under a grievance procedure where the employer is the last step, creates a situation where (to rephrase Gignilliat) "the union's agreement is as good as its nonagreement." The question for workers becomes, "Why have a union?"

Analysis

Although precise estimates of the extent of various union-free bargaining strategies are not available, approximations are possible based on the first contract survey mentioned earlier. Nearly three-quarters of all first contract failures involve employer practices which fit into these categories. Technical refusals to bargain and defiant bargaining are present more than one-quarter of the time, while evasive bargaining and peremptory bargaining are associated with nearly one-half of the failures. However, approximately one in three employers who initially attempt to avoid unionization after certification eventually sign a contract, often because the union has implemented countervailing strategies which force abandonment of union-free objectives.

The unlawful surface bargaining often blamed for first contract failures seldom occurs independent of other violations. This can be traced to NLRB precedent which requires consideration of the totality of the employer's conduct rather than only the behavior leading to a surface bargaining charge. Thus most violations of the surface bargaining prohibition will be committed by employers who follow the defiant bargaining strategy. Any case of "pure" surface bargaining would be associated with evasive bargaining and/or peremptory bargaining strategies which cross the line into unlawful conduct. Reports from unions of surface bargaining in one-third or more of first contract negotiations probably reflect a lay interpretation of the term and include lawful evasive and/or peremptory bargaining.

The argument by some that first contract failures associated with bargaining conduct are simply "mistakes" is not convincing. The bargaining patterns reported here are widespread, many cases involve experienced legal counsel, and the evidence points to deliberate attempts to avoid unionization rather than an unfortunate lack of familiarity with labor negotiations. However, the other defense offered by employers for first contract failures, that lawful hard bargaining may be involved, is consistent with the evidence. Most of the employers who engage in peremptory bargaining are unlikely to experience adverse ULP decisions absent other violations. However, the implication that such a strategy is neutral is not convincing; more likely, employers engage in peremptory bargaining as part of a carefully crafted union avoidance policy.

References

References for interviews and unpublished documents are available from the author.

Bethea Baptist Home. 1993. 310 NLRB 28.
Broad Reach Management. 1994. NLRB LEXIS 370 (May 20).
Clean Sweep Janitorial Services. 1992. *Daily Labor Report,* No. 219 (Nov. 12), p. D1.
Coastal Electric Cooperative. 1993. 311 NLRB 129.
Shanefelter Industries. 1993. NLRB LEXIS 307 (March 31).
Tempco Electric Heater Corporation. 1993. U.S. App. LEXIS 18185 (July 19).

First Contract Arbitration: The Canadian Experience

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First contract arbitration is currently a feature of labor legislation in six Canadian provinces and the federal jurisdiction, covering more than 80% of the unionized Canadian workforce. While the provisions vary across jurisdictions, their common objective is to encourage more frequent and more timely collective bargaining settlements between employers and newly organized workers.

Evidence from Canada suggests that first contract arbitration is an important option. Though seldom used, simply having the legislation in place has encouraged employers to recognize the legitimacy of certified unions, and it has led to more productive and more effective collective bargaining in first contract negotiations.

Prior to 1993, bad faith bargaining had to be established before first contract arbitration could be invoked in Ontario and British Columbia. Starting in 1993 in those provinces and since 1978 in Quebec, 1985 in Manitoba, and 1995 in Saskatchewan, first contract arbitration has been available essentially on a "no-fault" basis, with access to the procedure at either party's request, provided that certain basic criteria have been met. While first contract arbitration is invoked somewhat more frequently when the procedure can be accessed on a "no-fault" basis, the proportion of cases in which a contract is imposed by an arbitrator rather than settled by the parties is quite small, even under "no-fault." Far from substituting the judgment of an arbitrator for that of the parties as expressed through collective bargaining, there is every indication that first contract arbitration laws encourage collective bargaining in the vast majority of cases.

Summaries follow of first contract arbitration as it is practiced in Manitoba, British Columbia, Ontario, Quebec, Newfoundland, Saskatchewan, and the federal jurisdiction, including specifics on the legislation and data on rates of utilization.

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Manitoba

When enacted in 1982, Manitoba's legislation initially focused on bad faith bargaining as a litmus test for arbitration, but a "no-fault" scheme has been in place since 1985. Manitoba thus has a decade of continuous experience with a "no-fault" standard for first contract arbitration. Section 87 of Manitoba's Labor Relations Act states that either party, a newly certified union or the employer, may submit an application to the Manitoba Labor Relations Board if conciliation has been unsuccessful. If the parties then fail to agree on an arbitrator to settle the agreement in a timely way, the board will proceed to settle the dispute. The time elapsed between application and the filing of a first contract award has never exceeded six months.

In awarding a first contract, the board or arbitrator must accept any provisions already agreed to in writing by the parties. Other terms that are "fair and reasonable" are arrived at by taking into account evidence and information submitted by both sides, comparative industry data, and any other matters the board considers relevant. The maximum duration of the imposed settlement is one year.

According to the Manitoba Labor Board, from March 31, 1990, through March 31, 1995, 243 new union certifications were granted, and 54 applications for first contract arbitration were received. Of these 54 cases, 25 resulted in board or arbitrator-imposed settlements, representing about 10% of all new certifications during the period.

British Columbia

British Columbia was the first jurisdiction in Canada to incorporate first contract arbitration into its labor code in 1973. Under a new labor relations code which took effect in January 1993, access to first contract arbitration no longer requires proof of bad faith bargaining. Either party may now apply to the British Columbia Labor Relations Board to request a mediator if they have failed to reach a first agreement and the employees have voted to authorize a strike. According to the board, the 1993 reforms were guided by four basic principles: (1) the purpose of government involvement is to repair any breakdown in negotiations due to the conduct of the parties; (2) collective bargaining is the preferred vehicle for achieving first contracts; (3) mediation is essential to the process of settling first contract disputes; and (4) if first contract arbitration must be imposed, it should be done in a timely fashion so as to avoid irreparable harm to the collective bargaining relationship.

Once an application for first contract mediation is made, the parties may not strike or lockout until the board instructs that they may exercise

these rights. A mediator must be appointed within five days, and the parties must supply a list of disputed issues and their respective positions. If an agreement is not reached within twenty days, the mediator must report to the board and recommend one or more of the following: proposed terms of agreement, appointment of a mediator-arbitrator to conclude a binding agreement, referral to arbitration, or allow the parties to strike or lockout.

According to data compiled by the British Columbia Labor Relations Board, only 13 applications for first contract arbitration were received from 1989 to 1992, and the board did not impose any first agreements during these years. Some 900 union certifications were granted during this same period. In 1993 with the new legislation in place, 496 new certifications were granted by the board, and 28 applications for intervention under Section 55 were received. Of these 28 cases, 12 were settled by the parties with a mediator's assistance, 13 were resolved with the parties accepting a mediator's recommended terms of settlement, and in three cases the parties agreed to voluntary arbitration. In 1994, 423 new certifications resulted in 33 applications for intervention under Section 55. Of that total, there were 13 mediated settlements, 6 cases in which a mediator's recommended terms were accepted, and only 4 cases where the board directed arbitration.[1] Although Section 55 has resulted in more applications for intervention, resolution through mediation and conciliation is strongly encouraged.

In the 1993 *Yarrow Lodge* decision, which involved a contract dispute between a privately owned mental health residence and the Hospital Employees' Union, the British Columbia Labor Relations Board emphasized that Section 55 does not guarantee a first collective agreement for every newly certified union. Rather, the intent of the legislation is to encourage achievement of first contracts through productive collective bargaining and mediation. The labor board made clear in *Yarrow Lodge* that it would consider the following factors in determining whether a first collective agreement should be imposed: bad faith or surface bargaining, uncompromising bargaining positions without reasonable justification, failure to make reasonable or expeditious efforts to conclude a collective agreement, unrealistic demands or expectations arising due to intentional behavior or from bargaining inexperience, and the existence of a bitter or protracted dispute in which settlement is unlikely without intervention.[2]

Ontario

Prior to 1993 first contract arbitration was imposed in Ontario only when the Labor Relations Board could establish bad faith bargaining. However, as amended by Bill 40 at the beginning of 1993, Section 41 of

the Ontario Labor Relations Act now effectively provides for automatic access to first contract arbitration upon the request of either party. In those rare instances when a contract is imposed, the contract is settled by private arbitration rather than the board. While the recent amendments provide easier access to first agreement arbitration, the continued requirement that the parties exhaust conciliation and the 30-day waiting period thereafter ensure that there is an incentive for the parties to continue to work at resolving their differences.

When either party requests intervention, both parties must submit to the minister or the board a copy of the proposed collective agreement which they are prepared to execute; the board will decide within thirty days whether to refer the case to arbitration. While the board is not required to refer a case to first contract arbitration, it has great latitude to do so. In making its decision, the board may take into account refusal of the employer to recognize the bargaining authority of the trade union, the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification, failure of the respondent to make reasonable or expeditious efforts to conclude a collective agreement, or anything else the board considers relevant.

If arbitration is initiated, a three-member panel is convened and must hold a first hearing within twenty-one days. Each party appoints one arbitrator, and these two appointees select the third. The panel must reach a final decision within forty-five days, and the parties must refrain from striking or locking out during this period. The parties can agree that the arbitrators may settle the contract by final offer selection if they so desire.

According to the Ontario Ministry of Labor, about 350 first contracts have been settled each year since 1989. The overwhelming majority of these contracts are settled without use of first contract arbitration. From 1989 to 1992, a total of 27 first contracts were settled by first contract arbitration, representing just 1% of all employees settling first contracts during that period. In 1993 and 1994 the new "no-fault" legislation did result in an increase in the number of applications compared with the previous five years. In 1994 the number of contracts imposed by the labor board was higher than in any previous year, but the proportion of first contracts imposed remained less than 10%.[3]

Conservative legislators in Ontario recently enacted Bill 7, the Labor Relations Act of 1995, which significantly changes a range of laws protecting worker and trade union rights. It is unclear at this time exactly how the new legislation will affect the availability and utilization of first contract arbitration in Ontario. Indications are that the province may return to the bad faith bargaining requirement that existed prior to the enactment of Bill

40. For newly organized bargaining units facing unyielding employers, this would likely result in more delay and less access to arbitration.

Quebec

In Quebec, first contract arbitration legislation initially required a showing of bad faith bargaining. In 1978, however, the Quebec Labor Code eliminated this requirement. Currently under Quebec's "no fault" approach, either party can apply to the minister of labor when conciliation has been unsuccessful. The minister may then refer the dispute to an ad hoc council of arbitration. Based on the bargaining conduct of the parties, the council may impose a first collective agreement if it appears unlikely that the parties will reach an agreement within a reasonable time. In making its decision, the council may consider any unjustified behavior by either party. The imposed contract is binding for no more than two years.

Data from Quebec shows that 49 first contracts were imposed through arbitration from 1990 through 1994, covering 2,942 employees. During this period, 1,959 new bargaining units covering more than 64,000 workers were certified.[4]

Newfoundland

First agreement legislation, as outlined in Sections 81 to 83 of the Newfoundland Labor Relations Act, essentially mirrors the federal jurisdiction's legislation described below. There is one notable difference: the minister of labor may only refer a case to the Labor Relations Board at the request of either party.

The law came into effect in 1987, and the first application under its provisions was received in 1988. From 1988 through 1994, 369 new union certifications have been granted by the Labor Relations Board, the board has received 26 referrals from the minister for first contract arbitration, and 9 collective bargaining agreements have been imposed by the board. The remaining referred cases were either settled, withdrawn, or lapsed. The board also received one joint request for intervention and imposed the contract.[5]

Saskatchewan

Saskatchewan recently adopted a set of amendments to the province's Trade Union Act and Labor Standards Act resulting in perhaps the most progressive labor legislation to date in Canada. Included among the reforms that took effect in November 1994 are a number of provisions aimed at promoting productive collective bargaining and dispute resolution.

With regard to first contracts, the new legislation enables a union or employer to apply to the Labor Relations Board for assistance in reaching a settlement if the parties have bargained in good faith and failed to reach agreement. In addition, the board has the discretion to assist settlement of a first contract if either party is found guilty of an unfair labor practice for failing or refusing to bargain. The board can order conciliation and, if conciliation fails, may refer certain items to arbitration and settle other terms itself.[6]

Federal Jurisdiction

The federal jurisdiction includes interprovincial transportation, banking, shipping, and other sectors of the economy that fall under national security or commerce as defined in Canada's constitution.

Under Section 80 of the Canada Labor Code, enacted in 1985, the minister of labor has the discretion to determine whether a bargaining impasse during negotiations for a first contract will be referred to the Canada Labor Relations Board; the board then must determine whether or not to impose a settlement. The board may take into account the existence of bad faith bargaining in settling the terms and conditions of the first agreement. The maximum duration of an imposed settlement is one year.

This provision of the federal code is rarely utilized. Data available from 1989 to 1995 show that out of 611 newly certified bargaining units, the minister of labor referred only one first contract impasse case to the Canada Labor Relations Board, and no first contracts have been imposed.[7]

Conclusions

The Canadian data suggest that first contract arbitration is hardly an overused option. The statistics on utilization (summarized in Table 1) indicate that the number of requests for first contract arbitration comprise a small portion of the total number of newly certified unions. The number of first contracts actually imposed make up an even smaller fraction of new certifications.

Critics in the U.S. have claimed that wider access to first contract arbitration would be a disincentive for labor and management to bargain productively. The experience of Canada contradicts this theory. In all cases their legislation has been enacted with the purpose of encouraging more productive negotiating practices by employers and unions, and the results have been strongly positive. The amendments that took effect in British Columbia and Ontario in 1993 have made first contract arbitration *more* accessible, yet the overwhelming majority of settlements are still reached directly by the parties or through nonbinding mediation.

It is well understood by business and labor alike that first contract arbitration is not intended as a standard response to bargaining deadlocks.

Rather, it is a corrective response in cases where an employer refuses to recognize a newly organized union and refuses to bargain a first contract.

TABLE 1
Utilization of First Contract Arbitration in Canada

Jurisdiction	Years[1]	New Certifications/ First Agreements[2]	Applications/ Referrals[3]	Contracts Imposed (As % of New Certifications)[4]
Manitoba	1990-95	243	54	25 (10.3%)
British Columbia	1989-92	900	13	0 (0.0%)
	1993-94	919	61	4 (0.4%)
Ontario	1989-92	1,458	93	27 (1.9%)
	1993-94	685	141	50 (7.3%)
Quebec	1990-94	1,959	N/A	49 (2.5%)
Newfoundland	1988-94	369	26	9 (2.4%)
Federal	1989-95	611	1	0 (0.0%)

[1] Separating British Columbia and Ontario data into two time periods illustrates the change in utilization when more accessible legislation is in place. Manitoba, Ontario, and the federal jurisdiction data are for fiscal years.

[2] For Ontario and Quebec, this column contains the total number of first collective bargaining agreements reached, while in the remaining jurisdictions the column contains the total number of newly certified bargaining units.

[3] For Newfoundland and the federal jurisdiction, this column contains the number of cases referred to the respective labor boards, while in the remaining jurisdictions the column contains the number of total applications for intervention.

[4] For British Columbia, this column contains the number of board-ordered arbitrations.

Because of the extreme difficulty and subjectivity involved in proving the existence of bad faith bargaining, access to first contract arbitration should be available under a "no-fault" standard. A disgracefully high proportion of newly organized unions in the U.S. never achieve a first contract because of employer refusal to recognize the legitimacy of their employees' choice to form a union. With at least one-third of all newly organized U.S. bargaining units never securing a first contract, it is clear that the current legal framework is not adequate. First contract arbitration in the U.S. under a "no-fault" standard would be a small but important step toward restoring the right of American workers to freely choose union representation and engage in collective bargaining.

Suggestions for Future Research

While it is clear that first contract failure rates are far lower in Canada than in the U.S., it would be useful for comparative purposes to document the

failure rate for the Canadian provinces on a basis comparable to the one on which such data have been tabulated for the U.S. More importantly, since the maximum term of imposed first agreements in Canada is one or two years, it would be important to know whether these agreements form the basis for enduring collective bargaining relationships. In the U.S. context, given the extent of employer opposition to unionization and collective bargaining, a somewhat longer "trial marriage" between the parties would likely be necessary.

Endnotes

[1] Of the remaining ten cases, six were settled through voluntary arbitration, one was settled by limited issue arbitration, and there were three decertifications.

[2] Based on information provided by the British Columbia Labor Relations Board.

[3] Based on information provided by the Ontario Ministry of Labor and the Ontario Office of Collective Bargaining Information.

[4] Based on information provided by Human Resources Development Canada, Bureau of Labor Information.

[5] Based on information provided by the Newfoundland Labor Relations Board and the Newfoundland and Labrador Department of Employment and Labor Relations.

[6] The Trade Union Amendment Act: A Summary of Proposed Amendments. Provided by Saskatchewan Labor.

[7] Canada Labor Code Part I; data collected by Human Resources Development Canada, Federal Mediation and Conciliation Service.

References

Adams, George W. 1993. *Canadian Labor Law*. 2d ed. Aurora, Ont.: Canada Law Book.

Chaison, Gary N., and Joseph B. Rose. 1994. "The Canadian Perspective on Workers' Rights to Form a Union and Bargain Collectively." In Sheldon Friedman, Richard Hurd, Rudolph Oswald, and Ronald Seeber, *Restoring the Promise of American Labor Law*. Ithaca, NY: ILR Press.

Kumar, Pradeep, David Arrowsmith, and Mary Lou Coates. 1994. *Canadian Labor Relations: An Information Manual*. Kingston, Ont.: Industrial Relations Center, Queens University.

Published and unpublished information and data were provided by the following organizations:

British Columbia Labor Relations Board
Canadian Labor Congress
Federal Mediation and Conciliation Service, Ottawa, Ontario
Human Resources Development Canada, Bureau of Labor Information
Manitoba Labor Board
Newfoundland and Labrador Department of Employment and Labor Relations
Newfoundland Labor Relations Board
Ontario Ministry of Labor
Ontario Labor Relations Board
Ontario Office of Collective Bargaining Information

Lasting Victories: Successful Union Strategies for Winning First Contracts

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All too often stunning union election victories turn into devastating first contract defeats through decertification, broken strikes, plant shutdowns, or the outright refusal of the employer to bargain. With a certification election win rate below 50% and a first contract rate of less than 75%, less than a third of workers who vote in NLRB certification elections end up being covered under a union agreement. Despite these dramatic numbers, there has been very little research on factors contributing to union success or failure in first contract campaigns.

We know from recent research on public and private sector certification election campaigns that union organizing strategies play an extremely important role in determining union success in winning certification elections. Studies such as Bronfenbrenner (1993) found that in an increasingly hostile organizing climate, union success in NLRB campaigns depends on the use of a grassroots, rank-and-file intensive organizing strategy, building the union and acting like a union from the beginning of the campaign. Union campaigns which incorporate tactics such as representative rank-and-file committees; personal contact through housecalls and small group meetings; escalating internal pressure tactics such as solidarity days; the use of rank-and-file volunteers from already organized units; a focus on dignity, fairness, and service quality as the primary issues; and building for the first contract during the organizing campaign were found to be associated with win rates 10% to 30% higher than traditional campaigns that focused on mass mailings and gate leafleting. The use of these rank-and-file intensive tactics significantly increased the percentage of the vote received by the union and the probability of the union winning the election, no matter how intense the employer opposition to the campaign.

Similarly, in the public sector Bronfenbrenner and Juravich (1995a) found that even in the context of little employer opposition, the use of grassroots, rank-and-file intensive strategies not only led to higher win rates in the certification election campaigns but also contributed to significantly

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higher post-first contract membership rates. Bronfenbrenner and Juravich also found that the same rank-and-file intensive organizing strategies, along with the quality and degree of union representation before the decertification petition was filed, played an extremely important role in determining the outcome of decertification campaigns (1995b).

We know from research by Cooke (1985) and Bronfenbrenner (1994) that employer opposition to unionization does not stop with the certification election campaign. These studies found that through a combination of surface bargaining, captive audience meetings, unilateral changes, discharges for union activity, threats of full or partial plant closings, and concessionary initial proposals, employers were able to reduce union first contract rates by as much as 10 to 50 percentage points.

These studies leave no doubt that employers have at their disposal a myriad of legal and illegal tactics which they can use to effectively block union efforts at winning a first agreement. The critical question to be answered is whether the same kind of grassroots, rank-and-file intensive union-building strategies that have been found to be so effective in certification and decertification elections are equally effective in overcoming employer opposition in first contract campaigns.

Theoretical Framework and Hypothesis

Bargaining outcomes are determined by the relative power of union and management. However, as Bacharach and Lawler (1981:40) contend, "Tactical action is the most critical component of the bargaining process." Contextual factors such as economic and political climate, employer and union characteristics, and bargaining unit demographics, along with the bargaining process and the nature and outcome of the union organizing campaign all influence relative bargaining power, and therefore, all matter in determining first contract outcomes. But the strategic choices unions and employers make during contract campaigns matter most of all.

There are many different ways in which union and employer strategies and tactics can affect first contract outcomes. First, there are strategies which are directed at moderating the effects of contextual factors, such as media campaigns, political action, and changes in union or employer structure and practice. Second, there are strategies that the union and employer direct at each other. These include both direct pressure tactics, such as strikes and boycotts, and more indirect tactics designed to manipulate the opponent's view of each side's bargaining power, such as solidarity days, rallies, and negative publicity campaigns.

The third category includes those strategies directed at worker support for the union campaign. For the union this includes both one-on-one organizing

and active membership involvement in the bargaining process and the internal and external pressure campaign. Last, there are those union and employer strategies directed at the negotiation process itself, including decisions about ground rules, proposals, the use of experts, sidebars, and the use of fact finding, mediation, or interest arbitration.

The first contract model used in this study is therefore framed as a complex interaction of employer and union tactics, contextual influences, organizing campaign and election outcome variables, union negotiator and management consultant background, worker support for the contract campaign, and the actual negotiation process itself.[1]

The underlying hypothesis of the first contract study is that unions will have more success in the first contract process when they utilize a multifaceted, rank-and-file intensive campaign strategy involving internal and external organizing and pressure tactics. This campaign strategy includes the following: the continuation of the one-on-one organizing tactics utilized during the certification election campaign, active membership participation in issue selection and proposal development, an emphasis on union democracy and representative participation, an active role for the rank-and-file bargaining committee at the table and in caucuses, a continued focus in union proposals and during the bargaining campaign on broader justice and nonworkplace issues rather than simply wages and benefits, an emphasis on building community and labor coalitions united in mutual support of both workplace and broader community concerns, the use of escalating internal pressure and external pressure tactics ranging from solidarity days to stockholder actions, and an emphasis on open negotiations with regular reporting to the members in newsletters and membership meetings.

Such a strategy may not be required in those units where the employer is ready and willing to reach a good first agreement with the union within a reasonable time frame. Yet absent such employer acquiescence, unions will need this kind of consistent multifaceted union strategy to be able to sustain membership support; counteract the negative impact of a hostile economic, legal, and political climate; and convince the employer that it is in his or her interest to settle the first contract as soon as possible.

As described in Table 1, in the empirical model testing this hypothesis, the rank-and-file intensive strategy is operationalized as an additive variable ranging from 0, for campaigns where no rank-and-file intensive tactics were used, to approximately 16, where all of the tactics were used. It is hypothesized that the more of these tactics the union uses in the campaign and therefore the greater the additive value of the variable, then the greater the likelihood that the union will achieve a first contract.

TABLE 1

Determinants of First Contract Outcome

Logit Estimation of First Contract Model with Dependent Variable: Contract/No Contract

Independent Variables	Sign	Sample Mean or Proportion	% Contract Rate*	Coefficient	Standard Error	Partial Derivative
Contextual Factors						
Bargaining Climate						
% Unemployment	-	7.20	NA	-0.103	0.376	-0.005
% Union density	+	20.63	NA	0.378**	0.174	0.019
Company in right to work state	+	0.25	.80(.80)	5.839*	3.756	0.291
Company Characteristics						
Unit in manufacturing sector	-	0.63	.78(.84)	2.010	1.408	0.100
Company profitable	+	0.78	.79(.79)	2.613	2.048	0.130
Other units under contract	+	0.51	.84(.76)	4.298**	1.928	0.214
Unit Demographics						
Average wage $5.00 or less/hour	+	0.53	.79(.81)	2.079	1.762	0.104
60%+ Women and/or Blacks in unit	+	0.53	.87(.72)	3.376**	1.819	0.168
Organizing Campaign						
nlog(size*percent yes)	+	4.08	NA	1.552	1.486	0.077
Unit targeted	+	0.30	.90(.75)	3.577*	2.212	0.178
Negotiator Background						
Negotiator from international	+	0.41	.83(.79)	2.298	1.839	0.114
Negotiator female or minority	+	0.11	.91(.79)	2.357	3.383	0.117
Negotiator has college degree	+	0.31	.84(.78)	2.782	2.317	0.139
1-25 yrs rank&file experience	+	0.72	.88(.61)	5.647***	2.300	0.281
Management Tactics						
Captive audience meetings	-	0.21	.67(.84)	-1.616	2.202	-0.080
Employer used media &/or ads	-	0.06	.50(.82)	-6.767**	3.402	-0.337
Unilateral changes	-	0.37	.70(.86)	-2.669*	1.904	-0.133
Used outside consultant/lawyer	-	0.61	.75(.87)	-2.610**	1.514	-0.130
Initial proposals concessionary	-	0.18	.67(.83)	-4.158**	2.414	-0.207
Discharges after election	-	0.30	.73(.83)	1.698	1.621	0.085
Surface bargaining	-	0.37	.59(.92)	-4.780**	2.097	-0.238
Bargaining Process						
2 months+ between elec. & barg.	-	0.36	.83(.79)	-0.981	1.344	-0.049
Mediator used	+	0.50	.76(.84)	2.402*	1.874	0.120
Union Tactics						
Rank & file intensive campaign (additive variable including the following)	+	5.30	NA	0.692**	0.391	0.034
% Housecalled during negotiations (+%)		0.03	NA			
Focus on community issues (+1)		0.13	.85(.79)			
Inside strategies used (+1)		0.11	.72(.81)			
Sidebars reported to committee (+1)		0.38	.92(.73)			
Report on neg. to membership mtgs (+1)		0.85	.81(.73)			
Committee active at table (+1)		0.45	.80(.80)			
Committee active in caucuses (+1)		0.77	.84(.65)			
Newsletter distributed (+1)		0.38	.84(.70)			
Solidarity days used (+1)		0.30	.77(.81)			
Editorial visits used (+1)		0.06	.83(.80)			
Members vote/revise proposals (+1)		0.75	.79(.84)			
Contract survey done 1-on-1 (+1)		0.55	.78(.82)			
% Unit on negotiating committee (+%)		0.06	NA			
Leafleting used (+1)		0.26	.81(.80)			
Corporate pressure tactics used (+1)		0.15	.93(.77)			
Intercept		0.15	.93(.77)	-23.457***	9.817	-1.168
Total # of observations				100.000		
McFadden's Rho-squared				0.675		
2(Log-likelihood)				67.530		

*Significance levels: *=.10, **=.05, ***=.01 (one-tailed tests)*

**Percent win rate is listed for all dummy variables when the variable=1 (the win rate for when the variable=0 is in parentheses)*

Data and Methods

Building on a random sample of 261 NLRB certification elections in units with 50 or more eligible voters that took place between July 1986 and June 1987, the first contract study surveyed the union representative in charge of first contract negotiations for all units in the sample where the union won the election. These lead negotiators were asked to complete an in-depth survey about the first contract process, including questions regarding lead negotiator background, bargaining climate, the negotiations process, employer and union tactics during the contract campaign, and the actual bargaining outcome. This information was supplemented by data on employer and union characteristics, bargaining unit demographics, and election background collected as part of the certification elections study. Completed first contract surveys were received for 100 out of the 119 units in the sample where the union won the election, a response rate of 84%.

In the model being tested, first contract outcome is estimated to be a function of contextual control variables, such as bargaining climate, company characteristics, and bargaining unit demographics, election background and election outcome, employer tactics, negotiation process, negotiator background, and union tactics. The first contract equation is estimated by a log-likelihood function where the dichotomous dependent variable of contract=1 and no contract=0 is a function of $1/1(1+exp(x_i\beta))$, where x_i is the vector of independent variables and β is a vector of logit coefficients. Because logit analysis only functions successfully with a sample size of 100 if the model is limited to a relatively small number of independent variables, the empirical model used only those variables that best capture the most important elements of the first contract process. The independent variables along with their hypothesized signs are specified in Table 1.

Results

Unions were able to obtain a first agreement in 80 out of the 100 units in the first contract sample. This 80% first contract rate is slightly higher than the rate found by other researchers. In part this is explained by the fact that this sample included only units with more than 50 eligible voters, which have been found by other studies to have higher first contract rates than smaller units (Pavy 1994). However, even with an 80% first contract rate, the low election win rate, especially in larger units, means that only 27% of the workers who voted for the union in the original certification election ended up being covered by a union agreement.

As we can see from Table 1, the use of a rank-and-file intensive campaign strategy was found to have a statistically significant positive effect on first contract outcome when we controlled for the influence of contextual

variables and employer behavior. The partial derivative for the union tactic variable suggests that for every one-unit increase in the "rank-and-file intensive campaign variable," the probability of the union winning a first contract increases by 3%.

When we look at the individual union tactics which constitute the rank-and-file intensive campaign variable, what is most striking is the great variance in tactics used and the extremely small number of unions in the sample that used aggressive and creative rank-and-file intensive strategies during the first contract campaign. Less than 20% of those surveyed focused on community issues, used either inside strategies or corporate pressure tactics, or continued organizing one-on-one after the election. Less than half reported on sidebars to the committee, had the committee play an active role in caucuses, and used solidarity days or leafleting.

The negative or weak positive results for these union tactic variables when examined individually seem to show that utilizing some of these tactics but not others can backfire on the union or, at best, render the tactics ineffective. When unions use a majority of the rank-and-file intensive tactics, the first contract rate averages 88%. In contrast, when unions utilize only one or two of these tactics, the first contract rate averages as low as 50%. Thus if the union has an active representative committee that never reports back to the unit, bargaining unit members may be much less likely to trust and fight for the union. It is the cumulative effect of these tactics that keeps the membership mobilized and committed, builds public support, and puts the employer on notice that the workers are committed to winning a good agreement and staying unionized.

Conclusion

The results from this study confirm that unions can diffuse the negative impact of an adverse bargaining climate and/or an aggressive employer campaign when they use a multifaceted, rank-and-file intensive campaign that focuses on mobilizing the membership to pressure the employer both inside and outside the workplace. The results also show that what happens at the bargaining table is just one piece of the first contract process. What the union does to pressure the employer in the workplace and in the broader community matters just as much, if not more, in determining the final outcome of the first contract campaign.

Despite this evidence, only a small number of unions are running rank-and-file intensive first contract campaigns, even when faced with intense employer opposition. What these results make clear is that, when faced with aggressive employer opposition at the bargaining table, unions have nothing to lose and a great deal to gain by running more aggressive and

more membership-intensive first contract campaigns. The benefits of utilizing these tactics may go far beyond the first contract in terms of building membership and leadership commitment to the union, developing a sense of ownership and real knowledge of the contract, developing community contacts and support, and making the employer take the union seriously. In contrast, if unions do not follow up certification elections with aggressive, rank-and-file intensive first contract campaigns, more and more employers will be able to turn union election victories into devastating first contract defeats.

Endnotes

[1] For a more detailed review of the literature, as well as a complete explanation of the theoretical model and hypotheses, please refer to Bronfenbrenner (1993).

References

Bacharach, Samuel B., and John Lawler. 1981. *Bargaining Power, Tactics, and Outcomes.* San Francisco: Jossey-Bass.

Bronfenbrenner, Kate. 1993. "Seeds of Resurgence: Successful Union Strategies for Winning Certification Elections and First Contracts in the 1980s and Beyond." Dissertation, Cornell University.

_____. 1994. "Employer Behavior in Certification Elections and First Contracts: Implications for Labor Law Reform." In Sheldon Friedman, Richard Hurd, Rudy Oswald, and Ronald Seeber, eds., *Restoring the Promise of American Labor Law.* Ithaca, NY: ILR Press, pp. 75-89.

Bronfenbrenner, Kate, and Tom Juravich. 1995a. "Union Tactics Matter: The Impact of Union Tactics on Certification Elections, First Contracts and Membership Rates." Working paper, Institute for the Study of Labor Organizations, Silver Spring, MD.

_____. 1995b. "Staying Union: The Dynamics of Union Success in Public Sector Decertification Campaigns." AFL-CIO Department of Organization and Field Services Report. Washington, DC: AFL-CIO.

Cooke, William N. 1985. *Organizing and Public Policy: Failure to Secure First Contracts.* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

Pavy, Gordon. 1994. "Winning NLRB Elections and Establishing Collective Bargaining Relationships." In Sheldon Friedman, Richard Hurd, Rudy Oswald and Ronald Seeber, eds., *Restoring the Promise of American Labor Law.* Ithaca, NY: ILR Press, pp. 110-21.

DISCUSSION

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These four very thoughtful presentations fall into two quite distinct categories. Hurd and Pavy/Smith document the ways in which employers routinely thwart the expressed desires of their employees to work under union contracts; while Friedman/Wozniak and Bronfenbrenner give us some leads on how the problem might be overcome.

Before looking at those papers more closely, let's put the discussion into a bit of historical context. It has been almost twenty years since we first brought the escalating gravity of the first contract problem to the attention of this association's members. At the Industrial Union Department, we had analyzed a decade of NLRB elections and discovered that delays between the filing of a petition for a certification election and the date the election was held were growing and, to paraphrase an idiom, that *elections delayed were worker victories denied.*

Coincidentally, we had been developing a study of the eventual disposition of union election victories, once certified. That study was the outgrowth of a discussion within our executive council, initiated by Sol Stetin, then president of the Textile Workers Union of America (TWUA). The Textile Workers Union had been organizing extensively in the Southeast, and Sol suggested that based on the TWUA's experience, election victories in that section of the country were unusually difficult to convert into first contracts.

Alas, the results of the study that followed suggested that the problem was pervasive. The ability of employers to thwart traditional contractual obligations following union election victories was a national problem with essentially no regional variations: roughly one-third of the representation election victories recorded in 1970 were not under contract five years later—denying about a quarter of the workers who had chosen to be represented by unions the opportunity to realize their goals. Anyhow, we included a small reference to the first contract study in our election delay paper. Fortunately, a number of academics and other researchers picked up on, validated, refined, and further developed the threads that flowed from the IUD's work.

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Pavy and Smith show us that less than 50% of the units that chose union representation in 1987 actually had it five years later—units involving some 40% of the covered workers. While conducting their survey, they had taken care to solicit the identities of the union staff who had handled the postelection negotiations. They further developed their data by contacting these individuals and ascertaining the circumstances that surrounded each set of negotiations.

Each situation had its own nuances of course, but the theme that emerged most consistently was, *mirabile visu*, justice delayed becoming justice denied. Pavy and Smith detail some of the tactics that enabled the stalling practiced by employers: the consistency of their data suggests that what might once have seemed to be random union resistance activities by unrelated employers do, in fact, follow rather predictable patterns.

Hurd has developed these patterns even further, and his analysis of the union-busting strategies of employers whose employees have chosen to be represented by a union reinforces the idea that the behavior is anything but random. He allocates the variations of employers' union resistance schemes into four separate areas—but interesting as the differences he points out may be, we are merely examining how many additional pounds of dynamite were used to destroy a building.

Each of his examples is well presented, and no useful purpose would be served by recounting them here. It is a most valuable addition to the literature. To this reader, Hurd's most useful observations center on the inability of the NLRB to enforce worker rights. It is a sad fact that the agency does a good job of getting people to the dance but has no means of ensuring them a good time while there and is frequently unable to get them home at all. Hurd suggests that in the absence of some reform in the NLRB's ability to enforce its statute, unions must resort to "countervailing strategies which force abandonment of (an employer's) union-free objectives."

A convenient segue into the Bronfenbrenner paper, which suggests that unions which mount intensive grass-roots campaigns surrounding first contracts can significantly improve their chances of success on that front. This is a useful extension of earlier work in which the author established the utility of massive community and membership involvement in campaigns surrounding union elections.

In essence, Bronfenbrenner is saying that certain tactics have repeatedly proven to be of use to unions in election campaigns and that those same tactics work in the struggle to obtain a first contract. The paper also emphasizes that absent a commitment to a broad range of these tactics, their application may be counterproductive and that the recipe can only work well if all or at least a critical percentage of the ingredients are used.

Much of Bronfenbrenner's original work was based on a sample of elections that involved units of 50 or more. When she says that two-thirds of union election victories end up with first contracts, I suggest that number be viewed with extreme caution. As we noted in 1978, as Sheldon Friedman and I observed a few years ago, and as Gordon Pavy reaffirms in his current work, it is in the smaller units that unions are most likely to be successful in their efforts to win representation rights. In fact, as Table 3 of Pavy's paper details, less than 30% of union election victories in 1987 were in shops of 51 or more people.

The size dichotomy is a vexing one. Unions win elections more consistently in smaller units but have less first contract success in these same units. Unions that attempt to represent smaller groups may, it strikes me, have to develop special approaches to their applications of the regimen that Bronfenbrenner suggests, as it would seem that many of the tactics require substantial inputs of personpower. None of this discussion is meant to minimize the value of Bronfenbrenner's contribution, which is an important map for those who wish to follow the first contract road.

Friedman and Wozniak give us "south-of-the-border" types a glimpse of the relative civility applied to the first contract question in our NAFTA partner to the North. Although I was a bit confused by what seemed to be some inconsistency as to which numbers were being reported in what ways for the various jurisdictions, I enjoyed the paper immensely and found little to criticize.

If I correctly understand the Friedman/Wozniak analysis, most of the Canadian statutes limit imposed agreements to a maximum duration of one year. A year may be plenty of time in civilized Canada for the parties to learn to work together productively. But in the U.S. it strikes me that a year would rarely be long enough. Thus I found myself wanting to know what happened next in the situations the authors examined and would encourage the exploration of this question by them and others. In short, these were four outstanding papers.

DISCUSSION

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Having negotiated first contracts with newly certified bargaining agents, I was surprised at the percentage of employers that test certifications by refusing to bargain as described by the authors. Even for the best intentioned negotiators, however, negotiating a first contract is very difficult and time consuming for many reasons, some of which include the vast array of concerns the negotiating parties have and the politics of the union and management constituencies. The successful negotiators of first contracts know that somehow issues of fairness and productivity in the workplace must be the cornerstone of the agreement. Having said that, let's turn to the papers presented today.

Each of the authors in one form or another has described a situation of last resort, where the negotiations have not commenced, or commenced but without a negotiated agreement. The topic is not a new one, and with the exception of the Friedman and Wozniak paper on the Canadian experience on first contract arbitration, the authors address issues that have been discussed since at least the late 1970s.

Bronfenbrenner addresses how a union can effectively use grassroot efforts to increase negotiating power and ultimately conclude a first agreement. Clearly, the side with power wins—easy to say, but exceedingly difficult to define or do. Many of the grassroot efforts that Bronfenbrenner examines, I believe, are probably effective at solidifying unity in purpose for the group and would probably serve a union in the organizing phase prior to election. The dynamics of negotiation, however, are different than the dynamics of organizing. Organizing, though bipolar in nature, is not bilateral; and conversely, negotiation, though bipolar, is not unilateral. Let me explain. The decisions of either a union or company during organizing are at the sole discretion of each party without the need to reach agreement—it is a campaign/election process. In the case of negotiations where either one or both parties want to reach agreement, mutual assent is mandatory, and hence in general, bilateral relationships with offer/counteroffer/acceptance are the structural prerequisite for successful negotiations.

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This brings me to my point: I am not convinced that analysis of a survey of 100 unions from a period of almost ten years ago can accurately predict first contract settlement. True negotiating power and the attendant ability to conclude an agreement come from the negotiator's skills and from each side considering their best alternative to a negotiated agreement—and grassroot efforts are only a small part of that. The resolve of either side to persevere is not enough, unless it can significantly alter the alternatives of agreement for the other side. Though one might say that a company's alternatives to reaching agreement are changed by a union's aggressive efforts, the reality of recent years is that some of the country's largest, strongest, and most creative unions have had very difficult times not only in first agreement situations but also in long-established collective bargaining relationships.

If Bronfenbrenner's conclusions are not as predictive as I suggest, what research and practical directions would be more fruitful? Reconsidering the use of power from the outset of organizing through the negotiation of a first contract is a good starting point. After a successful election many unions are confronted with a membership that wants to see action sooner than later. By modifying the campaign rhetoric to more closely resemble the outcome of a first agreement, the negotiators start with positions that are closer to the settlement range of the parties—anything that makes the negotiations simpler and shortens the time and resistance to settlement.

Another research or practical direction may be the use of harmonizing power versus adversarial power. If one considers, by example, that some of the most effective martial arts use the power of the opponent to accomplish an objective, then companies and unions may find some value in using the power of the other. To a certain extent this has been developing, as negotiations have moved from zero sum bargaining to more mutual gains/integrative/cooperative styles of bargaining. In the context of an organizing campaign and first agreement, the combined issues of fairness and productivity may be where to start.

Richard Hurd and Gordon Pavy have done a nice job of cataloging the types of strategies culled from Board and court case law and describing the landscape of NLRB election data and first contracts. Both papers are fine complements to Bronfenbrenner's paper. Both Hurd and Pavy identify relationships that highlight some of labor's problems in increasing membership. Hurd correctly points out that the inability to reach a first agreement will most likely make it very difficult to expand union membership in the private sector. Pavy notes that units most able to win an election have the hardest time reaching a first agreement, while units least likely to win an election would otherwise have an easier time of reaching agreement. All

the papers presented describe a situation from the union's point of view that suggests labor law reform. It would be an understatement, however, to say that such reform will be a very steep uphill battle.

Sheldon Friedman and Robert Wozniak present a very interesting case study of the Canadian experience with arbitration. Though interest arbitration—a milk cousin of the Canadian experience—has been around for many years, it has always been the product of mutual assent. However, the parties in Canada did not contract for first contract arbitration, and that is where such an experiment in the U.S. would create tension. Notwithstanding the discussion on such tensions, the Canadian experience changes the parties' best alternatives to an agreement in a significant structural way. As Friedman and Wozniak point out, overall, the law has not been invoked by the parties with great frequency in an environment where a higher number of first agreements are reached. That would lead me to believe that the negotiation's process worked.

Other than the obvious resistance in Congress for labor law reform, what other obstacles would a Canadian-like experience face in the U.S.? It clearly would have to be enacted at the federal level for the simple reason that any state enactment would be preempted by the NLRA and its amendments at a minimum. Also, the Canadian experience uses a judicial or quasi-judicial forum to decide cases. In the U.S., where the primary goal of private arbitration is dispute resolution, a judicial or quasi-judicial forum is more than dispute resolution; it is a forum for judicial due process with all the constitutional safeguards. Because of the state action inherent in a Canadian-like system, employers would have a panoply of constitutional claims surrounding the government's part in forcing the parties to contract with each other or live under a state-determined contract.

VIII. AFRICAN-AMERICAN SCHOLARSHIP IN THE INDUSTRIAL RELATIONS FIELD: PIONEER CONTRIBUTIONS

William B. Gould IV: Practitioner/Academic

JAMES A. GROSS
Cornell University

I was honored to be asked to participate in this symposium—particularly to be asked to discuss the career and contributions of the current chairman of the NLRB, William B. Gould IV, friend, colleague, practitioner, and scholar. Even a casual reading of Chairman Gould's resumé establishes his outstanding credentials. As scholar: professor at the Stanford University Law School since 1972 (currently on leave); a graduate of the Cornell Law School and the University of Rhode Island with honorary LL.D. degrees from the University of Rhode Island and the District of Columbia School of Law; visiting fellow, scholar, and/or professor at distinguished universities in England, Japan, Australia, Italy, and South Africa; and author of more than 50 law journal articles and several books. As practitioner: not only currently chairman of the National Labor Relations Board but also former assistant general counsel for the United Auto Workers; attorney for the NLRB and for the law firm of Battle, Fowler, Stokes & Kheel in New York; member of the National Academy of Arbitrators; secretary of the Labor and Employment Law Section of the American Bar Association; member of the Advisory Council of Cornell University's School of Industrial and Labor Relations; consultant to the Foreign Policy Council of the Rockefeller Foundation; and lead counsel in many labor and constitutional cases.

These certainly are achievements to be celebrated by anyone; yet the fact that they are also pioneering achievements because Gould is African

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American is a sad and shameful commentary on the continued centrality of race and racism in our society. To pioneer one goes before into that which is unknown and untried and prepares a way for others. Gould has pioneered, for example, in being the only African-American chairman the NLRB has ever had in its sixty years and only the second African-American member of the Board. (There has been only one African-American NLRB general counsel in the agency's sixty years.) What a great accomplishment, yet, how much it reflects what Swedish economist Gunnar Myrdal over fifty years ago called the "American Dilemma": the tension between our high sounding ideals of equality and our systematic and cruel racially biased behavior (Myrdal 1944). Similarly, Gould is also one of the approximately 0.3% of the members of the 98.6% white National Academy of Arbitrators who are African American (only 4% are women) at a time when people of color, immigrants, and white women will account for approximately 85% of the growth in this decade's labor force. As the call to this conference noted, moreover, there have been few African-American scholars in the field of industrial and labor relations.

Gould's accomplishments and public presence, therefore, make him a vital role model for the present and subsequent generations of African-American scholars and practitioners—just as Thurgood Marshall was a role model for him. Marshall devoted most of his life to ending segregation as a legally enforced approval of man's inhumanity to man. It was Marshall's courageous efforts in the cause of human and civil rights for African Americans that, as Chairman Gould put it in a recent speech to graduates of the District of Columbia Law School, "more than anything else" inspired him to seek a career in the law. Because of Marshall, Gould "decided that the legal profession was one in which the moral order of human rights was the most relevant" and could be used to eliminate racial inequities in employment (Gould 1995b:2).

He also remembers the "personal sacrifices, the pain, the indignities, that [his] forebears endured in the great struggle of the last century to win our freedom." In particular, he remembers his great-grandfather, William Benjamin Gould, "who rose from the bondage of slavery to serve in the U.S. Navy and to live a life of independence and dignity." Gould understands that his own achievements would not have been possible were it not for his great-grandfather and other brave men like him (Gould 1995a:9).

Aside from confirming Gould as a pioneering role model in the field of industrial and labor relations, why does any of this matter in the assessment of the importance of his presence in the field? In essence, this field of industrial and labor relations is about justice and rights and values and power. We learn most about the importance of Gould's presence and contributions

to this field, therefore, by identifying his values and understanding his conceptions of justice, rights, and power. His choice of subject matters to study is as much a consequence of his values as was his choice of professions. For example, his first major book was *Black Workers In White Unions: Job Discrimination In the United States*. In the preface Gould acknowledges "this book is more than a professional assessment, for I have seen racial discrimination ever since I was a small child. I know what it means to be black in America, and I am quite familiar with the thinking of many whites in this country as it relates to the race issue" (Gould 1977:9).

Rather than flaw the quality of his scholarship, Gould's life experiences gave him greater insight into the nature and consequences of racial discrimination in employment. Those experiences also enabled him to write with empathy and compassion about the legal issues in Title VII cases, the causes of the plight of black workers, and the solutions proposed. This and all Gould's scholarship and practice have been driven by what he once called a "trilogy of values" that make up his "inner core": the duty to help those who "travail and are heavy laden"; the need for protection "against both the powerful and unexpected adversity"; and a third "based upon personal exposure to the indignity of racial discrimination which consigned my parents' generation to a most fundamental denial of equal opportunity" (Gould 1995b:1). These values have enriched Gould's research. By way of contrast, the abstraction and artificiality that characterize too much of today's industrial relations research result from attempts to ignore values or to pretend the field is value-free, coupled with the current excessive concentration on narrow technical aspects of the field.

Another most important characteristic of Gould's research is its integrity and his unwillingness to lessen or soften the force of its findings and conclusions in order not to offend. There is no political correctness in his writings, even if the content displeases groups or organizations that profess the same values he embraces. In *Black Workers in White Unions*, for example, he severely criticized organized labor for its "antediluvian role in race relations" and for "purport[ing] to adopt a moral stance which is a notch above the country's," while substantial portions of the labor movement struggled against compliance with civil rights legislation. He also pointedly criticized academic apologists for organized labor's race relations record (Gould 1977:15-21). It is certain, given Professor Gould's values, that the intensity of his criticism was due not to antiunion animus but to the moral injustice of organized labor's failure to organize and represent *all* workers fairly, particularly those who most needed representation.

To his great credit, Gould has maintained his scholarly integrity and independence over the years. Despite possible consequences for his own

arbitral career, for example, he has drawn public attention to the paucity of minority and women arbitrators. While recommending reforms in the arbitral process, he has challenged its suitability to decide discrimination cases given the institutional connection between arbitrators and the employers and unions alleged to have discriminated.

An examination of his most recent book, *Agenda for Reform: The Future of Employment Relationships and the Law* (Gould 1993), demonstrates the constancy of his values, insights into work and racial relationships, and his scholarly integrity and independence. Sixteen years after the publication of his first book, Gould cites "the continuing divisiveness of race," exacerbated by Supreme Court decisions emasculating important portions of the antidiscrimination law and three Republican presidents (Nixon, Reagan, and Bush) who ran "successfully for the White House on the race issue, feeding off the politics of resentment against blacks in particular" (pp. 2, 27). He also reemphasizes another important theme of his work—that in a modern economy nothing is more fundamental than employment opportunities. He sees employment opportunity as the key to the improvement of race relations in the United States so that "lower income" and "black" are not synonymous. In that regard he most often quotes the Fifth Circuit Court of Appeals:

> Racial discrimination in employment is one of the most deplorable forms of discrimination known to our society, for it deals not with just an individual's sharing in the "outer benefits" of being an American citizen, but rather the ability to provide decently for one's family in a job or profession for which he qualifies and chooses (Gould 1993:74).

Over the years, Gould's research has expanded to address the overall state of employment relations and the law in this and other countries. This important research has reaffirmed the conclusions of others in this field, that basic justice and the dignity of the human person demand a labor policy that protects workers from arbitrary treatment and provides ways for them to participate in the decisions at the workplace that so deeply affect their lives, their families, and their communities.

Much of Gould's more recent writings have concentrated on the role of law in the decline of unions leaving "workers without anyone to promote and protect their interests . . . experiencing a vulnerability reminiscent of the early twentieth century" (Gould 1992:18). Labor law reform is important, he has maintained, "because unions are important to a democratic society" (p. 20). He is committed to the belief that democratic values are important in the workplace, that collective bargaining is an effective way to

realize workplace democracy, and that what he calls real participation in industrial society is critical to a democratic society. His values are the same as Senator Robert Wagner who believed not only that industrial democracy was a fundamental component of social justice but also that there could be no lasting political democracy without democracy at the workplace. It needs to be reemphasized that commitment to these values has not flawed Gould's scholarship. Impartiality does not mean indifference.

In his publications and before Congress, Gould has attested to the failure of U.S. labor law to realize the congressional policy of encouraging collective bargaining and protecting workers against reprisals for union activity. As he pointed out in *Agenda for Reform*, this failure is due in great part to the "Supreme Court and Labor Board's genuflection to management prerogatives" (Gould 1993:21). With his typical frankness, Gould was particularly critical of the Board when chaired by Donald Dotson between 1983 and 1986 because it was on a "mission to reverse a series of decisions that might promote the collective bargaining process" (p. 22). He found the Supreme Court, however, even "more pro-employer and anti-collective bargaining" than certain boards (p. 25).

The decisions of the NLRB and the Supreme Court certainly turned a labor policy intended to replace industrial autocracy with a democratic system of power sharing into government protection of employers' unilateral decision-making authority over decisions that greatly affected wages, hours, and working conditions. Given the antidemocratic nature of this shameful situation and the decline of organized labor, Gould, while still advocating labor policy changes to facilitate collective bargaining, has also concentrated on the need for a labor policy to protect employees whether or not they are unionized. He has urged, for example, the adoption of a comprehensive wrongful discharge statute at either the state or federal level.

In *Agenda for Reform*, Gould admits to another currently unpopular fact: that implementation of many of his ideas would require "more state intervention or regulation than is presently mandated" (Gould 1993:32). As I have written elsewhere: "Freeing property from state control does not free ordinary people from the tyranny of property or the tyranny of being left alone when in need of help" (Gross 1995:285-86). I agree with Gould that government encouragement and protection are absolutely essential to the exercise of democratic rights at the workplace. The real task is to get the government back on the side of the powerless at workplaces all around the United States.

As a consequence of his well-articulated values, particularly as embodied in the recommendations set forth in *Agenda for Reform*, Gould's confirmation as NLRB Chairman confronted stormy and persistent opposition

from many employers and their senatorial supporters. These opponents claimed, either in shocking ignorance or deplorable deceit, that a delicate balance exists between labor and management in our society and that this delicate balance would be upset by his appointment to the NLRB. Prior to his appointment, Gould forthrightly acknowledged before the Senate Judiciary Committee that he still advocated the views and position set forth in *Agenda for Reform* (Gottesman and Seidl 1995:750, 760).

Those positions and values rather than being radical are most consistent with our nation's ideal of democracy and are "comfortably within the mainstream of academic writing about the law" (Gottesman and Seidl 1995:751). Gould has written and spoken provocatively and has challenged the prevailing wisdom and the prevailing autocracy at our nation's workplaces, but that, of course, is what an independent scholar is supposed to do.

The NLRB, moreover, was intended to encourage collective bargaining and the organization of workers needed to have collective bargaining. Nominee Gould told the Senate Judiciary Committee that as NLRB chairman he had an obligation to interpret the law as presently written. Ralph Deeds, a former management executive who is now Chairman Gould's special assistant attests to his fairness in doing that:

> In my observation of his thought process during the past year I can honestly say that he is . . . one of the fairest and most objective persons I have ever known. His actions are always consistent with what he believes to be the public interest without worrying too much over what a union's or employer's reaction to a particular decision might be. I think it is fair to say that he has great confidence in his own personal judgment on issues of public policy. (However, he feels bound by Supreme Court precedent even when he may strongly disagree with it.) (Deeds 1995.)

There is no need to belabor points already made. Bill Gould's scholarship and practice have been models of professional excellence.

References

Deeds, Ralph. 1995. Letter to the Author, June 20, 1995.

Gottesman, Michael H., and Michael R. Seidl. 1995. "A Tale of Two Discourses: William Gould's Journey from the Academy to the World of Politics." *Stanford Law Review*, Vol. 47 (April).

Gould, William B. 1977. *Black Workers in White Unions: Job Discrimination in the United States.* Ithaca: Cornell University Press.

_____. 1992. "The Employment Relationship under Siege: A Look at Recent Developments and Suggestions for Change." *Stetson Law Review*, Vol. 22.

_____. 1993. *Agenda for Reform: The Future of Employment. Relationships and the Law.* Cambridge, MA: The MIT Press.

_____. 1995a. "Chairman Gould Remembers His Great-Grandfather." *All Aboard*, Vol. 1, Issue 6 (March).

_____. 1995b. "Serving the Public Interest through the Rule of Law: A Trilogy of Values." National Labor Relations Board, May.

Gross, James A. 1995. *Broken Promise: The Subversion of U.S. Labor Relations Policy, 1947-1994*. Philadelphia: Temple University Press.

Myrdal, Gunnar. 1994. *An American Dilemma: The Negro Problem and Modern Democracy*. New York: Harper & Brothers.

Vivian Wilson Henderson—Black Scholar Extraordinaire: A Perspective

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To put this unique individual into an historical perspective, it is necessary to recount biographical data. Vivian Wilson Henderson was born in Bristol, Tennessee, on February 10, 1923. He received his B.S. in 1947 from North Carolina Central University, his M.S. in 1948, and his Ph.D. in economics in 1952, both at the University of Iowa. He was professor of economics and chair of the Economics Department at Fisk University in Nashville from 1952-65. In 1965 he became the 18th president of Clark College in Atlanta, Georgia, a position he held with great distinction until his untimely death on January 28, 1976.

Henderson wore many hats with distinction during the period from 1952 (when he received his Ph.D.) until 1976 when he died. It is an understatement to say that he packed an impressive list of achievement into his short career of twenty-four years. He took great pride in being a teacher not only in the classroom at Fisk but also at other institutions of higher education across the country. He was always the teacher first and foremost. In all of his many activities in a wide array of institutional settings, he was the teacher who spoke of the plight of blacks and the poor in the South and in the nation. The institutional arrangements which benefited from his unique insights and research were indeed impressive. Secretaries of Labor, Commerce and Health, Education and Welfare, board directors, the Ford Foundation, and countless community organizations were his students. He understood the importance of the virtual classroom long before the term became popular. His special appointments included:

- Chief Consultant and Director, Jobs and Economic Section; planning session for White House Conference on Civil Rights (November 16-18, 1965); Director of Special Task Force on Economic Security and Welfare appointed by President Lyndon B. Johnson to prepare papers for White House Conference on Civil Rights (June 1 and 2, 1966).

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- Research Advisory Committee, U.S. Employment Service, 1967.
- Member of Advisory Committee for Study of Race and Education called for by President Lyndon B. Johnson and directed by U.S. Commission on Civil Rights, 1967-68.
- Member on Commission on Rural Poverty by appointment of President Lyndon B. Johnson, 1967-68.
- Chair of Presidential Task Force on Occupational Training in Private Industry by appointment of Secretary of Labor W. Willard Wirtz and Secretary of Commerce C.R. Smith, 1968.
- Member of Advisory Committee on Merit System Standards, Department of Health, Education, and Welfare, 1968.
- Research Director, Economic Section, Two Cities Project, Metropolitan Applied Research Center, 1969.
- Member of the 14-man task force appointed by Secretary of Labor W. Willard Wirtz to develop a new mandate for the U.S. Employment Service (task force chair was George Shultz, Secretary of U.S. Department of Labor, 1969-70).

He helped immeasurably in translating concepts into public policy declarations and in turn giving life and meaning to these policy declarations. He was not only an outstanding black scholar, he was a social mechanic who sought to improve the institutions and programs which serve blacks and the disadvantaged. He moved with ease from the classroom to the boardrooms of corporations to the seat of power in Washington, D.C., and to Clark College and the many community organizations in Atlanta, Georgia.

He was a Southern—a black professional who wrote and spoke with elegance on the economic problems of blacks in the South. The South was his window on the world of blacks, the poor, and the disadvantaged.

His interests were wide and diverse, but he focused on the multifaceted reasons for the economical and social status of blacks and the actions needed to improve their lot. He understood fully the need for the full involvement of the federal government if blacks and the poor were to improve their situation. As his career unfolded, the nation began to understand that the invisible hand just was not enough. Government had an important role to play. There was a need for an effective civil rights thrust. The federal government had a responsibility not only to help students enrolled in colleges and universities but also to help young students learn skills in the federal/state vocation education in the nation's high schools. The federal government had a legitimate responsibility in providing training opportunities, remedial education for the unemployed and the poor. The Area Redevelopment Act provided training opportunities for individuals

living in economically distressed areas. The Manpower Development and Training Act Panel in 1962 represented a dramatic change in public policy—that the federal government has the responsibility for the development, maintenance, and utilization of human resources who were unemployed. This was followed by the Comprehensive Employment and Training Act (CETA). Henderson did not live to see the enactment of the Job Training and Partnership Act.

Henderson understood the importance of the federal government's involvement in making the labor markets operate more effectively, especially the role of the Federal-State Employment Service. He was appointed to a task force to develop a new mandate for the U.S. Employment Service by the then Secretary of Labor Willard Wirtz. George Schultz of the University of Chicago, and later Secretary of Labor, was the chair of the task force. The writer was the executive secretary of the task force. It was as members of this task force that Henderson and I began an association which lasted until his death.

He fully recognized that blacks and the poor needed both education and training if they were to compete effectively and realistically in the labor market. In addition, blacks and the poor needed assistance in finding jobs by the U.S. Employment Service, a labor market intermediary.

Henderson was a Southern who migrated north in search of educational opportunities. Upon receiving his Ph.D., he returned to his South to study, to teach, to do research, and to utilize his abilities to help make the South a better place to live and work. The South was his laboratory and he served for many years as a member of the Southern Regional Council, including serving as its president.

He noted that the problems of blacks in the South were no different than their problems in other parts of the country. There was continuous out-migration of blacks from agriculture and rural areas to cities and towns throughout the South, from the South to the North and to midwestern centers of manufacturing. This was but one dimension of change. He was keenly aware that the South was rapidly industrializing and the nature of jobs held by blacks was also changing. He saw that the status of blacks was improving as a result of the growth in employment. He was concerned, however, whether the momentum of the progress being made was great enough to establish an economic base for blacks which would guarantee their continuous movement up the economic ladder.

In our discussions over the years, Henderson would comment frequently on the progress Atlanta, Georgia, was making. He was very active in many community groups in Atlanta, including the YMCA, Community Chest, Civil Liberties Union, Urban League, NAACP, National Conference

of Christians and Jews, and the Chamber of Commerce. He was also on the board of directors of the C & S Bank. Clark College gave him a base of operations to influence the economic and social development of Atlanta, Georgia, possibly the best community in the U.S. for the then emerging black professional community. Clark College under his leadership became a very important force in expanding the supply of qualified human resources for Atlanta and the South. In his ten years as president, student enrollment increased from 906 to 1,435, an increase of 58%. The number in the graduating class increased from 132 in 1965 to 214 in 1975. The operating budget increased from $1.5 million in 1965 to $7.3 million in 1975. The growth of Clark College under his leadership set the stage for the development of Clark Atlanta University.

Another hat worn by Henderson was his active involvement in the Methodist Church. He taught Sunday school and at one time was president of the United Methodist Church University Senate. In view of his very exhaustive activities, he found time to play an active role in his church. The writer is reminded of a statement made by a very wise woman which is so characteristic of Vivian Henderson: "You can always find time to do the things you really want to do." He once said that he regretted that his schedule did not permit him to undertake all the economics research he would have liked. (See Appendix for partial list of publications.)

Henderson's writings had a general theme. Central was the need for good-paying jobs being created by changes in the national and regional economics. An expanding economy increased jobs for all and blacks would benefit. Blacks had to have access to these jobs. This meant that the federal government had a three-fold responsibility: (1) to promote monetary and fiscal policies needed for the economy to expand; (2) to deal with racial discrimination which served as a barrier to accessibility; and (3) to promote public programs dealing with the development, maintenance, and utilization of human resources. Another factor affecting accessibility was education. Blacks had to have access to quality education at all levels if they were to be successful in their bid for employment.

Henderson also recognized that the community must also play an important role in implementing what he called the "new agenda." In his words, "The agenda addresses itself to public policy and to private actions and in particular to those agencies and groups which provide framework for advocacy in racial relations." (Henderson 1968:76). The community action agencies were assigned an important responsibility in the implementation of the new agenda.

Henderson's contributions to the South and to the nation was in his role in helping to shape the new agenda in the 1960s and 1970s with its

focus on improving both the quality and the utilization of black workers and the poor. He was in the forefront of expanding the field of economics to include an important manpower dimension.

Appendix

Publications of Vivian W. Henderson

Henderson, V.W., et al. 1959. *Principles of Economics*. New York: Pitman Publishing Co.

Henderson, V.W. 1960. "Employment Opportunity for Nashville Negroes." Social Science Institute, Fisk University.

_____. 1961. "Economic Dimensions in Race Relations." *Race Relations Problems and Theory*. Chapel Hill: University of North Carolina Press.

_____. 1961. "The Economic Imbalance." *Journal of Negro Education* (Winter).

_____. 1962. "Economic Opportunity and Negro Education." *American Teachers Association Bulletin*. Vol. 35, no. 4 (March).

_____. 1963. "Economic Dimensions." In Freda H. Goldman, ed., *Educational Imperative: The Negro College in the Changing South*. Chicago: Center for the Study of Liberal Education of Adults, Notes and Essays on Education for Adults, No. 37.

_____. 1963. *The Economic Status of Negroes: In the Nation and in the South*. Atlanta: Southern Regional Council.

_____. 1963. "I Negri E Lo Svilupp Economics." *Il Osservatore* (Rome, Italy). This is a translation of *The Economic Status of Negroes: In the Nation and in the South* into Italian (dedicated to President John F. Kennedy by the publishers of the journal).

_____. 1963. *Jobs and Color: Negro Employment in Tennessee State Government with Herman H. Long*. Nashville: Tennessee Council on Human Relations.

_____. 1963. *Life Insurance Attitudes in the Negro Attitudes in the Negro Market: General Perspective*. Chicago: National Insurance Association.

_____. 1964. "Structural Transition in the Economy and Disadvantage." *Proceedings of the Conference on Disadvantage*. Tuskegee: Tuskegee Institute.

Hamlin, H., V.W. Henderson, E. Liebhafsky, and J. Maddox. 1967. *The Advancing South: Manpower Prospects and Problems*. New York: Twentieth Century Fund.

Henderson, V.W. 1967. "Race, Regions and Jobs." In A. Ross and H. Hill, eds., *Employment Race and Poverty*. New York: Harcourt and Brace.

_____. 1967. "The Role of the Predominantly Negro Institutions." In the *Journal of Negro Education*, Yearbook No. 36 (Summer).

_____. 1968. "Negro Manpower Use." In Matthew Ahmann and Margaret Roch, eds., *The Church and The Urban Racial Crisis*. Techny, IL: Divine Word.

Henderson, V.W. et al. 1974. *Public Finance*. New York: Pitman Publishing Co.

Henderson, V.W. 1974. *Race, Economics and Public Policy with Reflection on W.E.B. DuBois*. Atlanta: Atlanta University.

The Labor Law Jurisprudence of Judge Harry T. Edwards: Scholar, Arbitrator, and Jurist

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Judge Harry T. Edwards is a jurist with distinct views on the role of the courts in the disputes between unions and employers. His view is that workplace disputes are best left to dispute resolution systems selected by the parties. Courts and administrative agencies should intervene only when there are clear issues concerning public law. There are two general themes that run through most of his opinions. First, he reviews the actions of the employers and the unions as well as the decisions of the administrative agencies to ensure that they adhere to the principles of a free collective bargaining process as well as adhere to the letter of the federal labor statutes. Second, through judicial scrutiny he tries to ensure that the administrative agencies comply with the national labor policy as articulated by the various labor statutes.

Prior to becoming a federal judge for the United States Court of Appeals for the District of Columbia Circuit, Edwards was an arbitrator. As a seasoned and sophisticated arbitrator, he had a mature understanding of the dispute resolution process in all of its forms, and he carried that understanding with him to the bench. According to Edwards, arbitration, particularly in labor disputes, gives the parties a "specialized tribunal" in which the decision makers (i.e., the arbitrators) are as familiar with the issues as the parties.[1] Edwards supports the use of arbitration to resolve disputes in areas where the law is well established.[2] In other cases, where the issue may be one of first impression, or where the area of law may be new or unsettled, he would view the courts as a better forum for deciding the dispute.[3] The labor law jurisprudence of Edwards is both mature and textured with the subtle distinctions that make his views on labor law and arbitration

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a rich reflection of the complexity of the field. The panel discussion looked to his contribution as a jurist and as an arbitrator.

The Jurisprudence of Edwards' Labor Decisions

Edwards has penned decisions in more than 100 cases involving industrial relations, and in each case he is a meticulous jurist seeking to use the considerable power of his analysis to come to a fair decision, consistent with both the spirit as well as the letter of the applicable statute. When looking at a dispute in industrial relations, Edwards advocates that both employers and unions have a duty to bargain. This "duty" suggests that parties cannot come to the negotiation table unwilling to seek to resolve the issues between them. Edwards acknowledges, however, that there are times when even good faith negotiations reach an impasse. In such instances, he notes that "the duty to bargain further is temporarily satisfied and suspended, and either side is free to make unilateral changes in mandatory subjects [of bargaining] that are reasonably comprehended within their proposals at the bargaining table."[4] Because the power to make unilateral changes is a potential threat to the collective bargaining process, close scrutiny is necessary to ensure that its use is not inappropriate. Such inappropriateness would arise if the party seeking to make such unilateral changes has only gone through the motions of bargaining in order to get to the point of impasse.

In *Gilbert v. NLRB*,[5] Edwards illustrates his understanding of how a balance must be struck between unions and employers. The purpose of this "balance" is to achieve the objectives of our national labor policy which is free collective bargaining through collective action by employees. It is important to protect the rights of the union as a whole, even at the cost of limiting the full freedom of each individual employee who is a member of the bargaining unit to act as he or she would see fit. But in Edwards' view, the rights of the individual employee can be limited only in the absence of an alleged constitutional violation of the employee's rights.

Edwards has an appreciation for the role of the union in the collective bargaining process. He likens that role to that of a legislature "for purposes of decision making on economic issues, whether the question be one of contract negotiation or contract administration, and . . . the union's duty of fair representation must be narrowly defined in these areas."[6] This comparison means that employees who elect their union representatives must then give these union representatives the freedom to make decisions for the good of the entire bargaining unit. The pursuit of a given individual's interests may be restricted. Indeed, as Edwards notes, "one interest that has been substantially limited is the ability of the individual to litigate his or

her suit under the employment contract."[7] He notes that "unions have virtually unrestricted power over represented employees in economic decision making."[8] While he recognizes this considerable power, Edwards does not advocate the sacrificing of an individual employee's constitutionally guaranteed rights for the sake of the "collective good." Therefore, while the union may represent the individual employee's labor rights, it does not have the power to represent the employee's constitutional rights.

Edwards sees that there are "powerful reasons for concluding that the union ought to control the dispute resolution process with the employer."[9] First, the union is more powerful than the individual and is therefore better able to litigate, if necessary. Second, any ruling by the court or arbitrator may affect the employees as a group as opposed to only an individual employee. Third, "union control of all grievances increases the probability of uniformity, both in the prosecution and outcome of grievance charges."[10] Fourth, a union prevents the manipulation of employee factions in the resolution of individual grievances; and finally, union control of the dispute resolution process leads to one or at least only a few spokespersons for hundreds or thousands of employees.

While advocating that unions and employers should resolve their grievances through their own dispute resolution processes, more specifically, arbitration, Edwards realizes that one of the parties may believe that the dispute cannot be resolved in the forum selected under the collective bargaining agreement. When such cases come before Edwards, he is careful to ensure that the dispute is one that is properly before the court and is not a dispute that should be relegated to the arbitral forum.

Alternative Dispute Resolution (ADR)

Prior to the appeal of alternative dispute resolution processes in the variety of settings with which we have become accustomed, there was a national policy that disputes arising in the context of a collective bargaining agreement should be resolved through arbitration. The success of arbitration during the course of the administration of the agreement and the utility of mediation during the negotiation of the agreement helped to spur an interest in the use of these processes in other social and business relationships. Disputing parties have begun to turn to other methods to resolve their grievances, ranging from facilitation to summary jury trials. With the avalanche of litigation that has taken place across the country in recent years, it should be no surprise that judges favor alternative dispute resolution. ADR offers an avenue that is often quicker and more efficient than traditional litigation. Edwards has suggested that ADR processes such as arbitration are useful when well-established rules of law are used, as

opposed to situations in which new law, constitutional questions, or precedent-setting decisions are at issue.[11]

Edwards has suggested that "[m]any private litigants and courts . . . use ADR because it offers . . . a neutral assessment and requires parties to think about compromise at earlier stages in the litigation."[12] This view is very important in the area of industrial relations. As a practical matter, it would seem that employers and unions would want to think about compromise and settlement even before litigation so that they can get back to the business of their respective enterprises. As a judicial matter, Edwards is concerned that if the unions and employers did not have another avenue such as arbitration to settle their disputes, the courts would be further burdened with industrial relations cases, requiring an expertise that few judges have. Thus the underlying policy articulated in the *Steelworkers Trilogy*[13] is that arbitration is to be the preferred method of resolving workplace disputes, and that the federal courts are to have a very limited role in the review of the decisions of the arbitrators in such disputes. Edwards has made a significant contribution in the refinement of this thirty-year policy.

Arbitration

One of Edwards' many contributions to the area of industrial relations has been his advocacy of arbitration as a way to settle disputes between unions and employers. It offers the most realistic hope of redress to aggrieved individual employees. This is particularly true if the issue concerns the interpretation of a labor agreement between the union and the employer. He ultimately has endorsed an expanded role for ADR processes in society, particularly the expansion of arbitral schemes akin to those he thinks have worked so well in resolving labor disputes.[14] In fact, he fully endorsed the use of arbitration as early as 1986 in *Alternative Dispute Resolution: Panacea or Anathema.*[15]

Edwards, an arbitrator himself, understands that the integrity of the process depends much on the quality of the third-party decision maker. Accordingly, an arbitrator should be a "skilled neutral" with "substantive expertise," and he or she should not permit the use of "issue-obscuring procedural rules." He notes that if "the arbitrator's freedom to exercise common sense" is combined with "the selection of arbitrators by the parties" as well as "the tradition of limited judicial review of arbitral decisions," arbitration is "superior to litigation in labor cases."[16] He would also suggest that the labor arbitration process is a solid base of experience from which to learn how to develop dispute resolution process that could be used outside of the industrial sphere.

Edwards has long held that the judiciary plays a role in the arbitral process, albeit a limited role. "Federal labor policy establishes a heavy presumption in favor of mandatory arbitration of disputes under collective bargaining agreements, unless the agreement expressly provides that arbitration is not the exclusive remedy."[17] He recognizes that courts should, indeed must, recognize the validity and finality of awards made by arbitrators under collective bargaining agreements because that recognition promotes the integrity of the collective bargaining process.[18]

Edwards has held that the courts have a limited and specific role to play after parties agree to submit their grievance disputes to arbitration. "The reviewing court's role is strictly limited to determining whether the arbitrator exceeded his or her authority under the agreement. The court is not to concern itself with whether the arbitrator resolved the issue correctly."[19] Another role that the courts play, according to Edwards, is to preserve the integrity of the dispute resolution process. In other words, the courts should uphold the arbitration award unless there is fraud or a violation of a clearly articulated public policy.

Conclusion

Harry T. Edwards continues to make significant contributions to the development of collective bargaining in the United States. His jurisprudence includes an appreciation for the role of collective action by employees, as opposed to individual autonomy, unless individual constitutional rights are at stake. He favors arbitration over litigation to resolve workplace disputes, except when new law or a precedent-setting decision is at issue. He favors an arbitrator's decision and does not believe that a court should overturn the decision unless there is fraud or a violation of a clearly articulated public policy.

The belief in the use of collective bargaining is probably Edwards' most important contribution to the forum of industrial relations. He places a duty on the parties to bargain, to work out their differences on their own. In the final analysis, he understands the integral role that a system of free collective bargaining plays in a democratic society. Judge Edwards is a jurist who honors the process.

Endnotes

[1] Harry T. Edwards, "Advantages of Arbitration over Litigation: Reflections of a Judge." *Proceedings of the 35th Meeting of the National Academy of Arbitrators* 16 (1983).

[2] Harry T. Edwards. Note, *Alternative Dispute Resolution: Panacea or Anathema?* 99 HARV. L. REV. 668, 680.

[3] Id.

[4] *NLRB v. McCllatchy Newspapers, Inc.*, 964 F.2d 1153, 1164, 296 U.S. App. D.C. 326, 140 LRRM (BNA) 2219 (D.C. Cir. 1992).

[5] 56 F.3d 1438, ___U.S. App. D.C.___, 149 LRRM (BNA) 2578 (D.C. Cir. 1995).

[6] Harry T. Edwards, *Justice Black and Labor Law: Some Reflections on the Justice's Jurisprudence of Individual Versus Collective Rights in Industrial Relations*, 38 ALA. L. REV. 259, 256 (1987).

[7] Id. at 271.

[8] Id. at 256.

[9] Id. at 285.

[10] Id.

[11] Edwards, *supra* note 2 at 680.

[12] Id. at 673.

[13] The Steelworkers Trilogy included the following cases: *United Steelworkers v. American Manufacturing Co.*, 363 U.S. 564 (1960); *United Steelworkers v. Enterprise Wheel and Car Co.*, 363 U.S. 593 (1960); and *United Steelworkers v. Warrior and Gulf Navigation Co.*, 363 U.S. 574 (1960).

[14] 68 IOWA L. REV. 871, 927-36.

[15] Edwards, *supra*, note 2.

[16] Id. at 681.

[17] *Communication Workers of America v. American Telephone and Telegraph*, 40 F.3d 426, 435, 309 U.S. App. D.C. 170, 147 LRRM (BNA) 2903 (D.C. Cir. 1994).

[18] *Plumbers and Pipe Fitters Local Union No. 520 v. NLRB*, 955 F.2d 744, 752, 293 U.S. App. D.C. 416 139 LRRM (BNA) 2457 (D.C. Cir. 1992).

[19] *American Postal Workers Union v. United States Postal Service*, 789 F.2d 1, 5, 252 U.S. App. D.C. 170, 122 LRRM (BNA) 2094 (D.C. Cir. 1986).

DISCUSSION

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It is an honor and a privilege to have been selected to participate in this session, which paid long overdue tribute to African-American scholars in the field of industrial relations. The work of these pioneers has made it much easier for those of us who have followed in their paths. So it is with Vivian Wilson Henderson, whose life had the recurrent theme of giving back and working to create opportunities for others. From his work on the various governmental agencies and community organizations to his role as devoted educator, one sees clearly his focus on improving the lives of others through economic empowerment.

I find it both ironic and appropriate that we honor Henderson at this time in 1996. Given that one test of excellent scholarship is its continued relevance, it is significant that many of the social issues on which he focused his work are at the forefront of policy debates today. I'd like to touch on these briefly.

A priority of the newly elected Congress has been downsizing the government. There are proposals to dismantle or drastically reduce many social programs, including job training and student loans. Affirmative action is clearly under attack as well, both at the federal and state level. Henderson's work emphasized the need for the government to stimulate economic growth so as to foster the creation of employment opportunities. He believed, as Kruger points out, that the government has a responsibility to help students receive the education they need to become contributing members of society.

Very much related to the idea of education was Henderson's focus on the economic situation of blacks. Much of his scholarship and service focused on the importance of creating a black economic base which would guarantee the ability of black workers to move up the economic ladder. One need only look to the heart of many cities to observe the effects of the loss of jobs. Much of the poverty and violence in these areas stems from the lack of employment opportunities.

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Henderson also emphasized community involvement, and his life reflected this priority. This emphasis was recently echoed by many of the speakers at the Million Man March in the nation's capitol. Indeed, one of the positive developments to arise out of the march has been increased involvement by African-American men in community organizations.

Henderson also realized the importance of being spiritually grounded and on acting out a system of moral beliefs. The consequences of a lack of such grounding are still being explored: Stephen Carter, in his book *The Culture of Disbelief*, laments the divorce of religion from progressive political and cultural movements in the United States. Henderson's own life reflected the synergy he obtained by combining his spiritual beliefs with his political and economic endeavors. He was, as Kruger points out, very active in his church, and he pursued goals for economic equality through such organizations as the National Conference on Christians and Jews.

The following quote from Henderson's (1961) paper, "The Economic Imbalance," continues to resonate today:

> [A]s spectacular as the change in income status has been, the economic imbalance that has historically characterized the position of the Negro as a factor of production as well as an income recipient in relation to the rest of the economy continues to persist. Gaps in the areas of employment, occupational status, income and education have been only partially narrowed.

I take pride in adding my salute to the scholar and to the man, Vivian Wilson Henderson.

References

Carter, Stephen L. 1993. *The Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion.* New York: Basic Books.

Henderson, Vivian W. 1961. "The Economic Imbalance." *Journal of Negro Education* (Winter), p. 6.

IX. LABOR LAW REFORM IN CANADA AND THE UNITED STATES

Changes in Canadian Labor Law and U.S. Labor Law Reform

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Advocates of U.S. labor law reform have often suggested using some variant of Canadian law as a model. While specific provisions vary from province to province, Canadian law is more supportive of collective bargaining than the National Labor Relations Act (NLRA).[1] As the AFL-CIO noted in 1985:

> The Canadian experience is especially instructive. Canada has roughly the same type of economy, very similar employers, and has undergone the same changes (e.g., labor market shifts) that we previously have described with respect to the United States. But in Canada, unlike the United States, the government has not defaulted in its obligation to protect the right of self organization; rather Canada's law carefully safeguards that right (AFL-CIO 1985:15).

Three aspects of Canadian law are especially salient to the discussion of U.S. labor law reform: (1) certification procedures, (2) limitations on the use of permanent strike replacements, and (3) interest arbitration of first contracts. Although recent changes have moved Canadian law in a conservative direction, it still remains a beacon for those who support stronger protection of collective bargaining.

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At the same time, Canadian labor laws contain some elements that are discomforting for U.S. unions. Perhaps the most noteworthy example concerns the Canadian treatment of employer domination of labor organizations. While most Canadian provinces contain provisions that prohibit direct employer financial support of a union, it has generally been much easier for employers to set up nonunion representation structures—absent a union-organizing drive—because these are not considered to be labor organizations under Canadian law (Taras 1994). In 1995 the U.S. House of Representatives passed the TEAM (Teamwork for Managers and Employees) Act—a proposal to modify Section 8(a)2 of the NLRA to make it easier for nonunion committees to deal directly with employers on matters of wages, hours, and other terms and conditions of employment. Advocates of nonunion employee representation can be expected to look increasingly to Canada for support.

Recent Developments in Canadian Law

Canadian labor law has not been static. While it moved in a prolabor direction in several provinces in the early 1990s, more recently the shift has been in a conservative direction. Ontario (the most populous and most industrialized Canadian province) always had been particularly prominent in U.S. views of Canadian labor law. In the early 1990s under New Democratic Party (NDP) leadership, Ontario passed a series of prolabor amendments to its labor relations act known as Bill 40 (Jain and Muthuchidambaram 1994).[2] In June 1995, however, Progressive Conservative Mike Harris led his party to victory in Ontario.[3] One of Harris' campaign promises was to repeal the ban on the use of strikebreakers in labor disputes. In November 1995 Harris pushed Bill 7 through the Ontario legislature. Bill 7 not only repealed Bill 40, it also curtailed labor in other ways. It eliminated certification of a union based on authorization card signatures (with a union "super majority" of 55%), required strike-authorization votes, and mandated secret ballot contract ratification votes.

Elsewhere in Canada, political tides are similar. Newfoundland changed its law so as to eliminate certification of unions without representation elections in 1993. In the West the NDP's majority in British Columbia appears vulnerable to challenge in the next election, potentially bringing reversal of labor legislation enacted in 1992 limiting the use of permanent strike replacements. Despite these developments, Canadian labor law still holds a number of advantages for unions over the NLRA.

Certification Procedures

Canadian certification procedures are generally more favorable for workers attempting to organize than is the NLRA (Weiler 1980; Adams 1994;

Bruce 1989). The procedure for determining whether or not the union will be certified to represent a unit of employees is perhaps the greatest difference between laws in the two countries. In the Canadian federal sector and Quebec, a union may be certified automatically, as long as it presents evidence of support from more than 50% of the employees. In British Columbia, Manitoba, and New Brunswick, certification without an election is possible if a union can show support from a "super majority" of the eligible employees.

Even when a certification election is required, however, other features of Canadian law aid labor. Many Canadian jurisdictions authorize a prehearing vote, meaning the election is conducted before procedural issues relating to the election are resolved. As a result, in virtually every province the election is held promptly after the union's election petition is filed.[4] This limits both illegal managerial resistance to unionism and legal management persuasion of employees (Thomason 1994).

Moreover, unlike the U.S.—where an election petition may be filed by a union, an employer, or an employee—Canadian jurisdictions allow only unions to file certification petitions. This prevents an employer from filing election petitions before the union is ready for a vote (Abraham 1994). And finally, unions in most Canadian jurisdictions must show a greater percentage of employee support before they can apply for certification than U.S. unions must show.[5] It has been argued that this higher threshold requirement also increases the chances for unions to prevail in the representation election (Lipset 1987).

Use of Strike Replacements

A major goal of the U.S. labor movement has been to prohibit the use of permanent strike replacements. The Workplace Fairness Act would allow employers to hire temporary replacements in the event of a labor dispute but would ban permanent ones by requiring that strikers be rehired by order of seniority when the strike ends, displacing less senior replacements. Since this bill remains stalled in Congress, President Clinton has issued an executive order prohibiting government purchases from companies that use permanent strike replacements.[6] Canadian labor law has been moving away from prohibiting temporary strike replacements. However, it is essential to recognize that the U.S. and Canadian debates over strike replacements are different, despite rhetorical similarities.

Quebec (1978) was the first province to prohibit the use of any "outside" workers as strike replacements; Quebec severely limits both bargaining unit members from working during a strike and the contracting out and/or relocation of struck work, although Quebec does allow managers from the struck facility (but not other facilities) to work during a work stoppage.

British Columbia and Ontario followed Quebec in banning most strike replacements (in 1993), although there are minor differences in the laws of these two provinces.[7] For example, British Columbia allows bargaining unit members as well as managers to choose voluntarily to work during a strike (with legal protections for those who decline to do so). All three provinces had provisions for emergency situations and essential services (Chaison and Rose 1994). Other provinces (Alberta, Manitoba, and Prince Edward Island) also have passed statutes banning permanent replacement workers (Budd forthcoming).

Bill 7 (discussed earlier) repealed Ontario's strike replacement law. Nonetheless, permanent strike replacements in the U.S. sense are probably still prohibited in Ontario (although litigation may be expected to resolve the precise meaning of the new law). Strikers who are more senior to replacements probably still have rights to return to work at the end of a work stoppage. This was true in Ontario after the 1986 Shaw-Almex Decision and even before the passage of the recently repealed Bill 40 (Economic Policy Institute 1991). Hence while the loss of "strike replacement" legislation in Ontario is a setback to labor, it should be recognized that the situation for striking workers in Canada is still one which compares favorably to the situation in the U.S.

Interest Arbitration of First Contracts

The labor laws in British Columbia (1973), Quebec (1977), Federal (1978), Manitoba (1982), Newfoundland (1985), Ontario (1986) and Saskatchewan (1994) all provide for interest arbitration of first contracts (at least in some situations). These jurisdictions cover 80% of the Canadian workforce. There are a number of important design distinctions between provincial arbitration schemes, with the most important being the ease of access to arbitration (Voos forthcoming). Canadian jurisdictions have three approaches to accessibility:

1. Arbitration as a remedy for bad faith bargaining: This was the initial approach in British Columbia, and it was adopted by Newfoundland and the federal labor codes. In recent years there has been a trend away from this concept because of the difficulty of defining and establishing "bad faith bargaining."
2. No-fault arbitration providing automatic access: Manitoba is the only jurisdiction in which arbitration is automatically available after a certain period—150 days following certification, extendable to 180 days by the provincial board. Such a system reduces agency workloads, but employers contend that it favors organized labor.

3. Arbitration only with an irremediable breakdown in bargaining: In recent years there has been movement in Canada to a third approach, one that provides for arbitration when a determination has been made that there is a complete breakdown in negotiations. The model was used in Ontario from 1986 to 1992. It requires time-consuming, fact-based inquiry on the part of labor boards. British Columbia has adopted a variant of this procedure in the early 1990s under NDP leadership.

Several jurisdictions have changed their arbitration procedures over time. Until recently these changes had been in the direction of making arbitration more accessible. In 1995 Ontario made first contract interest arbitration less automatically available but retained its use. U.S. employers often argue that interest arbitration hinders negotiation (Irving 1994). Evidence from Canada does not support this assertion. The automatic access province (Manitoba) generally has had arbitration rates above other jurisdictions, with 6% of all newly certified units using the procedure in 1993.[8] Nevertheless, 94% of all newly certified units negotiate initial contracts in Manitoba, well above the approximately two-thirds which do so in the United States. Despite somewhat less easy access to first contract interest arbitration under the new Ontario law, Canadian law still promotes negotiation. In general, first contract interest arbitration has been less politically contentious and, hence, less frequently changed than striker replacement legislation.

Other Differences

Laws throughout Canada differ from the NLRA in other respects. First, labor boards throughout Canada have more power than does the NLRB. Bruce (1989) explains:

> Canadian reforms have given labor relations boards in that country more powers than the NLRB possesses to regulate (legally defined) unfair labor practices by management and stronger mandates to foster union growth. Canadian labor boards have the authority to (a) certify unions without formal union representation elections, (b) make quick and final decisions in ULP cases with little intervention from the courts, and (c) impose first contracts when employers refuse to bargain with newly certified unions. (p. 122).

Another difference between agency procedures in the two countries relates to the fact that there are many opportunities for a case to be dismissed administratively in the U.S. before it actually is heard before the

NLRB. As a result, a much smaller percentage of cases are actually heard by the NLRB than are heard by the boards throughout Canada (Block 1994). Along the same lines, although judicial review of board decisions is available in both the U.S. and Canada, the U.S. Courts of Appeals have taken a much more active role in reviewing (and subsequently overturning) NLRB decisions than have the courts in Canada with respect to decisions of the Canadian labor boards (Block 1994).

A further difference between the U.S. and Canada involves union security. In the United States, "right-to-work" laws currently prevent unions from negotiating union security clauses in 21 states. Union security agreements are less restricted by law in Canada, with no provinces actually banning union shop agreements. In Alberta the current conservative government was considering passing such legislation, although passage now appears unlikely.

Canadian labor law has long been influential in the U.S. Given the basic similarities between the industrial relations systems of the two countries and the long history of cross-border influences, some variant of the Canadian labor law structure would seem to be workable in the United States as well. As a result, advocates of change in U.S. labor law often look to Canada. While Canadian law has been moving in a conservative direction recently and always has had some disquieting elements for supporters of U.S. unions, in general, it remains a beacon for those who support collective bargaining.

Endnotes

[1] The Canada Labor Code (the federal law in Canada) covers less than 10% of the employees in Canada. The rest of the nation's employees are covered by laws specific to each province, and these laws vary widely.

[2] Bill 40 was passed in late 1992 and went into effect in January 1993.

[3] The NDP captured 17 seats and 20% of the vote; the Liberals got 30 seats and 31% of the vote.

[4] Prior to passage of Bill 7, a union could be certified in Ontario without an election being held, as long as it could show support from 55% of eligible employees. Even under Bill 7—an antilabor statute—once an election petition has been filed, the election will be held within five days thereof.

[5] In most jurisdictions, the minimum showing is 35%, and in several the union may not apply for certification until it can show support from at least 45% of the eligible employees.

[6] This executive order has met with efforts by Congress to block funding for its enforcement, however.

[7] For instance, Ontario's ban on the use of strike replacements only applied if the union had a 60% support in a secret-ballot strike vote.

[8] In comparison, in Quebec 1% of newly certified units used arbitration for the first agreement and less than 1% did so in British Columbia, Newfoundland, and the federal jurisdiction. Ontario also had a usage rate of 6%.

References

Abraham, Steven E. 1994. "How the Taft-Hartley Act Hindered Unions." *Hofstra Labor Law Journal*, Vol. 12, no. 1 (Fall), pp. 1-37.

Adams, Roy J. 1994. "Union Certification as an Instrument of Labor Policy: A Comparative Perspective." In Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald L. Seeber, eds., *Restoring the Promise of American Labor Law*. Ithaca, NY: ILR Press, pp. 260-72.

AFL-CIO. 1985. *The Changing Situation of Workers and Their Unions: Report of the Committee on the Evolution of Work*. Washington, DC.

Block, Richard N. 1994. "Reforming U.S. Labor Law and Collective Bargaining: Some Proposals Based on the Canadian System." In Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald L. Seeber, eds., *Restoring the Promise of American Labor Law*. Ithaca, NY: ILR Press, pp. 250-59.

Bruce, Peter G. 1989. "Political Parties and Labor Legislation in Canada and the U.S." *Industrial Relations*, Vol. 28, no. 2 (Spring), pp. 115-41.

Budd, John W. Forthcoming. "Canadian Strike Replacement Legislation and Collective Bargaining: Lessons for the United States." *Industrial Relations*.

Chaison, Gary N., and Joseph B. Rose. 1994. "The Canadian Perspective on Workers' Rights to Form a Union and Bargain Collectively." In Sheldon Friedman et al., eds., *Restoring the Promise of American Labor Law*. Ithaca, NY: ILR Press, pp. 241-49.

Economic Policy Institute. 1991. *Employee Rights in a Changing Economy: The Issue of Replacement Workers*. Washington, DC.

Irving, John S. 1994. "The National Legal Center White Paper: Reading between the Lines of the Dunlop Commission Report." NLCPI White Paper, Vol. 6, no. 4 (August). Reprinted in *Daily Labor Report*, No. 172, 9/8/94, pp. F1-F6.

Jain, Harish C., and S. Muthuchidambaram. 1994. "Bill 40 Amendments to Ontario Labor Relations Act: An Overview and Evaluation." Unpublished manuscript, McMaster University and University of Regina.

Lipset, Seymour Martin. 1993. "Comparing Canadian and American Unions." *Society*, Vol. 27, no. 1 (Jan/Feb), pp. 60-70.

Taras, Daphne G. 1994. "Tracing the Transborder Flow of a Nonunion Employee Representation Plan." *Proceedings of the Administrative Sciences Association of Canada*, Business History Division.

Thomason, Terry. 1994. "The Effect of Accelerated Certification Procedures on Union Organizing Success in Ontario." *Industrial and Labor Relations Review*, Vol. 47, no. 2 (January), pp. 207-26.

Voos, Paula B. Forthcoming. "The Potential Impact of Labor and Employment Legislation on Arbitration." In James Stern and Joyce Najita, eds., *Labor Arbitration under Fire*. Ithaca, NY: Cornell University Press.

Weiler, Paul. 1980. *Reconcilable Differences: New Directions in Canadian Labor Law*. Toronto: Carswell.

Labor Law Reform in Western Canada: Rhetoric and Reality

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Unlike the United States, labor law reform is a frequent event in Canada. Statutes are amended every year, often accompanied by considerable controversy. This paper will focus on reform of private sector labor relations law in the four western provinces in the past decade. In that period, each province revised its private sector labor relations statute at least once.

Under the Canadian constitution, jurisdiction over labor law for approximately 90% of the labor force falls to the provinces. Each province has a private sector labor relations law. The details of these statutes vary considerably, but they all combine the principles of the Wagner Act plus disputes settlement procedures.

Characteristics of the Western Provinces

A round of labor law reform in western Canada began with Alberta in 1987 and continued with overhauls in British Columbia in 1987 and 1992. Manitoba amended its legislation in 1992, and Saskatchewan did the same in 1994. Although the four provinces are geographically proximate, their political and industrial relations cultures are quite distinct, as are their economies. British Columbia has the most diversified economy, with a large resource base (forest products and mining) and a related manufacturing sector. Alberta is dominated by the oil and gas industries and agriculture. The Saskatchewan economy is largely agricultural, with a modest presence in the petroleum and mining industries. Manitoba has a mixed economy, with a significant mining industry, a large service sector, and substantial agricultural production.

Union densities reflect these differences. Meltz (1989) estimated that private sector union density in 1982 was 36.8% in British Columbia, 24.8% in Saskatchewan, and approximately 19% in Manitoba and Alberta. Since national union density has not changed substantially since 1982, it is likely that these figures still prevail.

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Alberta has been governed by right-of-center Conservative governments continuously for more than thirty years. By contrast, Manitoba has alternated between the New Democratic party (NDP), which draws support from the labor movement, and the Conservatives during that period. Saskatchewan has been governed by the New Democrats since 1969, except for the period 1982-1991 when the Conservatives held power. British Columbia politics were dominated by the right wing Social Credit party for forty years, although the NDP held power for three years in the 1970s and took office again in 1992.

Taken together, the four western provinces comprise a cross section of Canadian economic and political life. Thus one would expect that the results of labor law reform in the region would mirror or constitute a national trend in labor policy. In general, several issues are especially prominent in debates on labor law (Chaison and Rose 1994). Certification procedures are one of the most contentious subjects. While the majority of provinces provide for reliance on card counts rather than membership votes, the two mechanisms and employer rights are debated frequently. A second issue frequently raised is the treatment of strikers. Canadian law generally prevents employers from permanently replacing workers on a legal strike, but the circumstances under which strike breakers can be used or the treatment of strikers after the conclusion of a strike is still in contention. Finally, the primary concern of Canadian labor law historically has been the prevention or mitigation of labor disputes (Weiler 1986).

To the Right and Back: British Columbia

When the NDP was first elected in British Columbia in 1972, it made wholesale revisions to its labor law through a tripartite committee which solicited the views of labor and management and drafted recommendations. The result was the labor code, an innovative statute that brought the province into the mainstream of Canadian law and added several new provisions. Basic elements of this law remained in place after the 1975 defeat of the New Democrats.

Events in 1986-1987 combined to produce a dramatic change in the labor law and climate in British Columbia. The Social Credit party chose a new premier shortly before a long and bitter strike started in the forest products industry, a dominant sector in the provincial economy. Lacking any mechanism in the labor code to deal with such disputes, the new government failed to settle the strike. After an election victory, the new premier ordered a wholesale revision of the labor code. Although public consultation occurred, the Industrial Relations Act, enacted in 1987, bore so little relation to views expressed in consultation, most observers concluded

the process had been a sham. Instead, the legislation reflected the right wing views of the premier and his advisors, plus frustration at his inability to end the forestry strike the previous year.

The Industrial Relations Act treated labor's interests harshly and even aroused quiet concern within the business community. Among the many controversial provisions were a requirement that all certifications be preceded by a representation vote with expanded rights of employer communication during organizing campaigns. The act also nullified secondary boycott provisions in collective agreements, restricted picketing severely, weakened unions' successor rights, and provided for an array of dispute settlement techniques to be invoked by an appointed government official. Employers received the right to present their final offers in negotiations to bargaining unit members for ratification over the heads of union leaders.

The combination of the one-sided nature of the reforms and the deceptive way in which the act was drafted generated strong opposition. The deputy minister of labor resigned in protest, and the provincial federation of labor ordered a boycott of most of the law's provisions and the body established to administer it. The boycott was so effective that by the end of the 1980s even public sector employers observed it.

When the New Democrats were elected in 1992, they were committed to repealing the Industrial Relations Act. They appointed a tripartite committee of senior members of the industrial relations community which consulted widely and produced consensus recommendations for reform. Four issues remained in dispute: "sectoral certification," a process by which a union could expand collective bargaining in traditionally nonunion sectors; secondary picketing; a ban on replacement workers during a strike; and restoration of secondary boycotts (Subcommittee of Special Advisers 1992). Virtually all of the objectionable features of the Industrial Relations Act were eliminated, in particular the requirement for representation votes, easy intervention in disputes, and limits on successor rights. The employer final-offer vote was retained, however.

Essentially, the government divided the contentious issues. It passed the Labor Relations Code in late 1992, after dropping sectoral certification, implementing a prohibition on replacement workers, removing the ban on secondary boycotts, and retaining the rather strict limits on secondary picketing from the Industrial Relations Act.

The net result of the two reforms was a return to the status quo ante on most issues. Certification reverted to the card check system. The scope of intervention in interest disputes was reduced, and responsibility for intervening in essential service disputes was given to the minister of labor. The

two major changes were restrictions on secondary picketing and a prohibition of replacement workers.

Alberta: Two Steps Back, One Step Forward

Labor law reform in Alberta occurred in the late 1980s against a background of labor disputes. Several major strikes were accompanied by violence and became embedded in provincial politics (Fisher and Robb 1988). After the governing Conservative party chose a new leader in 1985, the government announced a major reform of labor legislation and appointed a tripartite committee to recommend changes. The committee made well-publicized trips to study industrial relations in the United States and abroad. When it reported, the committee acknowledged that Alberta had relatively few strikes compared to other jurisdictions but concentrated on measures to deal with labor disputes.

The proposals generated considerable debate in Alberta labor relations circles, and the government's legislation did not adopt all of its recommendations. The new Labor Relations Code focused on three areas: certification procedures, collective bargaining, and labor disputes. Alberta joined Nova Scotia and British Columbia as the only provinces to require representation votes prior to certification. Employer rights to resist union organizing campaigns were strengthened, and decertification was made easier. The legislature lengthened the collective bargaining process in an effort to encourage the parties to settle their differences prior to industrial action (Adams 1995). Either party could request a vote by members of the bargaining unit on its final position at any time in the bargaining process. Strikes and lockouts could occur only after a supervised vote of the bargaining unit and after a 14-day, post-mediation "cooling-off period." To resolve disputes, there was provision for a "disputes inquiry board" to recommend settlements to disputes. If the recommendations were not accepted, the Labor Relations Board could conduct a vote within the bargaining unit (and the employer) on them. Finally, a provision for expedited arbitration of rights disputes was added to the code, as well as additional rights for individual workers.

Since 1987 there have been no significant revisions to the Alberta labor law. The result of the reform was to make union organizing more difficult in a province where union density is the lowest in Canada and to provide several mechanisms to resolve labor disputes in a province where strikes traditionally are uncommon. Apart from the mandatory representation vote, the Alberta code is in the mainstream of Canadian labor law. The Conservative party continues to dominate provincial politics, and neither of the opposition parties has been able to make labor law an attractive election

issue. The lack of legislative change was highlighted in 1995 when the government, regarded as the most conservative in the country, accepted a report written by a former minister of labor recommending against the enactment of right-to-work legislation.

Saskatchewan and Manitoba: Variations on a Theme

Neither Saskatchewan or Manitoba has undertaken a major revision of its labor relations legislation in the past decade. Both provinces made a number of smaller changes, however. The basis of the Manitoba Labor Relations Act was established by a review carried out after the election of an NDP government in 1969. In 1972 coverage was extended, and procedural requirements preceding a strike were reduced (Chapman 1987). More modest changes occurred in 1976 and 1982. In 1984 the NDP government made more significant changes. In particular, the status of the Labor Relations Board was enhanced and its authority expanded. Certification procedures were streamlined, and conciliation and mediation were made more readily available to the parties. A legislative framework for expedited grievance arbitration was implemented. A major experiment was the introduction of a provision enabling employees during bargaining to elect final-offer selection to settle their dispute with management. This provision was passed in the last year of an NDP government and was repealed after the 1988 election of a Conservative government. Two years later that government amended the act again to reduce its coverage, expand the scope of permissible employer conduct during a certification campaign, and raise the level of membership support for certification without a representation vote (Adams 1995).

Saskatchewan also amended its Trade Union Act in the wake of a change in government. By historical standards, the Conservatives who governed Saskatchewan from 1982 to 1991 were very right wing. Amendments to the Trade Union Act in 1983 were almost uniformly designed to weaken labor and did not follow consultation. In particular, the rights of employers to communicate during certification were expanded, as was the scope of union unfair labor practices. Either party was given the right to invoke a vote of bargaining unit members prior to a strike, and a provision for a final-offer vote was added to the law. Saskatchewan joined the remaining provinces by barring strikes during the term of a collective agreement and requiring that agreements contain grievance arbitration provisions (Muthuchidambaram 1984).

A review of the Trade Union Act was carried out in 1992-1993 after the election of an NDP government. The review process itself was protracted because the government insisted that most proposed changes to the act

meet with the approval of both the labor and employer communities. Several provisions introduced in 1983 were repealed, including employer rights to oppose certification and the availability of representation votes but excluding the prohibition on midcontract strikes. The Labor Relations Board received the authority to order arbitration to settle disputes over first collective agreements and to impose certification in cases of employer unfair labor practices. Provision for a final-offer vote was retained, but the authority to order such a vote was moved from the Labor Relations Board to a special mediator appointed by the government. Rights of striking employees were expanded (Adams 1995).

Conclusions

This review of labor law reform in the four provinces revealed several themes. First, the expectation that changes in the four western provinces would identify trends in Canadian labor policy was incorrect. At the end of the decade of change, the net results were modest. There were few, if any, innovations in the new statutes, let alone departures from the core of Canadian labor law. The final-offer vote and the ban on replacement workers were among the few features of labor law in the region not found in the British Columbia Labor Code in the 1970s, for instance. Statutory-expedited arbitration, previously introduced in Ontario, did become the norm in the West. The final-offer vote was introduced at the behest of management, while the ban on replacement workers was a major demand of the Canadian labor movement in the 1980s. The Opposition in British Columbia has promised to remove the latter provision if elected, and the Ontario government has already done so. It therefore seems unlikely that bans on strike breakers will become part of the core of Canadian labor law in this decade.

Canadian unions have had little success in organizing workers in the small business and service sectors. One solution to this problem was sectoral certification, whereby a union able to organize workers at one establishment could apply for a representation vote at all similar firms in the same locality. If a majority of the employees voted for representation, the union would be able to negotiate a master collective agreement for the industry in that area. When the British Columbia government bowed to employer opposition, the proposal died. Moreover, no other alternative models representation were discussed beyond strengthening traditional certification procedures. The commitment to reliance on strikes to resolve almost all interest disputes was strong as possibilities for easy intervention in disputes introduced in British Columbia and Manitoba were abandoned.

Secondly, legislative action focused on relatively few subjects, especially the certification process and labor disputes. The latter is a perennial subject

of Canadian labor policy, but frequent changes in certification procedures reveals the lingering hostility of many Canadian employers toward unionization, combined with labor's commitment to organizing.

Motives for legislative change were overwhelmingly political. After the NDP was elected, it fulfilled election promises to labor to reform labor legislation in the three provinces where it governed. When Conservatives replaced New Democrats, they reversed the previous changes to some extent. Only the 1987 reforms in British Columbia and Alberta related to perceived crises in the industrial relations system in the form of long and bitter strikes.

Given the attention to labor law in the four provinces, the lack of innovation is notable. Two explanations for this legislative conservatism seem likely. During the past decade, the industrial relations climates in these provinces have been relatively tranquil. Ironically, the disputes that provoked revisions to the labor legislation in Alberta and British Columbia occurred near the end of a period of high strike activity. Nationally, the level of strikes has fallen to the lowest levels in the postwar period, a trend reflected in the West. For instance, between 1990 and 1994, Saskatchewan had only 37 strikes. Alberta and Manitoba had fewer than 60 stoppages, while British Columbia had 271. Thus there were few incidents that would cause a government to conclude that reform was necessary.

Another possible explanation for the lack of innovation is the process for reform. Leaving out the 1983 process in Saskatchewan and the British Columbia experience in 1987, the normal practice is for governments to consult widely before enacting legislation. The British Columbia reforms in 1992 were essentially the result of a series of tradeoffs between labor and management, facilitated by a neutral. Saskatchewan followed much the same policy in 1993-1994. In Alberta the government sought the advice of a tripartite committee before enacting legislation. Under these circumstances, strongly held objections from either side are likely to cause any initiative to fail unless the government has a strong position on the subject, although consultation contributed to stability in legislation.

If strike activity continues to be low, then political events are likely to drive labor law reform in the future. Outside of Saskatchewan, the NDP was considerably weaker in 1995 than it was in the mid-1980s and thus is unlikely to initiate reforms in the foreseeable future. However, conservative governments in the West have shown little interest in making wholesale changes in labor law aside from the unsuccessful 1987 reform in British Columbia. Both industrial relations and political factors therefore point to modest changes in the rest of the decade.

References

Adams, George. 1995. *Canadian Labor Law*. Aurora, Ont.: Canada Law Book.

Chaison, Gary N., and Joseph B. Rose. 1994. "The Canadian Perspective of Workers' Rights to Form a Union and Bargain Collectively." In Sheldon Friedman et al., eds., *Restoring the Promise of American Labor Laws*. Ithaca, NY: ILR Press, pp. 241-49.

Chapman, Jack M. 1987. "The Role of the Courts and of the Legal Profession." In Mark Thompson, ed., *Is There a New Canadian Industrial Relations? Proceedings of the 23rd Annual Meeting of the Canadian Industrial Relations Association*. Quebec: CIRA, pp. 13-27.

Fisher, E.G., and James C. Robb. 1988. "The Labor Legislation Review Committee's Final Report 1987." *Alberta Law Review*, Vol. 36, no. 2, pp. 287-318.

Meltz, Noah M. 1989. "Interstate vs. Interprovincial Differences in Union Density." *Industrial Relations*, Vol. 28, no. 2 (Spring), pp. 142-58.

Muthuchidambaram, S. 1984. "Legislative Background to and an Examination of the Saskatchewan Trade Union Amendment Act: Bill 104." Unpublished manuscript, Faculty of Administration, University of Regina.

Subcommittee of Special Advisers. 1992. *Recommendations for Labor Law Reform*. Victoria, BC: Ministry of Labor and Consumer Services.

Weiler, Joseph M. 1986. "The Role of Law in Labor Relations." In Ivan Bernier and André Lajoie, eds., *Labor Law and Urban Law in Canada*. Toronto: University of Toronto Press, pp. 1-65.

Labor Law Reform in Ontario: Evaluation of Bill 40

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In January 1993, the New Democratic party, then in control of the Ontario government, enacted Bill 40 as a set of amendments to Ontario's existing labor legislation. The New Democrats, the left-leaning party traditionally associated with Canada's labor movement, intended to liberalize collective bargaining provisions in several ways. This paper provides a commentary on the most important changes, with some explanation of the reasoning used by employers who strongly opposed the changes. At this point, a Conservative government elected in June 1995 has repealed Bill 40. The last part of the paper discusses the most recent developments and their implications for Ontario's collective bargaining process.

Background

Ontario is Canada's most populous and most heavily industrialized province. Canada has three parties: the Progressive Conservatives on the right, Liberals in the middle, and the New Democratic party (NDP) on the left. The election of an NDP government in Ontario in 1991 was an unprecedented event for the province. Ontario business groups, politically aligned with Conservative ideology, believe that government in Canada has grown too big, that unions are too powerful, and that Canada faces a continuing economic threat from the U.S., where tax and labor laws are more favorable to business. The election of an NDP government was thus a signal for vocal opposition to measures that (in their perception) made Ontario even more uncompetitive compared with the U.S.

However, the NDP government recognized that changes in location and nature of workplaces, together with the rapid growth of part-time and casual work involving irregular hours, and the shift from traditional manufacturing

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to the expanding service, trade, and financial sectors combined to make employees' attempts to organize particularly difficult.

The amendments contained in Bill 40 were designed to respond to these environmental changes, to promote cooperation and partnership, reduce conflict, and streamline the dispute resolution process. The former government responded to business concerns about the probable economic impact of the changes in Bill 40 by pointing out that "collective bargaining . . . creates pressure for higher productivity and innovative work organization" (Mackenzie 1991:6, 8). We discuss below a few of the more contentious changes made to the Ontario Labor Relations Act.

Expanded Coverage of Employees

Under Bill 40, exclusions for managers, supervisors, as well as doctors, interns, and residents remained unchanged. Professional exclusion was repealed, and lawyers, architects, dentists, and land surveyors were given the right to organize and were entitled to a separate bargaining. Workers in agricultural and horticultural operations could also be certified under a separate legislation and regulation (Agricultural Labor Relations Act, S.O. 1994).

Previous restriction on "guards-only" unions were removed, and they were allowed the freedom to choose their own union. But security guards who exclusively monitor employees (as opposed to those who only monitor property or the general public) could be placed in their own bargaining unit, if such monitoring gave rise to a conflict of interest.

The exclusion of domestics from the coverage of the act was removed, but the rule requiring a bargaining unit to be made up of two or more employees was retained. It was now possible to organize supplying agencies who acted as the employer of domestics. These extensions of rights to organize brought the Ontario act closer to some of the labor codes in the country, such as federal code and labor relations statutes in five other provinces. These extensions were also consistent with Convention No. 87 of the I.L.O.

Certification Rules and Procedures

There were a number of amendments under Bill 40 dealing with certification and related matters. A union applying for certification now needed only 40% (previously 45%) of employees (members or have applied for membership) to be entitled to a vote. The threshold for automatic certification remained at 55%.

The requirement of a $1 payment to provide evidence of membership application in a trade union was eliminated. Hereafter, membership

evidence was to be based on whether an employee is a member of the union or applied for membership. The membership support was now to be determined at the date of application for certification.

Prior to Bill 40, the Ontario Labor Relations Board (OLRB) had authority to certify a union where the act was contravened by an employer under two conditions: the true wishes of employees were not likely to be ascertained, and a trade union had membership support adequate for collective bargaining. Under Bill 40 the second condition was eliminated, and unions were to be certified when the first condition was met, discouraging employers from illegal conduct.

Under the Bill 40 amendments, a trade union was permitted to request an *expedited* hearing during certification for certain unfair labor practice complaints. Where such an expedited request was received, the OLRB was required to begin the hearing within fifteen days of the request being filed or of the request being delivered to respondent, whichever was later.

The whole set of amendments regarding certification rules and procedures—threshold for automatic certification, elimination of terminal date, restrictions on petitions, abolition of initiation fee, and expedited OLRB hearing—were opposed by employers on the grounds that they were inappropriate, unnecessary, and procedurally wrong (More Jobs . . . 1992:32-48). They preferred the terminal date over the date of application for certification to determine membership support on the ground that the intermission period (between eight to ten days) provided necessary time for the employees to deliberate on and apply their freedom of choice and for the employers to exercise their freedom of speech. In their view, the payment of a $1 fee was a mark of informed choice, while simply signing the union card was not. The employers' opposition to these changes was based on their perceived conflict between the principle of majoritarianism and exclusivity on one side and the true freedom of choice for the employees on the other, particularly when petitions from employees were restricted.

Full-Time and Part-Time Employees: Unit Determination

Hitherto, the OLRB's policy was to exclude part-time employees (24 or fewer hours per week) from a full-time bargaining unit at the request of either party. The main rationale for this approach was based on the assumption that there was a divergence in "community of interests" between these two categories of employees (Adams 1985:348). Under Bill 40, the OLRB must put these categories of employees in the same unit where the union had more than 55% membership support overall; where support was less than 55%, the board was required to consider separate units. Where full-time and part-time units were in a position to be certified

separately, the board was required to consolidate both into one. If separate full-time and part-time units already existed, represented by the applicant or another union, the board was granted the discretion to determine that separate full- or part-time units were appropriate. Craft units and units in the construction industry were exempted from the provisions.

With these amendments Ontario became the first Canadian jurisdiction to make explicit provisions regarding the status of part-time workers under the Labor Relations Act. But in the absence of explicit provisions, five other provincial boards usually include part-time, casual, and full-time workers in the same unit, with the power based on their general authority to set appropriate units (Blaikie 1992). In that sense, Bill 40 prescriptions on this matter could be considered as a formalization of certain emerging practices in other jurisdictions. But employers in Ontario did have some concerns regarding such formalization.

The employers' main objection to creation or consolidation of bargaining units consisting of part- and full-time employees was based upon the bill's thrust to facilitate employee access to collective bargaining instead of leaving the whole matter to the OLRB's discretion based on "community of interest" as before (More Jobs . . . 1992: note 2, pp. 49-57). Further, they preferred the status quo ante for pragmatic and tactical reasons which were based on a need for flexibility, the question of cost, and the complexity of negotiating terms and conditions to meet the divergent needs and aspirations of part- and full-time employees. In their view, the OLRB's power of consolidation was a legislated cure for the union's weak bargaining presence at the cost of part-time workers (More Jobs . . . 1992:56).

Access to First Agreement Arbitration

Since 1973 six Canadian jurisdictions have introduced varying types of provisions for the settlement of a first collective agreement. Bill 40 amendments regarding first agreement arbitration were added on to the preexisting two-stage process. Under this process, an application for contract settlement may be made after the release of a "no board" notice by the minister of labor. Following unsuccessful conciliation services, the OLRB must grant a direction to arbitrate the first agreement. The new provisions entitled unions to apply to the minister for the first contract arbitration thirty days after the parties have been in a position to lawfully strike or lockout.

Under Bill 40, the only precondition to apply for arbitration was the mere passage of time; parties' conduct during the negotiation of a first collective agreement (for example, unwillingness to negotiate) was no longer a precondition. Employers objected to the unconditional and automatic access

to this provision on the ground[s] that it was the antithesis of the free collective bargaining system in that "it is illegitimate to interfere in a working bargaining relationship because of an imbalance of power" (More Jobs . . . 1992: note 2, p. 60).

Access to Private Property for Organizing or Picketing

Prior to bill amendments, union organizing or picketing activities in public malls and other areas open to the public were regulated by common law or the Trespass to Property Act, which established an offense for a person "not acting under a right or authority conferred by law" to come on private property without the owner's permission or to fail to leave the property when directed to do so by the owner or his agent.

Bill 40 overrode this act and granted a right to organize and picket on property where the *public normally has access* (such as malls, parking lots, and access roads). There were certain restrictions on such activities. The right to organize was limited to employees and representatives of a union engaged in organizing; but for picketing, it extended to any individual, and this right to picket applied during and in connection with a lawful strike or lockout.

Employers preferred the hitherto existing OLRB policy of granting limited access order on a case-by-case approach to unfair labor practices. In their opinion, the union organizing right under Bill 40 took precedence over the third-party property right, and the old policy achieved a better balance between these two competing rights.

Restrictions on the Use of Replacement Workers

Amendments restricting the use of replacement workers during a lawful strike or lockout were added on to the preexisting prohibition on the use of professional strike breakers. These new provisions were more extensive and the most controversial part of the legislation in a substantive as well as symbolic sense. New provisions fell under the following four categories: prerequisites to the application of restrictions, prohibited categories of persons, prohibition of requiring certain employees to perform struck work, and the exceptions to the prohibition ("specified replacement workers").

To trigger the application of restrictions on replacement employees, the following conditions must be met: (1) a lawful strike or lockout must be taking place, (2) a secret ballot strike vote among all employees in the bargaining unit (whether members or not) must have been conducted, (3) at least 60% of those voting must vote to authorize a strike, and (4) the union must have notified the employer in writing that the union is on strike.

When the above conditions were met, the employer was prohibited from using in any of its operations employees in the bargaining unit on strike (or lockout) to perform any work, persons hired or engaged after notice to bargain is given, or to perform the work of striking employees. As well, the employer could not use any of the following persons at the place where the strike or lockout is occurring: any employee who ordinarily works at another of the employer's place of operations, except managers who work at a place where there is no strike; volunteers and contractors; and employees or other persons supplied by contractors.

Where there was a multilocational legal strike, the employer was permitted to transfer and use managers and nonbargaining unit employees among the struck or locked-out establishments. But employers were prohibited from requiring "employees" or "persons" (which include managers) to perform the work of the striking or locked-out employees, and any refusal to work was protected by a no-reprisal clause. In substance, the element of consent was protected and that of coercion was prohibited. In any complaint on this matter the burden of proof was on the employer.

Repeal of Bill 40: "Americanization" of Ontario Labor Law?

In June 1995 the Conservative party, under the leadership of Michael Harris, defeated the NDP Government. Part of his election platform was the repeal of Bill 40; and by November, Bill 7, An Act to Restore Balance and Stability to Labor Relations and to Promote Economic Security, was in force. This bill is based on the premise that prior to Bill 40, there was a balance of power between unions and employers and that Bill 40 gave too much power to unions, which destabilized the industrial relations system. Bill 7 "restored the balance" by eliminating virtually all of the significant reforms in Bill 40; and in fact, it imposed new restrictions on union activities. Among these provisions are the mandatory secret ballot voting for certification, strike and contract ratification, and a mandatory 12-month ban against any further organizing attempts by a union in the event of withdrawal or dismissal of a certification application, irrespective of the circumstances.

Under Bill 7, certification is made more difficult and decertification is made easier. Further, the bill eliminates certain substantive remedial powers of arbitrators and the OLRB, such as the reinstatement of employees through interim orders, but the bill explicitly empowers the board to determine a complaint that the union has breached its duty of fair representation or fair referral without a hearing and to make an interim or final order.

The new purpose clause of Bill 7 is to promote flexibility, productivity, and employee involvement in the workplace and to encourage communication between employer and employees in the workplace. While Bill 40

recognized the vital role of trade unions as representatives of employees, Bill 7 appears to make a categorical distinction between unions and employees and to encourage employers' direct dealing and communication directly with employees by sidestepping unions.

Conclusion

Does the repeal of Bill 40 in Ontario prove that the procedural and substantive changes incorporated in it were unwarranted and unworkable? During its short life (January 1993 to November 1995), available evidence shows that the law worked smoothly and achieved its objectives: union organizing and certification increased, processing times declined, lengthy litigations were reduced, and industrial conflicts declined (Jain and Muthuchidambaram 1995). While a few employers expressed concern with the hasty and sweeping changes to labor law ("Chrysler . . ." 1995:B.1), most employers wanted a repeal of Bill 40 because of their symbolic objection to certain provisions (such as the prohibition of replacement workers) which they considered a serious violation of management prerogative. With Bill 7 the government went beyond simple reinstatement of the *status quo ante*.

Is the defunct Bill 40 still a useful point of reference to law reform in the United States? In our opinion it is still relevant. The recommendations made by the Dunlop Commission (U.S. on the Future of Worker-Management Relations 1994) include some of the issues discussed in this paper: updating and expanding the coverage of labor relations statutes, stronger protection for workers' rights to organize, speedy certification elections, prompt injunction to remedy discriminatory action against employees during an organization campaign or first contract negotiation, and assisting employers and newly certified unions to achieve first contracts through an upgraded dispute resolution system.

Similar provisions worked successfully in Ontario and are still in existence in other Canadian jurisdictions. For these reasons the recommendations of the Dunlop Commission deserve attention.

References

Adams, G. 1985. *Canadian Labor Law*. Aurora, Ont.: Canada Law Book.

Blaikie, H. 1992. "Comparative Analysis of Canadian Labor Relations Legislation." *Facing Reality, Sharing Responsibility* (with Appendices). Submission to the Ontario Minister of Labor, Toronto, February, note 65, footnote 12.

"Chrysler, CAW Warn Ontario on Labor Laws: Joint Letter Urges Moving Slowly with Changes." *Globe and Mail* (Toronto), September 30, 1995, p. B.1.

Jain, H.C., and S. Muthuchidambaram. 1994. "Labor: The Legacy of Labor Law Reform Bill 40, One Year Later." *Proceedings of the Institute of Continuing Legal Education*. Toronto, Ont.: Canadian Bar Association.

_____. 1995. *Ontario Labor Law Reform: A History and Evaluation of Bill 40*. Kingston, Ontar.: IRC Press, Chapter 4.

Mackenzie, R. 1991. Notes for a speech to the Canadian Bar Association by Minister of Labor, R. MacKenzie. Labor Law Section, Toronto, Ont., December 12.

More Jobs Coalition. 1992. *Facing Reality, Sharing Responsibility* (with Appendices). Submission to the Ontario Minister of Labor, Toronto. February. See also sources cited therein.

U.S. Commission on the Future of Worker-Management Relations. 1994. *Report and Recommendations*. Washington, DC: U.S. Dept. of Labor and U.S. Dept. of Commerce.

DISCUSSION

CHRISTOPHER SCHENK
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Abraham and Voos examine the relevance of Canadian labor law to American labor law. I will leave it to those of you integrally involved in U.S. industrial relations to judge the relevance of Canadian labor law. I might only say that this paper is both well researched and well written. I think that Abraham and Voos capture the key aspects of Canadian labor law, its recent conservative directions, and its remaining relevance for those of you working and teaching in the U.S.

Let me comment on the most important of these—namely, certification procedures. Here, in examining the move away from a card majority system to mandatory representation votes, the impact on the union density rate is not the subject of speculation based on the American experience but rather the significance of representation elections being held within five days. This may indeed be true; indeed I hope the authors' optimism will be verified by the facts. If it is, such prompt votes may be helpful in terms of a legislative improvement in democratic rights for those of you working in the American context.

I might point out that the legislation in Ontario allows the labor board to hold votes after five days, should it determine that such is necessary. Given the cutbacks of social services and in government ministries and agencies, it is unlikely that the board will have the resources to conduct representational votes across a geographically vast province of 11 million people with more than a third of the nonagricultural workforce organized within five days. Ontario may then experience routine delays between applications and votes, making this jurisdiction not very different from that of the U.S.

Thompson provides a clear and succinct description of the recent evolution of labor law in the four western Canadian provinces of Manitoba, Alberta, Saskatchewan and most importantly British Columbia. I will limit my comments to the changes in certification procedures in British Columbia. The governments in the province of British Columbia have alternated between the very conservative governments of the Social Credit party and,

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for one term in 1973 and again today, the labor-based New Democratic party (NDP). Social Credit did away with a card majority system (automatic certification) in 1987 in favor of mandatory representation votes. In 1992 with the province again under the NDP, a card majority system was again put in place.

Left implicit in Thompson's paper is the *meaning* of these changes for the percentage of the workforce unionized, not to mention the specific impacts of certification changes on people's individual standard of living. For example, the certification statistics tell us that in 1987 when representation votes became compulsory in British Columbia, certifications declined by 52%, and the number of unfair labor practices tripled.

Thompson concludes by highlighting several themes from his overview: (1) legislative changes are focused on relatively few topics such as certification and labor dispute provisions, and (2) they have not produced many innovations. One innovation that he does mention as a possible alternative model is sectoral certification.

What I would like to see here is an analysis of why reforms were so limited in the four western provinces. Specifically, what social forces favored them and which ones opposed them? Employers in British Columbia, for example, are said to have opposed such changes. All of them? If not, which ones? For what reasons? Why, for example, didn't the NDP government in British Columbia take up the Baigent/Ready sectoral certification and sectoral bargaining proposals? Was it due entirely to employer opposition, or was the trade union movement also divided? This subject may well be of vital importance given the employment growth in the private service sector which is often composed of small workplaces.

The Jain and Muthuchidambaram paper is the most substantial of the three, containing some twenty pages of relative detail on the dramatic changes in labor law in Ontario—Canada's most populous and industrial province. Jain and Muthuchidambaram note, "Prior to Bill 40, the board had authority to certify a union where the act was contravened (terminations of those suspected of organizing, captive meetings, threats, etc.) by an employer under two conditions: the true wishes of employers were not likely to be ascertained, and a trade union had membership support adequate for collective bargaining."

Under Bill 40, Sec. 9.2, the second condition of "adequate membership support" was eliminated. Unions were certified when the first condition only was met. The impact of this change could be further developed as it functioned as a strong disincentive to illegal activity. Where such illegal activity did occur, the board was empowered to issue "interim orders" putting the employee back in the workplace in about a week and then

holding an "expedited hearing" within fifteen days of a request on the merits of the case.

Further on certifications—terminations by employers of people they suspected of being sympathetic to a union no longer functioned to "chill" an organizing campaign. Found to be in violation of the law, employers who engaged in such activity were seen for what they were—unethical. In addition, the union was seen as being able to back up its promises of more job security by getting activists back into the workplace.

A question not made explicit is why employers so vigorously oppose these reforms. The changes were, after all, reforms, not an alternative model of industrial relations. Perhaps it was the reforms to certification which lowered the barriers to unionization that employers disliked most, even though it was the antiscab provisions that received the most attention in the press. Ontario certifications granted in the first year of the Bill 40 reforms (1993) rose by 53%.

The antiscab provisions were in response to long-time labor demands, although the actual utilization of "replacement" workers was rare. Jain and Muthuchidambaram speak to the provisions of the act specific to the issue of replacement workers but leave the impact of the provisions on power relations and on the individual human actors implicit.

A sense of the change in power relations, however, can be gleaned from the final section of the paper entitled, "Repeal of Bill 40: Americanization of Ontario's Labor Law?" Here the authors document the repeal of the NDP's Bill 40 reforms and beyond that, the repeal of the card majority system in favor of mandatory representational votes.

While it is too early to have meaningful statistics as yet, we can expect a decline in certifications as was seen with such a change in British Columbia. The results over the long term are not a given, however. As opposed to the trade union movement under Thatcher in the U.K., where the miners strike was defeated and different from the air traffic controllers defeat under Reagan, the Ontario trade union movement has yet to reach such an impasse. Indeed, on December 11, 1995, the Ontario Federation of Labor and its key affiliated unions organized a communitywide day of protest—general strike, if you prefer—in London, Ontario, a city of some 350,000 people. This mass protest was a great success.

The message to the Tory government was blunt—you can't cut social services, cut welfare rates by 22%, close hospitals, slash the education budget, return to the 1930s and 1940s labor laws, and expect to have harmony and good productivity in the workplace.

Let me conclude by thanking the authors of all three papers for their thought-provoking scholarship, by stressing the need for continued research,

and by urging everyone to follow the responses of trade unions in Canada to the regressive labor law changes noted—particularly the Ontario labor movement's "fight back" campaign.

DISCUSSION

JAMES A. GROSS
Cornell University

In evaluating or reforming labor law, we need to ask by what standards and for whose benefit government acts in developing a national policy. We are taking values and power, and too often power masquerades as values. Power often wears the mask of freedom.

It is true, as Voos and Abraham say, that Canadian labor laws are in the main still models for those who support collective bargaining, but all three papers identify what I consider to be a worrisome tendency to "Americanize" those laws—as Jain and Muthuchidambaram put it.

For example, the major arguments in support of Ontario's repeal of the procollective bargaining Bill 40 are in great part reflected in the title of Ontario's current law: An Act to Restore Balance and Stability to Labor Relations and Promote Economic Security. Those are essentially the same two arguments used in the United States in 1946 and 1947 to justify replacing the procollective bargaining Wagner Act with the supposedly neutral Taft-Hartley Act: to restore the balance of power between supposedly "too powerful unions and the employers they were supposedly pushing around and to protect and advance economic development." In 1947 the "equalize power" theme was an appealing sales pitch to a public upset about several big strikes during World War II, but organized labor had not achieved anything remotely constituting equality of power with regard to the distribution of the nation's income and had not come close to reaching Senator Wagner's goal of full participation by workers in a system of industrial self-government. That goal is not close to realization in Canada today.

Many academic experts in the 1940s, such as George Taylor, Douglas Brown, and William Leiserson, argued prophetically that employers would use the new law to weaken unions and avoid collective bargaining, while the country was led to believe that collective bargaining remained the primary policy of the government. And where are we now in the United States? We, particularly in the last twenty years, have deregulated employers' resistance to unionization, tightened regulation of the use of economic weapons by unions, and increased employers' unilateral decision making by

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withdrawing from their statutory obligation to bargain many decisions considered by judges and NLRB members to be too important to subject to collective bargaining with a union.

Labor law in the United States has been severely weakened to increase competitiveness and management control. Domestically as well as internationally, the competitiveness argument appears to be pushing all nations to the lowest common denominator of wages and conditions of work. Being competitive, we are told, requires getting or remaining free of unions and collective bargaining.

One fundamental difference between the U.S. and almost every other industrialized country, particularly Canada, is the extent to which U.S. employers are allowed to campaign extensively and aggressively to discourage employees from organizing and bargaining collectively. All of our presenters today cite legislative changes in Canada that expand employers' statutory right to resist unionization and communicate directly with employees during representation campaigns. Those legislative changes become even more important in the context of other changes requiring mandatory secret ballot elections for certification.

In the U.S., as you know, representation campaigns have become open contests between employers and unions for employee support. As McMaster University's Roy Adams has pointed out, however, the choice is not between unionization or no unionization but between instituting a system of industrial democracy or retaining a system of industrial autocracy.

It is foolish and deceitful for government to make a commitment to a labor policy encouraging collective bargaining and then allow employers to block implementation of that policy. There is no free choice when employers are permitted to influence workers' choices concerning union representation. These employers control jobs and have the power to affect people's lives, to harm or benefit them, to violate or protect their rights, to favor some over others for various reasons, to make or break their communities.

Unfortunately, collective bargaining is often considered merely a mechanism for wage determination. Collective bargaining is much more. As a form of democratic participation, it is at the essence of social justice for workers. Basic social justice and the dignity of the human person require a labor policy that protects workers from arbitrary treatment and, particularly in a democratic society, provides ways for them to participate in decisions at the workplace that so deeply affect their lives, their families, and their communities. As Senator Wagner put it years ago, "The struggle for a voice in industry through the process of collective bargaining is at the heart of the struggle for the preservation of political as well as economic democracy in America."

Government encouragement and protection are essential to the exercise of democratic rights at the workplace. Government encouragement and protection were promised to workers in the United States. That promise has been broken. The task in the U.S. is to get the government back on the side of the powerless. The task in Canada is to *strengthen* the commitment to employee organization and collective bargaining—not weaken it. That is because these rights, in my view, are human rights. No doubt they are civil rights and should be treated as such.

X. REFEREED PAPERS: LABOR-MANAGEMENT RELATIONS

Salary Comparisons and Public School Teachers Strikes

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Most models in economics argue that strikes result from informational asymmetries (Hicks 1932; Tracy 1987). For example, if a firm has private information about its financial situation, a strike may be necessary for the firm to credibly reveal this information to the union. Mauro (1982), however, suggests a different approach—the two negotiators have access to the same information, but they "weight" or evaluate it differently. For example, while product prices affect how much the firm is willing to pay workers, these prices have little effect on how much the workers expect to get paid. Mauro argues that strikes occur because each side misperceives the other side's position, since they are not aware that they are using different information to form their perceptions.

What can make the negotiators focus on different information? Previous research in psychology suggests that information is often interpreted by individuals in a self-serving fashion (e.g., Hastorf and Cantril 1954), and this contributes to negotiation impasses (e.g., Babcock, Wang, and Loewenstein 1996). More broadly, information is interpreted in different ways because its availability and perceived relevance of information differ across individuals (Tversky and Kahneman 1973; Fisk and Taylor 1984). In this paper we examine whether strikes in public school contract negotiations can be explained by the differential weighting of information by unions and school boards.

In public sector contract negotiations, one important type of information used by negotiators is salary comparisons to other groups (Kochan

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1980). When the two sides form different judgments about which groups are most important for comparison purposes, conflict can arise. Because union and school board members have different social and organizational positions, the availability and perceived relevance of reference groups are different for them. Information regarding comparison of teacher salaries to community members may be particularly salient to school board members because they are accountable to the school district community and are very conscious of information that has implications for the financial condition of the district. In contrast, union leaders will view comparisons to teachers in other school districts as important because they do the same job. Furthermore, competition between rival unions encourages comparison to teachers in other districts.

The differential perceptions of the two sides may cause conflict and result in negotiation impasses.[1] We survey the union and school board presidents in Pennsylvania to explore whether the two sides weigh comparisons to other groups differently. We develop a framework to predict how these differences lead to strike activity and test these predictions with field data.

A Model of Impasse Determination

This section develops a framework for characterizing the relationship between the factors used by negotiators in developing their positions, the contract zone, and strike activity. We write the negotiators' reservation values as

$$RV_b = X\gamma_b + \varepsilon_b; RV_u = X\gamma_u + \varepsilon_u, \tag{1}$$

where RV_i is the reservation value of party i (b for board, u for union), X is a row vector of factors, γ_i is a vector of weights, and ε_i contains variables not specifically modeled here. Therefore, the contract zone can be written as

$$CZ = X(\gamma_b - \gamma_u) + (\varepsilon_b - \varepsilon_u), \tag{2}$$

so that the effect of an increase in the value of factor k is:

$$\frac{\partial CZ}{\partial X_k} = \gamma_{bk} - \gamma_{uk}. \tag{3}$$

This model suggests that when the two sides weigh factors differently, it will affect the size of the contract zone. For example, if the union weighs the salaries of other teachers more than the board ($\gamma_u > \gamma_b$), the contract zone will be smaller when the salaries of other teachers are larger, making impasses more likely or longer.[2]

We next use a survey to examine how negotiators weigh comparisons to other groups and use this information to predict strike activity.

Data

Our data include a survey of negotiators in school districts in Pennsylvania and field data on these districts. In March 1994 we sent a survey to union presidents and school board presidents of all 500 school districts in the state.[3] We asked the respondents about the importance of factors in contract negotiations such as comparisons to teachers in comparable districts and residents of the community. The purpose is to identify differences in the two sides' weighting of referents. This information will be used to make predictions about the relationship between strike activity and referent salaries.

We compiled field data on the characteristics of the school districts and communities in Pennsylvania for school years 1983-1984 to 1988-1989.[4] Variables collected include measures of previous strike activity (strike incidence and duration), measures of district wealth, characteristics of the labor market, characteristics of the teachers, and salaries of teachers in the district and in surrounding districts.[5] We use these data to test the relationship between differential weighting of referents and strike activity.

Empirical Results

Weighting of Information: Survey Data

The survey respondents were asked to rate how each of a list of factors should affect teacher salaries in their district. Table 1 presents the average

TABLE 1
Importance Ratings of Comparison Referents
(from Subjective Questions on Survey)

	Union Response (n=358)	Board Response (n=178)
Teachers' salaries in comparable districts	4.30 (.04)	3.06 (.09)
Percentage change of teachers' salaries in comparable districts	4.04 (.05)	2.83 (.09)
Residents' salaries	2.65 (.06)	3.53 (.10)
Percentage change of residents' salaries	2.50 (.06)	3.52 (.10)
How teacher salary increases affect property taxes	2.85 (.06)	3.94 (.09)

Note: Standard errors are in parentheses. All differences between the union and the board are significant a the .0001 level. Responses are measured on a scale of 1-5: 1 indicating that the group should affect teacher salaries not at all and 5 indicating it should affect teacher salaries a great deal.

responses for the union and the board (using a scale ranging from 1 to 5). The results indicate that unions attach greater weight to comparable teachers than do boards, and school boards attach greater weight to community residents than do unions. Furthermore, there is also a big difference in the two sides' concern for how salary increases will affect the taxes paid by community members. This set of results is consistent with the psychological theory that individuals view the same factors with differential weights.

Using these weights, our model (see Eq. 3) predicts the following:

Hypothesis 1. Strike activity is positively related to teacher salaries in neighboring districts (since $\gamma_u > \gamma_b$ for this factor).

Hypothesis 2. Strike activity is negatively related to salaries of community residents in the district (since $\gamma_b > \gamma_u$ for this factor).

These hypotheses are tested using the field data on strike activity.

Testing the Implications for Settlement: Field Data

The field data include information about teacher contract negotiations in Pennsylvania. Two measures of strike activity are used: strike incidence (whether or not a strike occurs) and strike duration (the length of a strike, should one occur). We use a logit model to estimate strike incidence and a hazard model to estimate strike duration.

Although the main variables of interest are the salaries of residents in the district and salaries of neighboring teachers, we also include other variables (listed in Table 2) which are typically used in the analysis of strikes in the public sector (Olson 1984; Montgomery and Benedict 1989).

Results for estimation of the logit model (strike incidence) are shown in the first column of Table 2. Neither the salary of community residents nor the salary of neighboring teachers has a significant effect on strike incidence. In fact, only one variable—school days not rescheduled—has a significant coefficient in the logit equation. This variable is the number of school days that were lost in a previous strike and were not rescheduled at the end of the school year by the school board. The finding that the more days teachers lost as a result of previous strike activity, the less likely they are to strike is consistent with Olson's research (1984) on the role of rescheduling in teachers strikes.

The second column presents the results for estimation of the hazard model for strike duration. The significant negative coefficient on salary of residents indicates that districts with high residents' salaries have shorter strikes than those with low residents' salary. This is consistent with the prediction (hypothesis 2) from our analytical framework. It is also consistent

TABLE 2
Strike Incidence and Strike Duration
Field Data on PA Teacher Contract Negotiations, 1983-84 to 1988-89

	Strike Incidence Logit Model	Strike Duration Hazard Model
Average income of residents in community	.031 (.021)	-.041*** (.013)
Salaries of neighboring teachers	.040 (.081)	.108** (.045)
Variation in salaries of neighboring teachers	-.040 (.049)	.077** (.033)
Average age of teachers	.079 (.067)	-.036 (.041)
% of teachers with masters degree	-.019 (.011)	-.015** (.007)
Prior strike activity (=1 if previous strike)	.227 (.242)	.399*** (.152)
School days not rescheduled in past strike	-.073* (.035)	-.072*** (.023)
% Change in enrollment in last five years	-4.130 (2.234)	-1.233 (1.370)
AFT/NEA dummy variable	-.722 (.763)	.739 (.462)
Unemployment rate	.041 (.054)	.070* (.042)
Log likelihood	-286.3	-89.6
Sample size	1074	88

Note: Log likelihood(0) = -304.45 for the logit model. Log likelihood(0) = -120.01 for the hazard model. *, **, and *** denote statistical significance at the .10, .05, and .01 levels, respectively. Both models include a set of year dummy variables.

with previous empirical research on the public school collective bargaining (e.g., Olson 1984). The significant positive coefficient on salary of neighboring teachers indicates that strikes are longer when districts are surrounded by other districts that pay teachers higher. This is consistent with hypothesis 1 from our analytical framework.

The positive coefficient on the variation in wages of teachers in neighboring districts may suggest that when there are large differences in the teacher salaries across neighboring districts, the two sides might select different sets

of neighboring districts with which they compare. This causes the contract zone to be smaller in districts surrounded by neighboring districts with a wide range of salaries (see Babcock, Wang, and Loewenstein 1996 for additional evidence on this).

There is a positive and significant coefficient on the unemployment rate in the duration equation. This suggests that boards may be less concessionary in tougher economic times. Other variables that are also significantly related to strike duration are whether there have been previous strikes in the district (positive), how many days in previous strikes were not rescheduled to the end of the year (negative), and the education of teachers (negative).

Conclusion

We use data from a survey of union and school board presidents in Pennsylvania along with field data on strike activity to explore hypotheses about the relationship between the differential weighting of salary comparison groups and strike activity. The survey shows that unions and boards differ in how they weigh comparisons to reference groups. Unions attached greater weight to teachers in neighboring districts, and school boards attached greater weight to community residents. Using this information, our analytical framework predicts that strike activity will be higher in poorer communities and will be higher in districts surrounded by teachers who are better paid. The results of our field testing support these hypotheses.

This research suggests that understanding differences in the perspectives of the negotiators can be useful in explaining impasses in contract negotiations. Furthermore, using a combination of survey and field data can be a fruitful way to explore hypotheses not testable with conventional field data.

Endnotes

[1] One may argue that the availability of information should only have an effect at the beginning of a negotiation, and as the negotiation proceeds, the negotiators should become aware that they are using different information. Indeed, novel information which is inconsistent with one's initial perceptual analysis will attract one's attention once it is noticed. Such information, however, requires relatively greater amounts of conscious attention (Bargh 1984: 18-21). Self-relevant and chronically accessible information, in contrast, exerts its influence without the need of conscious direction and, therefore, will play a greater role in forming one's perceptions. We survey the union and school board presidents in Pennsylvania to explore whether the two sides weigh comparisons to other groups differently. We develop a framework to predict how these differences lead to strike activity and test these predictions with field data.

[2] Previous experimental research suggests that larger contract zones are associated with fewer and shorter impasses (Ashenfelter et al. 1992; Babcock et al. 1995).

[3] The response rate was 57% for the union presidents and 35% for the school board presidents. There are no significant differences between respondents and nonrespondents with respect to district size (measured by enrollment), salaries for teachers, district wealth (measured by average resident income and the value of property per student), and strike activity.

[4] Field data were collected from the Pennsylvania Department of Education, the Pennsylvania Department of Labor and Industry, and the U.S. Census.

[5] There is no single measure of teacher salary in a district. The point on the salary grid we chose is a teacher with a bachelor's degree and fifteen years of experience. These are the average characteristics of teachers for the state.

References

Ashenfelter, Orley, Janet Currie, Henry Farber, and Matthew Spiegel. 1992. "An Experimental Comparison of Dispute Rate in Alternative Arbitration Systems." *Econometrica*, Vol. 60, no. 6, pp. 1407-33.

Babcock, Linda, George Loewenstein, and Xianghong Wang. 1995. "The Relationship between Uncertainty, the Contract Zone, and Bargaining Efficiency." *Journal of Economic Behavior and Organization*, Vol. 27, no. 3 (August).

Babcock, Linda, Xianghong Wang, and George Loewenstein. 1996. "Choosing the Wrong Pond: Social Comparisons That Reflect a Self-serving Bias." *Quarterly Journal of Economics*, Vol. 3, no. 1 (February), p. 1.

Bargh, John A. 1984. "Automatic and Conscious Processing of Social Information." In Robert S. Wyer, Jr. and Thomas K. Srull, eds., *Handbook of Social Cognition*, Vol. 3. Hillsdale, NJ: Lawrence Erlbaum Associates, pp. 1-43.

Fisk, Susan T., and Shelley E. Taylor. 1984. *Social Cognition*. Menlo, CA: Addison-Wesley Publishing Company.

Hastorf, Albert, and Hadley Cantril. 1954. "They Saw a Game: A Case Study." *Journal of Abnormal and Social Psychology*, Vol. 49, pp. 129-34.

Hicks, John. R. 1932. *The Theory of Wages*. London: MacMillan.

Kochan, Thomas. 1980. *Collective Bargaining and Industrial Relations*. Homewood, IL: Irwin, Inc.

Mauro, Martin. 1982. "Strikes as a Result of Imperfect Information." *Industrial and Labor Relations Review*, Vol. 35, no. 4, pp. 522-38.

Montgomery, Edward, and Mary Ellen Benedict. 1989. "The Impact of Bargainer Experience on Teachers Strikes." *Industrial and Labor Relations Review*, Vol. 42, no. 3, pp. 380-92.

Olson, Craig A. 1984. "The Role of Rescheduled School Days in Teachers Strikes." *Industrial and Labor Relations Review*, Vol. 37, no. 4, pp. 515-28.

Tracy, Joseph. 1987. "An Empirical Test of an Asymmetric Information Model of Strikes." *Journal of Labor Economics*, Vol. 5, no. 2, pp. 149-73.

Tversky, Amos, and Daniel Kahneman. 1973. "Availability: A Heuristic for Judgment Frequency and Probability." *Cognitive Psychology*, Vol. 5, pp. 207-32.

In Search of Managerial Industrial Relations Ideologies

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Managerial industrial relations (IR) ideologies, defined for present purposes as the system of values and beliefs managers hold towards IR and the institutions of IR, have long been considered of major importance in industrial relations (e.g., Bendix 1956; Fox 1971; Kochan et al. 1986). However, their content, structure, and covariates have not been well researched. Accordingly, this paper draws upon the data from a recent survey of 293 Canadian employers to explore the content, structure, and sources of variation in the IR ideologies of managers bearing primary responsibility for the industrial relations and human resources functions of their firm.

In addition to providing a purely descriptive analysis of the content of managerial ideologies, we shall be concerned with two hypotheses. The first is the commonly held assumption that managers do, indeed, adhere to consistent industrial relations ideologies. The second, and more controversial, hypothesis is that managerial ideologies vary in accordance with the material context within which managers find themselves. This hypothesis has a long history among more critically oriented scholars in the social sciences and can be traced to the historical materialism associated with Marx. While developed more as a basis for explaining macro-level ideologies and their role in protecting or advancing the interests of dominant classes or elites (e.g., Bendix 1956), the present analysis extends this hypothesis to the level of the firm, specifically addressing whether managerial ideologies vary in accordance with firm level context variables related to size, technology, and market environment.

The Data

The data were collected in stages, through three consecutive surveys mailed to the senior manager responsible for IR/HRM in 500 union and nonunion Canadian firms. Each survey was designed in accordance with the findings from (and hence represented a refined version of) its predecessor. To ensure a satisfactory response rate, all firms were subject to

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phone calls from the author as well as mail follow-ups. Combined, the three surveys yielded an overall response rate of 59%, which compares favorably to other studies of this nature (e.g., Osterman 1994). Of 293 participating firms, 163 are in goods production, 130 in services. One hundred and sixty are at least partly unionized, 143 are small businesses (under 100 employees), 60 are medium-sized (101 to 500 employees), and 90 are large (more than 500 employees). While these characteristics are not representative of the Canadian economy, they reflect an intentional sampling strategy, designed to ensure that particular sectors and employer sizes were well represented for purposes of multivariate analysis.

Descriptive Analysis

Previous studies have attempted to operationalize managerial values and beliefs by asking respondents a single question about the importance they attributed to employee well-being (Osterman 1994) or by factor analyzing responses to a number of very broad questions about corporate ideology in general (Goll 1991). Yet most analyses of managerial ideologies (e.g., Bendix 1956; Fox 1971; Kochan, Katz, and McKersie 1986) have had a more elaborate conception in mind than a single item measure, yet a more IR/HRM specific conception than general corporate ideology. In this study respondents were asked three multi-item questions developed in the earlier research into the ideologies of IR academics (Godard 1995). Consistent with established definitions of IR/HRM ideologies (Godard 1995), these questions addressed IR/HRM values and beliefs about unions, about employee involvement (EI) programs, and about the participatory rights of workers *in general.*

Participatory Rights

There is widespread agreement that if there is to be a "transformation" of labor and employee relations, there is need for managers to adopt more participatory management styles and, ultimately, values. To determine the extent to which respondents possessed such values, they were asked to identify the amount of say workers or their representatives should have in a number of decision areas. The response format ranged from 1 (no say) to 3 (equal say) to 5 (total say). The responses are reported in Table 1.

Not surprisingly, Table 1 reveals that the respondents would not be particularly favorable toward any suggestion that workers should "take over the store." Yet on almost all issues, a large majority of respondents believe that workers should have at least *some* say—especially with regard to workplace level issues but also on decisions about plant closings and layoffs. The only issue on which the majority responded that workers should have no

TABLE 1
Beliefs about Worker Participatory Rights

	1 (no say)	2	3 (equal say)	4	5 (total say)	4 or 5
Layoffs	32	51	16	1	0	1
Workplace design and layout	2	27	51	21	1	22
Workplace safety	0	1	55	38	5	43
Workplace level promotions	15	49	29	7	0	7
Technological change	10	53	32	6	0	6
New investments in equipment	19	63	15	3	0	3
Plant closings	41	50	9	0	0	0
Appointments of senior managers	61	34	4	2	0	2

Note: Respondents were asked to indicate how much say workers or their representatives should have on each of these issues. The response format ranged from 1 (no say), to 3 (equal say), to 5 (total say). All scores are in percent.

say at all was, not surprisingly, the appointment of senior managers. Yet even here, more than a third believed that they should have at least some say, with a few "subversives" even advocating equal or greater say. Perhaps most striking is the percentage of respondents who believe that workers should have at least equal say on issues such as workplace safety and workplace design and layout. With respect to workplace safety, 99% believe that they should have at least equal say, and a remarkable 43% believe that they should have greater say. As for workplace design and layout, the numbers are 73% and 22%, respectively. It would thus appear that respondents possess relatively progressive values when it comes to worker participation.

Beliefs about Workplace Innovations

In contrast to the question about participatory values, the question about workplace innovations specifically asked respondents to indicate the extent to which they believe that various innovations *can* improve a firm's economic performance. The response format ranged from 1 (not at all) to 3 (somewhat) to 5 (very much). As indicated in Table 2, an overwhelming majority of participants responded that these innovations can improve performance at least somewhat. At the same time, fewer than a third responded that any of these innovations can improve performance very much. This would appear to indicate that while respondents have a favorable view of

TABLE 2
General Beliefs about Workplace Innovations

	1 (not at all)	2	3 (somewhat)	4	5 (very much)	4 or 5
Total quality management	2	8	29	31	31	62
Employee stock ownership plans	6	10	43	28	13	41
Labor-management committees	2	10	40	33	16	49
Semiautonomous work teams/cells	2	8	30	41	18	49
Profit or gain sharing	4	5	31	33	27	60
Job redesign/enrichment	1	4	35	43	16	59

Note: Respondents were asked to indicate the extent to which each of these innovations can contribute to a firm's economic performance. All scores are in percentile.

these innovations, a large proportion do not see them as the panaceas pundits often depict them to be.

Beliefs about Unions

A common view of managers—especially among those on the left—is that they are vehemently antiunion. To determine the extent to which this is the case, participants were provided with a number of statements about unions and collective bargaining and were asked to indicate the extent to which they agreed or disagreed with these statements on a scale ranging from 1 (strongly disagree) to 7 (strongly agree).

As indicated in Table 3, few respondents do in fact hold views that are favorable to unions. Notably, however, a large percentage also does not hold particularly antiunion views—at least on a number of issues. For example, only 21% believe that management is at a power disadvantage vis-à-vis unions, and only 21% disagree with the statement that corporations have too much political power in Canada. Only 36% believe that unions have too much political power, while only 41% believe that management should do everything legally possible to keep unions out. This is not to suggest that these managers are in any sense great supporters of the labor movement. For example, 72% responded that unions are unnecessary if management treats its workers properly, and 72% believe that management should be able to use temporary replacements in the event of a strike. Yet all in all, it would appear that the kind of knee-jerk attitudes sometimes attributed to managers simply do not mirror reality—at least in Canada.

TABLE 3
General Values and Beliefs about Unions

	1 or 2 (disagree)	3, 4, or 5	6 or 7 (agree)
On the whole, unions are at a power *disadvantage* vis-à-vis management.	35	57	8
Unions are unnecessary if management treats its workers properly.	3	26	72
Management should be legally able to continue operations during a strike, even if this requires hiring temporary replacements.	3	25	72
Management should do everything legally possible to keep workers from unionizing.	14	44	41
Unions too often place unnecessary restrictions on management.	4	43	54
Corporations in Canada have too much political power.	21	68	11
Union-negotiated wages are often too high for the good of the economy.	3	44	53
On the whole, management is at a power *disadvantage* vis-à-vis unions.	21	64	15
Unions in Canada have too much political power.	6	58	36

Note: Respondents were asked to indicate the extent to which they agreed or disagreed with each of these statements. Their response options ranged from "1" (strongly disagree) to "7" (strongly agree). Note that some questions were worded so that a "7" indicates positive beliefs about unions, and others are worded so that it indicates negative beliefs about unions. All scores are in percent.

The Structure of Managerial Ideologies

The ideology items were developed in earlier research on the ideologies of academics (Godard 1995). In these studies, all of the union and participatory rights items loaded highly (above .40) upon a single index (Cronbach's alpha=.91), while all of the EI belief items loaded highly on a separate index (Cronbach's alpha=.81). Thus they were included in this study only after being validated in prior research. However, in the present data set, factor analysis of the data from the first and second surveys suggested much lower internal consistency and yielded a three- rather than a two-factor solution—one for each question. It was thus decided to create three rather than two additive indices and to exclude five items originally included in the question addressing unions from the third survey and from the union index (only the remaining items are reported in Table 3). These measures and their interitem reliability estimates (Cronbach's alpha) are,

respectively, EI SUPPORTIVENESS (.64), PARTICIPATORY VALUES (.75), and UNION SYMPATHY (.67).

Analysis of the intercorrelations between these three scales revealed that EI supportiveness and participatory values bear a statistically significant (p=.05) though relatively weak correlation (.16), perhaps indicating that managers are, on the whole, able to separate out their more pragmatic beliefs about whether employee involvement and related schemes are effective in improving performance from their values as to the amount of actual participation workers should have in managerial decisions. There were no statistically significant associations between union sympathy and either of these two variables, indicating that managerial beliefs about unions bear little association with either their support for EI programs or their values as to worker participation.

The finding of three separate dimensions with relatively low intercorrelations and the need to exclude five items from the original scales suggest that managerial IR/HRM values and beliefs do not display a high degree of internal consistency—especially in comparison to those of academics. This is probably because they are more involved in the practice and less in the theory of industrial relations than is the case for academics.

Interests and Ideologies: Does Context Make a Difference?

The context variables are described in Table 4. Following the work of contingency theorists in organizational sociology, we can generally expect large establishments (SIZE) operating in relatively stable markets (UTILIZATION) and enjoying relatively high market power (CONCENTRATION) to be more conducive to bureaucratic structures. Not only does this mean less flexibility in workplace relations and hence a lower interest in adopting participatory work arrangements or, by implication, various employee involvement schemes; it also means that the organization is more conducive to the bureaucratic rules and provisions normally associated with labor unions and more able to absorb or pass on higher labor costs. Thus we would expect these employers to be more sympathetic to unions. We would also expect respondents to evince higher sympathy for unions to the extent that the employer is highly unionized (UNION DENSITY), and hence a union IR/HRM system has become institutionalized. Because unions are normally associated with more bureaucratic work arrangements, we might also expect highly unionized employers to hold less favorable views toward participatory rights and EI schemes.

On the other hand, we would expect employers to be more favorable to participatory rights and EI schemes and less sympathetic toward unions, to the extent that their technology is complex (EDUCATION, TRAINING) and/or

TABLE 4
Context Variables

	Means
SIZE: Log of the full-time equivalent employees in largest establishment	4.81
CAPITAL/LABOR: Value of capital assets/1000/SIZE	177.40
FRAGILE: Six-item additive index indicating how rigid the work process is. Items include:	9.3
a. Waiting time is not possible between successive stages.	
b. The sequence of operations cannot be varied.	
c. Buffer stocks or works in progress are not held between successive operations.	
d. In the event of a breakdown, all other operations stop.	
e. In the event of a breakdown, some other operations stop.	
f. Rerouting of work is not possible in the event of a breakdown.	
EDUCATION: The minimum level of education (high school plus college/university) before workers are capable of performing those jobs most typical of largest establishment	11.62
TRAINING: Days of formal and on-the-job training before workers are capable of performing those jobs most typical of largest establishment	129
CONCENTRATION: The combined market share of the four largest firms in the respondent's primary market	47.5
INTERNATIONAL: Whether respondent's primary market is domestic (=1) or international (=2)	1.30
UTILIZATION: Respondent's capacity utilization rate	79.45
UNION DENSITY: Percent of employees in respondent's Canadian operations covered by a union	46.40

susceptible to break down (FRAGILE), as these technologies require a high level of flexibility and hence high worker involvement. Thus in these firms, respondents are more likely to value higher levels of worker participation and employee involvement programs and are less likely to be sympathetic to the kinds of rules and restrictions associated with unions. Following Kochan, Katz, and McKersie (1986), we might also expect firms subject to the pressures of international competition (INTERNATIONAL) to be more willing to adopt EI programs and, perhaps, provide workers with higher levels of participation, in the hope that workers will help "pull together" to ensure the firm's survival and growth. However, whether these conditions can be expected to induce employers to be more or less sympathetic to unions is unclear.

The regressions of each of the three ideology indices on these variables appears in Table 5. As is apparent from this table, the context variables do not collectively appear to explain a high level of variance in any of the three

TABLE 5
Regressions

	PARTICIPATORY VALUES	EI SUPPORTIVENESS	UNION SYMPATHY
SIZE	-.130	-.045	.168
CAPITAL/LABOR	-.002[2]	.000	.000
FRAGILE	.335[2]	-.194	.132
EDUCATION	.230[3]	.189	(.523)[3]
TRAINING	.009[1]	.002	.000
CONCENTRATION	-.019[1]	-.012[3]	-.006
INTERNATIONAL	.204	.636[3]	-1.245[3]
UTILIZATION	.016	.051[1]	.018
UNION DENSITY	-.015[1]	-.001	.045[1]
R^2	.102[1]	.063[2]	.123[1]

Note: One-tailed tests, except where there is no clear expectation or coefficient in opposite-from-expected direction. Parentheses denote two-tailed tests.

[1] P = 0.01 or less
[2] P = 0.05 or less
[3] P = 0.10 or less.

indices. However, a number of individual variables *do* appear to bear significant coefficients. This is especially true with respect to the PARTICIPATORY RIGHTS regressions. The coefficients for CONCENTRATION, UNION DENSITY and CAPITAL/LABOR are statistically significant (.10 level or better) and negative, as expected. In turn, the coefficients for FRAGILE, EDUCATION, and TRAINING are statistically significant but positive, which is also as expected. Thus it would appear that managers in firms which lend themselves to more bureaucratic structures are less likely to believe in participatory rights for workers, while respondents in firms with more fragile and complex technologies are more likely to do so.

In the EI SUPPORTIVENESS regressions, the coefficient for CONCENTRATION is statistically significant and negative, while the coefficients for INTERNATIONAL and UTILIZATION are statistically significant and positive. These findings for CONCENTRATION and INTERNATIONAL are consistent with the arguments of Kochan, Katz, and McKersie (1986) who argue that market pressures play a primary role in inducing management to adopt employee involvement schemes, and as such we might expect them to be positively associated with beliefs about these schemes. The finding for UTILIZATION is somewhat less clear. On the one hand, firms with higher capacity utilization rates are more likely to have the resources to afford these schemes, yet on the other hand, it is possible that they have higher capacity

utilization rates in part because they believe in and hence adopt these schemes.

Finally, in the UNION SYMPATHY regressions, UNION DENSITY bears a strong positive association, while INTERNATIONAL and MINIMUM EDUCATION bear statistically significant negative coefficients. These results are also consistent with expectations, for they indicate that firms in which a union IR/HRM system is firmly established are more likely to accept unions and hence display a less negative attitude toward them in general, but in firms subject to the uncertainties of international competition and employing more educated workers, respondents are more likely to view unions as obstacles to the attainment of competitive advantage.

Conclusions

This paper has explored the content, structure, and contextual sources of variation in managerial ideologies. The findings are fivefold. First, it would appear that an overwhelming majority of respondents favor providing workers with at least some say on work related issues and that a high percentage of respondents favor giving workers at least equal say on workplace issues such as health and safety (98%), design and layout (72%), workplace-level promotions (36%), and technological change (38%). Second, it would appear that between 50% and 60% believe that various employee involvement schemes can significantly enhance firm performance. Third, while respondents are by no means prounion, a large percent does not hold strongly antiunion views. Fourth, the ideologies of Canadian managers are not highly consistent internally, at least in comparison to those of academics. Rather, their values and beliefs about participatory rights, employee involvement schemes, and unions vary, respectively, on three dimensions, and these dimensions are poorly correlated. Finally, context variables are overall relatively weak predictors of managerial values and beliefs. However, a number of context variables do bear statistically significant associations, providing partial support for the materialism thesis.

Two caveats are in order, however. First, these results may be unique to the Canadian context and hence to Canadian managers. Second, these results could in part reflect measurement and specification difficulties inherent to research of this nature. In this respect, perhaps the real question is not whether context variables predict ideologies but rather whether ideologies predict managerial actions and outcomes before and after controlling for context variables. Both of these caveats can only be addressed through further research.

References

Bendix, R. 1956. *Work and Authority in Industry*. New York: Wiley.

Fox, A. 1971. *A Sociology of Work in Industry*. London: McMillan.

Godard, J. 1995. "The Ideologies of Canadian and U.S. Scholars." *Journal of Labor Research*, Vol. 16, no. 2, pp. 127-48.

Goll, I. 1991. "Environment, Corporate Ideology, and Involvement Programs." *Industrial Relations*, Vol. 30, no. 1, pp. 138-49.

Kochan, T., H. Katz, and R. McKersie. 1986. *The Transformation of American Industrial Relations*. New York: Basic Books.

Osterman, P. 1994. "How Common is Workplace Transformation and Who Adopts It?" *Industrial and Labor Relations Review*, Vol. 47, no. 2, pp. 173-88.

Network Groups: An Emerging Form of Employee Representation

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A new institutional mechanism is emerging for handling employee relations: employee network groups for minority and female employees. This is a hybrid organizational form unlike that which is most commonly recognized—unions. In contrast to unions, network groups are not organized by a well-established set of laws, nor do they generate negotiations over wages, hours, and working conditions. Unlike unions, they are based on identity groups rather than organization groups (Alderfer and Thomas 1988), and they have as a primary goal helping members to better adapt to the organizations that employ them.

Why is this form of employee representation relevant today? First, it helps companies deal with issues related to diversity, which is a central concern today both in society (Hacker 1992) and in organizations (Morrison and Von Glinow 1990). Second, network groups are an approach to employee relations which often uses joint problem solving to address employee relations issues and seeks to align employees with the goals and direction of the organization. Third, network groups provide a sense of community at a time when few companies can offer the stability and security that previously made communities possible within corporations.

At the same time, there is much anxiety about network groups. Although network groups are not unions, there is some fear that they may become unions. With the union model in mind, it is hard for many managers to imagine interactions that are not bargaining, and it is hard to imagine bargaining that is not backed by efforts to gain more power at the table. There is also a great deal of anxiety about identity groups in organizations. There is a common sentiment among managers and employees alike that emphasizing group distinctions might generate more conflict and separate people further.

What is also anxiety provoking to people in organizations and confusing to academics looking at network groups is that network groups are an *ambiguous form.* We do not have much information about these groups,

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and we do not know whether to treat them as an extension of formal organizations like unions or informal processes like social networking (Baker 1994). We have no clear track record to show where they lead nor any sense of what they could become. And among academics, they do not fit neatly into our categories of "labor-relations" or "personnel management." This is a period not unlike that in the 1940s and 1950s in labor relations, when there were many basic questions about what unions might do, and the institution had not yet stabilized into a clear and predictable pattern.

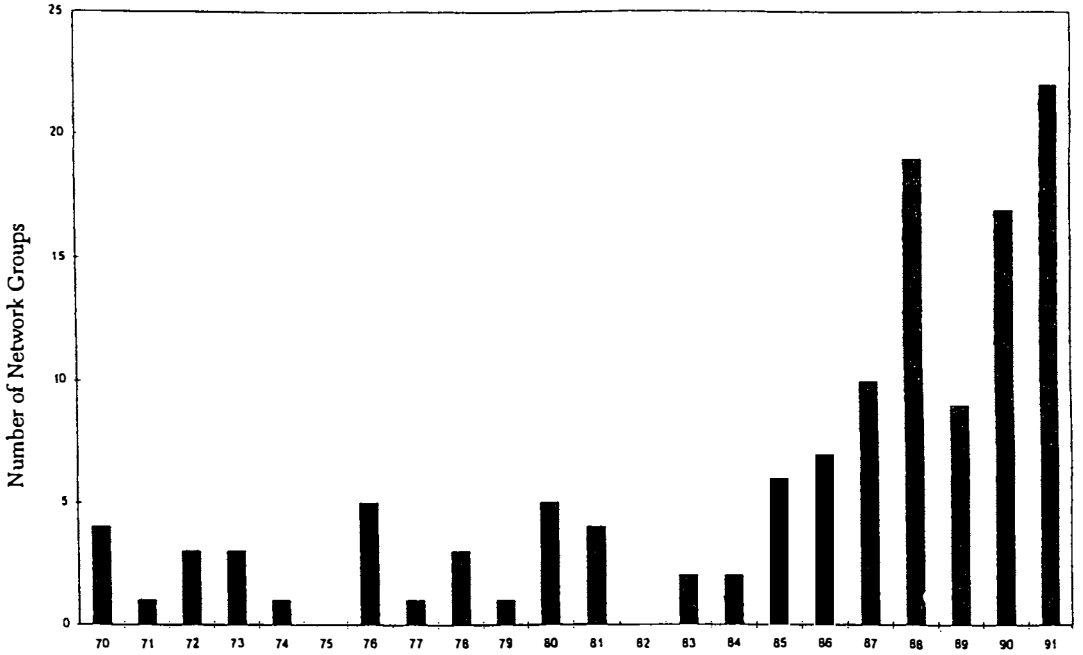
This paper presents a first step toward understanding network groups. Some questions which it addresses are these: How common are these groups? What are their goals? What do they seem to be best at? The findings that are reported here are based on surveys and field research. Three groups were surveyed: HR managers at all Fortune 500 and Service 500 companies (n=209), members of the National Black MBA Association (n=397, 13% response rate), and members of the Executive Leadership Council (a group of African-American executives of major U.S. companies) (n=70, 100% response rate). The field research included visits to 13 companies that have network groups (qualitative data are reported more fully in Friedman and Carter (1993) and Friedman [in press]).

An Emerging Form

A few network groups have been around in some organizations since the early 1970s, including Xerox, Corning, AT&T, and DEC. More recently, the number of groups has exploded. Within our sample of Fortune and Service 500 companies that responded to our survey, 29% have network groups. Of these companies, 77% had African-American groups, and 74% had women's groups. Among ELC respondents, 43% had network groups, and among our NBMBAA respondents, 34% had network groups. The founding dates of the African-American network groups identified in our sample are displayed in Figure 1. Among those in the HR sample that do not have network groups currently, 29% are considering establishing a group. Among those in the NBMBAA sample that do not have network groups currently, 82% are considering starting network groups (mostly unknown by the company).

The issue that African-American network groups deal with is, broadly speaking, the acceptance, comfort, and career achievement of black employees (Childs 1992). In most companies the number of blacks in middle and top managerial ranks is small compared to the number of blacks in the country, and correspondingly, the degree of discomfort felt by many blacks is significant (e.g., Irons and Moore 1985).

FIGURE 1
Historic Growth of Network Groups



Population: Respondents to ELC, NBMBAA, Service and Fortune 500 Surveys.

What Network Groups Can Do

It is within this context that network groups have formed. What I mean by network groups is a group of employees who get together to address the problems that they face as minorities in a company. They do this through a combination of self-help activities and efforts to change the company. The exact focus of these groups varies quite a bit, as does their effectiveness. For the moment, however, we will look at how network groups have been clearly successful (in at least some cases). This identifies the potential benefits of network groups.[1]

Influence Ourselves

At an intrapsychic level, being with others like you provides a feeling of comfort, support, pride, and relief. As one HR manager put it: "Network groups provide members with a feeling of being together and sharing experiences." During a social event at the end of a two-day network group meeting, a black manager pointed to the laughing, card-playing, and dancing that was going on: "These people could not be so loose in other settings. Here they are comfortable. You can make a mistake. You do not have to be 'on.'" These types of experiences were reported in women's groups as well. A female HR manager explained that for her "bringing people together was itself an esteem builder. I was amazed how much energy there was in the group. It felt safe—I didn't have to posture, and we didn't have to worry about misunderstandings."

Network groups can also help on a more directly pragmatic level. First, they provide members with information that they would not get through other channels. Since black network groups will necessarily draw people from different parts of the company and different levels (Ibarra 1992), members can learn about activities going on in other parts of the company and be exposed to perspectives from other functional areas when they meet. Third, network groups can also provide information sessions about what is going on in the business or industry, so that members can make better decisions for the company and for themselves and appear knowledgeable to others.

Influence the Company

Network groups can help build awareness of a black presence and black culture throughout a company. Network groups have in some cases convinced the company to have sensitivity training or cultural awareness seminars, if they did not have them already. And as a group they remind management that there are issues that the company needs to address. As

one black employee put it: "When one person has a problem, no one listens. When there are lots of people complaining, they pay attention."

In companies where management wants to improve the situation for black employees, network groups are critical. A network group leader pointed out that "only through dialogue created by the networks can you learn what the issues are." Network groups can also serve as an early warning system: "With them you learn about a bad situation quicker." This is necessary because in most cases top management gets only highly "filtered" information. Network groups provide black employees and top management with "an unfiltered connection." In some cases network groups have created changes in formal systems, especially career development, job posting, performance evaluation, and mentoring.

Inevitably, network group activities are tied to broader efforts to create change. Where a company has initiated change projects, such as diversity training, focused recruiting, or special career development programs, network groups are an important addition to those efforts. With their support, management can get more information, diagnose problems quicker, and build broad-based support for the efforts. In companies where no change projects exist, network groups usually suggest that some of those activities be initiated. Network groups are also often involved in recruiting. Many groups provide advice about how the company can better achieve its minority recruiting goals, are actively involved in building relationships with student groups on campus and interviewing, and meet with students when they come to visit the company.

These changes appear to be effective. Within the NBMBAA sample, those with network groups had stronger ties to other African Americans in the company, they were more optimistic about their careers, they were less likely to feel locked out of informal networks, and they were more likely to feel that whites could be effective mentors for them (see Table 1). Regression analysis confirms that those who have network groups are more optimistic about their careers, controlling for demographic variables such as age and level in the company (see Table 2). Further analysis is required, however, to identify which of the various activities of network groups created these outcomes.

Function and Form

It is easy to see why network groups can be such a source of confusion. They often serve as a means of employee voice but without the leverage of monopoly power that unions have (Freeman and Medoff 1983). They serve many of the functions of a HR department, providing training and development for members and recruiting for the company. And they provide a

TABLE 1

Comparison of Responses by Group/No Group
National Black MBA Survey

Have Group		(1=Agree, 5=Disagree)
Yes	No	
3.3°	3.6	Top management is committed to equal opportunity
2.9	3.1	Satisfied with career progress
3.8	4.0	Committed to stay at company
2.7°	3.0	Expect to move higher
1.7°°	2.1	Informal networks critical for success
3.2	2.9°	I have been kept outside of informal networks
2.1°°	2.6	I maintain extensive ties with African Americans
2.5°°	3.0	Strongest support comes from African Americans
3.2°°	3.6	I have support of a mentor
3.2	2.9°	Difficult for white managers to be mentors
2.4	2.4	I have faced racial discrimination at work
3.1	3.1	I am equitably compensated compared to whites
3.0	3.0	I receive honest and accurate feedback

Significant differences (° = $p < .05$, °° = $p < .01$, two-tailed) are underlined.

TABLE 2

Effects of Network Groups on Career Optimism

Dependent Variable	Career Optimism Scale
Age	-.129°
Sex	.015
Education	-.018
Years in company	-.185°°
Level in company	.351°°°
Network group	.094°
Adjusted R^2	.131°°°

Standardized betas, ° = $p < .05$, °° = $p < .01$, °°° = $p < .001$, one-tailed.
The career optimism scale combines two variables, "I am satisfied with my career progress," and "I expect to move higher within the company" (Cronbach's Alpha = .68).

social community for members. The actual structure of these groups varies, from highly formalized elected bodies that use parliamentary rules to informal gatherings and informal leaders. Some are organized for each identity group (e.g., African American, female, Latino), while others are organized as a single "diversity" group. Which aspect of network groups is emphasized in each company also varies; some have been more active providing feedback to management, while others have been more focused on social

activities and internal support. There is, however, some degree of consensus about which functions network groups do best.

Most Influential Aspects of Network Groups

In the surveys we asked respondents to express their opinion about whether network groups were an effective means to accomplish several different goals. The responses for the three surveys are listed in Table 3. For all respondents it is clear that network groups are seen as most effective at expressing concerns to management, providing social support (friendship, community), providing informal career and business advice, and supporting younger African-American employees. They are seen as less effective by all at influencing policies or fighting racial discrimination. HR managers and NBMBAA members see network groups as moderately effective at providing additional training to members, enhancing their performance, and supporting their career advancement.

TABLE 3

Functions of Network Groups

The surveys asked respondents to assess the degree to which network groups provide them (the HR survey asked if network groups provided "members") with a means for accomplishing these objectives (1=strongly agree, 5=strongly disagree). Mean responses for each question are listed below. Some questions were not covered in the ELC survey.

	NBMBA	HR	ELC
Social support	2.07	1.84	2.26
Support younger	2.16	2.06	
Informal advice	2.15	1.88	2.31
Express concerns	2.28	1.65	2.50
Enhance performance	2.89	2.59	
Training	2.90	2.33	3.06
Support my career	2.91	2.48	
Fight discrimination	3.09	3.08	3.03
Influence policies	3.18	2.90	2.97

Fears and Resistance

If network groups provide the benefits mentioned above, why is it that many companies are extremely anxious about their existence, even to the point of shutting them down in some cases? And why is it that some (probably the majority) of black employees are not active in groups that do form? Regardless of what network groups tend to do, they generate a great deal of fear and resistance.

Managerial Concerns

The very act of having people who are different getting together can in itself cause anxiety. In one case a group of women at a management seminar were told pointedly that "you ought to spread out," and one woman was asked later by her boss, "What are you planning? What are you girls up to?" When *formal* organizations of black or female employees are created, it sets off additional warning bells. One manager said that he did not trust the group when it initially formed because "it seemed like an organization to check on us." When groups form, there is great ambiguity: Who are they? Why are they forming? What will they do?

When much is unclear, there is a tendency to interpret this situation in terms of others that one is familiar with (Fiske and Taylor 1991). In this case the dominant conceptual framework for thinking about groups of employees is unions. Managers talk a great deal about whether network groups will be union-like (by that they mean antagonistic, outside challengers to their decisions) and will actually become a union, or if simply their existence would encourage unions to try to organize at their company. At Xerox (Friedman and Deinard 1991) managers resisted the expansion of network groups in the 1970s due to fears that they would become unions, and among the 13 companies visited during this research, approximately half expressed concerns that networks would lead to unions. The fear is each of these cases was palpable, even though we encountered no case where such a thing had occurred. In most cases network groups include managerial employees or are made up exclusively of managerial employees so that unionization is legally inappropriate. And if they were to become a union, it would not be legal thereafter for the group to be organized along demographic lines. Minority employees, therefore, have a specific incentive not to let the group become a union. Finally, the defined areas of union bargaining (wages, hours, and working conditions) are not typically what network groups want to talk about or do talk about. Still, the image of unions comes immediately to mind for many managers. In the transition from union-based employee representation to some developing forms of employee representation, reactions to employee representation are still shaped largely by managerial attitudes toward unions. The second primary managerial concern is that network groups might be racially divisive. One CEO, for example, was quite explicit that he felt this country was becoming too divided as it was—wouldn't these groups and others that might follow lead to the Balkanization of the company and the country? Assimilation is no longer popular, but it was, he thought, still the right answer. Managers have many other concerns about network groups, but the two that appear

most significant in the minds of managers are whether network groups would be unionlike and whether emphasizing identity groups would be counterproductive.

Member Concerns

It is not just management that has doubts about network groups. Minority employees also have doubts about groups, most of which mirror those of management. One black employee commented, "We suffer tremendously from fear. We are afraid to be perceived as a radical element which would eventually lead to a position on the famous 'Black List.'" And one woman (who supported minority network groups) did not want a women's group because "it would make me stand out and reinforce being different. It would not be seen well within the company." These employees recognize management's fears and the kinds of effects those fears can have on their future relationship with colleagues and management.

These worries, combined with those of white male colleagues and management, have the potential to produce a self-fulfilling prophecy. If those who are ambitious and successful choose not to join, then the group is not seen as one for successful people, top performers do not join, backlash at joining increases, anger within the group is likely to be stronger, and relationships with top management are likely to be weaker. Whether those who are ambitious and successful choose to join depends on management's response: they are more likely to join if the group is seen by management as one that is helpful and thus a positive addition to one's portfolio of activities.

Conclusion

This paper documents the growth of employee network groups, their potential for providing comfort for minority and female employees, and their potential for enhancing the career achievement of these employees. As an emerging form, network groups are something of a moving target for researchers, but one that deserves attention given their rapid growth. Why are these groups forming so rapidly now? Is it a passing fad? Will companies and groups find better ways to introduce and manage these groups? For those who are concerned with diversity in organizations, employee representation, or human resource management in general, employee network groups are an emerging phenomenon that is ripe for study, and one that can benefit from the feedback of thoughtful research.

Endnotes

[1] For a more theory-based analysis of the potentials of network groups, see Friedman (in press).

References

Alderfer, C., and D. Thomas. 1988. "The Significance of Race and Ethnicity for Understanding Organizational Behavior." *International Review of Industrial and Organizational Psychology*, pp. 1-36.

Baker, W. 1994. *Networking Smart*. New York: McGraw Hill.

Childs, J. 1992. "Constructive Disputing: The Ramifications of African-American Caucus Groups for Today's Organizations." *Studies in Law, Politics, and Society*, Vol. 12, pp. 177-97.

Fiske, S., and S. Taylor. 1991. *Social Cognition*. New York: McGraw Hill.

Freeman, R., and Medoff. 1983. *What Do Unions Do?* New York: Basic.

Friedman, R. In press. "Defining the Scope and Logic of Minority and Female Network Groups: Does Separation Enhance Integration?" In G. Ferris, ed., *Research in Personnel and Human Resources Management*. Greenwich: JAI Press.

Friedman, R., and Carter. 1993. *African-American Network Groups: Their Impact and Effectiveness*. Washington: Executive Leadership Council.

Friedman, R., and C. Deinard. 1991. *Black Caucus Groups at Xerox (A)(B)*. Harvard Business School Case, 491-047, 491-048. Boston, MA: Harvard Business School Publishing Division.

Hacker, A. 1992. *Two Nations: Black and White, Separate, Hostile, Unequal*. New York: Scribners.

Ibarra, H. 1992. "Homophily and Differential Returns: Sex Differences in Network Structure and Access in an Advertising Firm." *Administrative Science Quarterly*, Vol. 37, pp. 422-47.

Irons, E., and G. Moore. 1985. *Black Managers: The Case of the Banking Industry*. New York: Praeger.

Morrison, A., and M. Von Glinow. 1990. "Women and Minorities in Management." *American Psychologist*. Vol. 45, no. 2, pp. 200-208.

DISCUSSION

TIMOTHY D. CHANDLER
Louisiana State University

This panel presents an eclectic set of papers, ranging from traditional topics such as the determinants of bargaining impasses and industrial relations (IR) transformation to largely unexplored topics such as managerial IR ideologies and network groups within firms. Each of the papers advance IR scholarship and inform practice, though to varying degrees. I will briefly highlight the papers' contributions as well as identify possible avenues for future research.

The paper by MacDuffie, Hunter, and Doucet contributes to the burgeoning literature on the transformation of IR by examining workers' satisfaction with the Modern Operating Agreement (MOA) between Chrysler and the UAW. Based on workers' general, albeit weak, satisfaction with the MOA, one might conclude that similar agreements should be adopted in other labor-management relationships. Before doing so, however, more information is needed on the context surrounding adoption of the MOA. If the threat of plant closure, layoffs, etc., was used to coerce acceptance of the MOA, as apparently occurred at some of the plants, job security, not the MOA per se, might be generating the positive attitudes.

Interestingly, this research suggests that worker satisfaction with the MOA and team concepts differs significantly across plants and that workers don't like all aspects of the MOA equally. Employees at four of the plants (plant 4 being the exception) have significantly more positive views of the MOA than employees at plant 6. This could reflect lasting effects of conditions at the plants when the MOA was first adopted or differences across plants in how the MOA has been implemented. In addition, the authors find that the mean for "preference for teams" is higher than the mean for "preference for MOA," which is higher than the mean for "satisfaction with MOA." Therefore, beyond the use of teams, there are aspects of the MOA that workers don't like. Also, the means for the satisfaction variables are not very high, indicating that the new IR system embodied in the MOA could be improved. The factors generating interplant differences in worker

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satisfaction with the MOA and differences in worker satisfaction with various components of the MOA should be explored.

Wang and Babcock examine how the selection of different referent groups affects unions' and managements' reservation wages, the size of contract zones and, hence, the incidence and duration of strikes. The finding that school boards focus on local residents' salaries and unions on neighboring teachers' salaries when setting reservation wages is a bit surprising. Given that teacher collective bargaining is not new to Pennsylvania, I would have expected the two sides to identify similar referent groups when negotiating wages. Not surprising is the finding that the differential use of information affects negotiation impasses.

Unfortunately, no information is provided on the cognitive processes that lead union and management negotiators to select different referent groups for collective bargaining. What types of salaries (i.e., occupational groups) are chosen by school boards and why? Is the difference one of unions' concerns with equity and managements' concerns with ability to pay? Or do public school boards really believe that teacher salaries should be comparable to some occupationally "irrelevant" private sector salaries? Addressing these questions might enable the authors to support their claim that the selection of different referent groups is due to the negotiators' different social and organizational positions. Finally, the authors should explain why residents' salaries and neighboring teachers' salaries affect strike duration, but not strike incidence. The economic model used by the authors does not appear to allow for these results.

The paper by Godard identifies three aspects of managerial IR ideologies and finds that numerous contextual variables significantly affect managers' IR ideologies. Despite the empirical support for some of the hypotheses, the hypotheses are not always convincing. For example, if greater bureaucratization increases sympathy toward unions because managers are sympathetic to the bureaucratized IR practices associated with unions, why then does it decrease managerial support for employee involvement and other worker participation programs? Any formal, institutional structures which provide employee involvement and participation in decision making should lead to higher levels of bureaucratization.

Moreover, although some of the contextual variables significantly affect managerial IR ideologies, the contextual variables are poor predictors of those ideologies. So, what are the determinants of managerial IR ideologies? Perhaps managers in firms that emphasize employee involvement and participatory work structures are likely to incorporate those values into their IR ideology. Other important determinants might be person-specific factors such as family background, income, education, political ideology, etc.

Finally, the practical implications of the various components of managerial IR ideologies need to be explored. The ideologies identified in this paper are more detailed and specific than measures used in prior research and, thus, could prove useful in research examining the determinants of firms' IR practices.

The final paper by Friedman describes minority network groups and how they are perceived by group members. The name "network group" suggests an organization that provides social networking opportunities to group members. Friedman finds, however, that they also inform management about minority group issues and serve an advocacy role for minorities.

Although the recent increase in the number of network groups is impressive, it may not be a good measure of their popularity. A more important question is, What proportion of a firm's minority employees join existing network groups? This may determine whether these groups can influence policies toward group members, since management can more easily ignore a "fringe" group than one that has considerable support among minority employees. It would also be interesting to know the percentage of network groups that perform each of the functions identified in this research and whether the dominant function of a network group affects its form.

An intriguing finding from this research is that management often opposes network groups. Yet network groups provide valuable services to management, are composed of managerial employees from many different work units, are limited in membership to specific minority classes, and have no formal sources of power. Perhaps management fears network groups because they are comprised of workers who often feel mistreated and abused within companies, and thus, like unions, network groups are expected to take a protective, adversary role when interacting with management. It would be interesting to compare managers' attitudes toward network groups to their attitudes toward other more inclusive nonunion forms of employee organization. Increasing our understanding of network groups as well as other new organizational forms will tell a lot about whether they are viable means of filling the representation gap that exists in the U.S.

DISCUSSION

SUSAN SCHWOCHAU
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My comments will be necessarily brief and focused not on specific aspects of the papers presented but on different issues and concerns I would urge the authors to consider. Some of the issues are theoretical, and some are, shall we say, more pragmatic.

I would like to urge Wang and Babcock to continue their work investigating whether bargaining parties attach different weights to information but to push their ideas a bit further than they have in the paper presented today. The notion that the parties use different weighting schemes is intuitively appealing, and I can say that I have seen some direct evidence of this in my own research. If the parties generally do attach different weights to the information they have commonly available, however, there must be additional factors that cause strikes to occur. Otherwise, we would have to ask why different weights are used in some situations leading to strikes, but not in others. Would weights attached to information be dependent on the economic environment facing the parties? Would rational parties selectively weight information and attach little weight to information that does not support their overall position? If so, what causes these selective weights to lead to strikes? In developing their theory, I urge the authors to think more specifically about what types of factors in combination with different weights might influence the probability of strikes occurring.

Given a relatively new and emerging topic, Friedman has many possible avenues available to him for theory development. This is both a positive and a negative. The positive clearly comes in investigating a phenomenon about which relatively little is known. The negative comes in having little previous research on which to build when developing frameworks and, ultimately, theory. Here I would urge Friedman to examine research conducted in political science and economics—particularly those bodies of research on interest group formation and operation. I think these lines of research will be particularly helpful as he investigates the factors that lead to the creation of network groups and the factors that influence the operation of network groups in organizations.

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I was pleased to find that MacDuffie, Hunter, and Doucet were investigating employee, rather than employer or union, perceptions of workplace transformations. Little is known about how workers see participation schemes, teams, and other transformations, particularly those "offered" to them in exchange for keeping the plant open or for continued investment in their plant. In continuing this line of research, however, I would urge the authors to err on the side of conservativeness when drawing conclusions. I do this for practical reasons. As we are all probably aware, some have dismissed whole bodies of research in the areas of participation and involvement because of the perception that the research was unduly influenced by the investigator's own belief system or by the preferences of those individuals responsible for the transformation's implementation. This puts an additional burden on those conducting research in these areas. Having said this, I think the research presented today raises some important and interesting issues that deserve additional attention. I hope that one of the pieces arising out of the line of research investigates more specifically why workers' opinions appear to have changed over time—from in some cases extreme skepticism to opinions that can be said to be at least a bit more positive. Perhaps this could be done with the longitudinal data to which the authors apparently have access. Another question regards why there is variation in some of the independent variables. For example, is variation in the perceived influence teams have on management decisions due to individual characteristics or to differences in how the MOA initiative has been implemented in the six plants?

I was particularly interested in the effects of perceived influence in the MOA paper because I believe the issues of influence and control are at the heart of the irony imbedded in the results of Godard's work: managers believe employees should have some voice and, in some cases, equal voice but don't much like employee voice when it comes via an independent institution—a union. It seems that managers do not particularly care for an entity that has the potential to have a significant effect on their decision making. This result is not unlike that reported in other research. Investigators have also found that the public perceives unions more favorably when unions are relatively weak or ineffectual. These perceptions have numerous implications. For example, Friedman may well ask whether managers express a certain resistance to network groups because they, like unions, represent collectives not under the direct control of management. He may also ask whether the "accepted" network groups are those that pursue goals consistent with management's goals or those that are generally unable to achieve lasting improvements for their members. Results reported in the MOA paper suggest there are direct implications for the operation and

success of participation initiatives in organizations. Benefits to the organization may be directly tied to the organization's willingness to give up control over and influence on decisions. Finally, there are implications for academics. We, as academics, may see employee participation efforts and unions as points on a continuum, but it is clear that at least this sample of managers does not. This raises a fundamental question: To which set of perceptions should our theories regarding participation be tied? In short, Godard's work has broad implications for a number of issues, and I hope he will be addressing some of these as he pursues this line of research.

XI. REFEREED PAPERS: HUMAN RESOURCE MANAGEMENT

A Theoretical Framework to Understand the Adoption of High-Involvement Work Practices and Bundles

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University of Pennsylvania

The relationship between high-involvement work and HR practices and performance is well established empirically, along with the recognition that these practices are most effective when operating as part of a bundle or system of complementary practices (e.g., Arthur 1992; MacDuffie 1995; Ichniowski et al. 1994; Huselid 1995; Milgrom and Roberts 1995). However, given the performance implications of such practices, the question arises as to why not all organizations are using them. Alchian (1950) stated that "whenever successful enterprises are observed, the elements common to these observable successes will be associated with success and copied by others . . . ." Not only is imitation the sincerest form of flattery. It is also the most effective method for organizations to absorb the learning undertaken by other organizations (March 1991). However, despite the laudatory praise on imitation, imitation of high-involvement work systems[1] is very slow.

We have collected a longitudinal data set of work practices and policies in 43 automobile assembly plants around the world (Pil and MacDuffie 1996). These data reflect two rounds of surveys—one collected in 1989 and the other collected in 1993-94. Although the use of high-involvement work practices has increased, many plants that were using traditional work systems five years ago still use them today. Given the similarity in product

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market and, often times, business strategies in many of these plants, the lack of diffusion of high-involvement work practices is surprising. In this paper we introduce a theoretical framework for understanding why individual work practices as well as so called bundles or systems of complementary practices are very slow to diffuse. Data analyses testing this framework can be found in Pil (1996) and Pil and MacDuffie (1996).

Theoretical Framework

Institutional theorists like Stinchcombe (1965) would argue that organizational form is frozen at birth and is incapable of change. Similarly, Hannan and Freeman (1984) argue that organizations have difficulty changing, adjusting, or adapting. There are "very strong inertial pressures . . . arising from both internal arrangements . . . and from the environment" (p. 157). Such inertial pressure comes from things like sunk costs in equipment and personnel. It also comes from exchange relationships with other organizations, a need for legitimacy in the eyes of constituents, and institutional pressures. When the environment changes, organizations that do not have the necessary characteristics to operate in the new environment die and are replaced by either new organizations or existing ones that do have the right characteristics.

In the eyes of theorists like Stinchcombe, Hannan, and Freeman, change happens at the population level, not at the organization level. Furthermore, differentiation in organizational characteristics occurs at birth. Organizations do not adjust. Adjustment within a population occurs through death. In addition to our 45 assembly plants for which we have longitudinal data, we have 6 plants that closed between 1989 and 1993. In-depth analyses of these 6 plants revealed that location disadvantages, combined with a product mix with declining demand were significant reasons for closure (Pil 1996). A dearth of high-involvement work practices and out-of-date production systems more generally also played a role in the closing of three of the plants. Death is an extreme performance outcome, and the majority of plants in our sample that did not make extensive use of high-involvement work practices are not defunct. Much more interesting is what happened to those plants. There is great variance in the extent to which plants adopted high-involvement work practices. Very few plants undertook fundamental change in their work systems and implemented a whole "bundle" of new practices.

To understand this, we need theories of organizations that work at the establishment level and recognize that organizations can change after they are founded. The evolutionary perspective of change suggests that organizations begin with a set of organization routines (Aldrich 1979; Nelson and

Winter 1982). These are established ways of doing things that are generally tacit and are ingrained in the collective knowledge of the organization. They include things like HR and work practices but also other organizational practices and policies like approaches to R&D, supplier management, and so forth. Routines can be fairly idiosyncratic and are believed to be a source of competitive advantage. We will use the terms "routine," and "high-involvement work practices and policies" interchangeably in this discussion, although the former is a broader concept. Over time, random variation occurs in some organizational routines. When this variation results in positive change for the organization, it is retained. Otherwise, it does not survive in the pool of routines that are dominant within the organization (Nelson and Winter 1982). The idea in this literature is that change takes place in a random rather than a guided fashion. Routines are heritable and selectable, and those routines that do better grow in importance over time.

Routines can change from direct experience through two major mechanisms: (1) trial and error experimentation and (2) organizational search, whereby superior routines are adopted. Although firms will search for superior routines, Cyert and March (1963) noted that managers only look in the "neighborhood" of familiar alternatives in attempting to develop solutions to their organization's problems. Similarly, Nelson and Winter (1982) argue that firms undertake local searches for new routines. Because established routines are hard to break and search for new routines is local, organizations continue to be subject to a certain level of inertia. Because the adoption of new routines is subject to a lot of trial and error, organizations are characterized as groping toward superior ways of doing things (Lippman and Rumelt 1982). The evolutionary approach to change is characterized by "a chaotic or probabilistic process not easily amenable to conscious attempts to increase its occurrence." (Mezias and Glynn 1993). Plants with few high-involvement work practices end up making incremental change rather than dramatic and fundamental change toward a whole new bundle of practices.

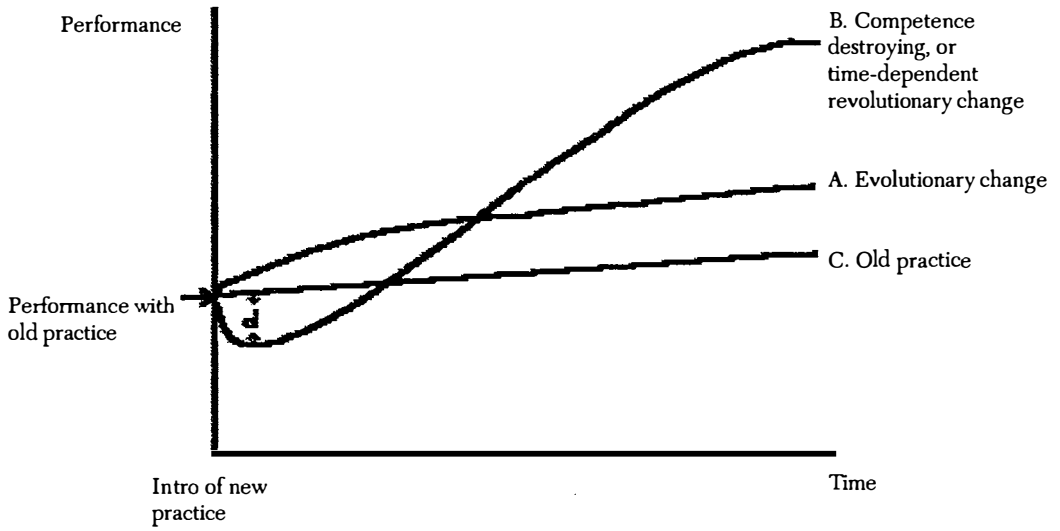
To understand the factors enabling or inhibiting plants from making radical changes in their work practices, it may be useful to consider the literature on innovation. This literature looks at change as being either evolutionary or revolutionary. Although theorists in this tradition differ in the nomenclature they use—evolutionary versus revolutionary (Mezias and Glynn 1993), incremental versus radical (Dewar and Dutton 1986), frame bending versus frame breaking (Tushman and Anderson 1986)—the essence of the dichotimization is the same. Evolutionary change is either a minor change in technology or a refinement of existing practice, whereas revolutionary innovations "produce fundamental changes in the activities of

an organization and represent clear departures from existing practice"[2] (Damanpour 1991: 561). Tushman and Anderson (1986) take the notion of revolutionary innovation a step further when they introduce the concept of competence-destroying technical change. Such change is a form of revolutionary change where firms that were not using the new technology not only lose the benefits associated with the new technology but have a harder time adopting it because of the presence of the old technology.

There are multiple theories on how spin-offs, number of technical specialists, skunk-works, special ad hoc teams, "heroic entrepreneurs," and so forth drive the adoption and creation of innovation within organizations (Mezias and Glynn 1993; Dewar and Dutton 1986). However, most of these are specific to an R&D/technology setting. Very little has been done to explain change in work practices and bundles in organizations. The general conclusion in the innovation literature is that revolutionary change (which would be analogous to changing a whole bundle of HR and work practices) is much harder to undertake and occurs much less frequently than evolutionary change. This is particularly the case when the change is competence-destroying.

Whereas Tushman and Anderson (1986) talk about competence-destroying technical change, we would like to introduce the concept of competence-destroying change in work practices and systems. As with competence-destroying technical change, competence-destroying change in work practices would result in current practices being rendered obsolete. The notion of competence-destroying change has very significant implications for an organization's "learning curve." Not only does the organization have to learn how to deploy a new practice. It cannot do so without simultaneously unlearning its old work practices. For example, when an organization has used traditional work practices for an extended period of time, established patterns of communication and trust develop around these work practices, and clearly defined job roles, seniority rules, and so forth, emerge. These develop into "customs backed by more claims" on how things should be done (Doeringer and Piore 1971) and hinder the introduction of new work practices. The organization not only has to spend considerable time and effort to make the new system work but also has to "unlearn" the system. Where a learning curve under evolutionary change would look like curve A in Figure 1, a learning curve under competence-destroying change would have a slope that is much less steep. The results from the change would take much longer to be observed. Furthermore, because of the costs associated with unlearning the old practices, it is possible that initially the organization performs worse with the new practices than it did with the old practices, as in curve B.

FIGURE 1
Learning Curves under Evolutionary Versus
Competence Destroying Change



A similar learning pattern to that experienced with competence-destroying change would be that evidenced with the introduction of work practices that are time-dependent. These are practices which take time to have an impact but where costs are immediate. The learning curve associated with the introduction of practices exhibiting time dependency will be characterized by a slope similar to the slope of the curve that one would find with competence-destroying change. There is again the possibility that initially the organization performs worse, or no better, subsequent to the introduction of the new routine, even though it will perform better in the long run.

In both the situation of competence-destroying change and time-dependent change, we see what might be termed "competency traps." These arise when favorable experience with an inferior resource leads an organization to accumulate more experience with it (Levinthal and March 1981; Levitt and March 1988). Such traps might occur because of the performance differential labeled "d" in Figure 1 between the current performance of the existing routines and the initial performance following the introduction of the new routine. Organizations reject change that does not offer improvements to current practice (Levinthal and March 1981). Because the superior practices do not yield immediate results, and because organizations suffer from "organizational myopia" (Radner 1975), potentially superior practices are rejected in favor of the status quo. The organization has reached a performance level on the learning curve with the existing routines that is superior to the level it would attain with the introduction of a new routine.

A Closer Look at Revolutionary Change

It may be necessary to introduce a whole system of interdependent resources to achieve superior performance—a revolutionary and widespread change—as opposed to an evolutionary change. Although introducing one or two high-involvement work practices may improve performance, there is an additional boost to performance from adding a full set or bundle of practices. In the previous section we discussed why plants might be reluctant to take on individual new practices. Having organizations change their whole mode of organizing (their full set of HR and work practices) may prove even more daunting. Organizations that are following a given set of low-involvement/traditional practices may need to undergo a fundamental shift in paradigm (Pfeffer 1981) or theory in use (Argyris and Schon 1978). Why is it so hard for organizations to do this?

Reed and DeFillippi (1990) argue that ambiguity in the links between the elements that make up a bundle of practices and performance is key to why it is so difficult to copy. They indicate three characteristics of bundles

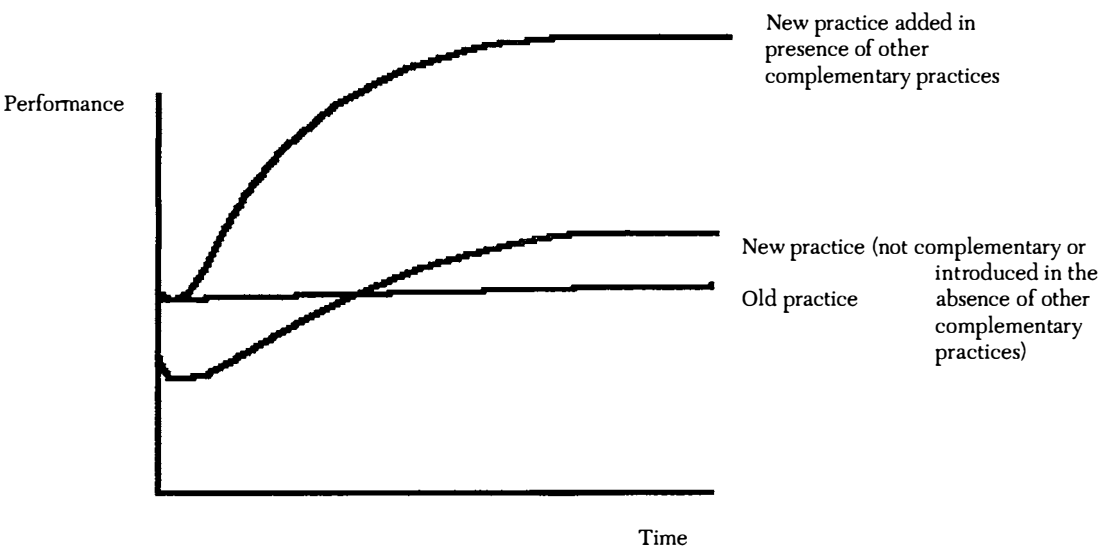
that can be a source of that ambiguity. These include (1) the lack of codification of bundles, (2) the complexity surrounding the sources of superior performance (the greater the number of interacting elements, the harder the bundle of practices is to copy), and (3) the specificity of the practices (the practices are organization specific and hence have little relevance in other organizations). The elements that make up high-involvement work systems have been identified in various industries. Although some companies appear to make greater use of them than others, bundles of high-involvement work and HR practices do not appear to be inherently organization specific. It appears to be the complexity surrounding the interconnected elements of the bundles that makes them difficult to copy. In particular, organizations are daunted by the need to introduce a whole set of interconnected HR and work practices and policies to reap the full benefits of those practices and policies. Let us now take a closer look at why it is difficult for plants to copy this interconnected system by reverting back to the level of individual practices.

As discussed earlier in this section, change in organizations takes place in an almost random fashion, with sequential attempts at solutions to problems (March and Simon 1958; Cyert and March 1963). Similarly, Nelson and Winter (1982) argue that firms undertake local searches for new routines. This suggests that an organization will but rarely attempt a comprehensive replacement of existing resource routines with new ones. Hannan and Freeman (1984) argue that such significant reorganization produces a liability of newness similar to the liability of newness that new organizations are subject to. Organizations that are performing adequately would not be tempted to undertake such change. Only those doing extremely poorly, believing that they could not be worse off, would risk such a change.

What are the implications of a bundle of complementary practices being adopted sequentially rather than as a group? Let us consider an example. Suppose a mass production plant is looking for ways to improve its performance. It does some research and learns that a significant indicator of superior performance is the degree to which the plant develops a flexible labor force. It learns that what is needed is cross-training, job rotation, team work, quality efforts, and pay for performance. However, like most plants, it decides to start with one or two of these to see how they work. Unfortunately, changing one or two practices has little immediate impact. Localized search for better routines continues, but the benefits of overarching change are not achieved. Firms that were considering large-scale innovation do not observe large performance increments as a result of smaller-scale efforts, and the change effort loses steam.

Let us look graphically at what happens when a work practice subject to complementarities (Milgrom and Roberts 1995) is introduced—see Figure 2.

FIGURE 2
Performance Implications of
Complementarities



Practices are complementary if the sum of performance improvements achieved by using each practice individually is less than the improvements achieved when the practices are used together. If the practice is introduced alone without the beneficial presence of complementary practices, the result is quite similar to that presented earlier. The new practice may perform more poorly at first than the practices that were there previously because of competence destruction or time dependency. Although the organization, if it recognizes the long-term potential of using the practice, may decide to retain it, it will not reap the benefits of complementarity. These benefits are shown graphically in Figure 2. We see that when a practice is introduced in the presence of many other associated practices that exhibit complementarities, not only does the new practice induce an incremental improvement in performance but so do the complementary practices. The performance boost may be enough to offset the problems of time dependency or competence-destroying change. When starting from a position where there are few if any complementary practices established, the only improvement in performance is due to the new practice itself. The new practice may be subject to time dependency or competence-destroying change, and without the performance boost of complementary practices, it may not be adopted.

Figure 2 shows that in addition to the presence of complementary practices, there are two other factors that can affect the likelihood with which an organization will implement high-involvement work practices: (1) performance achieved with existing practices and (2) factors which affect the cost of introducing the new practices. If an organization is experiencing extremely poor performance, then the initial performance differential between the new practices and existing practices will be smaller. As a result, the organization is less likely to find itself in a competency trap and will be more likely to undertake change. Furthermore, as mentioned earlier, such an organization would be less daunted by the "liability of newness" surrounding the adoption of a whole new system of high-involvement work practices, and therefore, overarching change is more likely.

Altering the cost of introducing new high-involvement work practices in turn alters the likelihood that such practices are implemented. There are many factors that could affect the cost of introducing new work practices. If the cost of introducing a new work practice increased, the performance differential between new and existing practices would increase as well, and the introduction of such new practices would be less likely. Conversely, factors which would reduce the cost of introducing new work practices would render the adoption of such practices more likely.

Testing the Framework

While we do not have the space here to report the quantitative analyses of the theoretical framework outline above, these can be found in Pil (1996) and Pil and MacDuffie (1996). We have tested various aspects of the theoretical framework outlined above and would like to provide a synopsis of some of the key findings. We analyzed the adoption of high-involvement work practices at 43 automobile plants between 1989 and 1993-94. We found strong support for the effect of complementarities. Establishments which had higher levels of basic supporting human resource practices (like high levels of training and careful employee selection criteria) were much more likely to increase their use of high-involvement work practices (e.g., team work, quality circles, job rotation, and suggestion programs). We also found that plants with few high-involvement human resource practices were much less likely to introduce on-line team work than off-line team activities like quality circles, which require a less drastic change in other human resource practices.

With respect to performance, we found that as predicted, organizations exhibiting poor performance were somewhat more likely to adopt high-involvement work practices (Pil 1996; Pil and MacDuffie 1996). Perhaps most interesting is that the very worst performers were the ones most likely to undertake a *fundamental* change in their work and HR systems (Pil 1996).

In addition to the presence of complementary practices and the performance levels achieved with existing practices, the theoretical framework outlined above also suggests that factors that alter the relative cost of introducing new high-involvement work practices in relation to maintaining the status quo will affect the likelihood that such practices will be adopted. There are various factors that might affect the cost of introducing high-involvement work practices. Earlier we discussed how extensive experience with traditional work practices might make the implementation of high-involvement work practices more difficult. Similarly, actions that alter the level of trust between employees and managers can also alter the cost of introducing high-involvement work practices. The successful implementation of high-involvement work practices requires mutual understanding that not only are employees committed to the organization they work for but that the organization shows commitment to them in return (Burack et al. 1994; Kochan and Osterman 1994; Levine and Tyson 1990). Factors that alter this perceived commitment (e.g., layoffs) alter the relative cost of introducing high-involvement work practices and, as a result, affect the likelihood that such practices will be adopted. Our empirical results suggest

that some factors that alter the relative cost of introducing new high-involvement work practices affect the likelihood that such practices will be adopted. For example, organizations that experience a disruption that "unfreezes" the current way of doing things (in our data, the introduction of new products and associated new process technology) are more likely to introduce high-involvement work practices. We also found that it was difficult to distinguish between the relative effects of the level of complementary practices and actions that reduce employee trust (like layoffs) on the likelihood of adopting new high-involvement work practices. In part, this is due to the fact that organizations with very traditional HR and work practices are also the most likely to undertake layoffs.

Much has been written about high-involvement work practices and their impact on performance. However, little is known about why these practices are not diffusing as quickly as one would expect. This paper provides a theoretical framework to understand why the diffusion of individual practices is not as rapid as one would expect as well as why organizations are slow in adopting "bundles" or "systems" of complementary practices. Key factors in the explanation include the level of complementary practices and policies already in place, the performance achieved with existing work practices, and factors that alter the relative cost of introducing high-involvement work practices in relation to maintaining existing practices.

Endnotes

[1] The definition of such "high-involvement work systems" vary from researcher to researcher. Common elements across definitions generally include teams and team work at the lowest levels within the organization, some form of gainsharing (be it through profit sharing or pay for performance systems), quality circles or a similar quality effort, and skill formation through things like on- and off-the-job training (Pil 1996; Arthur 1992; Eaton and Voos 1992; Ichniowski et al. 1994; MacDuffie 1995; Kochan and Osterman 1992; Keefe and Katz 1990). In other analyses we differentiate between high-involvement work practices, and HR practices, the latter being personnel-type practices such as selection and training, which support high-involvement work practices and structures. The high-involvement work practices and structures encourage and enhance communication flow and elicit greater employee participation and involvement in decision making and problem solving. For the purposes of the discussion in this paper, we will use the term high-involvement work systems and practices to refer to both the high-involvement work practices and structures and supporting HR practices.

[2] These practices are revolutionary to the organizations considering them and need not be revolutionary from the perspective of other organizations.

References

Alchain, Armen A. 1950. "Uncertainty, Evolution, and Economic Theory." *Journal of Political Economy*, Vol. 58, pp. 388-401.

Aldrich, Howard. 1979. *Organizations and Environments*. Englewood Cliffs, NJ: Prentice Hall.

Argyris, Chris, and Donald Schon. 1978. *Organizational Learning: A Theory of Action Perspective*. Reading, MA: Addison-Wesley.

Arthur, Jeffrey. B. 1992. "The Link between Business Strategy and Industrial Relations Systems in American Steel Minimills." *Industrial and Labor Relations Review*, Vol. 45, no. 3, pp. 488-506.

Burack, Elmer H., Marvin D. Burack, Diane M. Miller, and Kathleen Morgan. 1994. "New Paradigm Approaches in Strategic Human Resource Management." *Group and Organization Management*, Vol. 9, no. 2, pp. 141-59.

Cyert, Richard M., and James G. March. 1963. *A Behavioral Theory of the Firm*. Englewood Cliffs, NJ: Prentice Hall.

Damanpour, Fariborg. 1991. "Organizational Innovation: A Meta Analysis of Effects of Determinants and Moderators." *Academy of Management Journal*, Vol. 34, pp. 555-90.

Dewar, Robert, and Jane Dutton. 1986. "The Adoption of Radical and Incremental Innovations. An Empirical Analysis." *Management Science*, Vol. 32, no. 11, pp. 1422-33.

Eaton, Adrienne, and Paula Voos. 1992. "Unions and Contemporary Innovations in Work Organization, Compensation, and Employee Participation." In Lawrence Mishel and Paula Voos, eds., *Unions and Economic Competitiveness*. Armonk, NY: M.E. Sharpe, pp. 173-216.

Doeringer, Peter B., and Michael J. Piore. 1971. *Internal Labor Markets and Manpower Analysis*. Lexington, MA: Heath.

Hannan, Michael T., and John Freeman. 1984. "Structural Inertia and Organizational Change." *American Sociological Review*, Vol. 49, pp. 149-64.

Huselid, Mark A. 1995. "The Impact of Human Resource Management Practices on Turnover, Productivity, and Corporate Financial Performance." *Academy of Management Journal*, Vol. 38, no. 3, pp. 635-72.

Ichniowski, Casey, Kathryn Shaw, and Giovanni Prennushio. 1994. "The Effect of Human Resource Management Practices on Productivity." Unpublished paper, Columbia University.

Keefe, Jeffrey, and Harry Katz. 1990. "Job Classification and Plant Performance in the Auto Industry." *Industrial Relations*, Vol. 29, no. 1, pp. 111-18.

Kochan, Thomas A., and Paul Osterman. 1990. "Employment Security and Employment Policy: An Assessment of the Issues." In K. Abraham and R. McKersie, eds., *New Developments in the Labor Market*. Cambridge: MIT Press, pp. 155-83.

Levine, David, and Laura D'Andrea Tyson. 1990. "Participation, Productivity, and the Firm's Environment." In Alan Blinder, ed., *Paying for Productivity*. Washington, DC: The Brookings Institution, pp. 183-244.

Levitt, Barbara, and James March. 1988. "Organizational Learning." *Annual Review of Sociology*, Vol. 14, pp. 319-40.

Lippman, Steven, and Richard Rumelt. 1982. "Uncertain Imitability: An Analysis of Interfirm Differences in Efficiency under Competition." *Bell Journal of Economics*, Vol. 13, pp. 418-38.

MacDuffie, John Paul. 1995. "Human Resource Bundles and Manufacturing Performance: Organizational Logic and Flexible Production Systems in the World Auto Industry." *Industrial and Labor Relations Review*, Vol. 38, pp. 199-221.

MacDuffie, John Paul, and Frits K. Pil. 1995. "'High-Involvement' Work Systems and Manufacturing Performance." Working paper, Wharton School, University of Pennsylvania.

March, James G. 1991. "Exploration and Exploitation in Organizational Learning." *Organizational Science*, Vol. 2, pp. 71-87.

March, James G., and Herbert A. Simon. 1958. "High-Involvement Work Systems and Manufacturing Performance." *Organizations*. New York: Wiley.

Mezias, Stephen J., and Mary Ann Glynn. 1993. "The Three Faces of Corporate Renewal: Institution, Revolution, and Evolution." *Strategic Management Journal*, Vol. 14, no. 2, pp. 77-101.

Milgrom, Paul, and John Roberts. 1995. "Complementarity and Fit: Strategy, Structure, and Organizational Change in Manufacturing." *Journal of Accounting and Economics*, Vol. 19, pp. 179-208.

Nelson, Richard, and Sidney Winter. 1982. *An Evolutional Theory of Economic Change*. Cambridge: Harvard University Press.

Pfeffer, Jeffrey. 1981. *Power in Organizations*. Marshfield, MA: Pitman.

Pil, Frits K. 1996. "Understanding the International and Temporal Diffusion of High-Involvement HR and Work Practices." Dissertation, Wharton School, University of Pennsylvania.

Pil, Frits K., and John Paul MacDuffie. 1996. "The Adoption of High-Involvement Work Practices." *Industrial Relations*, Vol. 35, no. 3 (July).

Radner, Roy. 1975. "A Behavioral Model of Cost Reduction." *Bell Journal of Economics*. Vol. 6, pp. 196-215.

Reed, Richard, and Robert J. DeFillippi. 1990. "Causal Ambiguity, Barriers to Imitation, and Sustainable Competitive Advantage." *Academy of Management Review*, Vol. 15, no. 1, pp. 88-102.

Stinchcombe, Arthur L. 1965. "Social Structure and Organizations." In James G. March, ed., *Handbook of Organizations*. Chicago, IL: Rand-McNally Press, pp. 142-93.

Tushman, Michael L., and Philip Anderson. 1986. "Technological Discontinuities and Organizational Environments." *Administrative Science Quarterly*. Vol. 31, no. 3, pp. 439-65.

Tushman, Michael L., and Richard Nelson. 1990. "Introduction: Technology, Organizations, and Innovation." *Administrative Science Quarterly*, Vol. 35, pp. 1-8.

Gainsharing as Organizational Learning: An Analysis of Employee Suggestions over Time

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The search for ways to improve organizational performance and long-term profitability have led many firms to consider a variety of human resource interventions, including productivity gainsharing plans. Although gainsharing plans take on a variety of specific forms, gainsharing can be described in general as "an approach to paying bonuses based upon organizational performance and an approach to participative management" (Lawler 1988:324; Bullock and Lawler 1984; Hammer 1988; Gerhart and Milkovich 1992). The essence of these plans is to induce employees to improve plantwide productivity by encouraging employee participation and productivity-enhancing suggestions and promising to share with the entire group any gains achieved.

Although gainsharing plans have existed in the U.S. for more than fifty years, relatively few scientific studies of their effectiveness exist. Those that do exist have generally been favorable. For example, Schuster's (1984) study of 28 plants over a five-year period found productivity increases resulting from the introduction of a variety of gainsharing plans. Wagner, Rubin, and Callahan (1988) used an interrupted time-series design in one organization and found significant increases in productivity resulting from the introduction of gainsharing. Hatcher and Ross (1991) found that changing from individual incentives to gainsharing in a single organization resulted in decreases in grievances and large improvements in product quality (as measured by reduced defect rates).

Although recent studies have begun to address the issue of the positive outcomes that might be associated with gainsharing, the issue of *how* these gains are achieved has remained largely unexplored. This omission is particularly problematic because gainsharing represents a complex organizational intervention which requires firms to make a large number of choices concerning the degree and form of employee involvement, as well as to

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develop a formula to be used as a financial incentive for employees (Collins, Hatcher, and Ross 1993). Without an adequate explanation of how gainsharing works, managers have little guidance in making these choices. More importantly, we know little about why gainsharing appears to work well in some cases and not in others.

Theoretical Explanations of Gainsharing Effectiveness

At one level, it is fairly easy to explain gainsharing effectiveness within the broader context of contingent rewards and performance-based pay (e.g., Gerhart and Milkovich 1992). Expectancy theory, for example, suggests that employees will exert more effort to the extent that there is a clear connection between that effort and desired payoff.

This explanation of gainsharing effectiveness, however, appears inadequate for a number of reasons. First, because it is a group-based incentive which pays equally to all participants regardless of their individual contributions, the utility of theories based on individual incentive payments is far from clear (e.g., Milkovich and Wigor 1991). Second, as Hammer (1988: 339) noted, "The gainsharing philosophy, at least in the Scanlon Plans, goes far beyond individual workers' expected utility calculations." Explanations which focus only on the monetary incentive portion of these plans fail to capture the potential for organizational transformation of these plans. Third, existing theory ignores the dynamics of organizational change over time, particularly in labor-management settings in which gainsharing may be introduced in an atmosphere of employee distrust and antagonism toward management.

Organizational Learning Perspective

In this paper we addressed the issue of how gainsharing plans lead to organizational outcomes by utilizing an organizational learning perspective. Organizational learning is a fundamental concept in organizational theory (March and Simon 1958; Cyert and March 1963) which has experienced a resurgence and has found its way prominently into the manufacturing and strategy literatures (e.g., Hayes, Wheelright, and Clark 1988; Garwin 1993).

A key advantage of an organizational learning perspective over theories which focus on the motivational effects of individual or group incentive payments is that it explicitly takes into account the organizational change aspects of gainsharing programs. According to this perspective, change can be seen as resulting from a gap between organizational goals or aspirations and actual performance. This gap leads to a search for solutions. Since search is believed to be costly, bounded by routines, and limited by information-processing capabilities, this search process is expected to result

initially in *first-order* or *single-loop* (Argyris and Schon 1978) learning, "a routine, incremental, conservative process that serves to maintain stable relations and sustain existing rules" (Kant and Mezias 1993: 48-49). First-order learning, however, is limited to improving existing conditions. When conditions change, a second type of learning called double-loop (Argyris and Schon 1978), nonparadigmatic (Kuhn 1970), and *second-order learning* must take place for the organization to adapt and continue to succeed in the new environment. In contrast to first-order learning, second-order learning "is characterized by the search for and exploration of alternative routines, rules, technologies, goals, and purposes" (Kant and Mezias 1993:49). Management scholars have noted that second-order learning is critical to sustaining firm effectiveness over time (e.g., Hayes et al. 1988).

Hypotheses

In this research we propose that gainsharing effectiveness can be usefully modeled as an organizational learning process. By setting a baseline productivity measure and saying that any gains will come from exceeding that baseline, gainsharing effectively creates the first condition for organizational learning to take place—namely, a perceived gap between existing performance and organizational performance goals. In addition, the employee suggestion system creates a formal communication structure through which individual performance-enhancing ideas are expressed and incorporated as organizational knowledge (Duncan and Weiss 1979). The act of translating individual knowledge into organizational knowledge represents a second condition for organizational learning to occur (Argyris and Schon 1978). Because written employee suggestions also represent an important means by which gainsharing plan incentives are believed to effect organizational performance outcomes (e.g., Hammer 1988), these written suggestions provide a critical analytical link between organizational learning, on the one hand, and explanations of how gainsharing works, on the other.

What determines the volume and the nature of employee gainsharing suggestions submitted over time? Existing theoretical explanations which focus on monetary incentives of gainsharing provide only a limited answer to this question. In particular, an incentive-based explanation of gainsharing effectiveness would predict that the volume of suggestions is primarily a function of the amount of gainsharing payout to employees. This explanation, however, does not address what type of suggestions are submitted or how the volume of different types of suggestions might change over time.

An organizational learning perspective, in contrast, can add to existing explanations of how gainsharing works by providing a more complete answer to this question. Specifically, an organizational learning perspective

leads to the prediction that gainsharing works by helping to create the conditions in which learning can occur. Empirically, this learning is expected to be manifested in changes over time in the proportions of different types of suggestions.

Hypothesis 1: The proportion of employee suggestions representing first-order learning will decline over time.

Hypothesis 2: The proportion of employee suggestions representing second-order learning will increase over time.

These hypotheses are based on the logic that in the initial period after the introduction of gainsharing, bridging the performance gap between desired and actual outcomes can be more easily achieved through incremental improvements in existing procedures. However, there are natural limits to the gains which can be achieved through this type of learning. As the limits of first order learning gains are reached, the relative proportion of this type of suggestion will decrease as employees search for new ways to improve performance in order to continue to receive gainsharing bonuses. In contrast, the volume of second-order learning suggestions will be relatively small initially as trust is built within the system and employees learn to think of work in new ways. The growth in the relative proportion of second-order learning suggestions over time can be seen as the result of increased individual knowledge based on communication and trust in the system as well as the desire to maintain the gainsharing payouts once the gains from first-order learning suggestions have declined.

Research Site

The research site for this study was a large manufacturing plant in an industrial midwestern metropolitan area. The plant manufactures heating and cooling systems for the auto industry. The plant currently employs approximately 1400 workers. All of the direct-labor hourly workers are unionized, and all are members of work teams. A modified Scanlon-type gainsharing program was negotiated in 1988 as part of a larger ongoing effort by the plant to respond to economic downturns and competitive changes in the auto parts industry during the 1970s and 1980s. As a result of site visits and benchmarking, a union and management study team proposed a customized gainsharing formula which consisted of a ten-item "family of measures." Included in the formula were measures of direct and indirect labor costs (including overtime) of bargaining unit members, maintenance materials, perishable tools, scrap, rework, and supplies. The bonus pool was determined by subtracting the actual expenses (labor and

other costs) from a baseline of allowable expenses (based on a two-year rolling average of earned labor dollars and historical costs). This bonus pool was split equally between the company and all bargaining unit employees. Employee payouts were distributed twice per year (June and January). Each work area in the plant was kept apprised of their group's performance on the family of measurements as well as the plant's year-to-date performance through charts posted throughout the plant and updated on a monthly basis.

Suggestion System

As part of the gainsharing plan, the plant introduced a formal procedure for soliciting and processing employee suggestions. An individual employee submitted the suggestion on a standard form to a joint, union-management review team. The review team could accept, decline, or ask to investigate further. There was also a provision for a review board consisting of union and management leaders that met quarterly and made decisions on suggestions whose implementation costs exceeded $1,000 or on any suggestion which was in dispute.

By nearly all measures, this plan appeared to be successful during the four-year period under study from 1989 through 1992. Comparing the average of the two years prior to gainsharing with the average for the first four years of the plan, labor costs (which represent more than 70% of total costs) declined by 8.5%. Substantial declines were also achieved in the use of overtime, perishable tools, rework, and supplies. The net savings attributable to the gainsharing plan during this period totaled more than $9 million. Each eligible employee received a total of $4,442 in gainsharing payouts over the period. Grievances and absenteeism declined by more than 50% and 20%, respectively.

Methods

We obtained from the plant original copies of the 436 suggestions made during the first four years of the plan. To distinguish between different types of suggestions, each suggestion was content analyzed by the authors and placed into one of four general categories: (1) saving materials costs on existing operations; (2) doing currently contracted work more cheaply "in-house"; (3) improving the work process by changing the process sequence, scheduling, and setup; and (4) changing the actual design of the product to make assembly and manufacture more efficient.

Based on our review of the organizational learning literature, we reasoned that the first two categories, material savings and new work, could be defined as *first-order learning*. The rationale for this was that these types of

suggestions did not challenge the status quo thinking in the plant or change the basic way in which work was performed. In contrast, we reasoned that the second two categories of suggestions indicated a more fundamental shift in the way that work was performed in the plant, which represented *second-order learning.* Suggestions for process and product improvements required employees to think beyond their immediate job and to consider ways in which the entire process or flow might be improved.

We then added up the number of first- and second-order suggestions for each of the 48 months to create our dependent variable.

Validity and Reliability

A number of steps were taken to ensure that the categories of suggestions that we derived were psychometrically valid and reliable. Inter-rater agreement (reliability) was determined by comparing the independent judgments of the two authors on how each suggestion should be categorized. Using two random samples of 50 suggestions, the coefficient kappa (Brennan and Prediger 1981) measure of agreement for the two samples was found to be acceptable at .90 and .93, respectively. Discrepancies were discussed and resolved. Also, using a separate part of the suggestion form, we were able to compare our categorization of the suggestion with the independent assessment of the employee who wrote the suggestion. We found agreement in 96% of the cases.

Results

Table 1 provides the regression results testing our hypotheses. The statistically significant coefficient for the time variable confirms the hypothesized relationship over time for this type of suggestion. In this study the percentage of second-order suggestions for a given month is defined as one

TABLE 1
Results of Regression Analysis
Percentage of First-Order Learning Suggestions

Variables	b	s.e.
Intercept	.553°°	.175
Payout	.019	.025
Employment	.013	.089
Time	-.413°	.165
R^2	.60	
F	11.12°°°	
Durbin-Watson	1.78	

° $p < .05$; °° $p < .01$; °°° $p < .001$

minus the percentage of first order suggestions. Therefore regression results for second-order suggestions (not shown) are exactly the same as the first-order suggestion results except that there is a negative sign on the time variable. Because of the existence of autocorrelation in the time-series regression, the model in Table 1 includes controls for first- and sixth-order autocorrelation.

Discussion

The results provide a number of insights into the ways in which the introduction of gainsharing might improve organizational performance over time. First, it has been shown that it is possible to predict changes in the proportion of different types of employee suggestions over time using an organizational learning framework. The data from this organization indicated that the period immediately following the introduction of gainsharing was characterized as a relatively high proportion of first-order suggestions. There appeared to be a limit on the ability of this type of suggestion to generate continued gainsharing payouts, and as a proportion of total suggestions, these suggestions declined over time. In contrast, the proportion of second-order learning suggestions increased significantly over the time period studied. These findings are seen as consistent with implications from the organizational learning literature, which suggests that while second-order learning is more difficult to achieve, it provides a means for organizations to sustain superior performance over time.

Conclusions

As noted above, there has been a clear call in the literature for a better understanding of how gainsharing plans work (Lawler 1988; Hammer 1988; Bullock and Lawler 1984). This paper attempted to answer this call by using an organizational learning perspective to understand the nature of the organizational transformation which may be engendered by gainsharing. The application of an organizational learning perspective in this context represents a significant theoretical contribution to the understanding of this important organizational intervention.

An understanding of how gainsharing may engender first- and second-order organizational learning also has implications for managers and labor unions attempting to implement these programs. The link between organizational learning and manufacturing effectiveness has been addressed in a number of recent works (e.g., Hayes et al. 1988). The process for generating and sustaining organizational learning, however, is not well understood. By showing how an intervention such as gainsharing—which links participative management, labor-management cooperation, communication, and

rewards—can lead to new organizational learning should provide important guidance on how to implement and monitor these programs to achieve sustained economic performance.

References

Argyris, C., and D. Schon. 1978. *Organizational Learning*. Reading, MA: Addison-Wesley.

Brennan, R., and D. Prediger. 1981. "Coefficient Kappa: Some Uses, Misuses, and Alternatives. *Educational and Psychological Measurement.*

Bullock, R.J., and E.E. Lawler. 1984. Gainsharing: A Few Questions and Fewer Answers. *Human Resource Management*. Vol. 23, pp. 23-40.

Collins, D., L. Hatcher, and T.L. Ross. 1993. "The Decision to Implement Gainsharing: The Role of Work Climate, Expected Outcomes, and Union Status." *Personnel Psychology*, Vol. 46, pp. 77-104.

Cyert, R.M., and J.G. March. 1963. *A Behavioral Theory of the Firm*. Englewood Cliffs, NJ: Prentice-Hall.

Duncan, R., and A. Weiss. 1979. "Organizational Learning: Implications for Organizational Design." In B.M. Staw, ed., *Research in Organizational Behavior*, Vol. 1, pp. 75-123. Greenwich, CT: JAI Press.

Garwin, D.A. 1993. "Building a Learning Organization." *Harvard Business Review*, Vol. 71, no. 4 (July-August), pp. 73-91.

Gerhart, B., and G.T. Milkovich. "Employee Compensation: Research and Practice." In M.D. Dunnette and L. Hough, eds., *Handbook of Industrial and Organizational Psychology*. 2d ed. Palo Alto, CA: Consulting Psychologists Press, pp. 481-569.

Hammer, T.H. 1988. "New Developments in Profit Sharing, Gainsharing, and Employee Ownership." In J.P. Campbell and R.J. Campbell, eds., *Productivity in Organizations: New Perspectives from Industrial and Organizational Psychology*. San Francisco: Jossey-Bass, pp. 328-68.

Hatcher, L., and T.L. Ross. 1991. "From Individual Incentives to Organization-wide Gainsharing Plan: Effects on Teamwork and Product Quality." *Journal of Organizational Behavior*, Vol. 12, pp. 169-83.

Hayes, Robert H., S.C. Wheelwright, and K.B. Clark. 1988. *Dynamic Manufacturing: Creating the Learning Organization*. New York: Free Press.

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

Kuhn, T.S. 1970. *The Structure of Scientific Revolutions*. 2d ed. Chicago, IL: University of Chicago Press.

Lawler, E.E. 1988. "Gainsharing Theory and Research: Findings and Future Directions." In W.A. Pasmore and R.W. Woodman, eds., *Research in Organizational Change and Development*. Greenwich, CT: JAI Press, pp. 323-44.

March, J.G., and H.A. Simon. 1958. *Organizations*. New York: John Wiley.

Milkovich, G.T., and A.K. Wigor. 1991. *Pay for Performance*. Washington, DC: National Academy Press.

Schuster, M.H. 1984. "The Scanlon Plan: A Longitudinal Analysis." *Journal of Applied Behavioral Science*, Vol. 20, pp. 23-28.

Wagner, J.A., P.A. Rubin, and T.J. Callahan. 1988. "Incentive Payment and Nonmanagerial Productivity: An Interrupted Time Series Analysis of Magnitude and Trend. *Organizational Behavior and Human Decision Processes*, Vol. 42, pp. 47-74.

Japanese and Local Influences on the Transfer of Work Practices at Japanese Transplants

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Countries differ in their underlying organizing principles of work. These principles develop within the confines of a local trajectory, and differences are eliminated more slowly across than within national or regional boundaries (Kogut 1991a, 1991b). Furthermore, Stiglitz (1987) observed that localized learning can lock countries into suboptimal trajectories. As a result, companies in some countries may possess advantages over those in other countries—advantages which do not diffuse naturally across national or regional borders. For example, Shan and Hamilton (1991) empirically showed that in the field of biotechnology the national identity of organizations is very important because the competitive strength of those organizations derives to some degree from the comparative advantage of their home country. One means by which such advantages can be transferred across national borders is through foreign direct investment (FDI). Hymer (1976) hypothesized that corporations set up subsidiaries overseas because they possess some advantages that outweigh the disadvantage of not being local—advantages that were hard to transfer to overseas firms because of transaction costs. Similarly, Buckley and Casson (1976) argue that market failures in the transference of technology and know-how drive organizations to undertake FDI. Kogut (1991a) more explicitly observed that horizontal foreign direct investment is the extension of organizing capabilities across borders. This paper empirically tests that proposition.

Organizing capabilities are not the only things that induce corporations to set up subsidiaries overseas, but they are ignored in many traditional FDI theories. The notion that companies in different countries may have different operating principles and practices concurs with what has long been predicted by organizational theory: such principles and practices should be differentiated based on the external environment the organizations face

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(Lawrence and Lorsch 1967; Aldrich and Pfeffer 1976). Companies operating in different national contexts face different institutional environments in the form of national institutions, employment expectations, educational systems. As a result, they develop different modes of behavior and operation. However, the same forces that drive differences across countries also induce similarity across companies within any given country. One of the drivers in this similarity is that organizations depend on interactions with other organizations, government entities, and so forth, for their success (Thompson 1967; Hannan and Freeman 1989). Isomorphic pressures result in organizations adopting behavior that is appropriate for their environment and in pressure to do what others are doing (Dimaggio and Powell 1983; Zucker 1988).

The same environmental influences that give rise to superior organizing principles or practices in a given country also make it difficult to exploit such practices in a multinational context. Multinational organizations are subject to competing pressures for cross-national integration and local responsiveness (Bartlett 1986). Westney (1987, 1989) observed that the transfer of practices overseas by a multinational organization is never 100% because of the cultural dependency of some social technologies. In the process of transfer, there are both conscious and unconscious departures from the original practices.

The relative pressures toward global standardization versus local responsiveness have long been recognized. However, this raises an interesting quandary: although multinationals can serve as conduits for best practice, the environmental factors that promoted the development of best practice in one country may not be present in another. For the theory that horizontal FDI reflects the transfer of organizing principles across national environments to hold, it needs to be shown that such principles can be successfully implemented in very different national environments from where they originated.

Testing the Transfer of Organizing Principles

Japanese multinationals provide a unique opportunity to study whether superior organizing principles can be transferred across national, institutional, and cultural environments. As early as 1973, in-depth research appeared contrasting the "Japanese production system" with the manufacturing practices of the West (Dore 1973). The recent literature is replete with anecdotal and other evidence proclaiming the wonders of Japanese manufacturing systems (see Young 1992). Furthermore, there is substantial evidence that in several industries these practices have been instrumental in allowing Japanese plants to outperform their competitors in both productivity

and quality (Abegglen and Stalk 1985; MacDuffie and Krafcik 1992; MacDuffie and Pil 1996a).

There are multiple elements that make the Japanese production system unique, including human resource practices, product design practices, accounting and control systems, and purchasing philosophies. We will focus on one of the critical aspects of the Japanese production system—namely, its human resource practices. The idea that human resource policies can help firms create competitive advantage is found not only in research on Japan but also in an extensive body of literature about the U.S. (e.g., Kochan, Katz, and McKersie 1986; Lawler 1992). However, Japanese human resource practices developed in a unique cultural and institutional environment, and as such, the question of their transferability overseas is an interesting one—particularly when the transfer happens to a very different cultural and institutional environment. If it is found that they are transferred in the process of FDI, that would render credible the hypothesis that foreign direct investment serves as a conduit for best practice.

We will be focussing on the transfer of Japanese HR and work practices to North America. North America reflects a very different cultural environment from what is found in Japan. Japan is generally classified as being culturally distinct not just from North America but also from all other countries considered in culture studies (Hofstede 1980; Ronen and Kraut 1977; Ronen and Shenkar 1985). This uniqueness of the Japanese cultural environment is important since national culture has long been thought to impact the behavior of organizations (Hofstede 1980; Laurent 1983).

According to Hofstede, culture is inextricably intertwined with the institutional environment. However, it is nevertheless interesting to consider the institutional environment, since specific factors in the Japanese institutional environment are often credited for the nature of Japanese work practices. Indeed, several comparative IR studies have argued that the so-called three pillars of the Japanese employment system—lifetime employment, enterprise unionism, and seniority wages—are critical to the success of Japanese human resource policies, particularly at large Japanese firms (see Shimada 1985 and Smith and Misumi 1989 for an overview). Others have argued for the importance of human resource policies less directly bound to the institutional environment and more directly related to work organization and skill development associated with the Japanese production system. These include team-based production methods, a small number of job classifications, few distinctions between management and employees, and worker participation in problem solving (Koike 1989; Cole 1979; MacDuffie and Krafcik 1992). Although these are less dependent on the institutional environment, an important prerequisite is believed to be a homogenous workforce.

Research Context

For the purposes of this paper, we focus on the behavior of Japanese multinationals in the auto industry and, in particular, on the work practices utilized at their subsidiaries in North America (hereafter "transplants"). There are two main reasons for concentrating on the automobile industry. The first is that it is quite clear that the Japanese automobile producers in Japan have been extremely successful from a productivity and quality standpoint, and much of that success has been attributed to their work practices (Womack et al. 1990; MacDuffie and Pil 1996a). As such, differences in HR and work practices are generally not driven by purely technical considerations. Given that the Japanese automobile companies have a successful template to draw on when they establish subsidiaries overseas, the transferability of "Japanese" HR and work practices provides a good test of whether multinationals can exploit superior practices originating in the cultural and institutional environment of their home country outside that environment.

Some authors (Kenney and Florida 1993; Young 1992) have argued that Japanese auto companies have maintained their manufacturing practices upon moving to the United States rather than modifying them to meet the needs of the U.S. environment. Others have argued that the Japanese production system (and its human resource system, in particular) is not well suited to the U.S. context and must be modified extensively in order to function (Parker and Slaughter 1988). Although much has been written about human resource practices in some of the individual Japanese automobile transplants (e.g., Brown and Reich 1989; Fucini and Fucini 1990; Adler 1992), no one has provided a detailed comparison of a large set of Japanese transplants in North America with a similar set of plants in Japan, as well as with American-owned plants in North America. It is this comparison that we undertake in this paper.

Data

The data reported on here are from an international survey of automotive assembly plants worldwide, sponsored by MIT's International Motor Vehicle Program (MacDuffie and Pil 1995). Here we report plant-level survey data on human resource practices from 8 of the 11 Japanese auto transplants in North America (survey available from authors upon request). Survey responses were collected from 1993 to 1994. In addition, we have performed extensive plant visits and interviewed management representatives at 5 of these plants. We have collected the same survey data for 12 automobile plants in Japan.[1] We have done extensive visits of 12 Japan plants and interviewed the management personnel in 10 plants, as well as

corporate-level managers at 3 of the 5 major companies in Japan. For American-owned (Big Three) plants in North America, we have collected survey data on 25 plants and have performed multiple interviews at many of them. The data we present below are all based on the survey responses, but our commentary will reflect insights we have developed during the course of visiting the plants and conducting our interviews.

The Three Pillars of the Japanese Production System

Some have argued that the so-called three pillars of the Japanese employment system (lifetime employment, enterprise unionism, and seniority wages) are key to the success of Japanese human resource policies. However, others argue that is not the case (Shimada 1985). We will provide evidence from the Japanese auto transplants to show that lifetime employment and enterprise unionism do appear to be important and that Japanese companies make an effort to replicate elements of these in the United States. Let us look at the three mainstays in turn:

First, let us consider lifetime employment. This is believed to be important for the successful implementation of a whole range of practices, including the provision of extensive training, successful team work, and employee commitment to continuous improvement. This permanent employment is offered to a set of core employees. Part-time, seasonal, and contract workers are used to handle demand fluctuations and do not receive employment guarantees (Dore 1986). These temporary employees make up about 6.5% of the workforce in the Japan-based plants we surveyed but less than 1% of the transplant workforce. With fewer temporary workers, we would expect that it is more difficult for the transplants to give employment security guarantees to their core employees. However, all have made an effort to offer some kind of long-term employment assurances. The two transplants in our sample that are unionized have included a commitment to employment security in their union contracts, subject to such a commitment not jeopardizing the financial viability of the transplants. The nonunion transplants have no such formal agreements but have indicated a similarly strong commitment to maintain long-term employment for their core workers. None of the transplants have had any layoffs of core employees to date. During downturns, workers not needed for efficient production typically receive additional training. However, like the Japan plants, the transplants make no employment commitment to their temporary workers. Mazda and Mitsubishi Diamond Star, for example, have already laid off some of these workers.

The second mainstay of Japanese production systems is purported to be enterprise unions. All the Japanese plants in Japan are unionized by enterprise unions. Only a third of the transplants are unionized, and they belong

to the United Auto Workers union. This is in contrast to the U.S.-owned plants which are all unionized. It appears that many of the transplants are making a conscious effort to avoid unions. Saltzman (1994) observed that the transplants are actively trying to remove prounion applicants in their screening process.

While many of the transplants may be avoiding the UAW, there is some evidence that the transplants have tried to create similar dynamics to those existing with an enterprise union.[2] At the unionized transplants the labor contract includes a union commitment to support the competitiveness of the plant (together with a management commitment to employment security) and establishes a variety of mechanisms for ongoing labor-management consultation. Five of the six nonunion transplants in turn, have made efforts to implement some governance structure for employee representation by establishing committees of worker representatives (typically appointed by management) to provide worker representation. Thus while the transplants do not have enterprise unions, they do try to create a similar venue for employee-management consultation and cooperation.

Regarding the use of seniority-based wages, what we find in Japan is that employees receive seniority-based promotions. A frequent claim regarding compensation in Japanese plants in Japan is that there is an emphasis on minimizing the pay differentials between categories of employees. This enhances the sense of community and equal status among employees at different levels (e.g., Womack et al. 1990; Florida and Kenney 1991). We find evidence that the pay differential between production workers and supervisors is indeed extremely low in Japan, with the highest paid production worker earning on average 10% more than the lowest paid supervisor (compared to 5%-15% less at U.S.-owned plants and transplants). Much of this reflects seniority pay to the most senior production workers. It is interesting to note, however, that while between category differentials may be low in Japan, the pay differentials between the lowest and highest ranks within employee categories is much higher than in the Japanese transplants in the U.S. (see Table 1).[3] This differential is not due to differences in starting pay. Such differentials reflect the use of bonuses to reward individual-level differences in seniority, skill, and initiative in Japan-located plants, compared to the policy at the transplants of awarding bonuses equally to all employees in a given category.

The transplants seem to be following the compensation norms found in their local environment. Their pay differentials are almost equal to those of their Big Three counterparts for production workers and maintenance employees, despite the fact that they have much fewer levels or job categories than either their Japanese or Big Three counterparts. While Japan

TABLE 1
Pay Differentials (Percent)

Pay Differential between Highest and Lowest Paid (%)	Japan	Trans-plants	U.S.	Test JP vs. T	Test T vs. U.S.
Production worker	204	26	25	***	
Maintenance worker	205	12	11	***	**
First-line supervisor	117	31	52	***	**
Manufacturing engineer	446	130	89	**	*

Note: Mann-Whitney tests done using 2-sided confidence intervals levels: * = .1, ** = .05, *** = .01

Aligned ranks tests were not significant when Mann-Whitney's were not significant.

plants on average have approximately five classifications for production workers and maintenance workers, the transplants in our sample have only one production worker classification and one or two maintenance worker classifications. This is very low for the North American context, in which U.S.-owned plants have an average of 33 levels for production workers and 15 for maintenance. The U.S.-owned plants have been reducing their number of production worker classifications (average was about 45 in 1989) and thus appear to be moving toward the Japan plants and the transplants in that respect.

As Table 2 shows, the Japan plants make extensive use of bonuses. These are provided based on plant and company performance but also based on individual performance. Among the transplants, some give bonuses for plant or company performance. ("Company" for many of the transplants refers to the U.S. manufacturing subsidiary and, as such, is synonymous with "plant," except when the same parent company has two different transplant facilities.) None give bonuses to production workers

TABLE 2
Contingent Compensation (Percent)

Percent of Plants Reporting Compensation Type	Production Workers			Supervisors		
	Jpn.	Trans.	U.S.	Jpn.	Trans.	U.S.
Bonus for company performance	83.3	50	52	83.3	62.5	56
Bonus for plant performance	0	37.5	4	0	25	4
Bonus for group performance	33.3	0	0	33	0	0
Bonus for individual performance	50	0	4	50	12.5	4
Bonus based on seniority	50	0	0	50	0	4
Merit increase in salary for individual performance	83.3	50	52	83.3	62.5	56

based on work group or individual performance. This is very similar to the practices of their U.S.-owned counterparts. It is also interesting to note that like the U.S.-owned plants, no transplant offers bonuses for seniority. This is very different from the Japan plants where half do. Since the transplants have only one rank for production workers, promotion from rank to rank cannot be used as a means to reward seniority as is the case in the Japan plants. As a result, pay at the transplants bears little relationship to seniority.

As we have shown, the transplants make an effort to provide assurances of lifetime employment for core employees and create employee-management committees which allow them to have some of the worker-management consultation found with enterprise unions. However, the transplants make no effort to create a seniority wage system—either through seniority wage increases or bonuses or through seniority-related promotions. This shift away from seniority-based compensation may reflect the fact that Japanese companies are not happy with it. Of Japanese managers, 72% report that the seniority system adversely affects the morale of those who are the most able (Smith and Misumi 1989; Aoki 1990).

Beyond the Three Pillars—A Look at What Was Transferred

To some extent, two of the three so-called "pillars" of the Japanese employment system were transferred to the U.S. Critical elements of the HR system itself were transferred as well, including team work, suggestion programs, job rotation, and extensive training. However, as we will show, many of these have been modified for the U.S. context.

The importance of on-line teams in Japanese plants has long been recognized by scholars (Aoki 1990; Koike 1989). Like plants in Japan, the transplants make extensive use of such teams. They differ significantly from their American counterparts in this area. While only a third of the Big Three plants use teams, all the Japan plants and transplants do. Furthermore, about 70% of production workers in transplants and Japan plants are in work teams compared to about half at Big Three plants with teams. Management generally appoints team leaders, although at the unionized transplants, union officials are often involved in team leader selection. In contrast, at the Big Three plants with teams, management indicates that team members have more say in team leader selection. Teams in both Japan plants and transplants are similar in the degree of influence they have in some areas, according to management respondents (Table 3). Teams are reported to have the most influence over work allocation and methods of work and the least influence over the selection of team leaders and the amount and pace of work. The key statistically significant differences

between the two groups are in the area of employee voice, with teams in the Japan plants reported to have more influence over performance evaluations and settling grievances and complaints. Like their Big Three counterparts, the transplants have little influence in this area. On the other hand, teams at the transplants do resemble their Japanese counterparts in that team members have influence on issues related to work methods and problem solving. The Big Three teams have less influence in this area.

TABLE 3
Team Influence

Team influence on:	Japan	Trans-plants	U.S.	Test JP vs. T	Test T vs. U.S.
Use of new technology on job	2.8	2.0	2.7		
Who should do what job	4.3	3.2	3.2	°°	
The way work is done; revising methods	4.3	4.1	2.9		°°°
Performance evaluations	3.2	1.4	1.3	°°	
Settling grievances/complaints	4.2	2.1	1.6	°°°	
Pace of work	2.7	2.0	2.2		
Work to be done in a day	2.4	1.6	2.0		
Selection of team leader	1.51	2.1	3.4		

Note: U.S. category includes only plants with teams. Measured on 1-5 Likert type scale, where 1 indicates no influence over decisions, and 5 indicates extensive influence. Mann-Whitney tests done using 2-sided confidence intervals levels: °=.1, °°=.05, °°°=.01. Aligned ranks tests were not significant when Mann-Whitney's were not significant.

Teamwork is one means by which to foster flexibility and involvement on the part of the workforce. Job rotation and training are two others. In the area of job rotation, we find that workers at the transplants rotate almost as much as workers in Japan plants, rotating not just within their teams but even across teams within a given department. In contrast, job rotation is still relatively uncommon in Big Three plants. The Big Three plants indicate that although workers are capable of doing other work tasks within their work group, they generally do not rotate jobs.

Although both Japan plants and transplants provide similar levels of training to new employees, the transplants provide significantly higher levels of training to experienced employees (Table 4). The transplants provide significantly more training than their American-owned counterparts for all experienced employees as well as for newly hired production workers. The difference between the transplants and their Japanese and Big Three counterparts may reflect the fact that they are newer plants and their employees are less experienced.

TABLE 4
Training Levels

Training during First Year as Employee:	Japan	Trans-plants	U.S.	Test JP vs. T	Test T vs. U.S.
Production worker	2.9	3.0	1.7		•••
First-line supervisor	2.8	2.6	2.6		
Mechanical engineer	2.8	2.9	2.6		
Training of experienced employees:					
Production workers	3.2	4.1	2.3	•	••
First-line supervisor	2.8	4.6	3.0	•••	•••
Mechanical engineer	2.0	4.5	3.0	•••	••

Note: For new employees, 1 = 0-40 hrs/year; 2 = 41-80 hrs/year; 3 = 81-160 hrs/year; 4 = 160+ hrs/year. For experienced employees, 1 = 1-20 hrs/year; 2 = 21-40 hrs/year; 3 = 41-60 hrs/Year; 4 = 61-80 hrs/year; 5 = 80+ hrs/year. Mann-Whitney tests done using 2-sided confidence intervals: • = .1; •• = .05; ••• = .01. Aligned ranks tests were not significant when Mann-Whitney's were not significant.

While we have discussed some similarities in work practices used at the transplants and those used in Japan plants, there are also some important differences. For example, the transplants and Japan plants differ significantly in the extent to which their employees engage in continuous improvement of the production process (known as *kaizen*) through off-line problem solving. One such activity is quality circles. Only a quarter of production workers in transplants are involved in such circles, compared to almost all in Japan plants (although there is quite a bit of variance among the transplants). The Japanese transplants resemble American-owned plants very closely in that respect. It is possible that like the workers at the Big Three plants, workers at transplants believe that *kaizen* can result in job loss (Young 1992). However, the employment security assurances of the transplants are intended to address precisely those concerns. An alternative view comes from Kenney and Florida (1993), who suggest that the low level of quality circle and employee involvement activity in the transplants reflects their newness and that plants plan to increase their usage over time. However, the three plants that provided data in both 1989 and 1993-94 showed only a minor increase in participation in quality circles. According to Cole (1979), participation in these "voluntary" small group activities in Japan plants is more likely to be viewed as mandatory by employees, due to management and peer pressure, than in plants located in the United States. Like their Big Three counterparts, all but one of the transplants pays employees during the time their quality circle meets. In Japan a third of the plants report having teams meet during nonpaid time.

As with quality circles, the transplants make less use of suggestion programs than the Japan plants (Table 5). Indeed, the average worker in a transplant gives about 4 suggestions per year, compared to 23 per year for workers at Japanese plants in Japan. However, the U.S.-owned plants receive only one suggestion for every four employees. One of the differences between the Japan plants and the transplants is that many of the Japan plants actually use a quota system whereby production workers need to provide a minimum number of suggestions per month. The number of suggestions provided by production workers actually gets factored into their evaluations and individual bonuses. While the number of suggestions received is an important indicator of the improvement efforts arising from bottom-up input, equally important is the percent of suggestions that are actually implemented. This gives some indication of the degree to which the suggestions provided by the production workers are useful and valued. In the U.S.-owned plants, not only are very few suggestions received but less than half of those suggestions are ever implemented, compared to 80% in Japan plants and 65% in the transplants.

TABLE 5
Problem-solving Activities

	Japan	Trans-plants	U.S.	Test JP vs. T	Test T vs. U.S.
% in quality circles	80	25	25	***	
# suggestions/employee	23.2	3.6	.26	***	***
% of suggestions implemented	84	65	40	*	*

Note: Mann-Whitney Tests done using 2-sided confidence intervals levels: * = .1, ** = .05, *** = .01. Aligned ranks tests were not significant when Mann-Whitney's were not significant.

Another indicator of the overall philosophy of management toward production workers is the extent of status barriers between production workers and management. We have looked at four such barriers: whether or not production workers and managers eat in the same cafeteria and park in the same parking lot, whether there is a common uniform for everyone, and whether managers wear ties. We find that the transplants closely resemble the Japan plants in that production workers and managers park in the same parking lot, eat in the same cafeterias, and wear a common uniform; and managers don't wear ties. This is the reverse of what is found at most U.S. plants. Indeed, the transplants go further in this direction than even the Japan plants, some of which do have separate parking lots or cafeterias. Based on our discussions

with transplants, the reason for this is that the transplants want to symbolically emphasize egalitarian norms as much as possible.

Before the transplants opened, one common expectation about the transferability of Japanese employment practices was that American workers were too individualistic, too diverse, and too poorly educated for the successful implementation of such practices. Yet the transplants have been able to introduce Japanese work practices like team work, job rotation, suggestions programs, and the like—practices uncharacteristic for the U.S. environment. One reason for this success may be that the transplants carefully select and socialize their employees. As such, although culture may differ from country to country, the cultural measures at the country level mask differences at the individual level. It is possible that there is a range of attitudes and behaviors found in any population, and with careful selection and socializing, one can develop a workforce whose characteristics differ from the norm. Only three of the transplants have hired production workers recently. On average, they hired only 5% of those who applied. Those who are hired are very well educated with almost 40% of production workers having some college education. This is very high. The average for U.S.-owned plants is only 15% and less than 1% in Japan plants. Selectivity during the hiring process may mean that workers are homogeneous with respect to attitudes toward work and receptiveness to Japanese manufacturing philosophies and human resource practices.[4]

While selection is one means by which to develop a workforce that is willing to operate in a Japanese-type work environment, further socialization can also occur within the plant. We found this to be particularly evident in the area of training. Indeed, a quarter of the experienced employee training in transplants deals with production methods and philosophies compared to 10% at plants in Japan. Thus while selectivity during the hiring process may mean that workers are homogeneous with respect to attitudes toward work and receptiveness to Japanese manufacturing philosophies and human resource practices, the high amount of training in Japanese production methods also helps create a strong and consistent organizational culture.

In addition to careful selection and training, another means to obtain individuals who are receptive to Japanese production methods is to make use of expatriates. However, the use of expatriates can have benefits that go beyond having employees who are receptive to home country practices. Nelson and Winter (1982) observed that one method of replicating practices somewhere else is to move key personnel.[5] Almeida and Kogut (1995) observed empirically that the movement of personnel was a powerful explanatory variable for the movement of technology across regions. The

average transplant has almost 60 Japanese expatriates working in it. Since the average transplant employs about 3400 people, roughly 2% of their workforce are expatriates. Almost half these expatriates are engineers who help with new equipment installation, new model introduction, and so forth. A large portion of the remainder are managers, with about 6 expatriates in top management positions and the remainder in middle management. However, there is large variance in the use of expatriates across transplants, with some plants making use of as few as 25 expatriate engineers, while others have over 100 expatriates in a range of positions. While expatriates appear to play a role in the transfer of Japanese production practices in the transplants, several managers at the transplants have told us that much more significant in the transfer process is the assignment of U.S. managers, engineers, and even production workers to Japanese sister plants for periods ranging from a few weeks to a year.

Performance Implications

The transplants did not fully transfer the three "pillars" of the Japanese production system. They do however, make extensive use of teams, have active suggestion programs, do extensive job rotation, and engage in lots of training. Furthermore, the transplants do careful selection and socialization of employees and make use of a large number of expatriates. The transplants have by no means undertaken a 100% transfer of the Japanese template. They have altered some practices and dropped the use of others to meet the needs of the U.S. environment. Given the changes they have made to the Japanese "model," the question arises as to whether they are attaining the same performance as plants in Japan.

We will look at two main performance outcomes: productivity and quality. We measure productivity as the number of labor hours required to produce a standardized vehicle using a measure developed by Krafcik (1988) and further refined by MacDuffie and Pil (1995). In addition to adjusting for differences in the type of vehicle produced (weld content, sealer content, vehicle size, and option content), our measure also takes into account the fact that Japan factories tend to be less vertically integrated than U.S. plants. Likewise, because we are comparing the performance of plants in an international sample, problems arise with accounting for differences in conventions for relief time, acceptable absenteeism levels, and so forth. To eliminate this problem, absenteeism is factored out of the labor time required to build a vehicle on the assumption that when a worker is not in the plant, he or she is not contributing to the building of vehicles. The methodology also adjusts for differing amounts of relief time. Because three of the transplants did not provide us all the information we need to

calculate the productivity figure, the transplant productivity figure reported will reflect five of the eight transplants.

Our quality measure is based on J.D. Power and Associate's New Quality Survey. Every fall, J.D. Power randomly selects new car owners based on vehicle registry to fill in a survey of their experience during the first three months with the vehicle. Detailed questions capture the full range of problems that the owner could have encountered. J.D. Power generously provides us with this information in disaggregated form. We use the data from these surveys and aggregate across vehicles by plant of origin all the problems that are under direct control of the assembly plant, based on the classification scheme developed by Krafcik. We measure things like paint finish, fit of body panels, water leaks, and so forth (see MacDuffie and Pil 1995). Because the quality data are only available for vehicles sold in the United States, it is only available for 8 of the 12 plants in Japan that have been discussed in this paper. Since we have data for all the plants that sell automobiles in the United States, we will report both the full data as well as the quality figures for the plants whose survey responses form the basis for this paper.

Looking first at productivity, we find that while the plants in Japan have the best productivity, they are not that much better than the transplants (Table 6). We have productivity for three transplants for 1989 as well and find that those three have shown tremendous improvement over the last five years—indeed, the average improvement was over four hours per vehicle. During the same time period, the average Japan plant improved by less than one hour per vehicle. As such, we should expect that the transplants will rapidly close the remaining gap with the plants in Japan. One thing we

TABLE 6
Performance Levels

	Japan	Trans-plants	U.S.	Test JP vs. T	Test T vs. U.S.
Productivity (labor hours per vehicle)	16.2	17.2	21.9		•••
Quality for plants in study (defects per 100 vehicles)	49	48	70		•••
Quality for all plants selling in U.S. (defects per 100 vehicles)	55	55	63		•••

Note: For the quality figure reflecting all plants selling vehicles in the United States, there were 23 Japan plants, 12 transplants, and 32 Big Three plants. Mann-Whitney tests done using 2-sided confidence intervals: • = .1; •• = .05; ••• = .01. Aligned ranks tests were not significant when Mann-Whitney's were not significant.

have observed is that although the Japan plants are not much more productive than the transplants, they tend to produce a greater number of product variants than the transplants. Both the plants in Japan as well as the transplants are significantly more productive than their Big Three counterparts.

Looking at quality, we find that the transplants in the United States are performing on par with plants in Japan. This is true when looking at the subset of plants that we have been discussing so far and also for all the plants that sell vehicles in the United States. The U.S. plants have significantly inferior quality. Looking over time, we find that the transplants had worse quality than the plants in Japan in 1989 (68 defects per 100 vehicles versus 63 defects per vehicle per 100 vehicles) but have since caught up. While the U.S. plants have also experienced tremendous improvements in their quality (the average U.S. plants was at 86 defects per 100 vehicles in 1989), they still lag behind the transplants and the plants in Japan.

We can conclude that despite differences with plants in Japan, the transplants have been able to achieve similar performance levels—both in terms of productivity and quality. Looking at some more direct measures of outcomes of work practices, unscheduled absenteeism, and injury rates, we find that the transplants perform better than their U.S.-owned counterparts. As mentioned earlier, unscheduled absenteeism at the transplants is at 2.2%, compared to 4.3% at the U.S.-owned plants.[6] This is still higher than the 1.1% found at the average plant in Japan but is extremely good in the U.S. environment. Despite some research suggesting that at least NUMMI has had problems with ergonomics (Adler et al., 1995), we find that in looking at standard OSHA measures of injury rates, the transplants do not differ significantly from their U.S. counterparts. Comparisons with plants in Japan are difficult to make because of differences in reporting patterns.

Discussion

Overall, the transplants are achieving similar performance to their Japanese counterparts, despite the fact that they are in a different institutional and cultural environment. While the transplants have opted against transferring seniority wages, they have tried to transfer lifetime employment guarantees and some of the employee consultation mechanisms found in enterprise unionism. In addition to transferring at least in part the "three pillars" of the Japanese human resource system, the transplants have transferred most of the human resource and work practices used by their Japanese counterparts. This is not to say that these practices have been transferred blindly to the transplants. Almost all have been modified or adapted in some way, reflecting the conditions of the North American labor environment.

This ranges from subtle changes like having quality circles meet during paid time and not providing bonuses at the individual level to more substantial changes in terms of information shared with employees, the duties of work teams, and the training provided. In some cases this makes the transplants resemble their American counterparts (e.g., in the pay differentials between the lowest and highest paid employees) and in some instances makes them different from both their Big Three and Japanese counterparts (e.g., in drastically limiting the number of categories that exist for production workers). However, certain key elements of the Japanese human resource system—like extensive use of team work, extensive efforts at skill development, job rotation, suggestion programs, and so forth—have been transferred. Subtle changes in some of these helped deal with cultural and institutional differences between the U.S. and Japan, as did extensive efforts to hire and develop a workforce amenable to Japanese work practices. While it is not certain that Japanese work practices were the drivers of FDI by the Japanese automobile producers, it is clear that multinationals are able to transfer superior practices to a cultural and institutional environment that is very different from that where the practices developed. Furthermore, we have shown that the multinationals are able to achieve the same performance levels in a very different environment from what is found in their home country. As such, it is possible that horizontal FDI can reflect the transfer of superior practices overseas.

Although differences in practices across nations can help explain FDI behavior, FDI can also help eliminate those differences as the innovations introduced by the multinationals spill over to local firms. Thus multinationals can serve as both conduits of innovations across nations and as drivers of cross-national isomorphism. Westney (1989), for example, observed that at least in the area of R&D, spending patterns of multinationals were copied by local firms. It is hard to predict whether Japanese human resource systems can be easily incorporated into the operations of existing Big Three plants, the "brownfield" sites. All of the Japanese transplants, with the exception of NUMMI, were established at greenfield sites. Even at NUMMI, the entire human resource system was rebuilt from scratch because the plant had been closed and a new management team was put in place. According to Koike (1989), production systems represent complex interactions of technological and social systems (including human resource systems), and although it is easy to change the technical systems, it is much harder to alter the social systems that develop in work sites over time. We have shown that the transplants, which did not have to deal with entrenched employment practices, have been able to transfer and adapt Japanese human resource practices to the North American environment.

The question still remains whether these practices can and will be transferred with the same level of success to older, more traditional, unionized American plants. We have found that this is very difficult to do (Pil 1996; Pil and MacDuffie, 1996). However, if the presence of the transplants induces the U.S. plants to undertake dramatic changes and these changes are successful, then the benefits to the Japanese multinational of transferring their practices overseas may be short-lived.

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Endnotes

[1] Surveys were translated to Japanese. Translations were translated back to English, as well as reviewed by a Japanese academic specializing in the automobile industry to ensure they captured the same information as the English version of the surveys. Japanese plants received Japanese surveys, and transplants received both versions.

[2] Indeed, the desire to go to an enterprise union model is evident from a Japanese transplant in Europe. Nissan UK, refused to set up operations unless there was an up-front agreement to permit the plant to be organized by a single union—something unprecedented in the U.K.

[3] Because the transplants and Japan plants belong to the same companies, it is possible that there are significant differences between the transplants and the Japan plants that are not captured because of a large company-driven variation in both regions. For example, if the intraregional variation were great but plants belonging to any given company were consistently lower in one region than another, Mann-Whitney statistics would find no significant differences across regions because they do not consider company membership. To test for the possibility that interregional differences do exist when company differences are considered, an aligned ranks test (Lehman 1975:138-41) was performed. In no cases for any of the tables in this paper did the aligned ranks test find a significant difference was present when the Mann-Whitney found no significant differences.

[4] Some of the homogeneity sought by the transplants can at times go to extremes—Cole and Deskins (1988), for example, found that they are less likely to hire minorities than their U.S. counterparts. However, we did find that they had a greater number of women on their workforce than either their Japanese or U.S. counterparts (19.2% compared to 12.6% for U.S. plants and only 2.1% for Japanese plants in Japan).

[5] While expatriates can be seen as a means to ensure that practices get replicated in overseas subsidiaries, larger numbers of expatriates also result in increased capacity for communication between headquarters and the overseas subsidiaries. This may make it easier for headquarters to permit more local discretion.

[6] The U.S. plants and the transplants have similar overall absenteeism rates. The differences in unscheduled absenteeism are important, however, since being unscheduled means that it has a much greater impact on the day-to-day operations of the plant.

References

Abegglen, James, and George Stalk. 1985. *Kaisha—The Japanese Corporation.* New York: Basic Books.

Adler, Paul. 1992. "The Learning Bureaucracy: New United Motor Manufacturing Inc." In B. Staw and L. Cummings, eds., *Research in Organizational Behavior.* Greenwich, CT: JAI Press.

Adler, Paul, Barbara Goldoftas, and David Levine. 1995. "Ergonomics, Employee Involvement, and the Toyota Production System: A Case Study of NUMMI's 1993 Model Introduction." Unpublished paper, University of Southern California.

Aldrich, Howard E., and Jeffrey Pfeffer. 1976. "Environments of Organizations." *Annual Review of Sociology,* Vol. 2, pp. 79-105.

Almeida, Paul, and Bruce Kogut. 1995. "Technology and Geography: The Localization of Knowledge in the Semiconductor Industry." Working paper, Huntsman Center, Wharton School, University of Pennsylvania.

Aoki, Masahiko. 1990. "Toward an Economic Model of the Japanese Firm." *Journal of Economic Literature,* Vol. 28, pp. 1-27.

Bartlett, Christopher A. 1986. "Building and Managing the Transnational: The New Organizational Challenge." In Michael E. Porter, ed., *Competition in Global Industries.* Boston: Harvard Business School Press, pp. 367-401.

Bartlett, Christopher A., and Sumantra Ghoshal. 1989. *Managing across Borders: The Transnational Solution.* Boston: Harvard Business School Press.

Brown, Claire, and Michael Reich. 1989. "When Does Union-Management Cooperation Work? A Look at NUMMI and Van Nuys." *California Management Review,* Vol. 31, pp. 26-44.

Buckley, Peter, and Mark Casson. 1976. *The Future of the Multinational Enterprise.* London: MacMillan.

Cole, Robert. 1979. *Work, Mobility, and Participation: A Comparative Study of Japanese and American Industry.* Berkeley: University of California Press.

Cole, Robert E., and Donald R. Deskins. 1988. "Racial Factors in Site Location and Employment Patterns of Japanese Auto Firms in America." *California Management Review,* Vol. 31, no. 1, pp. 9-22.

Dimaggio, Paul J., and Walter W. Powell. 1983. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review,* Vol. 35, pp. 147-60.

Dore, Ronald. 1973. *British Factory, Japanese Factory: The Origins of National Diversity in Industrial Relations.* Berkeley: University of California Press.

_____. 1986. *Flexible Rigidities: Industrial Policy and Structural Adjustment in the Japanese Economy, 1970-1980.* Stanford: Stanford University Press.

Fucini, Joseph, and Susan Fucini. 1990. *Working for the Japanese—Inside Mazda's American Auto Plant.* New York: Free Press.

Hannan, Michael T., and John Freeman. 1989. *Organizational Ecology.* Boston: Harvard University Press.

Hofstede, Geert. 1980. *Culture's Consequences: International Differences in Work-related Values.* Beverly Hills, CA: Sage.

Hymer, Stephen Herbert. 1976. *The International Operations of National Firms: A Study of Direct Foreign Investment*. Cambridge: MIT Press.

Jaffe, A., M. Tratjenberg, and R. Henderson. 1993. "Geographical Localization of Knowledge Spillovers as Evidenced by Patent Citations." *Quarterly Journal of Economics*, Vol. 108, pp. 577-98.

Kenney, Martin, and Richard Florida. 1993. *Beyond Mass Production: The Japanese System and Its Transfer to the U.S.* New York: Oxford University Press.

Kochan, Thomas, Harry Katz, and Robert McKersie. 1986. *The Transformation of American Industrial Relations*. New York: Basic Books.

Kogut, Bruce. 1991a. "The Permeability of Borders and the Speed of Learning among Countries." In J. Dunning, B. Kogut, and M. Blomstrom, eds., *Globalization of Firms and the Competitiveness of Nations*. Sweden: Lund University Press.

_____, ed. 1991b. *Country Competitiveness and the Organization of Work and Technology*. London: MacMillan.

Kogut, Bruce, and Sea Jin Chang. 1991. "Technological Capabilities and Japanese Foreign Direct Investment in the United States." *Review of Economics and Statistics*, pp. 401-13.

Koike, Kazuo. 1989. *Understanding Industrial Relations in Modern Japan*. Translated by Mary Saso. New York: St. Martin's Press.

Krafcik, John F. 1988. "Comparative Analysis of Performance Indicators at World Auto Assembly Plants." Masters thesis, Sloan School, MIT.

Laurent, Andre. 1986. "The Cross-Cultural Puzzle of International Human Resource Management." *Human Resource Management*, Vol. 25, pp. 91-102.

Lawler, Edward E. III. 1992. *The Ultimate Challenge*. San Francisco: Jossey-Bass.

Lawrence, Paul R., and Jay W. Lorsch. 1967. *Organizations and Environment*. Boston: Harvard University Press.

Lehman, E. L. 1975. *Nonparametrics; Statistical Methods Based on Ranks*. San Francisco: McGraw-Hill, Holden-Day.

MacDuffie, John Paul, and John Krafcik. 1992. "Integrating Technology and Human Resources for High Performance Manufacturing: Evidence from the International Auto Industry." In Thomas Kochan and Michael Useem, eds., *Transforming Organizations*. New York: Oxford University Press.

MacDuffie, John Paul, and Frits K. Pil. 1995. "The International Assembly Plant Study: Philosophical and Methodological Issues." In Steve Babson, ed., *Lean Work: Empowerment and Exploitation in the Global Auto Industry*. Detroit, MI: Wayne State University Press, pp. 181-98.

_____. 1996a. "'High-Involvement' Work Systems and Manufacturing Performance: The Diffusion of Lean Production in the World Auto Industry." Working Paper, Department of Management, Wharton School, University of Pennsylvania.

_____. 1996b. "Flexible Technologies, Flexible Workers." Forthcoming in Takahiro Fujimoto and Ulrich Jurgens, eds., *Transforming Auto Assembly—International Experiences with Automation and Work Organization*. Frankfurt: Springer Verlag.

Nelson, Richard, and Sidney Winter. 1982. *An Evolutionary Theory of Economic Change*. Cambridge: Harvard University Press.

Parker, Mike, and Jane Slaughter. 1988. "Managing by Stress: The Dark Side of Team Concept." *ILR Report*, Vol. 26, pp. 19-23.

Pil, Frits K. 1996. "Understanding the International and Temporal Diffusion of High-Involvement HR and Work Practices." Dissertation, Wharton School, University of Pennsylvania.

Pil, Frits K., and John Paul MacDuffie. 1996. "The Adoption of High-Involvement Work Practices." *Industrial Relations*, Vol. 35, no. 3 (July).

Prahalad, C.K., and Yves Doz. 1987. *The Multinational Mission: Balancing Local Demands and Global Vision*. New York: Free Press.

Ronen, Simcha, and A. Kraut. 1977. "Similarities among Countries Based on Employee Work Values and Attitudes." *Columbia Journal of World Business*, Vol. 12, no. 2, pp. 89-96.

Ronen, Simcha, and Oded Shenkar. 1985. "Clustering Countries on Attitudinal Dimensions: A Review and Syntheses." *Academy of Management Review*, Vol. 10, no. 3, pp. 435-54.

Saltzman, Gregory. 1994. "Job Applicant Screening by a Japanese Transplant." *Workplace Topics*, Vol. 4, pp. 61-82.

Shan, Weijian, and William Hamilton. 1991. "Country Specific Advantage and International Cooperation." *Strategic Management Journal*, Vol. 12, pp. 419-32.

Shimada, Haruo. 1985. "The Perceptions and Reality of Japanese Industrial Relations." In Lester Thurow, ed., *The Management Challenge: Japanese Views*. Cambridge: MIT Press.

Smith, P., and J. Misumi. 1989. "Japanese Management: A Sun Rising in the West?" In C.L. Cooper and I.T. Robertson, eds., *Annual Review of Industrial and Organizational Psychology*, Vol. 4, pp. 329-69.

Stiglitz, Joseph E. 1987. "Learning to Learn: Localized Learning and Technological Progress." In Partha Dasgupta and Paul Stoneman, eds., *Economic Policy and Technological Performance*. New York: Cambridge University Press.

Thompson, James D. 1967. *Organizations in Action*. New York: McGraw-Hill.

Westney, Eleanor. 1987. *Imitation and Innovation: Transfer of Western Organizational Patterns to Meiji Japan*. Cambridge: Harvard University Press.

_____. 1989. "Institutionalization Theory and the Multinational Enterprise." Paper prepared for Workshop on Organizational Theory and the MNC, INSEAD.

Womack, James, Daniel Jones, and Daniel Roos. 1990. *The Machine That Changed the World*. New York: Rawson Associates.

Young, Mark. 1992. "A Framework for Successful Adoption and Performance of Japanese Manufacturing Practices in the United States." *Academy of Management Review*, Vol. 17, pp. 677-700.

Zucker, Lynne G. 1988. *Institutional Patterns and Organizations: Culture and Environment*. Cambridge, MA: Ballinger.

DISCUSSION

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In their paper Pil and MacDuffie report findings from their survey and interviews of Japanese automotive assembly plants in Japan and in the United States. Their objective in "Japanese and Local Influences . . ." was to indicate whether Japanese human resource management (HRM) practices that are characteristic of plants in Japan were transferred to plants located in the United States. The core Japanese HRM practices examined were lifetime employment, enterprise unionism, and seniority wages. The authors concluded that these core HRM practices were not transplanted to plants located in the United States; however, other practices that are common in Japan such as team-based work configurations were applied to the plants located in the United States.

I applaud the authors' work, which represents a thorough and systematic effort to study the issues of applying HRM practices of one culture to foreign cultures. To date, most of the extant knowledge on this issue is prescriptive and based solely on anecdotes. Through the process of mixing quantitative and qualitative data-gathering methods, the authors offer sufficiently rich descriptive information that provide a solid foundation for answering why these findings were obtained.

In "A Theoretical Approach . . ." Pil and MacDuffie draw on various theoretical frames to offer an understanding of the diffusion of HRM practices in organizations. Moreover, the authors rely on an extensive data set that is described in "Japanese and Local Influences . . ." to make inferences in the context of the theoretical frames they engage. The first theoretical frame is population ecology, which maintains that organizations do not have the ability to adapt their form in order to meet environmental demands. The authors attribute the demise of several automotive plants to factors such as inopportune locations and an absence of progressive HRM practices. However, they appear to reject the population ecology model because some other "disadvantaged" plants survived.

Ultimately, the authors favor an evolutionary perspective on the transformation of organizations in which change is almost random. Moreover,

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they focus on the concept of "competence-destroying technical change," which they apply to HRM practices. This form of dysfunctional change may manifest itself in adding high-performance HRM practices to a set of suboptimal practices. Alternatively, this change may come about by adding single HRM practices in a piecemeal fashion rather than appropriate bundles of practices that complement each other.

The authors' endeavor to shed light on the role of sets of HRM systems based on different theoretical frames is timely insofar as little work has been done in this area. The strengths of the authors' work notwithstanding, there are two pressing concerns. First, adoption of the population ecology model is antithetical to the strategic management of organizations. If the structure of organizations is not malleable, then we must conclude that the notion of all aspects of organizational management as well as HRM are moot points. Second, to draw convincing inferences about the evolution of organizations and the role that HRM practices play, it will be necessary for the authors to collect longitudinal data. I endorse the latter because the authors' placement of HRM in an organizational, evolutionary frame has merit.

Arthur and Aiman-Smith cast gainsharing interventions as a basis for two types of organizational learning: routine learning and innovative learning. Their approach to studying gainsharing interventions is fresh because research on gainsharing was stated as a pay-for-performance or motivational issue. They provide rationale for relationships between time and each type of learning, hypothesizing that the relationship between time and routine learning is curvilinear and the relationship between time and innovative learning is positive. Moreover, the authors found support for their hypotheses.

I strongly endorse the authors' approach to examining gainsharing plans because gainsharing plans truly are organizational change tools as much as they are compensation tools. Addressing gainsharing as an organizational change intervention is key for punctuating the strategic role of compensation in organizations. I encourage the authors to consider a multivariate approach (on the dependent variable side of the equation) to their analyses that would better capture the complexities of the learning phenomenon.

All three papers reflect the recent emphasis on studying the role of HRM practices from an organizational and strategic management perspective rather than from the traditional individual-level (i.e., employee) standpoint. In short, they addressed the contribution of HRM to organizational survival and growth. In addition, these authors moved from solely armchair theorizing and making prescriptions to evaluating theories with data. From a content perspective, the authors touched upon timely matters in the management and study of HRM, including the role of a specific national culture and the distinction between different kinds of organizational learning.

XII. REFEREED PAPERS: LABOR ECONOMICS AND LABOR MARKETS

An Empirical Examination of the Stability of Sheepskin Effects

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In a wide range of empirical studies, it has been observed that there is a strong and consistent positive relationship between schooling and earnings, with causation running from schooling to earnings. These issues are indisputable. What is still debated after more than a generation of theoretical and empirical studies are the reasons why schooling enhances earnings. Regarding this issue, there exist two fundamental schools of thought—human capital theory and the screening hypothesis.

Human capital theory concludes that the skills learned in school directly enhance job-related productivity; this in turn results in higher earnings. The screening hypothesis posits that schooling is simply used as a screening device, which allows employers to quickly and cheaply assess the productivity levels of potential employees. According to this hypothesis, those with more schooling are typically more productive to begin with, implying that the skills acquired in school may not contribute much (if at all) to subsequent productivity and earnings; moreover, the positive relationship between schooling and earnings is due to schooling's role as a screening device.

A thorough examination of which school of thought better explains the schooling-earnings relationship is especially important due to, among other reasons, the far-reaching implications for traditional educational policy if the screening hypothesis in an extreme form holds true. In this situation, Ehrenberg and Smith (1991) conclude that schools "would not do much to

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alter the influences of family background and thus would not be terribly useful in breaking down existing class distinctions or providing a vehicle for social mobility."

Many studies have addressed the human capital-screening hypothesis debate using a variety of innovative approaches. One underutilized method for empirically testing the screening hypothesis is developed by Wiles (1974) and applied in Miller and Volker (1984) and Arabsheibani (1989). This test determines whether or not individuals realize a *ceteris paribus* earnings premium when the skills they acquire in school are directly relevant to their occupations, as opposed to the situation where they are not. The presence of such an earnings premium supports human capital theory, while its absence supports the screening hypothesis. Miller and Volker's results largely support the screening hypothesis, while Arabsheibani's results largely support human capital theory.

Another method which has been used to test empirically the validity of the screening hypothesis is to determine if there are sheepskin effects in the returns to schooling, which means that the returns to schooling will increase discontinuously during years when diplomas are conferred. In this situation, the screening hypothesis could potentially be supported on the grounds that such a discontinuous increase reflects the use of the diploma as a screening device, as opposed to the contribution which is made to productivity and earnings as a result of the particular school year during which the diploma happens to be conferred.

Hungerford and Solon (1987) find that sheepskin effects do exist and conclude that "the previous dismissals of the screening hypothesis were premature." However, they acknowledge that their results are "amenable to nonscreening interpretations also," such as that provided in Chiswick (1973). One nonscreening interpretation they did not consider involves the possibility that investment in schooling is "lumpy." This means that the rate of return on years of schooling will increase discontinuously during school years diplomas are conferred due to job productivity-enhancing effects resulting from the completion of an entire program of study (demonstrated by the conferral of a degree). By finishing an entire program of study, one obtains a much more complete understanding of the material presented, since one has acquired a complete package of knowledge and is in a position to be most able to recognize and appreciate the uses and interrelations among the material learned, compared with the situation for individuals who do not complete the program of study and who instead have acquired an incomplete package of knowledge. As an example, the individual "who graduates after four years probably has learned more than four times what the freshman dropout has learned" (see Ehrenberg and Smith 1994). If

investment in schooling is lumpy in this manner, the presence of sheepskin effects could provide support for the human capital theory.

Layard and Psacharopoulos (1974) find no empirical evidence of the existence of sheepskin effects, which they conclude supports the human capital theory over the screening hypothesis since they assert that one of the "three unverified predictions of the screening hypothesis" is the presence of sheepskin effects in the returns to schooling.

The purpose of this study is to shed additional light on the human capital-screening hypothesis debate from a different vantage point. This is accomplished by testing for the presence of sheepskin effects in the returns to schooling and, if sheepskin effects are found to exist, determining the stability of these effects across the two groups of individuals which form the basis of the Wiles test: (1) those whose acquired schooling is relevant for their occupations and (2) those whose acquired schooling is not relevant for their occupations. Rate-of-return estimates on years of schooling are also examined for stability across these same two groups. Previous studies do not examine stability properties in this manner and could mask potential differences in the importance of sheepskin effects and in the rate-of-return estimates on years of schooling between these two groups of individuals. If differences are uncovered, this would provide greater insight for the human capital theory-screening hypothesis debate.

Sheepskin Effects within the Context of the Wiles Test

The empirical application of the Wiles test at the highest level of disaggregation is Arabsheibani (1989). Unlike previous studies, he uses data which specifically allow for the identification of whether or not individuals find their schooling useful in their occupations. Those who do find their schooling useful in their occupations earn a higher wage, *ceteris paribus*, than those who do not. Arabsheibani (1989) concludes that his main finding "supports the human capital view."

If sheepskin effects are present for the individuals whose schooling is relevant for their occupations, this could provide much stronger confirmation of the screening hypothesis than the results in Hungerford and Solon (1987). For this group of individuals, one would expect the quantity of schooling alone (as measured by years of schooling) to be the only relevant schooling variable which increases job productivity and earnings. There would be no reason why the conferral of diplomas would bestow upon individuals discontinuous enhancements in the rate of return on years of schooling due to job productivity increases unless investment in schooling is lumpy. The presence of sheepskin effects in this situation would support the idea that diplomas are used as a sorting mechanism if investment in schooling is

not lumpy, keeping in mind the other possible nonscreening explanations which could be provided to justify the presence of sheepskin effects.

The absence of sheepskin effects for individuals whose schooling is relevant for their occupations would support human capital theory, when accompanied by the finding that a *ceteris paribus* increase in years of schooling attained positively and significantly affects earnings.

When one considers the group of individuals whose schooling is not relevant for their occupations, the presence of sheepskin effects would provide further confirmation of the screening hypothesis than previous studies examining sheepskin effects. In this case, there is no job productivity-related rationale as to why the conferral of a diploma would result in a discontinuous increase in an individual's rate of return on years of schooling for efficient as well as inefficient learners, regardless of whether or not investment in schooling is lumpy. Such a discontinuous increase could only reflect schooling's use as a screening device.

The absence of sheepskin effects for individuals whose schooling is not relevant for their occupations would support human capital theory when accompanied by the finding that years of schooling is irrelevant in explaining the variance in earnings.

The Data and Empirical Estimates

The data used in the empirical estimations are from the National Longitudinal Study of the High School Class of 1972 (NLS72). This is a national probability sample consisting of almost 23,000 high school seniors who were first surveyed in the spring of 1972. Follow-up surveys were conducted in fall 1973, fall 1974, fall 1976, fall 1979, and spring and summer of 1986. The data contain a wide range of information including socioeconomic background variables as well as educational and employment plans and outcomes. More detailed information about this data set can be found in Riccobono et al. (1981).

The NLS72 data are sufficiently rich to allow for not only the presence of sheepskin effects in the returns to schooling but also for the determination of the stability of these effects and of the stability of the empirical rate-of-return estimate on years of schooling across the two groups of individuals, which differ according to whether or not schooling was found to be relevant for one's occupation. All references made to the individuals' jobs refer to their most recent primary job held during the period from November 1, 1978, through October 1979.

The empirical model used to determine the presence and stability of the sheepskin effects in the returns to schooling and the stability of the empirical rate-of-return estimate on years of schooling is a variant of the

Mincerian semi-log earnings equation because of its attractive statistical properties and since the results obtained can be more easily reconciled with previous studies.

The following semilog earnings equation is initially estimated for all individuals using ordinary least-squares (OLS) on the weighted data:

$$(1) \quad \ln (W) = \alpha_0 + \alpha_1 (EDATT) + \alpha_2 (PINCOME) + \alpha_3 (EXPER) + \alpha_4 (EXPER)^2 + \alpha_5 (EDEX) + \alpha_6 (DEGREE1) + \alpha_7 (DEGREE2) + \alpha_8 (SEX) + \varepsilon_i,$$

where ε_i is assumed to be a well-behaved disturbance term. The empirical results can be found in column 1 of Table 1. Variable definitions can be found in Appendix 1. All empirical estimates in this study are obtained using the weighted data in order to transform it into a "random sample." This weighting procedure reduces somewhat the problem of heteroskedasticity, which typically arises in various regressions using large-scale cross-sectional data. Information regarding the weight used can be found in the notes to Table 1.

The most detailed years-of-schooling variable in the NLS72 data set—EDATT—takes on values of 1 to 8, which do not exactly correspond to specific individual years of schooling, but instead signifies that certain bundles of schooling have been completed. The variable EDATT is very useful in the identification of sheepskin effects. For two of the values this variable takes on, there is an explicit designation that all individuals earned a degree. When EDATT = 7, this signifies that a four- or five-year Bachelor's degree has been conferred, and when EDATT = 8, an advanced degree has been conferred.

The empirical results obtained show that a *ceteris paribus* increase in years of schooling attained as measured by EDATT positively affects the natural logarithm of usual hourly earnings, and this effect is statistically significant. The coefficient estimate of EDATT is strikingly similar to those obtained in Hungerford and Solon (1987) using Current Population Survey (CPS) data. As one would expect, PINCOME is also positive and statistically significant. This variable captures many factors which contribute to future job productivity, including the level of motivation the individual likely received when young, the presence or lack of newspapers and encyclopedias in the home while the individual was growing up and, to at least a certain extent, ability.

Since the coefficient estimate of EDEX is negative and statistically significant, the rate of return on years of schooling declines as years of work experience increases, although this effect is very modest. This provides support for the weak version of the screening hypothesis.

TABLE 1

Alternative OLS Estimates of Equation 1 Using the Weighted Data from the National Longitudinal Study of the High School Class of 1972 (NLS72)

Dependent Variable: ln (W)

Independent Variables	Equation: (1)*	(1)**	(1)***
Intercept	0.824	0.855	0.831
	(8.43)	(4.45)	(7.27)
EDATT	0.029	0.087	-0.006
	(2.28)	(3.69)	(0.39)
PINCOME	0.00001	0.00001	0.00001
	(8.75)	(3.80)	(7.99)
EXPER	0.149	0.108	0.163
	(4.66)	(1.81)	(4.26)
$(EXPER)^2$	-0.007	-0.002	-0.010
	(2.44)	(0.33)	(2.76)
EDEX	-0.005	-0.011	-0.0005
	(2.39)	(2.83)	(0.20)
DEGREE1	0.012	-0.004	0.019
	(4.11)	(0.79)	(5.26)
DEGREE2	0.021	0.005	0.025
	(4.34)	(0.74)	(3.50)
SEX	0.211	0.166	0.236
	(18.23)	(8.38)	(16.28)
F-statistic	91.14	21.83	74.42
Adjusted R^2	0.11	0.09	0.12
N	5843	1728	4115

Notes: All references made to the individuals' jobs refer only to their most recent primary job held during the period from November 1, 1978, through October 1979.

Observations containing variables which are given error and missing data codes were eliminated. These codes designate the following: partial response, don't know, out-of-range response, multiple response, refusal, blank or nonresponse, legitimate nonresponse, and missing.

Observations containing variables which were considered inconsistent and/or were manually edited were eliminated, as were those whose hours usually worked per week and usual weekly earnings were equal to zero.

All individuals responded to the base year questionnaire and the first through the fourth follow-up questionnaires.

All empirical estimates were obtained using the weighted data. The weight used is W27 multiplied by TELMLT34. (W27 and TELMLT34 are contained in the NLS72 data set.) Observations with weights equal to zero were eliminated.

*Includes all individuals.

**Includes those individuals who indicated that it was their experience that most of what was done on the job was learned in school.

***Includes those individuals who indicated that it was not their experience that most of what was done on the job was learned in school.

Absolute t-statistics are in parentheses.

DEGREE1 is a dummy variable which captures the discontinuous change in the rate of return on years of schooling as a result of the attainment of a four- or five-year Bachelor's degree. The dummy variable DEGREE2 captures the analogous discontinuous change in the situation when an advanced degree is earned. Both of the coefficient estimates of these variables are positive and statistically significant, indicating the presence of sheepskin effects, results which are qualitatively consistent with those of Hungerford and Solon (1987). These results could be consistent with what one would expect based on the screening hypothesis, keeping in mind that these results are also amenable to nonscreening interpretations.

The next step is to examine the stability of the sheepskin effects in the returns to schooling and the stability of the empirical estimates of the rate of return on years of schooling by estimating equation 1 separately for the two groups of individuals, according to whether or not they found their accumulated schooling relevant for their occupations. The empirical results can be found in columns 2 and 3, respectively, of Table 1.

The NLS72 data allow for an efficient identification of these two groups of individuals. In its Fourth Follow-Up Questionnaire in fall 1979, individuals were asked to determine whether or not it was their experience that "most of what I did on the job I learned to do in school." Those who indicate that it is their experience are assumed to have acquired schooling which is relevant in content to the skills used in their occupations, while those who indicate that it is not their experience are said to have acquired schooling which is not relevant for their occupations.

Consider the empirical results obtained when equation 1 is estimated for all the individuals who indicate that most of what was done on the job was learned in school (see column 2 of Table 1). The rate-of-return estimate on years of schooling is positive and statistically significant; however, the coefficient estimates on DEGREE1 and DEGREE2 are not statistically significant, indicating the absence of sheepskin effects. The rate of return on years of schooling does not increase discontinuously when either a four- or five-year Bachelor's degree or an advanced degree are conferred. These findings indicate that diplomas are not used as screening devices. A *ceteris paribus* increase in years of schooling alone positively and significantly affects the natural logarithm of usual hourly earnings for individuals who find their schooling relevant for their occupations, demonstrating support for the human capital theory. The empirical results obtained also show that schooling is not a lumpy investment for these individuals.

The negative and significant coefficient estimate on the interaction term EDEX indicates that the rate of return on years of schooling declines with additional experience, which provides empirical support for the weak

version of the screening hypothesis. This should not be viewed as an unexpected result, even within the context of the human capital theory. Even though for these individuals schooling is related to the skills used on one's job, there are affective and behavioral traits contributing to occupational productivity and subsequent earnings which cannot necessarily be acquired in school. These traits include the ability to interact effectively with colleagues in a work environment. One should expect, to a certain extent, that schooling is used as a screening device, since at the time of hiring, employers typically would never be in a position to know whether or not prospective employees acquire these traits in school or anywhere else. Instead, employers would only be able to assess better the employee's productivity when the employee is supervised on the job over a period of time.

Equation 1 is also estimated for all individuals who indicate that it was not their experience that "most of what was done on the job was learned in school." See column 3 of Table 1 for these empirical results. Interestingly, the quantity of schooling as measured by EDATT is not statistically significant, which is evidence that it has no direct productivity and earnings-enhancing impact. This empirical finding is consistent with human capital theory. The coefficient estimate on the interaction term EDEX is not statistically significant. This finding is not inconsistent with the human capital theory.

However, the dummy variables DEGREE1 and DEGREE2, which capture whether or not the rate of return on years of school increase discontinuously when one receives a four- or five-year Bachelor's degree and an advanced degree, respectively, are both positive and statistically significant. These empirical results indicate that the only way to reap monetary returns from schooling for this group of individuals is to earn diplomas, demonstrating that schooling is used as a screening device in this situation. Within the context of these results, human capital interpretations of the presence of sheepskin effects would not apply. If schooling attained is not relevant for one's occupation, one would expect that more efficient learners would not be able to derive a greater amount of benefits from schooling than inefficient learners. In addition, the presence of sheepskin effects in the returns to schooling cannot be used as evidence that investment in schooling is lumpy.

Conclusion

Hungerford and Solon (1987) demonstrate the presence of sheepskin effects in the returns to schooling using Current Population Survey (CPS) data and conclude "that previous authors' dismissal of the screening hypothesis on the ground that sheepskin effects do not exist was premature." In

this study, sheepskin effects are found to exist but are not stable across individuals according to whether or not they found their accumulated schooling relevant for their occupations. Rate-of-return estimates on years of schooling between these two groups are not stable either.

For individuals whose schooling is related to their occupations, the rate of return on years of schooling is positive and statistically significant, and sheepskin effects are not present. These results are consistent with the human capital theory. For individuals whose schooling is not related to their occupations, years of schooling attained is not relevant in explaining the variance in the natural logarithm of usual hourly earnings. This is consistent with human capital theory. However, sheepskin effects are found to be present, indicating that diplomas are used as screening devices for this group of individuals.

The demonstrated lack of stability in the sheepskin effects in the returns to schooling and in the rate-of-return estimate on years of schooling between these two groups of individuals indicate more conclusive support for the human capital theory over the screening hypothesis when compared with other analyses of sheepskin effects, such as Hungerford and Solon (1987) and Belman and Heywood (1991). However, even the strongest advocates of human capital theory would agree that in certain instances schooling is used as a screening device; the results obtained in this study indicate this more convincingly than other studies examining sheepskin effects. Contrary to the more extreme versions of the screening hypothesis, results obtained here show that a strong causal link between schooling attained and subsequent occupational productivity and earnings can be demonstrated to exist. This important finding reaffirms the conclusion of Layard and Psacharopoulos (1974) "that the theory of human capital is not after all in ruins."

APPENDIX 1

Variable Definitions

W = (usual weekly earnings/hours usually worked per week).

EDATT = educational attainment. This variable takes on values from 1 through 8. In ascending order, the descriptions of each are the following: no college and no vocational training; no college and some vocational training; less than two years of college and no vocational training; less than two years of college and some vocational training; two-year degree, or greater than two years of college and no vocational training; two-year degree, or greater than two years of college and some vocational training; four- or five-year Bachelor's degree; and advanced degree.

PINCOME = before-tax yearly income of student's parents (or guardian), which includes taxable and nontaxable income from all sources. This variable takes on values of 1 through 10, with each value designating an income range. The average of each range was reassigned to each value with one exception: when PINCOME = 10, before-tax yearly income is over $18,000, and PINCOME is arbitrarily reassigned a value of $18,000.

EXPER = years of work experience. This variable was constructed by summing up the weeks-worked variables for the time periods 10/72-10/73, 10/73-10/74, 10/74-10/75, 10/75-10/76, 10/76-10/77, 10/77-10/78, and 10/78-10/79 and dividing this sum by 52.

$(\text{EXPER})^2$ = EXPER squared.

EDEX = EDATT multiplied by EXPER.

DEGREE1 = EDATT multiplied by the 0-1 dummy variable SHEEP1 which equals 1 if EDATT = 7 (indicating the attainment of a four- or five-year Bachelor's degree) and which equals zero otherwise.

DEGREE2 = EDATT multiplied by 0-1 dummy variable SHEEP2 which equals 1 if EDATT = 8 (indicating the attainment of an advanced degree) and which equals zero otherwise.

SEX = sex (1 = male; and 0 = female).

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References

Arabsheibani, Gholamreza. 1989. "The Wiles Test Revisited." *Economics Letters*, Vol. 29, pp. 361-64.

Belman, Dale, and John S. Heywood. 1991. "Sheepskin Effects in the Returns to Education: An Examination of Women and Minorities." *Review of Economics and Statistics*, Vol. 73, no. 4 (November), pp. 720-24.

Chiswick, Barry R. 1973. "Schooling, Screening, and Income." In Lewis C. Solomon and Paul J. Taubman, eds., *Does College Matter?* New York: Academic Press, pp. 151-58.

Ehrenberg, Ronald G., and Robert S. Smith. 1991. *Modern Labor Economics: Theory and Public Policy*. New York: Harper Collins Publishers Inc.

_____. 1994. *Modern Labor Economics: Theory and Public Policy*. New York: Harper Collins College Publishers.

Hungerford, Thomas, and Gary Solon. 1987. "Sheepskin Effects in the Returns to Education." *Review of Economics and Statistics*, Vol. 69, no. 1 (February), pp. 175-77.

Layard, Richard, and George Psacharopoulos. 1974. "The Screening Hypothesis and the Returns to Education." *Journal of Political Economy*, Vol. 82, no. 5 (September/October), pp. 985-98.

Miller, Paul W., and Paul A. Volker. 1984. "The Screening Hypothesis: An Application of the Wiles Test." *Economic Inquiry*, Vol. 22, no. 1 (January), pp. 121-27.

Riccobono, John, Louise B. Henderson, Graham J. Burkheimer, Carol Place, and Jay R. Levinsohn. 1981. *National Longitudinal Study: Base Year (1972) through Fourth Follow-Up (1979) Data File Users Manual*. Research Triangle Park: Center for Educational Research and Evaluation.

Wiles, Peter. 1974. "The Correlation between Education and Earnings: The External-Test-Not-Content Hypothesis (ETNC)." *Higher Education*, Vol. 3, no. 1, pp. 43-58.

Union Wage Concessions in the 1980s: Adding Realism to Nominalism

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Unionized concession bargaining in the United States since 1980 has been well documented (Bell 1989, 1995; Mitchell 1994). However, the interpretation of these events, i.e., whether concession bargaining represents a structural break in unionized wage determination (Mitchell 1994) or is the expected response to adverse economic conditions (Dunlop 1988), has been subjected to much debate. Moreover, the previous literature on concession bargaining focuses on nominal measures of concessions, e.g., nominal wage settlements and/or the incidence of concessionary provisions such as lump-sum payments, two-tier wage plans, or first-year nominal wage freezes (see Bell 1989, 1995; Mitchell 1985, 1994; Nay 1991). There is a paucity of research into whether real wage determination was significantly changed by concession bargaining. Thus this paper revisits the question of a divergence in wage determination for nominal wage outcomes and expands the analysis to the real wage case. The exclusion of real wage outcomes from previous analyses is a serious omission: the impact of concession bargaining on real wage settlements appears significantly different than the nominal case, especially in the early 1980s.

Unionized Wage Settlements Data

To examine real and nominal unionized wage determination, I utilize a disaggregated data set of 2,795 major collective bargaining agreements, i.e., union contracts for bargaining units with more than 1,000 workers, in manufacturing negotiated between 1960 and 1989.[1] The annualized nominal and real wage changes over the life of each contract, including annual improvement factors and cost-of-living allowances, are the primary variables of interest. The mean nominal wage adjustment is 5.868% per year, and the mean real wage adjustment is 0.485% per year. Each of these wage settlement measures will be the dependent variable in ordinary least squares (OLS) regressions.

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Real and nominal wage changes are empirically modeled as a function of labor supply, labor demand, and relative bargaining power using various indicators to capture these determinants. The aggregate economywide wage determinants included in the estimated wage equations are the prime-age male unemployment rate and the growth rates for the twelve months preceding the contract settlement of (1) real gross domestic product (GDP), (2) manufacturing output per hour, (3) the real value of merchandise imports, and (4) the Canadian-U.S. dollar and yen-U.S. dollar exchange rates. The unemployment rate is expected to be negatively related to wage settlements. Higher real GDP and productivity growth preceding contract settlements are expected to be associated with higher wage settlements because of stronger labor demand. The exchange rate variables are expressed as units of foreign currency per U.S. dollar, so a positive change is an appreciating U.S. dollar which is expected to reduce wage growth. On an industry level, the 12-month growth rate of real two-digit industry average hourly earnings (AHE) is used as a measure of labor's alternative opportunities and of the strength of labor demand. On a bargaining unit level, the percent change in the size of the bargaining unit over the life of the previous contract is included as a firm-specific indicator of labor demand. Also included are a set of two-digit industry effects to capture other industry-specific, time-constant wage determinants.

As is standard in previous work, the regressions also contain two inflation measures: expected inflation at the contract date and inflation surprise (actual minus expected) over the life of the previous contract. Following Vroman and Abowd (1988), expected inflation is the predicted value from the regression of 12-month consumer price index (CPI) percent changes on the three previous 12-month CPI changes.

Nominal Wage Determination, 1960-89

Column 1 of Table 1 presents the OLS regression results for 1960-89 using the annualized nominal wage adjustment as the dependent variable and the independent variables described above. The results are quite sensible and consistent with prior expectations. A higher unemployment rate, an adverse international environment (increasing imports and appreciating exchange rates), and slower growth in bargaining unit employment, industry earnings, and manufacturing productivity preceding the contract settlement are all associated with lower nominal wage settlements. Inflation surprise does not appear to be an important determinant of nominal wage settlements, whereas expected inflation is very significant. This regression model explains 50% of the variation in nominal union wage settlements between 1960 and 1989.

TABLE 1

Regression Analysis of Unionized Wage Settlements in U.S. Manufacturing, 1960-89
(Standard Errors in Parentheses)

	Nominal Wage Change[a]			Real Wage Change[b]		
Variable	(1)	(2)	(3)	(4)	(5)	(6)
Unemployment rate, men, ages 25-54	-0.399°	0.055	0.078°	0.109°	0.141°	0.066
	(0.041)	(0.049)	(0.051)	(0.038)	(0.048)	(0.049)
Percent change in bargaining unit size over the previous contract	0.004°	0.004°	0.004°	0.003	0.003	0.003
	(0.002)	(0.001)	(0.001)	(0.002)	(0.002)	(0.002)
Real industry avg. hourly earnings, 12-month percent change	0.460°	0.305°	0.320°	0.172°	0.161°	0.115°
	(0.031)	(0.032)	(0.032)	(0.028)	(0.030)	(0.030)
Real gross domestic product 12-month percent change	-0.029	0.042	0.055	-0.217°	-0.212°	-0.255°
	(0.030)	(0.030)	(0.030)	(0.028)	(0.028)	(0.029)
Manufacturing output per hour, 12-month percent change	0.065°	0.034	0.028	0.067°	0.064°	0.082°
	(0.023)	(0.022)	(0.022)	(0.021)	(0.021)	(0.021)
Inflation surprise over previous contract	0.069	0.036	0.038	0.164°	0.162°	0.156°
	(0.039)	(0.037)	(0.037)	(0.036)	(0.036)	(0.035)
Expected inflation	1.141°	1.223°	1.251°	-0.234°	-0.229°	-0.316°
	(0.039)	(0.038)	(0.040)	(0.035)	(0.036)	(0.037)
Real value of merchandise imports 12-month percent change	-0.019°	-0.034°	-0.035°	-0.009	-0.010	-0.005
	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)
Canadian-U.S. dollar exchange rate, 12-month percent change	-0.036°	-0.105°	-0.104°	-0.013	-0.018	-0.019
	(0.015)	(0.015)	(0.014)	(0.013)	(0.013)	(0.013)
Yen-U.S. dollar exchange rate, 12-month percent change	-0.016°	-0.031°	-0.025°	0.076°	0.075°	0.057°
	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)
1980-89 (variable equals 1 if contract is from 1980-89)	—	-2.711°	—	—	-0.188	—
		(0.198)			(0.189)	
1980-84 (variable equals 1 if contract is from 1980-84)	—	—	-2.947°	—	—	0.567°
			(0.237)			(0.225)
1985-89 (variable equals 1 if contract is from 1985-89)	—	—	-2.348°	—	—	-1.343°
			(0.236)			(0.215)
Industry effects (19)	Yes°	Yes°	Yes°	Yes°	Yes°	Yes°
Standard error of the regression	2.535	2.437	2.435	2.311	2.310	2.286
Adjusted R^2	0.498	0.536	0.537	0.199	0.199	0.215
Sample size	2795	2795	2795	2795	2795	2795

Source: See text.

Notes:

[a] Dependent variable: annualized nominal wage percent adjustment over contract life. Each regression also includes an intercept. The mean of the dependent variable is 5.868. Standard errors are robust to arbitrary forms of heteroskedasticity.

[b] Dependent variable: annualized real wage percent adjustment over contract life. Each regression also includes an intercept. The mean of the dependent variable is 0.485. Standard errors are robust to arbitrary forms of heteroskedasticity.

° Statistically significant at the 0.05 level (two-tailed test).

To investigate whether unionized wage determination is significantly different in the 1980s, column 2 adds a dummy variable equal to 1 if the observation is in the 1980s to the regression model of column 1. The results are consistent with Mitchell (1994) and others using aggregate data: nominal wage changes are significantly less in the 1980s, *ceteris paribus*. In fact, the estimated 1980s dummy variable coefficient implies that nominal wage settlements in the 1980s are, on average, 2.711 percentage points, or 46%, per year less than settlements before 1980 under the same economic conditions. This coefficient is also very statistically significant with a t-statistic of -13.686. Finally, to investigate whether there are differences in the first and second halves of the 1980s, column 3 divides the 1980s dummy variable into dichotomous variables indicating contract settlement in 1980-84 or 1984-89. The results imply that the difference relative to 1960-79 is slightly smaller for the latter half of the 1980s but still relatively large (a 40% difference) and significant (a t-statistic of -9.941).

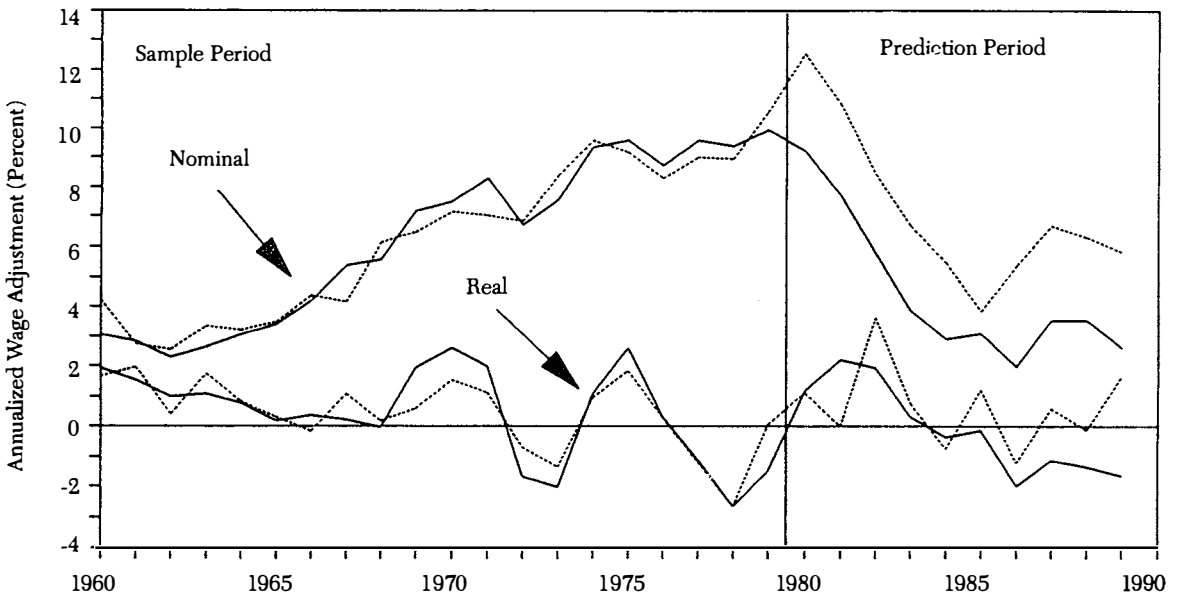
As an alternative method for analyzing a systematic difference in wage determination in the 1980s, I estimated the regression model of column 1 using a subsample restricted to 1960-79 and used this regression to predict wage outcomes for the entire 1960-89 period. Figure 1 plots the annual averages of these predicted wage settlements as well as the actual wage settlements. Figure 1 illustrates why there has been so much attention focused on nominal wage outcomes in the first half of the 1980s: after nearly two decades of increasing nominal wage settlements, nominal wage settlements exhibit a clear, sharp downward trend from 1980 to 1985.

Turning to predicted nominal wage settlements, the economic conditions of the 1980s predict declining nominal wage settlements, consistent with Dunlop's (1988) arguments. However, the adverse economic environment cannot totally explain the observed settlements: a consistent overprediction is evident throughout the 1980s. Figure 1 implies that there has been a significant change in unionized nominal wage determination with persistent ramifications.

Real Wage Determination, 1960-89

Column 4 of Table 1 presents the results of the regression analogous to column 1 using the annualized real wage change as the dependent variable. Mitchell (1994) emphasizes that unionized wage determination is characterized by an insensitivity to short-run economic conditions, and the results of columns 1 and 4 suggest that this is even more true for real wage changes. While some coefficients are consistent with prior expectations (e.g., industry wage growth, manufacturing productivity growth, and inflation surprise), others are not (e.g., the unemployment rate and the change

FIGURE 1
Unionized Wage Settlements
U.S. Manufacturing, 1960-89
(..... Predicted —— Actual)



Sources: See text.

Notes: Actual values are annual averages of the annualized percent wage adjustments in union settlements.
Predicted values are annual averages predicted by regressions for 1960-79 using the specifications in columns 1 and 4 of Table 1.

in real GDP and the dollar-yen exchange rate). The real wage regression does not do nearly as well as its nominal counterpart in explaining the variance in wage settlements.

Paralleling the analysis for nominal wages, column 5 adds a 1980s dummy variable and column 6 adds 1980-84 and 1985-89 indicator variables to the real wage regression model. The results are quite striking. The dummy variable for the 1980s, while negative, is imprecisely estimated and not statistically significant at conventional levels of significance. More importantly, when the 1980s dummy variable is split in two, real wage settlements are estimated to be significantly *higher* during the concession bargaining of the first half of the 1980s, *ceteris paribus*. Only in the second half of the 1980s are real wage settlements estimated to be significantly less than settlements before 1980 with similar economic conditions.

Previous research sometimes estimates nominal regressions of this type using a lagged dependent variable specification, i.e., the previous contract's nominal wage change is included as an independent variable (e.g., Vroman and Abowd 1988). Using this specification in the real wage case does not change the results: including a lagged dependent variable in columns 5 and 6 yields estimated dummy variable coefficients (standard errors) of -0.138 (0.198) for 1980-89, 0.580 (0.229) for 1980-84, and -1.295 (0.226) for 1985-89. However, if there is bargaining unit unobserved heterogeneity, the lagged dependent variable may be correlated with the error term. To account for this possibility, I also instrumented for the previous contract settlement using the unemployment rate and growth rates of industry AHE, real GDP, manufacturing output per hour, and real value of imports at the time of the previous settlement as instruments. Again, the conclusions are unchanged: the estimated dummy variable coefficients (standard errors) are -0.002 (0.201) for 1980-89, 0.605 (0.201) for 1980-84, and -1.206 (0.289) for 1985-89. Thus the real wage results are robust to these different specifications.

The results using a regression for 1960-79 to predict real wage settlements in the 1980s reinforce the results of Table 1. As in the nominal wage case, Figure 1 presents the annual averages of the predicted and actual real wage settlements. In sharp contrast to the nominal results, in the first part of the 1980s no clear pattern emerges: some years are overpredicted, others underpredicted. Not until 1985 is a clear and consistent overprediction evident. Mitchell (1994) concludes that (nominal) concession bargaining peaked in the first half of the 1980s. However, the literature's nominal focus has overlooked an important result: real wages are not significantly different than the preconcession bargaining wage structure predicts. Not until the second half of the 1980s is a concessionary impact on *real* wages estimated.

Conclusion

The previous concession bargaining literature focuses exclusively on nominal measures of union concessions. However, this focus on nominal compensation changes apparently misses an important feature: the real wage experience in the 1980s is significantly different from the nominal experience. In nominal and real wage regressions on 2,795 union wage settlements for 1960-89, wage changes are significantly lower throughout the 1980s, *ceteris paribus*, only for the nominal case. Real wage settlements are estimated to be significantly *higher* in the first half of the 1980s (when, by some measures, concession bargaining was at its peak) and significantly lower only in the second half of the decade. Using regressions up to 1979 to predict wage outcomes in the 1980s yields similar results: the pre-1980 wage determination structure consistently overpredicts nominal wage outcomes throughout the 1980s but does not overpredict real wage outcomes until at least 1985.

While the significant negative coefficient on the 1980s indicator variable in the nominal regression is consistent with the previous literature (Neumark 1993; Mitchell 1985, 1994), the *positive* estimate for the early 1980s in the real wage change equation is a startling result. For the same set of economic conditions, the resulting real wage settlements are *higher* in the first half of the 1980s than before. The conventional wisdom stemming from nominal analyses regarding unionized concession bargaining in the 1980s is the opposite. Not until the second half of the decade are real wage settlements estimated to be significantly lower and consistently overpredicted by the pre-1980 wage structure.

Apparently, in the first half of the 1980s, price inflation was wrung out of the economy more rapidly than the collective bargaining process was able to wring out wage inflation—leaving the need for continued concessions. Thus the legacy of the nominal wage concession bargaining of the first half of the 1980s is not lower real wages at that time but rather continued stagnant real wage growth, even as economic conditions improved later in the decade (a phenomenon persisting into the mid-1990s). Finally, while these results will not resolve whether there was a structural change in real wage determination in the 1980s, they clearly highlight the importance of adding real wage analyses to the nominal literature. Only then will we be able to better understand concession bargaining and its legacy.

Acknowledgment

I would like to thank Jim Scoville for helpful comments and Wayne Vroman for allowing me to use his data set.

Endnote

[1] These data were originally collected by Wayne Vroman (1984) from *Current Wage Developments* (now *Compensation and Working Conditions*) (Washington, D.C.: U.S. Department of Labor). I updated these data and merged aggregate indicators from *Citibase: Citibank Economic Database Tape* (New York: Citicorp).

References

Bell, Linda A. 1989. "Union Concessions in the 1980s." *Federal Reserve Bank of New York Quarterly Review*, Vol. 14, no. 2 (Summer), pp. 44-58.

_____. 1995. "Union Wage Concessions in the 1980s: The Importance of Firm-Specific Factors." *Industrial and Labor Relations Review*, Vol. 48, no. 2 (January), pp. 258-75.

Dunlop, John T. 1988. "Have the 1980s Changed U.S. Industrial Relations?" *Monthly Labor Review*, Vol. 111, no. 5 (May), pp. 29-34.

Mitchell, Daniel J.B. 1985. "Shifting Norms in Wage Determination." *Brookings Papers on Economic Activity*, no. 2, pp. 575-609.

_____. 1994. "A Decade of Concession Bargaining." In Clark Kerr and Paul D. Staudohar, eds., *Labor Economics and Industrial Relations: Markets and Institutions*. Cambridge: Harvard University Press, pp. 435-74.

Nay, Leslie A. 1991. "The Determinants of Concession Bargaining in the Airline Industry." *Industrial and Labor Relations Review*, Vol. 44, no. 2 (January), pp. 307-23.

Neumark, David. 1993. "Declining Union Strength and Labor Cost Inflation in the 1980s." *Industrial Relations*, Vol. 32, no. 2 (Spring), pp. 204-22.

Vroman, Wayne. 1984. "Wage Contract Settlements in U.S. Manufacturing." *Review of Economics and Statistics*, Vol. 66, no. 4 (November), pp. 661-65.

Vroman, Wayne, and John M. Abowd. 1988. "Disaggregated Wage Developments." *Brookings Papers on Economic Activity*, no. 1, pp. 313-38.

MNCs, National Culture, and Gender-based Employment Discrimination

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This study focuses on the role multinational firms (MNCs) may play in promoting or inhibiting overt gender discrimination in the context of a rapidly developing economy. Overt gender discrimination is defined here as a publicly stated requirement or preference that candidates for a particular position in an organization be of a specified sex. Once common in industrialized Western countries, *overtly* specified gender requirements for jobs have been largely eliminated in most, though such practices, while under fire, seemingly persist in many parts of the world.

The theory underlying our analysis concerns the possible relationship between a firm's home country culture and its employment practices in host countries. Hypotheses are developed linking various dimensions of national culture to discriminatory employment practices in firms as these might occur in a foreign subsidiary. The host country used in this study is Thailand.

Theoretical Framework

Prior research suggests at least three major perspectives related to gender discrimination in the workplace (Izraeli and Adler 1994). Differences in occupational attainment may be the consequence of (a) individual-level differences between men and women; (b) women being shunted into career paths that have limited opportunity (though process may not be intentional); (c) the consequence of intentional discrimination, where the values and perceptions of those in positions of authority create differential outcomes for men and women.

A crucial issue, then, is the extent to which segregation is the consequence of intentional discrimination. The present study has the advantage of examining cases in which employers were able to impose explicit gender-related restrictions on jobs, so we are able to observe directly the overt

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intention to discriminate. Although such overt discrimination may be related to occupational characteristics (Reskin 1993), the central question here concerns the values and perceptions of key decision makers and how these affect discrimination.

Another feature of this study is that the companies examined vary with respect to national origin and therefore national culture. A culture is defined by the beliefs, attitudes, norms, role expectations, and values shared by the members of a particular group, and culture is argued to influence the behavioral propensities of organizational decision makers (Triandis 1994). There are a couple of ways in which a firm's home-country national culture could be linked to its likelihood of engaging in gender discrimination within a host country. First, culturally influenced discriminatory management practices may be transferred to subsidiaries. Second, the cultural predispositions of expatriate managers of host-country subsidiaries may affect their tastes and preferences as related to discrimination.

Patterns developed in parent companies are apt to be reflected to some extent in the procedures and practices of subsidiaries. Laurent (1986) observed that by far the single strongest influence on MNC expatriate managers' views of appropriate managerial policies for the subsidiaries in which they worked was the expatriate's home country. This is consistent with more general theories that link cultural characteristics to behavior (Triandis 1994). As there are no legal restrictions in Thailand on private employers with respect to gender discrimination, strong institutional barriers to a firm engaging in discriminatory behavior are absent. Consequently, we are able to observe the extent to which national cultural differences across firms might influence overt discrimination.

Hofstede (1980) developed four scales that measure work-related values and are widely used as indicators of national cultural traits. Perhaps most salient here is Hofstede's *masculinity* dimension. Countries with relatively high average scores on the masculinity scale are characterized by highly differentiated sex roles, a "machismo" ethic, and general male dominance in the society, suggesting *Hypothesis 1*: The likelihood of overt gender discrimination will *increase* with the home country's average value on Hofstede's masculinity scale. At the high end of the masculinity scale, a large number of jobs will be sex-typed (so such firms will have numerous males-only and females-only jobs, relative to those in which no gender restriction is imposed).

Cultures high on Hofstede's *individualism* dimension stress personal initiative and autonomy. The converse of individualism is collectivism, in which group affiliation and group consciousness are dominant. We would expect cultures that score high on individualism to emphasize objective competency

and skill in evaluating job candidates, while more collectivist cultures should emphasize ascriptive criteria such as age, social status or class, and gender (Scoville 1992) and be more apt to perpetuate traditional gender roles. As Hofstede (1980) notes, particularistic criteria (that favor "in groups") are more significant in cultures that score low on the individualism dimension, while universalistic (i.e., nonascriptive) criteria are more significant in high individualism cultures. Gender often serves as an ascriptive factor, suggesting *Hypothesis 2*: The likelihood of overt gender discrimination will *decrease* with the home country's average value on Hofstede's individualism scale.

Power distance refers to the extent to which hierarchy and extensive social stratification are legitimized. In a high power distance culture, higher-status individuals are more prone to exercise power as a means of maintaining or enhancing their positions, while lower-status individuals are less inclined to challenge power and status discrepancies. If we assume that women are traditionally less likely to be included in power elites, then *Hypothesis 3* follows: The likelihood of overt gender discrimination will *increase* with the home country's average value on Hofstede's power distance scale.

The final dimension in the Hofstede scheme is *uncertainty avoidance*. Cultures high on this factor tend to be relatively "tight" and traditional societies that resist change and are intolerant of deviant notions. If we view gender differentiation in the labor market as common to some extent across most societies, then actions challenging such practices are not so apt to emerge or be legitimized in high uncertainty avoidance cultures suggesting *Hypothesis 4*: The likelihood of overt gender discrimination will *increase* with the home country's average value on Hofstede's uncertainty avoidance scale.

Model Specification

This study utilizes job announcements published in Thai newspapers in which employers are free to express preferences with respect to job candidate gender. The units of observation are the advertisements, and the dependent variable is the employer's expressed gender preference for job candidates. Language relating to gender preference may fall into one of four distinct categories: (a) males only, (b) females only, (c) both males and females ("equal opportunity" positions), or (d) the ad is silent regarding applicant gender (no gender-related language positions). The dependent variable is a nominal variable consisting of these four categories. Applying the multinomial logit model, it is possible to express the probability of a given preference in terms of a set of organizational characteristics (i.e., cultural factors) and job attributes. This approach requires designating one of

the alternatives as a reference category. The probability that a given advertisement will specify gender preference k may be expressed as

$$Pr(k) = \frac{e^{(b_{0k} + \sum_{i=1}^{n} b_{ik}X_i)}}{1 + \sum_{j=1}^{3} e^{(b_{0j} + \sum_{i=1}^{n} b_{ij}X_i)}}, \quad (1)$$

if k is any gender preference *other than the reference category* and

$$Pr(r) = \frac{1}{1 + \sum_{j=1}^{3} e^{(b_{0j} + \sum_{i=1}^{n} b_{ij}X_i)}}, \quad (2)$$

if r is the reference category. In (1) and (2), Pr( ) = probability operator, e=natural base, X_i = i^{th} independent variable, n=number of independent variables, b_0 = constant term, and b_{ij} = parameter i of equation j.

It is possible to transform (1) and (2) in order to generate a simpler set of equations. This involves taking the logarithm of the ratio of (1) to (2) for each of the three nonreference categories. The resulting equation is

$$\ln(Pr(k)/Pr(r)) = b_{0k} + \sum_{i=1}^{n} b_{ik}X_i, \quad (3)$$

where ln( ) = natural logarithm operator. This transformation allows one to interpret the parameters as the impact of a given independent variable on the likelihood of a particular case belonging to a given category (k) relative to the reference category (r).

The fourth alternative in this study (no gender-related language contained in the ad) will serve as the reference category. Thus we will have three equations of the form expressed in (3): one for each of the nonreference categories. One equation will indicate the impact of the independent variables on the probability of the ad specifying male applicants only versus the ad containing no gender-related language. There will be another for the probability of the ad specifying female applicants only versus the ad containing no gender-related language, and a third for the probability of the ad specifying both male and female applicants ("equal opportunity") versus the ad containing no gender-related language.

The independent variables in this model consist of measures of the various Hofstede scales, an indicator of the firm's home country legal environment, and a series of control variables.

Research Methods

Data Collection

Data for the study were drawn from a random sample of around 660 job announcements published in Bangkok-area English-language newspapers in 1991 and 1992. There are drawbacks to analyzing job announcement data, especially when taken from nonnative language papers. Fortunately, there are independent data that would tend to support the use of this approach, at least in the Thai context. Lawler and Atmiyanandana (1994) found that at least in the case of white-collar jobs, English-language ads were used as a primary recruiting tool by modern-sector firms for white-collar positions. English fluency is seen as a critical skill for higher-level employees, and publishing ads in the English-language press serves as a screening device to help identify English speakers. Consequently, this approach seems reasonable, at least for the analysis of white-collar job openings (to which this study is limited).

Variables

The advertisements generally contained detailed information on the nature of the jobs, which was used to construct several of the variables in this study. The ads were categorized according to any gender restrictions listed in the ad: males only, females only, either males or females ("equal opportunity") or no explicit statement.

The four cultural dimensions discussed in Hypotheses 1-4 were measured using Hofstede's (1980) scales. In the analysis, variables are indicated as MASCULIN (masculinity), INDIVID (individualism), POWERDIS (power distance), and UNCAVOID (uncertainty avoidance). A firm's home country averages on Hofstede's four scales are used as the firm-specific national culture measures. If there was any doubt as to the national origin of the firm, reference was made to various Thai business directories to determine ownership and control. In the case of joint ventures, firms were categorized according to majority ownership or control of the firm. It was not possible to establish national origin for 181 of the 663 ads in the study which were dropped.

Several control variables are included in the analysis. The advertisements generally listed a number of characteristics desired of applicants. These have been coded as dummy variables (1 if mentioned in the ad, 0 if not). The most frequently mentioned skills which have been used in this analysis included strong computer skills (SKCOMP), strong leadership skills (SKLEAD), and strong interpersonal skills ("pleasant personality," "ability to work with others," etc.) (SKPERSNL). A number of dummy variables have also been included to identify major occupational groups mentioned in the

ads, including accountants and bookkeepers (OCC-ACCT), secretaries and other clericals (OCC-CLRK), engineers (OCC-ENG), and managers (OCC-MGMT). About 70% of the jobs in the sample fell into one of these four occupational categories.

Results

Table 1 reports maximum likelihood parameter estimates for the three likelihood-ratio equations. The overall statistical significance of the analysis is reflected in the change in the logarithm of the likelihood function (χ^2 (33 df) = 272.35, $p < .01$). The set of parameters related specifically to the four Hofstede variables (MASCULIN, INDIVID, UNCAVOID, and POWERDIS), taken as a whole, are also statistically significant (χ^2 (12 df) = 103.86, $p < .01$).

We first consider the results relating to discrimination in favor of males (versus ads with no gender-related language), as reflected in the first equation in Table 1. A number of the control variables are statistically significant. The signs of these variables are, for the most part, as might be expected. Jobs for managers as well as those for engineers are more apt to specify male applicants only, while clerical positions are less likely to specify such a restriction. Male-specific ads are also less likely for accounting and bookkeeping positions than positions with no gender-related language.

With regard to national culture, Hypothesis 1 and Hypothesis 2 are supported. That is, as home-country masculinity (MASCULIN) increases, firms are more apt, other things equal, to increase the proportion of males-only ads relative to those ads with no gender-related language. Conversely, as individualism (INDIVID) increases, males-only ads become less common relative to those with no gender-related language. Uncertainty avoidance (UNCAVOID) is not significantly related to the occurrence of males-only ads (Hypothesis 4). Power distance (POWERDIS) is related, although the sign is opposite what had been predicted (Hypothesis 3): As power distance increases, the likelihood of male-only ads declines.

The second equation in Table 1 deals with employment discrimination in favor of females. The dependent variable here can be viewed as a function of the ratio of the likelihood a position being females-only versus the likelihood of the ad containing no gender-related language. A preference for a female in a given position is, of course, quite consistent with a system that generates considerable sex segregation, and what is likely going on in most of these situations is occupational sex typing, as employers probably see a particular position as "women's work." This is reflected in the parameter estimates for certain of the control variables. Jobs requiring interpersonal skills (SK-PERSNL), such as a "pleasant personality," and clerical jobs (OCC-CLRK) are more likely to be listed in "females only" ads. Managerial

TABLE 1
Multinomial Logit Results
(n = 482)
-2 X Change in Log-Likelihood (χ^2) = 272.35[a]

Equation 1:
Males-Only Versus No Gender-related Language

Variable	Coefficient	Std. Error	T-Ratio
Constant	12.451	4.418	2.818[a]
SKCOMP	-0.22474	0.4328	-0.519
SKLEAD	0.47885E-03	0.5359	0.001
SKPERSNL	-0.84617	0.5427	-1.559
OCC-CLRK	-2.3333	1.082	-2.157[b]
OCC-ENG	0.82227	0.4995	1.646[c]
OCC-MGMT	1.1376	0.4618	2.463[b]
OCC-ACCT	-1.2152	0.7045	-1.725[c]
MASCULIN	0.54814E-01	0.2252E-01	2.434[b]
INDIVID	-0.10122	0.2967E-01	-3.411[a]
UNCAVOID	-0.34241E-01	0.3633E-01	-0.942
POWERDIS	-0.18558	0.5264E-01	-3.525[a]

Equation 2:
Females-Only Versus No Gender-related Language

Variable	Coefficient	Std. Error	T-Ratio
Constant	11.154	6.339	1.760[c]
SKCOMP	0.26474	0.3704	0.715
SKLEAD	-12.899	218.5	-0.059
SKPERSNL	1.1325	0.4660	2.430[b]
OGC-CLRK	1.4109	0.4254	3.301[a]
OCC-ENG	-12.583	214.9	-0.059
OCC-MGMT	-1.1916	0.7157	-1.665[c]
OCC-ACCT	-0.33987	0.5529	-0.615
MASCULIN	0.56361E-01	0.3307E-01	1.704[c]
INDIVID	-0.10642	0.4408E-01	-2.414[b]
UNCAVOID	-0.33249E-01	0.5272E-01	-0.631
POWERDIS	-0.16490	0.6947E-01	-2.374[b]

Equation 3:
"Equal Opportunity" Versus No Gender-related Language

Variable	Coefficient	Std. Error	T-Ratio
Constant	5.3166	2.805	1.896[c]
SKCOMP	0.22793	0.2714	0.840
SKLEAD	0.22260	0.3909	0.570
SKPERSNL	0.27537	0.3372	0.817
OCC-CLRK	-0.81143	0.3860	-2.102[b]
OCC-ENG	-0.82927	0.4328	-1.916[b]
OCC-MGMT	-0.36944	0.3490	-1.059
OCC-ACCT	-0.59714	0.3626	-1.647[c]
MASCULIN	0.12816E-01	0.1307E-01	0.980
INDIVID	-0.48521E-01	0.1603E-01	-3.020[a]
UNCAVOID	0.15322E-01	0.2183E-01	0.702
POWERDIS	-0.84529E-01	0.3889E-01	-2.173[b]

[a] Significant at .01 level
[b] Significant at .05 level
[c] Significant at .10 level

jobs (OCC-MGMT), in contrast, are somewhat less likely to be female specific. Again, nonsignificant control variables such as SKLEAD and OCC-ENG are still of the sign (negative) that might be anticipated.

We find support for Hypothesis 2 in the significant and negative sign for individualism (INDIVID). The sign of the masculinity scale (MASCULIN) is positive, as we might have anticipated (Hypothesis 1), but only weakly significant. And again, as with the equation for males-only ads, power distance (POWERDIS) is negative (in contradiction of Hypothesis 3) and significant. However, this finding is consistent with the results obtained for "males only" ads. Uncertainty avoidance (UNCAVOID) is not statistically significant (Hypothesis 4).

The third equation in Table 1 relates to the odds of a job advertisement containing equal opportunity language versus no gender-related language. There is no legal requirement in Thailand for firms to run such equal opportunity job announcements, so what might be the motivation? A likely possibility is that, encountering labor market shortages for certain skills, employers may wish to send strong signals to the labor market that they are indeed seeking any qualified applicant. So "equal opportunity" ads may suggest a proactive stance on the part of employers, yet the likelihood of going that route may be influenced by cultural forces. The hypotheses formulated with regard to overt discrimination may also apply with appropriate modification in the case of active antidiscrimination measures. By Hypothesis 1, we should anticipate masculinity will be negatively related to the likelihood of a firm utilizing equal opportunity language (relative to the absence of gender-related language), and the same would apply in the case of power distance (Hypothesis 3) and uncertainty avoidance (Hypothesis 4). Conversely, by Hypothesis 2, we should anticipate that individualism will be positively related to equal opportunity language. The results are only consistent with speculation regarding the impact of power distance (POWERDIS), which is significantly and negatively related to the likelihood of "equal opportunity" ads. Individualism (INDIVID) is statistically significant in the equation but is opposite the expected sign.

Discussion

The forces of modernization that inevitably accompany rapid economic growth generate pressures for equality between the sexes. Yet the intensity and impact of such pressures may be influenced by cultural forces. Globalization of the marketplace has magnified the importance of multinational firms as sources of growth in developing countries. As this study has demonstrated, the national cultural characteristics of an MNC's home country may substantially impact discriminatory behavior, so understanding

the interplay of host-country and MNC home-country cultures is important. The results of the empirical analysis reported above are discussed here in relation to this issue. We first evaluate the model as a whole and then consider plausible explanations for some of the anomalous findings.

The theoretical framework used here suggested a number of hypotheses linking national cultural characteristics of multinational firms to gender-based employment discrimination in subsidiaries. Some results were counter to expectation, but in the main, the hypotheses were supported. Masculinity was found to increase overt discrimination and individualism was found to decrease it. One surprise is that individualism seems to exert a stronger effect than masculinity (which, on the surface, would seem likely to be the most important force among Hofstede's cultural dimensions). Only the uncertainty avoidance scale was found to be consistently insignificant in all three of the equations. However, the theoretical linkage between uncertainty avoidance and discrimination is also somewhat weaker than in the case of the other three cultural variables.

What about the relationships that ran counter to expectation? The power distance measure in both the first and second equations in Table 1 is negative, suggesting less gender discrimination in organizations rooted in more hierarchical national cultures (which is inconsistent with Hypothesis 3). One possible explanation lies in the fact that power distance is positively correlated with traditionalism. Traditionalism may be associated with a range of implicit assumptions regarding gender roles that individuals feel need not be made explicit. That is, managers in such firms may believe that any gender restrictions should be clear to applicants from the stated qualifications and job title. Traditionalism may also reflect an *associative* culture (where roles and norms are understood through contextual cues) rather than an *abstractive* culture (where roles and norms must be more explicitly stated) (Triandis 1994). This explanation is also consistent with the negative relationship observed for power distance in the "equal opportunity" equation in Table 1.

The estimated impact of individualism in the "equal opportunity" equation also runs counter to expectation, as individualistic cultures, assumed to be more egalitarian, would presumably be more inclined to utilize the equal opportunity option. A plausible explanation here lies in the labor market conditions that may be motivating "equal opportunity" ads in the first place: acute labor shortages attributable to rapid economic expansion. Firms from more collectivist cultures with reputations for gender-based discrimination may feel a much greater need to convince potential applicants that gender is not really an issue in relation to a particular job.

There are, of course, limitations to this study. It only deals with white-collar and professional employees, so we do not know the extent to which

the processes also impact lower-level employees. Much of the advancement taking place in these firms is likely to involve internal promotions, so the study does not address that component of the labor market as well. An advantage to the study is that it takes place in an environment where firms are not restricted by law with regard to stating gender preferences in job announcements, nor are they required to use equal opportunity language. Consequently, we can assume that such statements are reflective of the intentions of the managers of these companies. However, those ads that are silent with respect to gender are more problematic. We have made the assumption here that discrimination is less likely for those positions than for ones in which explicit gender restrictions are imposed. The reasonableness of this assumption seems warranted by the empirical findings, particularly in the case of the control variables (which are, in most cases, related to overt discrimination in expected ways). There is still the likelihood of some systematic measurement error, but this seems offset by the unobtrusive nature of the study (since managers are not directly questioned).

References

Adler, N. 1987. "Pacific Basin Managers: A Gaijin, Not a Woman." *Human Resource Management*, Vol. 26, pp. 169-91.

Hofstede, G. 1980. *Culture's Consequences: International Differences in Work-related Values*. Beverly Hills, CA: Sage Publications.

_____. 1991. *Cultures and Organizations: Software of the Mind*. New York: McGraw-Hill.

Izraeli, D., and N. Adler. 1994. "Competitive Frontiers: Women Managers in a Global Economy." In N. Adler and D. Izraeli, eds., *Competitive Frontiers: Women Managers in a Global Economy*. Cambridge, MA: Blackwell, pp. 3-21.

Laurent, A. 1986. "The Cross-Cultural Puzzle of Global Human Resource Management." *Human Resource Management*, Vol. 25, pp. 133-48.

Lawler, J., and V. Atmiyanandana. 1994. "Human Resource Management in Thailand." In L. Moore and J.D. Jennings, eds., *HRM in the Pacific Rim: Institutions, Practices, and Values*. Berlin: deGruyter, pp. 295-318.

Lawler, J., M. Zaidi, and V. Atmiyanandana. 1989. "Human Resource Management Strategies in Southeast Asia: The Case of Thailand." In B.B. Shaw, A. Nedd, G.R. Ferris, and K.M. Rowland, eds., *Research in Personnel and Human Resources Management, Supplement 1*. Greenwich, CT: JAI Press, pp. 201-22.

Reskin, B., ed. 1984. *Sex Segregation in the Workplace: Trends, Explanations, Remedies*. Washington: National Academy Press.

_____. 1993. "Sex Segregation in the Workplace." *Annual Review of Sociology*, Vol. 19, pp. 241-70.

Siengthai, S., and O. Leelakulthanit. 1994. "Women in Management in Thailand." In N. Adler and D. Izraeli, eds., *Competitive Frontiers: Woman Managers in a Global Economy*. Cambridge, MA: Blackwell, pp. 160-74.

Triandis, H. 1994. "Cross-Cultural Industrial and Organizational Psychology." In H. Triandis, M. Dunnette, and L. Hough, eds., *Handbook of Industrial and Organizational Psychology*. 2d. ed., Vol. 4. Palo Alto, CA: Consulting Psychologists Press, pp. 102-73.

DISCUSSION

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Gullason's paper represents a good start on a study of the channels through which education raises wages. My comments summarize the project from my perspective and then move on to offering recommendations for the author to consider as he extends this research.

I begin, however, by examining my priors. As the beneficiary of highly relevant professional training, I added knowledge each year of graduate school. Thus I cannot dismiss the human capital model. However, I also recall that a consulting firm I once worked for hired a physicist to supervise a junior staff conducting economic policy research. The candidate's doctorate in physics was touted as proof that he was smart and flexible enough for the job—surely a screening argument. Thus I suspect both influences operate in the U.S. labor market.

Gullason's hypothesis tests combine two different approaches to perform a stronger test than previous ones. The first is that under the human capital theory of education, people who use the skills learned in school on the job should have a higher economic return to each year of education than those who don't. And the second hypothesis is that under the screening hypothesis, worker's wages will contain a "sheepskin effect." That is, they will earn an additional economic return to a degree over and above the return to the equivalent number of years of schooling.

To perform these tests, Gullason uses the NLSY information on degrees obtained and the respondent's report of whether his or her job uses the training they receive in school. He combines the two hypotheses to predict that among those working outside fields related to their training, the sheepskin effect on earnings should be strongest, while those working in fields related to their training should receive a more sizable economic return that rises with years of education.

Gullason's results confirm the hypotheses and produce plausible estimates. The coefficients on educational attainment dominate indicators for degrees for people who work in fields relevant to their training. For those working in areas not related to their training, college and advanced degrees

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appear to have a stronger impact than years of schooling. In the latter case a college degree raises wages by approximately 14 log points (approximate percentage points), while an advanced degree raises wages by a further 20 log points. These are both plausible estimates.

For future papers from this research, I have six particular recommendations:

1. I suggest adopting a consistent spin that emphasizes where (and by how much) one effect predominates, rather than suggesting that one must be everywhere true. This spin can be aided by calculating the fraction of the estimated return to education arising from the sheepskin versus return to the years of schooling and comparing the size of the coefficients and proportions between the two groups.
2. In summarizing and interpreting the results, future papers will need to be more precise about the nature of the findings—they apply to workers just six to eight years out of high school and only for B.A. and advanced degrees, not for the high school diploma. Finally, they refer to the late 1970s, before the recent run-up in the economic return to education. As point 1 suggests, results may vary for other groups and at other times.
3. The findings should be probed further with a formal statistical hypothesis test, dividing the sample into male and females, introducing normal controls for race, industry, etc.
4. Since the educational attainment variable is categorical, it should not be used as if it were a linear measure of schooling. Gullason recognizes this and plans to replace it with an actual years-of-schooling measure calculated from each student's transcripts. This improvement may be crucial to the paper's publishability.
5. The research should also consider carefully the meaning and correlates of the educational relevance responses. I find it very surprising that a full 70% of the sample find their education irrelevant to their current job. Who are these people and in which industries and occupations do they work? How else do they differ from the rest of the population? What sample selection bias issues do these differences raise?
6. The research should interpret its results in the context of the changes in returns to education observed in the 1970s. Further extensions should consider extending the approach to similar data from the 1980s. For example, it would be interesting and provocative to estimate how much of the observed rise in the economic returns to education were due to the human capital versus screening

components. Repeating the study on the new NLSY sample or on the high-school-and-beyond sample may be possible. If a similar question does not exist, you may be able to estimate probability of educational relevance from the answers to the fifth point above.

In short, I encourage Gullason to continue this interesting line of research. The results reported here suggest we may yet be more similar to Japan than we thought. While the Japanese primary and secondary school system imparts a consistently high level of skills to their students, their colleges are alleged to simply screen for high achievers—adding little value beyond that. This suggests that their educational and labor market institutions are characterized by both human capital and screening. I look forward to finding out more from Gullason about where and when these two approaches to education predominate in the U.S.

XIII. WORKPLACE REDESIGN IN THE SERVICE SECTOR

Workplace Reorganization in the Telephone Service Industry

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Much of the research literature on the changing nature of the workplace in the 1980s focused largely on the manufacturing sector. Very little attention was paid to the service sector in this regard in both public and private domains. There is no doubt that services and manufacturing sectors differ in many respects: markets, nature of work, role of technology, and unionization patterns. Hence one may expect that the dynamics of workplace reform in the services may be different from that in manufacturing. The lack of theoretical and empirical research on workplace reform is worrisome, particularly because of the growing share of services in economies such as the U.S. and Canada. In this paper I discuss different approaches to workplace reform in the telephone services sector, followed by a discussion of some difficulties, both theoretical and practical, that this sector poses to manufacturing-originated models. The paper concludes that the tradeoff between flexibility and employment security haunts this sector in the same way as it has much of manufacturing. Yet reforms such as work teams and contingent compensation must be adapted considerably from their manufacturing origins to be acceptable and effective.

The Search for a Services Paradigm

In hindsight, it is easy to see that there were many reasons why workplace reorganization or redesign in services lagged behind similar innovations in manufacturing. There is an argument that it is harder to measure output in a services environment. Although this is a somewhat outdated

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argument, there are still many areas where the output and quality of services are either impossible or very difficult to measure with accuracy. The other argument especially pertinent to the case of telephone services lies in the lack of motivation to restructure work in a regulated industry (Verma and Chaykowski forthcoming; Verma and Weiler 1992). Deregulation has now set the context for workplace reform in the U.S. with the divestiture of AT&T and opening up of the long distance market in 1984 and subsequent deregulation of other services in the late 1980s and early 1990s. In Canada the deregulation started in the early 1990s, but by 1996 it would have caught up with the pace set in the U.S. Of course, deregulation has spurred research and development in new technologies which, in turn, has forced the regulators to constantly revise their vision of the future of this industry. The much touted "convergence" across telecommunications, computers, entertainment, and education sectors is already on the way.

Since the telephone services sector has had its own evolution distinct from manufacturing, early attempts at workplace reform have initially emulated ideas from manufacturing but have also adapted and innovated upon these ideas. Three themes emerge from an overview of the early experiences of several telephone companies.[1] First, many companies, starting with AT&T, began workplace reform with the involvement of their union (Keefe and Boroff 1994). However, this attempt to get the union on board was far from being universal. In many instances firms saw the need for workplace reform but proceeded to implement it unilaterally. Many of these firms after a few years of frustrating experiences decided to invite union participation. There is no reliable estimate of the incidence of each of the above approaches. Thus the degree of jointness, i.e., the extent of union involvement, is clearly part of the search for a paradigm in this sector.

A second factor is the extent of employee involvement (EI). While EI is the mainstay of many programs of workplace reform, it is not universally applied. In many instances it was found that management restructured a department with the help of a few "nominated" employees which was then implemented by managers. Thus there was no widespread involvement of the average employee. The third factor is the extent to which a redesign of work methods took place. In my research the question "In your present job do you do different tasks and/or use different methods compared to your previous job?" was frequently answered by employees at work redesign sites with a clear "no" or a very unsure "yes." Based on these data, I would argue that the manufacturing paradigm of work redesign has clearly not been helpful to telephone companies who have had to adapt the notion of work redesign to the service aspect of their industry. This is discussed in greater detail in the next section.

Another choice variable in the search for a paradigm is the stage at which union and/or employee involvement is sought. To abstract these choices, we looked for involvement at three stages: the idea stage, the design stage, and the implementation stage. The union was seldom consulted at the idea stage with only a rare exception. It was only slightly more likely at the design stage and most common (but still only about half the time) at the implementation stage. Employee involvement was similarly unlikely at the idea stage, with higher probabilities at the design and implementation stages.

The extent of union involvement varied from formal joint governance (AT&T, Bell Canada) in which the union has equal say in a joint steering committee for the redesign effort to informal consultation where the union had no formal role but was "informed" of the developments or "invited" to come to some meetings. Employee involvement varied from participation at the design and implementation stages to being passive recipients of a managerial exercise in workplace reorganization.

Nature of Workplace Changes

The manufacturing paradigm in workplace reorganization has placed flexibility and employee involvement at its core. This has frequently resulted in work teams with cross-training in functional and problem-solving skills. In the telephone services sector, the nature of work is very different in that it does not lend itself as readily to work in teams. For inside clerical workers such as operators and customer service representatives, frequency of customer contact and the quality of service as perceived by the customer are the most important criteria for success. The redesign of work for these workers has frequently employed total quality (TQ) approaches which stresses the customer and his/her needs as the focus of the job. In manufacturing very few workers have customer contact.

The team concept has not made much headway for this group of workers, although isolated sites (notably US West in Denver; see U.S. Congress 1993) have tried multiskilling their customer service representatives with limited success. A number of firms report implementation of "self-directed work teams (SDWTs)." However, closer examination reveals that work itself is seldom redesigned to be performed in a team configuration, i.e., the work of one member feeding into the other's and a complete operation being performed within the team using different skills. Quite often the SDWTs do their own planning functions such as scheduling of shifts and vacations, but little more. In other words, they pool some skills outside their work station, but at the work station itself; no examples could be found where the work had been redesigned so as to require a team effort (Batt and Keefe 1996).

On the other hand, most of the work redesign taking place falls in the category of enhancing the roles and the skills of traditional jobs at the individual level. A key work redesign innovation with customer service representatives is to give them additional skills and authority to provide the customer with a one-call service that will address their needs (getting a new line) or complaints (no dial tone). Part of this package is to use these customer contact workers as a "soft sell" sales crew. It means that the employee handling a complaint can inform (i.e., "soft sell") the customer of new services that have become available recently. Thus training to provide greater familiarity with new products along with skills in customer relations has become very important (Batt and Keefe 1996; Verma and Chaykowski 1996).

For outside technicians (sometimes called craft workers who do installation and repair work) as well the concept of work teams as a basis for work redesign is not as appealing. To begin with, these workers have been traditionally multiskilled to a great extent. Moreover, there is a move in some companies to further reduce the crew size sent out for repairs by asking repair technicians to learn additional skills. Combined with this are new technologies that enable testing and repair from a remote station. These factors have reduced the need to organize work in groups.

Another workplace innovation that has gained greater prominence in manufacturing is contingent compensation. In the telephone industry this practice has been used in the past only for the small numbers of employees in sales. Although the number of people receiving contingent pay has gone up, largely due to increases in sales staff, this form of compensation has made no impact on other employee groups. At least two factors appear responsible for the lack of diffusion of contingent pay. First, the long history of regulation has reinforced the idea of a basic fixed rate of pay. These expectations have a certain amount of momentum that would have to be overcome if contingent pay were to be introduced. Second, the nature of work itself does not readily lend itself to contingent pay. The variations in work output of employees such as operators and customer service representatives are small. Further, attempts at measuring the work of these employees have met with resistance.

Lastly, workplace innovations in ergonomics have made a substantial impact in a number of telephone companies. In many organizations joint labor-management committees have improved work station designs and reduced repetitive strain injuries. In other cases individual employees or quality teams have suggested improvements in technology (e.g., cordless headphones for operators). For inside workers, ergonomics have been a major area of workplace innovations.

TQM, Reengineering, and Workplace Reorganization

There are no systematic studies of the history of workplace innovations in the telephone industry. From anecdotal and case evidence it would appear that total quality management (TQM or its variants) was introduced to the industry soon after deregulation began in the mid-1980s. Workplace reorganization (WPR) was a later innovation, especially because work teams had no immediate appeal to the industry. Then in the early 1990s, process reengineering was introduced in a major way in most telephone companies.

In theoretical terms, these three approaches are interrelated and can serve complementary roles. TQM provides a better orientation to the customer, something that the telephone industry was not accustomed to but needed urgently in the postderegulation period. TQM also did not require major changes in organizational tasks or structures. WPR, on the other hand, generally results in redesign of work, changes in the organizational structure, and greater employee involvement. Also, given the high unionization rate in the industry, the union gets involved in a formal or informal way, either for or against WPR.

In contrast, process reengineering is generally done with little or no involvement of employees. It is a top-down, expert-driven process which can result in large-scale improvements in productivity. In practice, conflicts have arisen between reengineering and WPR on two counts: employee involvement and job security. Reengineering is generally performed with little or no input from employees. This goes against the grain of both TQM and WPR. This is a relatively easy conflict to resolve. Reengineering can be integrated with employee involvement, provided employees have some assurance that their involvement with reengineering will not jeopardize their own jobs.

Employment Security and Workplace Innovations

Up until deregulation, most telephone companies provided lifetime employment with only very few exceptions. Since deregulation, job security has become increasingly tenuous as companies downsize to cut costs; employees cannot assume any longer that they will have their current job or a better job in their preferred location until they retire. Although many employees have been laid off since deregulation, there are many companies that are trying to make downsizing easier for employees. At AT&T a central computerized job posting and bidding system ensures that employees get the first shot at an opening anywhere in the company before a person is hired from the outside. US West offered to relocate employees when

they closed dozens of smaller offices. At Bell Canada, incentives to leave the company have been offered, and involuntary layoffs will not occur until all other avenues for redeployment and voluntary severance have been exhausted.

However, the lack of job security remains a major hurdle for successful workplace reorganization in the industry. This is especially so if WPR has to be undertaken with employee involvement. At one company a two-year effort led to the formation of a joint workplace reorganization committee. The company and the union agreed to design and conduct training jointly. A number of teams were formed whose task it was to redesign work to make jobs safer, more interesting, and more efficient. A year after the effort got under way, rapid deregulation of the industry and the arrival of a new top management team led to announcements of downsizing the workforce by 20% over three years. The union suspended its active participation in the joint effort saying that the company would have to provide assurances of no involuntary layoffs for the union to resume its involvement. At the time of this writing, the joint initiative awaits the proverbial "other shoe" (i.e., involuntary layoffs) to drop before making decisions about the joint workplace reorganization initiative.

Sustaining Interest in WPR over Time

In one telephone company a joint initiative first led to a substantial reorganization of work in one location, only to be abandoned later in favor of a more traditional work organization. In this case the company and the union agreed to a joint steering committee, a joint training program for employees, and an agreement to cross-train employees who handled a variety of customer complaints. In the older work organization, incoming calls were routed to different groups specializing in technical complaints, billing complaints, etc. In the new work organization, teams were formed and employees cross-trained in handling a variety of complaints. The new work organization required that the complaint be resolved to the customer's full satisfaction within the team.

This system led to a discontinuation of the old ways of measuring performance, most of which were made at the individual level. Within six months of the new work organization being put into place, a new vice-president of operations expressed dissatisfaction with the performance of the group. The performance did decline marginally due to the training that was in progress. The old measures of performance were revived and workers asked to return to their traditional areas of complaint handling. Thus the most far-reaching example in the area of work reorganization in the industry came to an unexpected end, at least for the time being.

Conclusions

Several conclusions can be drawn from this overview of workplace reorganization in the telephone industry. The most important lesson is that while developments in manufacturing are an important point of departure in understanding the telephone industry, there are many areas where the history of regulation and the nature of work in the industry has led to developments unique to the industry.

Given the nature of work and the history of regulation in the telephone industry, workplace reorganization is weighted in favor of TQM, ergonomics, training, and employee involvement and is less amenable to work teams and contingent pay. One major threat to successful employee-driven workplace reorganization is the uncertainty over job security; another is managerial reliance on top-down process reengineering. Unless reengineering can integrate employee input, it is unlikely that workplace reorganization will succeed. Successful work reorganization will have to integrate corresponding changes to human resource management systems such as performance appraisals and compensation for multiskilling.

There are large variations in the form and process of implementing workplace reorganization. This overview suggests that three ingredients must be present for success: a redesign of jobs, employee involvement, and union involvement.

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Endnote

[1] For this paper I draw heavily on the experiences of the following telephone companies and unions: AT&T, US West, Pacific Bell, Cincinnati Bell (all from the U.S.); Bell Canada, AGT, SaskTel, MTS, NB Tel (all from Canada); locals of the Communications Workers of America, Communications, Energy and Paper Workers of Canada, International Brotherhood of Electrical Workers; and Canadian Telephone Employees Association.

References

Batt, Rosemary, and Jeffrey Keefe. Forthcoming. "United States." In Harry C. Katz, ed., *Telecommunications: Work and Employment Relations in a Global Industry*. Ithaca, NY: Cornell University Press.

Keefe, Jeffrey, and Karen Boroff. 1994. Telecommunications Labor-Management Relations after Divestiture." In Paula B. Voos, ed., *Contemporary Collective Bargaining in the Private Sector*. Madison, WI: Industrial Relations Research Association.

U.S. Congress, OTA (Office of Technology Assessment). 1993. *Pulling Together for Productivity: A Union-Management Initiative at US West, Inc.* Washington, DC: U.S. Government Printing Office.

Verma, Anil, and Richard P. Chaykowski. Forthcoming. "Industrial Relations in the Canadian Telephone Industry: Adjusting to Deregulation." In Harry C. Katz, ed., *Telecommunications: Work and Employment Relations in a Global Industry*. Ithaca, NY: Cornell University Press.

Verma, Anil, and Joseph P. Weiler. 1992. "Industrial Relations in the Canadian Telephone Industry." In Richard P. Chaykowski and Anil Verma, eds., *Industrial Relations in Canadian Industry*. Toronto: Holt, Rinehart & Winston.

Outcomes of Self-directed Work Groups in Telecommunications Services

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The purpose of my presentation is to consider whether the use of self-directed teams enhances competitiveness in services. In the context of heightened competition brought about by deregulation and the internationalization of service markets, do "team-based" work systems produce higher quality service and customer satisfaction? Do workers benefit as well? Should unions as well as management support this innovation? If so, under what conditions and why?

This presentation complements that of the other panelists in this session in important ways. First, while Verma provides an overview of the array of workplace innovations being introduced in telecommunications firms (from joint labor-management consultation to total quality and self-management), I focus on a more detailed quantitative assessment of use of one of those innovations—self-directed work groups. Second, I consider the ways in which the introduction of self-managed teams differentially affects the job characteristics of two of the groups identified in Herzenberg's typology of work systems in services: the semiautonomous groups (represented by customer service representatives in telecommunications) and the autonomous groups (exemplified by network field technicians).

Team-based or decentralized work systems in manufacturing have received mixed reviews. On the one hand, two decades of research in organizational behavior provides considerable evidence that workers in self-managed teams enjoy greater autonomy and discretion, and this effect translates into intrinsic rewards and job satisfaction; teams also outperform traditionally supervised groups in the majority of (but not all) empirical studies (for a review see Cotton 1993). On the other hand, the industrial performance literature continues to debate the relative advantages of "team-based" versus "lean" production systems (Appelbaum and Batt 1994) as exemplified in the debate over NUMMI versus Uddevalla or Saturn (Adler 1993; Adler and Cole 1993; Berggren 1994; Rubenstein et al. 1993). The debate turns on the extent to which companies can or should

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decentralize operational decisions in order to take advantage of workers' knowledge, while at the same time maintaining consistency and coordination across units.

There are two reasons why reorganizing work around decentralized teams may provide a greater source of strategic advantage in services than in commodity production. First, companies may improve service delivery and increase customer loyalty by developing "one-stop-shop" operations and empowering customer-contact employees to have one-on-one, long-term relationships with clients—what amounts to a quasiprofessionalization of the service workforce (e.g., Schlesinger and Heskitt 1991). Quasi-professionalization, however, is costly because it entails the use of higher-skilled and compensated employees. Self-directed teams of nonmanagement workers are an alternative means of accomplishing a similar objective: workers have greater autonomy to meet customer demands; each member may develop specialized knowledge so that as a group they have a broad range of skills and knowledge sufficient to handle complex and nonroutine problems; and ongoing learning occurs through internal group interactions (Klein 1993). This argument is consistent with the case presented below of how teams of customer service representatives in telecommunications have generated higher sales and service ratings.

The second reason concerns how quality is defined in goods versus service production. Quality control in goods manufacturing requires high levels of standardization, and total quality tools such as statistical process control serve as a means of *reducing variances* in the production process. Each commodity is the result of a highly coordinated set of worker activities in assembly line operations. Quality in service delivery, by contrast, requires the use of standard operating procedures to *enhance variation and customization* to meet particular customer demands. In other words, there is a strong argument for service companies to follow a strategy of "market sensitive decentralization": workers who use the same technology and information systems require quite different skills, knowledge, and customer interactions in order to serve particular clients and service markets. In many service industries, including the telecommunications case presented here, market sensitivity not only varies by customer segment (e.g., large businesses versus residential service) but also by region and locality. Hence it may be useful for groups or teams of workers to develop specialized knowledge of geographically delimited service markets. In this presentation I draw on the evidence of geographically based, self-managed teams of field technicians in telecommunications services to exemplify this argument.

In addition, by using self-directed teams of workers, companies shift the work of supervisors to subordinates, creating the potential to reduce

indirect labor costs, increase supervisory spans of control, and reduce management hierarchies.

Workers and the union should support the innovation in theory because it frees up workers from historic "oversupervision" in the industry and it offers the potential to save jobs by incorporating work back into the bargaining unit.

I conducted a detailed, qualitative, and quantitative case study of one regional Bell operating company in order to consider whether self-directed teams provide mutual gains to relevant stakeholders—firms, managers, unions, workers, and consumers. I selected the company because it is representative of others in terms of the range of its restructuring strategies, but the most advanced in terms of its experimentation with self-directed teams among customer contact workers. It is also unusual in that the union played a significant role in shaping the experiment: the union and management negotiated clear procedural but broad overall guidelines for using self-directed teams and then encouraged local union leaders and managers to experiment with voluntary programs. Workers and managers who wish to initiate teams do so by arriving at an agreed upon set of responsibilities for workers to adopt, and workers vote on whether they want to go "self-directed" or not. Thereafter, most teams elect a group leader who rotates periodically among members and who assumes certain administrative tasks. Where a minority of workers in a group do not want to participate, local management and union representatives may resolve the issue either by not going forward with the change or by having the worker(s) who does not want to participate report separately to a supervisor. Workers do not get extra pay for assuming supervisory tasks; in fact, they give up "relief supervisor" pay—pay that workers traditionally receive when they fill in for supervisors when they are absent. At the time I surveyed workers and managers in 1994, roughly 5% of the workforce in network and customer services were organized into self-directed groups.

What Do Teams Do That's Different?

Ironically, self-directed work groups in telecommunications provide a means of returning work to the way it was organized in the 1950s through 1970s. Until the late 1970s, for example, customer service representatives worked in highly decentralized or local business offices where they answered any question or problem a customer had. They were "universal reps" offering one-stop shopping often to people they knew personally or came to know through repeated transactions. Because these were hard-to-monitor jobs, ratios of supervisors to workers were low—about 1:10. With the break-up of the Bell system in the early 1980s, Bell companies sought

ways to become more cost competitive—increasing sales and decreasing unit costs—by Taylorizing and automating these office jobs. Companies divided universal representatives' jobs into separate sales, billing, and collections functions and instituted automated call distribution systems that set the pace of incoming calls. Customer service jobs came increasingly to resemble operator jobs. Self-directed team innovations partially offset the negative effects of these changes by allowing workers greater discretion to set daily tasks and solve nonroutine problems through group interaction or by directly contacting subject matter experts outside of their department. Among traditionally organized groups, supervisors answer all questions and handle nonroutine problems. Self-directed groups also gain relief from supervisory monitoring and say that morale improves.

Network field technicians hold highly skilled and autonomous craft jobs that were historically resistant to Taylorism: building and maintaining the network transmission and switching infrastructure required workers to have electro-mechanical skills and knowledge and to complete entire tasks—for example, an installation or a service repair. The difficulty of monitoring field crews led Bell companies over time to increase supervisory ranks so that by the 1980s, the ratio of supervisors to workers averaged 1:5-6. To improve efficiency and deployment, companies implemented automatic dispatch systems that randomly assign the next available technician to a service call. It was not cost-effective, however, to implement these management practices in geographically dispersed rural areas. As a result, rural telephone workers continue to the present to have considerably greater discretion and direct responsibility for customers in a prescribed geographic area. The idea behind self-directed field crews, therefore, is to recreate in urban areas what has continued to exist in rural areas: work groups with complete responsibility for a given geographic area and with autonomy to decide which members will handle which customers. Quality should improve in theory because workers have greater incentives to undertake preventative maintenance: they know they are solely responsible for the network and customers in their turf, and problems not fixed today will come back tomorrow. The net effect of teams on productivity is contingent on a variety of factors: productivity may increase because workers can solve nonroutine problems on the spot without consulting supervisors, or they call a fellow team member for help ("doubling up" on a job was historically prohibited or frowned upon). This advantage may be offset by the time required to hold group meetings and absorb supervisory tasks. One manager called self-directed teams, "the patrol officer model in which each telephone repair team has a 'beat.' It allows local residents to get to know their repairmen . . . allows teams to handle more than one problem at a

time. Under the old system, a customer with a problem called into a dispatcher who notified the foreman who assigned the work to an individual randomly. Now the customer calls the team directly and the team gets right on it. Faster cycle time, better service."

Even in rural areas the shift to formal self-directed teams changes the responsibilities of workers who absorb additional internal administrative duties of supervisors and external duties of interacting with customers as well as other departments to get the job done. This includes ordering supplies, bringing in jobs, negotiating with parties over turf responsibilities, answering customer complaints, and working with engineers in the presurvey stage.

To summarize, workers in self-directed teams in both network and customer services report changes in their job responsibilities and behavior along four important dimensions: they (1) absorb more administrative tasks, (2) have greater autonomy to handle customer demands, (3) help each other more to solve problems (internal group learning), and (4) interact more with managers and experts outside of their department to get their job done (cross-functional interaction) (see Table 1).

Outcomes of Self-directed Work Groups

Evidence from survey and objective company performance data support more generally what workers in field interviews stated. A full analysis of the data comparing a sample of 800 workers from matched pairs of self-directed (SDT) and traditional groups (TWG) is found in Batt (1995). Self-directed groups were significantly more likely to absorb administrative tasks, exercise greater autonomy to handle customer demands, help each other more to solve problems, and interact more with managers and experts outside of their department to get their job done. Significant differences remained in multivariate analyses after controlling for technology, service market, geographic location, human resource practices, and demographic characteristics.

I then examined whether self-directed work groups performed better than traditional work groups by considering self-reports of quality and by matching individual survey data to objective company performance data over an 18-month period. On average, self-directed groups in customer services reported higher customer service quality and had 15.4% higher monthly sales revenues ($5,784 compared to $5,011). In multivariate analyses with appropriate controls, being in a self-directed group significantly predicted higher self-reports of service quality and raised monthly sales by more than 17%. This finding is particularly surprising given the considerable organizational and technological constraints on these service representatives. Among

TABLE 1
Comparison of Workers in
Self-directed (SDT) and Traditional Work Groups (TWGs)
Percent with Positive Responses to Questions

Job Dimension	Network SDT	Network TWG	Customer Services SDT	Customer Services TWG
Sample size	N=238	N=226	N=120	N=202
Administrative tasks				
Wk grp. "primarily responsible" for:				
Setting work group goals	27.7•••	1.8	26.7•••	1.5
Assigning daily tasks	56.0•••	5.0	53.5•••	3.6
Setting lunch, rest breaks	64.4•••	28.8	7.8	5.6
Scheduling vacations	60.0•••	8.0	11.5	11.7
Dealing with absences	24.4•••	1.8	4.3	1.5
Doing quality inspections	16.1•••	0.5	15.8•••	1.0
Customer relations and service				
Workers have "complete or a lot of"!!				
Control over tasks	33.6•••	12.8	17.8•••	11.4
Control over tools	64.3•••	45.5	21.2	18.9
Control over pace	55.5•••	47.9	34.5•••	24.7
Have adequate authority to meet customer needs:!!	45.3•••	21.7	49.6	43.8
Have increased control over:!				
Meeting customer needs	48.3•••	30.8	63.6••	50.5
Pace of work	29.0•••	21.2	27.5••	20.1
Task assignments	31.8•••	13.5	18.4•••	9.1
Internal Group Relations				
Members often help each other	61.5•••	35.0	70.0•••	54.3
Members rely on each other to solve problems	64.6•••	48.0	73.1	67.0
Members rely on supervisor to solve problems	13.7•••	27.5	9.5•••	27.0
Members have good relations	83.7•••	78.6	93.2••	89.9
Members' relations have improved in last 2 yrs.	40.3•••	22.7	58.7•••	31.7
Cross-functional Relations				
Members have authority to directly contact managers	86.1•••	66.3	94.9•••	72.4
Members have daily/wkly. contact:				
With managers outside dept.	34.7•••	17.3	22.3•••	17.8
With workers outside dept.	65.1	75.5	84.9	83.5
Members have "good" relations with employees in other depts.	69.6•••	52.0	53.2	49.4
Relations with other depts. have improved in 2 yrs.	21.9••	14.9	30.3	23.8

! % of positive responses to yes/no questions
!! % of positive responses to questions (1-2 on 5 point scale).
•• significant differences between SDT and TWG at 05% level of probability
••• significant differences between SDT and TWG at 01% level of probability

network technicians, SDTs and TWGs maintained the same levels on objective performance measures, but SDTs absorbed the work of supervisors in roughly one-third of the time taken by supervisors to do the work. In calculations that compared the wages, hours, and overtime of supervisors versus SDTs, I found that the company saved an average of $52,000 in indirect labor costs for each self-directed team initiated.

If companies and consumers benefit from the use of self-directed teams, do workers and unions as well? For workers, survey results show that the changes in jobs brought about by SDTs do translate into positive benefits in terms of greater autonomy, greater on-the-job learning and use of skills and creativity, more job satisfaction and pride in work accomplishments. In multivariate analyses with appropriate controls, self-directed team membership positively predicts workers' satisfaction with their jobs, but not their commitment to the company. More than 75% of surveyed workers who are currently in traditional work groups say they would volunteer for teams if given the opportunity. By contrast, less than 10% who are now in teams say they would like to return to traditional supervision. Team members in this case did not work under any gainsharing arrangement or negotiate wage increases attached to additional assignments; network team members, however, worked an average of 5.5 additional overtime hours per month. Given that work groups rotate voluntary overtime by seniority, we may conclude that network team members did gain additional pay as a result of the overtime used to absorb added supervisory responsibilities.

Should unions support self-directed team initiatives? In this case, anticipated deregulation of local telephone markets had led Bell companies to initiate *voluntary* workforce reductions, but unions and employees anticipated eventual forced reductions (which in fact began for managers in 1995). Self-directed teams were one of several union strategies to put work back into bargaining unit jobs. Local union leaders overwhelmingly (86% of those surveyed) supported SDTs, and 71% viewed them as a way of improving customer service; middle managers viewed SDTs as one way to manage operations in a downsizing environment. The clear losers were firstline supervisors whose job security was threatened; yet those who had made the transition to overseeing self-directed teams said they enjoyed their jobs more and viewed teams as the only viable solution for the company in its goal of tripling (from 1:6-8 to 1:20-30) supervisory spans of control.

This case offers a rare example of a work innovation that appears to benefit most of the stakeholders involved—firms, managers, unions, workers, customers—with the exception of firstline supervisors. But how generalizable are these results? Clearly, the outcomes of work innovations are

contingent upon the nature of the work and technology: while both customer service and network groups showed positive gains, the extent and dynamics of change were quite different for the two occupational groups. More importantly, the historical and institutional context of this case shapes the outcomes in important ways—particularly the role of the union. A history of mature bargaining allowed the union to negotiate the parameters of worker participation in teams. The written agreements between workers and managers in conjunction with union stewards, which clarified the terms and conditions of self-directed teams, created high levels of trust. Despite anticipated downsizing, the mutual respect for mature bargaining institutions allowed union leaders, managers, and workers to participate more freely in work innovations than would otherwise have been possible.

References

Adler, Paul. 1993. "The Learning Bureaucracy: New United Motor Manufacturing, Inc." In Barry Shaw and Larry Cummings, eds., *Research in Organizational Behavior*. Greenwich, CT: JAI Press. Vol. 15, pp. 111-94.

Adler, Paul, and Robert Cole. 1993. "Designed for Learning: A Tale of Two Auto Plants." *Sloan Management Review* (Spring), pp. 85-94.

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

Batt, Rosemary. 1995. "Performance and Welfare Effects of Work Restructuring: Evidence from Telecommunications Services." Dissertation, MIT.

Berggren, Christian. 1994. "NUMMI vs. Uddevalla." *Sloan Management Review* (Winter), pp. 37-49.

Cotton, John L. 1993. *Employee Involvement: Methods for Improving Performance and Work Attitudes*. Newbury Park: Sage Publications.

Klein, Janice. 1993. "Teams." In J. Klein and J. Miller, eds., *The American Edge*. New York: McGraw Hill, Chapter 4.

Rubinstein, Saul, Michael Bennett, and Thomas Kochan. 1993. "The Saturn Partnership: Reinventing the Local Union." In Bruce Kaufman and Morris Kleiner, eds., *Employee Representation: Alternatives and Future Directions*. Madison, WI: IRRA.

Schlesinger, Leonard, and James Heskett. 1991. "Breaking the Cycle of Failure in Services." *Sloan Management Review*, Vol. 32 (Spring), pp. 17-28.

XIV. LABOR RESPONSE TO NEOLIBERAL REFORM IN LATIN AMERICA

Mexican Industrial Relations in Transition—What's New since NAFTA?

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Industrial relations in Mexico have been under pressure to change for some time, largely in response to economic developments. The 1980s debt crisis forced Mexico to adopt structural adjustment policies that included shifting away from import-substitution toward export-promotion and greater trade liberalization, evidenced by Mexico's joining of GATT in 1986 and ultimately its incorporation into NAFTA in 1994. The economic crisis and shift in national economic strategy also implied a change in labor relations and in the economic climate for unions and workers. Wages fell dramatically throughout the decade, industrial restructuring—often involving downsizing and work reorganization—was begun on a wide scale, state enterprises were privatized, flexibilization of work conditions was introduced (and often violently imposed) throughout a number of industries, the most visible strikes rejecting these measures were repressed, and workers attempting to form independent unions or to democratize their unions faced greater obstacles than during the previous decade. Although labor legislation remained unchanged during this period, employers were able to implement more flexible practices by bending or circumventing the law, and the government supported such efforts by deciding questionable cases in favor of employers, breaking strikes, and other forms of direct intervention in labor conflicts. In this way, the 1980s also marked an important shift in the role of the government in employer-labor conflict from one of

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protection of workers to support of employers in their efforts to cut labor costs and increase flexibility while keeping worker protest to a minimum.

The late 1980s-early 1990s under the administration of President Carlos Salinas de Gortari (1988-94) saw a continuation of many of these trends: an acceleration of trade liberalization marked by Salinas's push for NAFTA, stepped-up privatization of state enterprises, industrial restructuring, and flexibilization. Government containment of militant union activity and strikes (especially on the part of independent unions) remained strong. Wages continued to be suppressed through the pacto, an agreement first signed in 1987 among business, employer, labor, and rural organizations to limit wage and price increases to stem inflation. Although the economy recovered somewhat in the early 1990s and inflation declined significantly, manufacturing wages recovered very slowly, and the real minimum wage continued to decline.

One characteristic of the Salinas government was its emphasis on the need to increase Mexican productivity, which tied directly into the administration's efforts to incorporate Mexico fully into the global economy. This emphasis on productivity and on redefining the Mexican economy went hand in hand with a shift in the government's relationship with the labor movement away from the "official" sector toward a new federation of trade unions that had a history of greater independence from the government and ruling party and a recent trajectory of union negotiation with firms regarding work reorganization, flexibility, productivity, and quality. Through the government's support for this federation, the Federation of Goods and Services Unions or FESEBES, it aimed to push unions to collaborate with employers in implementing some of the changes required by the pressures of greater competitiveness in the global economy. Support for the FESEBES was also clearly aimed at undercutting the actions of other independent unions and of those who wanted to resist flexibilization and other changes via strikes or other labor actions. Among the unions in this latter category were some of the unions in the traditional, "official" sector of the labor movement, such as the powerful oil workers' union and others affiliated with the Confederation of Mexican Workers (CTM), Mexico's largest and most powerful labor confederation. Nonetheless, the FESEBES remained small in size and in number of affiliated unions, and despite the earlier militancy of its member unions, it was closely identified with the Salinas administration. These factors limited its effectiveness as a voice for a "new unionism" to meet the demands of the new economic environment. Moreover, as the 1994 presidential elections approached, the government found itself relying more heavily on the support of the labor sector of the ruling party, especially the CTM, for its support in the presidential succession

process. The rapprochement between the government and the official unions took the form of, among other things, the postponement of the revision of the federal labor law, an issue that had long been in the wings but which the unions had successfully resisted.

In sum, Mexico's economic transition toward a more liberalized, export-based economy hinged on the labor movement's acceptance of the new restrictions and changes. Labor quiescence was facilitated by its historic role as a partner in the ruling party coalition that included labor, rural, and urban popular sectors. But labor resistance was also muted by the constraints on strikes and wage demands that were a product of the severe economic crisis of the 1980s, when Mexico's structural economic reforms began, as well as of repression and government controls on strikes and union formation that have long been a feature of Mexico's authoritarian regime.

The year that NAFTA took effect (1994) was marked by a series of political and economic crises in Mexico. On January 1 there was an uprising of indigenous rebels in the southern state of Chiapas, and in March the PRI presidential candidate was assassinated. Although the PRI managed to recover in time for the 1994 elections, which were observed by thousands of international and domestic observers and were probably the cleanest in Mexican history, the murder of the party candidate revealed strong divisions within the ruling party. The month after the elections the secretary general of the PRI was murdered on a street in downtown Mexico City, and in December the peso was devalued by over 40%, provoking panic among investors throughout the world and sending shock waves throughout global financial markets.

The events of 1994 and especially the economic developments after the December 1994 peso devaluation complicate any analysis of NAFTA's impact on labor and industrial relations in Mexico. Instead of the massive inflows of foreign investment that were expected with NAFTA and that were expected to produce jobs, Mexico in 1995 has seen dwindling foreign investment and a dramatic surge in unemployment. Instead of wage increases linked to productivity, there has been a catastrophic decline in purchasing power, and the recently renewed pacto again sets minimum wage increases at 10% in December 1995 and 10% in April 1996, well below the expected rate of inflation (*Mexico and NAFTA Report* 1995:5). Workers have been told by their union leaders to "cooperate however they can to save jobs—whether that means salary cuts, working half-time, or whatever" (Dombey 1995:13). Whereas the NAFTA era was once viewed by many observers as ushering in a period of economic growth and stability and of further political democratization, Mexican political leaders are once

again grappling with the tasks of crisis management. Economic stabilization, employment, personal security, political stability, and governability have become the key concerns of Mexicans. Although such issues as flexibility, productivity, and labor law reform remain on the agenda, in recent months these have taken a back seat to the need to reach a national consensus to stabilize the economy, to democratize the political system, and to prevent the country from disintegrating socially, politically, and economically.

The backdrop to any discussion of industrial relations change currently in Mexico is, therefore, necessarily the fragility of the economy and of the political order. In this context there have been several developments that are unlikely to have occurred as a result of NAFTA alone. Indeed, toward the end of 1993 and throughout 1994, the tendencies appeared to be the continued marginalization of the labor movement and the unchallenged pursuit of neoliberal reforms: further privatization and deregulation as well as continued use of state controls over labor unions and wage increases. However, both the peso crisis of late 1994-1995 and the political uncertainty of the last two years have created the possibility of new political forces emerging in Mexico that would push for a moderation of the economic policies that the regime has pursued. These forces include employer groups, labor unions, and some opposition politicians who represent an important set of alternative voices that could prove to be quite influential in the current crisis environment ("The Revolutionary Nationalists Are Back," *Mexico and NAFTA Report* 1995:5.) The economic crisis has also helped to generate the conditions for a search for consensus among employer and labor groups as to how to address the crisis for workers and businesses, as well as a broad national discussion regarding the future shape of labor law. Both developments increase the prospects for broadening the terms of debate regarding economic policy, the political system, and labor's role in a new economic environment and for incorporating labor's interests into any new policies or legislative reform. This prospect stands in stark contrast to the ramrodding of economic policies and marginalization of labor interests that was customary during much of the past twelve years.

Perhaps the area where this search for consensus among employer and labor groups appears most evident is in the discussion over labor law reform. While key employer groups such as the COPARMEX (Mexican Employers' Confederation) and the CONCANACO (Confederation of National Chambers of Commerce) had developed their proposals for labor law reform since at least 1989, when the topic was revisited during 1995, strong labor resistance forced these employer groups to back off of their

initial proposals (Sosa 1995:24). Instead, leaders of employer associations acknowledged the need to engage in a dialogue with the CTM about the terms of such reform and about the immediate concerns of employment and productive capacity. The exchange between the labor movement and employers during June-July 1995 broadened the discussion nationally around what future labor law reform should look like and generated broad support for a "new workplace culture" (*una nueva cultura laboral*) that, while it means different things to different groups, seemed to imply a greater recognition on the part of employers for the need to change their practices and attitudes regarding the role of employees in the workplace (Lizàrraga 1995; Rodríguez 1995:23).

Also significant was a detailed proposal for labor law reform elaborated by the conservative opposition National Action Party (PAN) that was reviewed and discussed among labor and legal specialists in the press and in public forums (González and Rico 1995:63; *La Jornada Laboral* 1995:2-3). This proposal included provisions that would streamline the procedures for employers to dismiss and hire workers, thus reflecting the employer groups' demands for flexibilization of the labor law in these areas ("The Likely Shape of the New Labor Code," *Mexico and NAFTA Report* 1995:5). The proposal also includes provisions that would dramatically alter the structure of the labor movement: it calls for the "depoliticization" of unions (outlawing automatic party affiliation for union members); for decisions to strike to be voted on in worker assemblies, instead of decided solely by the leadership as is currently done in most unions; for elimination of the closed shop and of the "exclusion clause," a provision that requires employers to dismiss any worker that has been expelled from the union; and for limited government intervention in employment relations. One of the most interesting elements of the PAN proposal calls for the establishment of *comités de empresa* (enterprise committees), an idea that drafters of the proposal appear to have borrowed from Germany's works councils. Some analysts have pointed out that these provisions generate the conditions for more independent and democratic unions, yet others have indicated that such changes would also weaken union bargaining leverage vis-à-vis employers and diminish labor influence at the national level. Such provisions are unlikely to remain in their current form in the final draft of the legislation, however, given the official labor movement's strong opposition to those changes that directly challenge its power and given the current resurgence of official labor influence in the ruling party. Nonetheless, the proposal has helped to place discussion of union autonomy, democracy, government neutrality, and worker participation in workplace decisions onto the agenda, all issues that were unlikely to have emerged had the

reform been implemented before 1995 or without the current crisis and search for consensus it has engendered.

A key question that emerges out of this discussion of labor law reform is the extent to which greater union democracy and labor autonomy—critical elements in the labor movement's ability to participate in any future economic growth in Mexico—will become possible in the future. As noted above, while some elements in the opposition party proposals for labor law reform make a greater degree of union autonomy and democracy possible, if this is not also buttressed by a greater national role for labor in determining strategic issues of economic and social policy, greater autonomy is not likely to coincide with greater labor influence or bargaining power. It is far from clear at this point, however, whether the final shape of the labor law will contain some of these democratizing provisions. Alternatively, the "official" labor movement's current close relationship with the PRI may protect it from any changes in the labor law that would challenge its monopoly over the labor movement. As things now stand, it seems that the labor interests that may receive the attention of Congress are those of the CTM rather than those of more independent sectors of the labor movement, a prospect which would signal continuity rather than a much needed break with the past.

At the same time, given the uncertainty of political and economic developments in Mexico, opposition and more prodemocratic forces may have significantly greater leverage in the current crisis than they have for some time. Independent labor groups could benefit from this. To the extent that political parties and civic organizations are able to push for a more thorough political reform, to the extent that more effective steps are taken to establish the "rule of law" in Mexico, and to the extent that more independent labor unions are able to mobilize and form coalitions with other political forces pushing for democratization, prospects for a more independent labor movement may be better than they have been for some time.

Significantly and in sharp contrast to the Salinas period, there are an increasing number of more vocal opposition groups in the labor movement, harkening back to the periods of greater labor innovation and activism of the 1970s and early 1980s (Cook 1995). Among these groups are the unions comprising or identified with the FESEBES, especially the telephone workers' union headed by Francisco Hernández Juárez; the teachers' union; the Mexican Electrical Workers' Union (Sindicato Mexicano de Electricistas, SME); the tramway workers; airline pilots; and flight attendants' associations; university unions; the displaced Ruta 100 bus drivers; and unions affiliated with the Frente Auténtico del Trabajo (FAT), one

of the most active labor groups in the NAFTA debate, in transnational coalition-building and in expanding union organization in the maquiladora industry and other sectors. In addition, other "official" confederations such as the COR (Confederación Obrera Revolucionaria) have for some time adopted a more militant position and competed for union representation in some sectors dominated by the CTM.

Clearly, there are divisions among these groups. Moreover, in the past the presence of different strategies and positions in the labor movement has not guaranteed the effectiveness of their actions. Yet several recent developments in conjunction with the existence of these groups open up possibilities for political action that could in turn increase the prospects for a more autonomous and democratic labor movement in Mexico. One development mentioned above is the emergence of a broader political coalition supportive of democracy, the rule of law, and a more nationalist economic policy that would grant more autonomy to the labor movement. A second is the increased international attention to labor developments in Mexico as a result of NAFTA and, in particular, the political alliances that have developed among North American unions (Thorup 1991; Cook 1994). Here the North American Agreement on Labor Cooperation (NAALC) deserves special mention as an institutional mechanism to increase visibility of labor rights violations and as a vehicle for the cooperation of labor groups across borders. Finally, the eventual death or retirement of the nonagenarian CTM patriarch, Fidel Velázquez, is likely to signal a dramatic and permanent change in the CTM's prominent role in national politics and in the labor movement generally. This relative weakening of the CTM may make it more possible for other traditionally more independent sectors of the labor movement to emerge as key players in redefining a role for the labor movement in Mexico.

Conclusion

Pressures on Mexico's industrial relations system to change began well before NAFTA, when Mexico began to shift its economic development strategy away from import-substitution industrialization in the mid-1980s. Nonetheless, these pressures have not yet led to formal institutional changes in the system reflected in legislation or in sharply different structures of representation for labor and employer interests. Rather, greater workplace flexibilization has been achieved in many cases by operating within the broad and often ambiguously applied parameters of existing law or by circumventing or violating the law directly. This has been possible because of the government's central role in overseeing industrial relations in Mexico. In particular, the Mexican government has helped to control the

labor movement through its manipulation of political and economic resources, its control over the process of union registration and strikes, and its imposition of wage ceilings, making it possible for employers to impose flexibilization even in cases of strong union resistance.

Nonetheless, the mounting pressures under NAFTA to further flexibilize labor relations, together with the economic crisis and political uncertainty Mexico is now experiencing, mean that institutional change in industrial relations may not be far off. The clearest expression of this institutional change will be labor law reform. But while it is probable that the direction of this reform will be toward greater flexibilization (in many cases merely formalizing and legalizing practices that have already been adopted), unlike the 1980s and early 1990s, it is no longer clear whether this flexibilization will also be accompanied by strong legal and political restrictions on labor's right to organize, to strike, to form independent unions, and to bargain collectively. Four developments discussed in this essay lead me to suggest this possible scenario. First, the severity of the economic crisis has led some key employer and labor groups to begin to search for a compromise or consensus with labor for the first time since neoliberal economic policies have been adopted by the Mexican government. Second, Mexico's economic and political crises have generated an incipient coalition of political forces that would favor moderating these neoliberal policies. Third, there is the activism and mobilization of sectors of the labor movement, which may take advantage of a weaker political center and of an increasingly influential political opposition to broaden their room for maneuver. Central to this are not only changes in the political system but in the labor movement itself, especially with the likely fractioning of the CTM after Fidel Velázquez's departure from the scene. Finally, and also important in broadening the political space for union organizing and autonomy in Mexico is the role of U.S. and Canadian union allies and the use of the institutional channels established under the NAFTA side agreement to press for greater vigilance of labor rights violations. The latter, if wisely used, may help generate pressure for respect for a broad set of labor rights in Mexico at a time when it is most needed and most likely to have an impact. Even if these conditions do manage to come about, however, the state of the economy, unemployment, and the large informal sector will continue to constrain labor's bargaining power for some time, even that of a more autonomous and democratic labor movement.

References

"El Proyecto de Ley Federal del Trabajo del PAN." *La Jornada Laboral*, September 28, 1995, pp. 2-3.

"The Likely Shape of the New Labor Code." *Mexico and NAFTA Report* (RM-95-07), July 20, 1995, p. 5.

"The Revolutionary Nationalists Are Back." *Mexico and NAFTA Report* (RM-95-10), October 12, 1995, p. 5.

Cook, Maria Lorena. 1994. "Regional Integration and Transnational Labor Strategies under NAFTA." In Maria Lorena Cook and Harry C. Katz, eds., *Regional Integration and Industrial Relations in North America.* Ithaca, NY: NYSSILR, Cornell University.

_____. 1995. "State-Labor Relations in Mexico: Old Tendencies and New Trends." In Donald E. Schultz and Edward J. Williams, eds., *Mexico in the 21st Century.* Westport, CT: Greenwood.

Dombey, Daniel. 1995. "Labor Low: Organized Labor Poses Little Threat for Zedillo's Economic Plans." *El Financiero International*, March 13-19, p. 13.

González, Víctor, and Salvador Rico. 1995. "Sumprimir Juntas de Conciliación y Contratos Colectivos, Pide el PAN." *El Financiero*, July 10, p. 63.

Lizárraga, Rebeca. 1995. "Las Reformas a la LFT Deberán Conducir a Una Nueva Cultura Laboral: Abascal." *El Financiero*, June 8.

Mexico and NAFTA Report (RM-95-12), December 7, 1995, p. 5.

Rodríguez López, Leticia. 1995. "Convoca COPARMEX a Sindicatos Independientes a la Nueva Cultura Laboral." *El Financiero*, July 27, p. 23.

Sosa, Iván. 1995. "PND y Empresarios, en Contra de Salario, Empleo y Relaciones Laborales: CT." *El Financiero*, June 6, p. 24.

Thorup, Cathryn L. 1991. "The Politics of Free Trade and the Dynamics of Cross-Border Coalitions in U.S.-Mexican Relations." *Columbia Journal of World Business*, Vol. 26 (Summer).

Free-Market Reform and Labor Quiescence in Menem's Argentina, 1989-95

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During his first term as president of Argentina (1989-1995), Carlos Menem, breaking with the hitherto prevailing nationalist, statist, and populist import-substitution economic model, embarked on a campaign to privatize public enterprises, liberalize foreign trade, deregulate internal markets, fire public employees, cut back on subsidies, and reduce labor costs. These policies brought little relief from economic crisis until April 1991, when economy minister Domingo Cavallo devalued the peso, pegged it to the dollar, declared free convertibility, and established a "currency board" that made it illegal to print pesos not backed by gold or foreign reserves. Cavallo's "convertibility plan" produced an economic turnaround. Inflation fell from 1,832% in 1990 to 4% in 1994; GNP grew 8% per year from 1991 to 1994, a huge budget deficit became a small surplus, and several studies indicated that poverty fell and income distribution improved (McGuire in press, chap. 8).

Menem's reforms also had less salutary effects, many of which fell on workers and unions. Real wages fell only 7% and purchasing power only 3% between 1991 and 1995, but privatizations, civil service layoffs, tariff reductions, and currency overvaluation caused massive job losses. Despite rapid growth between April 1991 and May 1995, unemployment rose from 6.9% to 18.6% and underemployment from 8.6% to 11.3% of the economically active population.[1] The resulting membership decline weakened unions, as did government decrees and legislation that decentralized collective bargaining, restricted the right to strike in the public sector, and weakened the union leaders' hold on huge social welfare funds called *obras sociales*.

Some union leaders opposed Menem's reforms, but most cooperated with them. Whereas the CGT, Argentina's umbrella union confederation, launched thirteen general strikes against the piecemeal reforms of Raúl Alfonsín's Radical government (1983-1989), it launched only one against the

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titanic reforms of Carlos Menem's first Peronist government (1989-1995). Ordinary strikes and protests were also less frequent, less effective, and less broadly supported than might have been expected from a still-powerful union movement whose leaders and members had long backed the outgoing statist, nationalist, and populist model. This paper explores why Argentina's unions remained quiescent in response to Menem's free-market reforms.

The Decline in CGT General Strikes

The main reason for the CGT's quiescence was simply that many of its leaders had arrived, with Menem, at the conclusion that free-market reform was the least flawed way to tackle the country's problems—and, in the long run, to improve the welfare of workers. In the view of José Pedraza of the railway workers, Menem's reforms were necessary because "there was no other way for the country to escape the profound crisis in which we found ourselves." In the opinion of José Rodríguez of the auto workers, "If there is stability, if there is investment, if we're privatizing, if the companies can do business, that's when living conditions will improve." Oscar Lescano of the light and power workers even argued that the welfare of the country demanded a reduction of union power: "Perón gave us everything, and successive Justicialist [Peronist] governments allowed us excessive influence . . . we went beyond ourselves in the use of power and now we're paying the price, including before society, which doesn't approve of many of our stances."[2]

It would be ingenuous to take such statements entirely at face value but ridiculous to dismiss them as manifestations of false consciousness or as a cynical sellout by corrupt union bureaucrats to the enemies of the working class. After all, the reforms Menem implemented during his first term in office had positive as well as negative effects on the Argentine economy and positive as well as negative effects on workers and the poor. Far from having their preferences "betrayed," moreover, many workers expressed support for economic policies similar to those backed by pro-Menem union leaders. In 1985 and 1986 Peter Ranis conducted open-ended interviews with 110 members of seven large unions. Among these union members 71% supported privatization, mostly on the grounds that private firms were more efficient than public ones or that the state should not be bailing out money-losing enterprises. The privatization of the state telephone company was supported even by a majority of its own employees, whose low morale reflected and aggravated the firm's notoriously poor service. One employee told Ranis, "I don't want to be a telephone worker forever. That is closer to death than to life. The state enterprises are almost designed to destroy your capacity for invention and your personality generally" (Rainis 1992).

A second reason for the CGT's quiescence was that Menem headed the political movement—Peronism—that most workers and union leaders supported. As several observers have noted, "Menem has an advantage with the unions similar to [the one] that Nixon had in opening up China."[3] Just as it took a Republican anti-Communist to establish U.S. relations with China, it took a Peronist president to impose market-oriented policies on Argentina's predominantly Peronist labor movement. Dani Rodrik has characterized Menem's Argentina as the "most extreme example" of a "Nixon-in-China" syndrome that also prevailed in Poland under Solidarity and in Spain under Socialist Felipe González. The general principle at work, according to Rodrik, is that "it may take a labor-based government to undertake reforms that would be otherwise unacceptable to labor and other popular groups."[4] This explanation accords with the views of key politicians and unionists. Reflecting on Menem's reform program, former president Alfonsín noted bitterly in August 1990 that "if I had done just 10% of what this government is doing, they would have hung me from a lamppost in the Plaza de Mayo."[5] Unionist Oscar Lescano agreed with Alfonsín: "We called 14 [sic] strikes against the Radical government for much less than is going on right now."[6]

The traumatic experience of hyperinflation is a third reason why Menem was able to impose free-market reforms without a combative response from the CGT. In July 1989, the month Menem took office, retail prices rose 197%—equivalent to a compounded annual rate of 50,000,000%. Cross-national analyses of free-market reform programs suggest that severe economic crises may create a window of opportunity for stabilization, privatization, liberalization, and deregulation. Stephan Haggard and Robert Kaufman characterize Menem's Argentina as a case in which "reform initiatives cut against the interests of followers," but "worsening economic circumstances induced a broad cross-section of the population to support efforts by the incoming government to apply shock treatment" (Haggard and Kaufman 1992:31). Joan Nelson concurs that "in Bolivia and Argentina . . . hyperinflation proved a watershed: the public, terrified, acquiesced in far more draconian reforms under second-round presidents" (i.e., Menem as opposed to Alfonsín, who presided over the "first round" of democratic government after the transition from authoritarian rule). Elsewhere, Nelson has argued that "an acute crisis . . . above all rapid inflation or hyperinflation . . . predictably generates a strong popular desire for a take-charge government with a plausible plan to contain the emergency. Even draconian stabilization programs such as Bolivia's in 1985 can be accepted by much of the population as the painful remedy for an increasingly nightmarish situation."[7] If the crisis can be blamed on poor economic management

by a peculiarly incompetent government, Nelson argues, a change in the basic economic model might encounter more resistance, but that was not the case in Argentina, where the crisis was widely viewed as the outcome of long-term deficiencies in the model.

Menem's success at taming inflation and encouraging economic growth is a fourth reason why the CGT remained quiescent during Menem's first term in office. Many workers and union leaders, along with others, welcomed these developments. Several analysts have argued that the success of Menem's reforms at taming inflation and stimulating growth help explain why the CGT remained quiescent during Menem's first term in office. According to Barbara Geddes (1994:112), "In Argentina lowered inflation was so widely welcomed that President Carlos Menem and his policies have maintained substantial support in spite of other costs." This argument is seconded by Nelson (1994:169): "Especially after [economy minister Domingo] Cavallo's 'miracle' had taken hold in the second half of 1991, public opinion strongly supported the general direction of government economic policies. Many rank-and-file unionists no longer favored militant tactics."

A fifth reason why the CGT refrained from intense protest during Menem's 1989-1995 government was that many union leaders discovered that Menem's privatization program entailed new organizational and financial opportunities for their unions. In 1990, Menem's plans to privatize state-owned shipyards and arms factories were reported to hold out the possibility that with the labor ministry's approval the UOM metalworkers' union might absorb workers formerly represented by the ATE state workers' union.[8] And as Victoria Murillo has noted, several unions approached the privatization process in a rather entrepreneurial frame of mind. SUPE, formerly the state oil workers' union and now the union representing workers in any firm, descended from the former state oil company Yacimientos Petrolíferos Fiscales (YPF), bought shares in an oil equipment firm, and purchased part of the shipping fleet formerly owned by YPF. In 1993, SUPE represented both employers and employees in a collective bargaining agreement between itself and the shipping fleet workers (taking full advantage of Menem's labor "flexibilization" initiatives, the contract extended the probationary period for new employees and made it easier to hire temporary workers). The light and power workers' FATLyF, the best-administered major union in Argentina over the past thirty years, bought major shares in 15 power plants around the country and opened a bank with an eye toward entering the newly privatized retirement fund business. The railway workers' union purchased several privatized railway lines, while the retail clerks' federation arranged to market its own credit card.

Leaders of both SUPE and the railway workers' union began to collect fees for administering the shares workers received in privatization deals (Murillo 1994:18-22).

The Evolution of Ordinary Strikes

Like CGT general strikes, ordinary strikes (those called at any level from a whole industry to a single plant) declined after Menem took office. Under Alfonsín each quarter had included an average of 115 strikes, 1,984,708 strikers, and 4,874,247 days lost. These figures fell during the part of Menem's first term for which data are available (July 1989-December 1993) to 48 strikes, 1,345,719 strikers, and 3,789,812 days lost (Table 1). Peronist incumbency, the shock of hyperinflation, and satisfaction with the results of the convertibility plan, all of which have been widely cited as inhibiting CGT general strikes, could also serve as plausible explanations for the decline in ordinary strikes. The data, however, provide little support for these hypotheses.

If Peronist incumbency inhibited ordinary strikes as well as CGT general strikes, one would expect to see a fairly rapid drop in ordinary strike activity as soon as Menem took office, when the new president was enjoying a "honeymoon" and when even Peronist union leaders skeptical of his free-market reforms were willing to adopt a wait-and-see attitude. A similar prediction would emerge from the hyperinflationary trauma hypothesis. The worst hyperinflation occurred between May and July 1989, just before Menem took office, and the second-worst between December 1989 and March 1990, also early in Menem's presidency. If the drop-off in strike activity had been caused by the shock of hyperinflation, it would likely have come in the first few quarters of Menem's term, when the shock was presumably worst. Strike activity, however, *rose* by certain measures during the first five quarters of Menem's presidency. During this period the mean quarterly number of strikes was lower than during the Alfonsín years (99 vs. 115), but the mean quarterly number of strikers was higher (2,737,632 vs. 1,984,708), and the mean quarterly number of days lost was much higher (8,485,366 vs. 4,874,247) (Table 1).

To explain why strike activity did not decline until more than a year after Menem took office, it seems reasonable to look beyond Peronism and hyperinflation to factors that came into play later in Menem's administration. One such factor is the March 1991 convertibility plan, which tamed inflation and restored economic growth. It is unlikely, however, that the convertibility plan made the difference: the downturn in strikes came not in the second quarter of 1991, when the plan took effect, but six months earlier in the fourth quarter of 1990 (Figure 1). Menem's October 1990

TABLE 1
Strike Activity in Argentina, 1984-1993, by Period

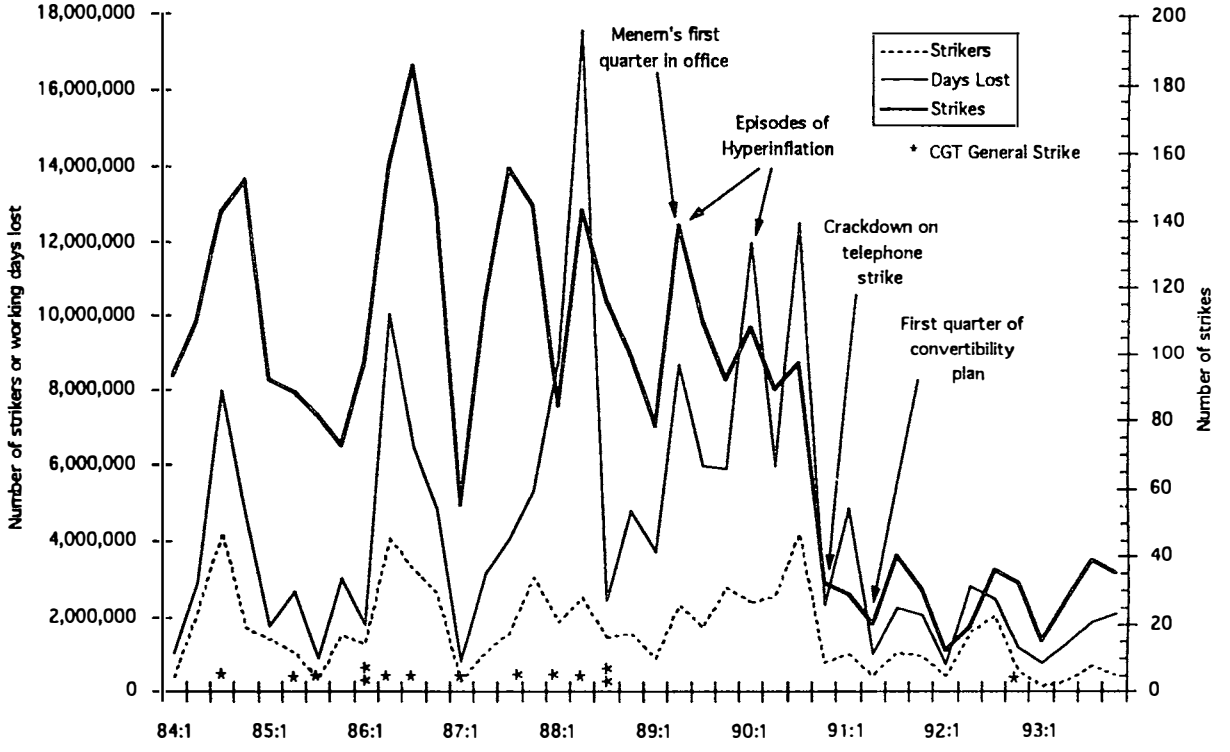
Year	No. Strikes	No. Strikers	No. Days Lost to Strikes	% Strikes in Public and Mixed Sectors	% Strikers in Public and Mixed Sectors	% Days Lost in Public and Mixed Sectors
1984	495	8,459,192	16,521,182	52	62	66
1985	333	4,248,248	8,296,518	49	70	74
1986	582	11,236,940	23,170,963	68	66	56
1987	470	5,980,507	13,372,628	67	84	88
1988	443	7,443,344	33,593,112	75	87	95
1989	418	7,720,985	24,359,522	71	67	90
1990	326	9,970,886	32,844,016	75	87	95
1991	119	3,468,930	10,201,821	83	77	92
1992	99	4,656,536	7,208,282	71	37	53
1993	116	1,642,512	6,033,246	67	83	89
Total	3,401	64,828,080	175,601,288			
Mean per Year	340	6,482,808	17,560,129	35	31	19
Means per Quarter:						
Entire Period 1984 Q1 - 1993 Q4 40 Quarters	85	1,697,163	4,386,251	66	72	78
Alfonsín Presidency 1984 Q1 - 1989 Q2 22 Quarters	115	1,984,708	4,874,247	63	75	80
Initial Menem Pres. 1989 Q3 - 1990 Q3 5 Quarters	99	2,737,632	8,485,366	74	66	85
Later Menem Pres. 1990 Q4 - 1993 Q4 13 Quarters	28	810,368	1,983,830	73	58	80
Menem Presidency 1989 Q3 - 1993 Q4 18 Quarters	48	1,345,719	3,789,812	74	63	83

Source: Consejo Técnico de Inversiones, *La Economía Argentina*, 1984-1993. For information on how the data were collected and compiled see James W. McGuire, "Strikes in Argentina: Data Sources and Recent Trends." *Latin American Research Review* 31, no. 3 (in press).

ban on public sector strikes comes to mind as a possible cause of the downturn, but if this ban had made the difference, public and mixed sector strike activity should have dropped more steeply than private sector strike

FIGURE 1

Number of Strikes, Strikers, and Working Days Lost to Strikes in Argentina
First Quarter 1984 through Fourth Quarter 1993



activity. That was not the case: comparing the five quarters of Menem's term before the ban with the 13 quarters after it, the public and mixed sector proportion of strikes fell only from 74% to 73%, of strikers only from 66% to 58%, and of working days lost only from 85% to 80% (Table 1). The fairly even decline in strike activity across the public/mixed and private sectors casts doubt on the hypothesis that the ban on public sector strikes was responsible for much of the downturn.

More important than the public sector strike ban in reducing strike activity may well have been the defeat in September 1990 of a major strike by Federal Capital telephone workers protesting the privatization of the state-owned telephone company ENTel. Widely interpreted as a test of Menem's willingness to pursue free-market reforms despite worker resistance, the telephone workers' strike might well be called a "showdown" strike. Its defeat came just prior to the drop-off in strike activity, and Menem's supporters compared it to Thatcher's defeat of the coal miners and to Reagan's defeat of the air traffic controllers (which launched a decade of low strike activity in the United States) (Wynia 1992). Similarly, scholars have argued that defeats of major "showdown" strikes in 1959 and 1967 initiated periods of reduced strike activity in Argentina (James 1988; O'Donnell 1988).

Correlation does not imply causation, so the data provide only tentative support for the showdown strike explanation. Moreover, the defeat of the telephone workers' strike may have reduced strike activity only because it was inflicted by a Peronist president or only because it came at a time when the memory of hyperinflation was fresh. It is also possible that satisfaction with the convertibility plan or rising unemployment after 1991 kept strike activity from rising after its initial downward spike.[9] The data suggest, however, that explanations of the recent decline in strike activity should pay more attention to the defeat of a key "showdown" strike, rather than focusing exclusively on Peronist incumbency, the trauma of hyperinflation, or the economic resurgence after March 1991. The data also suggest that the causes of strikes may change significantly as one descends from huge nationwide protests, in which political factors are likely to be very important, to strikes in individual factories, in which such factors are far from absent but in which bread-and-butter issues are likely to have greater incidence.[10]

Conclusion

Union leaders cooperated with Menem's reforms for a variety of reasons. Some agreed that the old economic model was fatally flawed; others hoped that the new policies would prevent a return to hyperinflation. Some wanted to support the initiatives of a Peronist president, others wished to

explore business opportunities opened up by privatization. Such inducements won enough cooperation that the reforms were able to go forward. As a result, union resources declined: membership fell, finances deteriorated, collective bargaining was decentralized, the right to strike was restricted, and the government was able to crack down successfully on a showdown strike. In 1995 after the repercussions of Mexico's devaluation halted the country's economic advance, more unionists began to favor a combative posture. By then, however, the reforms had proceeded far enough that the unions were less able to resist them.

Endnotes

[1] All figures from Fundación de Investigación de Economıas Latinoamericanas, *Indicadores de Coyuntura*, no. 347 (July 1995): 21, 53, 54.

[2] All quotations taken from interviews with these union leaders in María Herminia Grande, *El poder que no fue* (Rosario: Editorial Fundación Ross, 1993), 13, 76, and 91-92, respectively.

[3] A U.S. Embassy official quoted in Davide G. Erro, *Resolving the Argentine Paradox* (Boulder: Lynne Rienner, 1993), 186.

[4] Dani Rodrik, Untitled comments on papers on "The European Periphery" in John Williamson, ed., *The Political Economy of Policy Reform* (Washington, DC: Institute for International Economics, 1994), 213. The CGT called only 13 general strikes against Alfonsín.

[5] *La Nación* (Edición Internacional), 13 August 1990, p. 3.

[6] *Clarín* (Edición Internacional), 31 March - 6 April 1992, p. 5.

[7] Joan M. Nelson, untitled remarks in Panel Discussion in John Williamson, ed., *The Political Economy of Policy Reform*, pp. 472-73.

[8] *Página* 12, 23 December 1990, p. 4.

[9] Little empirical evidence in fact supports the conventional wisdom that high unemployment is a major deterrent to strikes. Jackson, *Strikes* (New York: St. Martin's Press, 1987), 137-39.

[10] For a quantitative test of this hypothesis see James W. McGuire, "The Causes of Strikes in Argentina, 1984-1991," Working Paper No. 49, Institute of Industrial Relations, University of California, Berkeley, 1992.

References

Geddes, Barbara. 1994. "Challenging the Conventional Wisdom." *Journal of Democracy*, Vol. 5, no. 4 (October), p. 112.

Haggard, Stephan, and Robert R. Kaufman. 1992. "The Political Economy of Inflation and Stabilization in Middle Income Countries." In Stephan Haggard and Robert R. Kaufman, eds., *The Politics of Economic Adjustment*. Princeton, NJ: Princeton University Press.

James, Daniel. 1988. *Resistance and Integration*. Cambridge, MA: Cambridge University Press, pp. 118-19.

McGuire, James W. In press. *Peronism without Peron: Unions, Parties, and Democracy in Argentina*. Stanford, CA: Stanford University Press.

Murillo, M. Victoria. 1994. "Union Response to Economic Reform in Argentina." Paper presented at the Conference on Inequality and New Forms of Popular Representation, Columbia University (New York, March 3-5).

Nelson, Joan M. 1994. "How Market Reforms and Democratic Consolidation Affect Each Other" and "Labor and Business Roles." In Joan M. Nelson, ed., *Intricate Links*. New Brunswick, NJ: Transaction, pp. 13, 169.

O'Donnell, Guillermo. 1988. *Bureaucratic Authoritarianism*. Berkeley, CA: University of California Press, pp. 79-83, 290.

Ranis, Peter. 1992. *Argentine Workers*. Pittsburgh, PA: University of Pittsburgh Press, pp. 103, 127-36.

Wynia, Gary. 1992. *Argentina: Illusions and Realities*. 2d. ed. New York: Holmes and Meier, pp. 209-10, 223.

Structural Adjustment and the Labor Movement in Nicaragua

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When the Sandinista government in Nicaragua (1979-90) was replaced through the ballot box by the procapitalist government of Violeta Chamorro (1990-96), the stage was set for a neoliberal program of economic adjustment in a country with highly mobilized unions and other grassroots organizations. The ensuing clash was interesting for several reasons. First, the quick response of the labor movement forced the government to depart from neoliberal orthodoxy in two respects: unions won some concessions on the pace and intensity of stabilization measures in 1990-91, and they won a commitment to 25% worker ownership of privatized state enterprises. Second, despite this initial success, structural adjustment tended to erode the organizational power of labor. Third, unions developed an ambivalent stance toward the Sandinista National Liberation Front (FSLN) in opposition. This highlighted a more general dilemma for social movements: how to autonomously represent class or sectoral interests but articulate a coherent alternative to the neoliberal project.

Some background is necessary before considering each of these three points. The multiclass revolution that brought the FSLN to power in 1979 involved extensive organizing of urban and rural unions as well as "mass organizations" of peasants, neighborhoods, women, youth, etc. Unionization increased from about 11% of the salaried workforce in 1979 to 56% by 1986 (Stahler-Sholk 1987:555). The pro-FSLN unions (principally the urban-based Sandinista Workers' Central, CST; the Association of Rural Workers, ATC; and the National Union of Public Employees, UNE) had the organizing advantage after 1979, representing 86% of organized labor by 1990 (Stahler-Sholk 1995:80). The FSLN government improved working conditions in state enterprises (30% of GDP) and enacted redistributive policies to improve the "social wage" rather than increasing real money wages.

As macroeconomic disequilibria grew, the Sandinista government attempted increasingly orthodox stabilization in 1985 and 1988-89. Though these measures included some social compensations, they clearly lowered

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the living standards of workers and other popular classes and eroded the FSLN's base of political support (Stahler-Sholk 1990; Vilas 1991). By the time of the 1990 elections, which the FSLN lost 41% to 55%, workers still voted 50% for the FSLN despite a 90% drop in real wages since 1980 (Oquist 1992:20).

The unions' greater willingness to accept austerity under the Sandinista government than the Chamorro government cannot be simply reduced to a lack of labor autonomy but, rather, partly reflects a calculation that the FSLN accorded greater organizational power to labor (Stahler-Sholk 1995). The empowerment of popular classes and the creation of individual citizenship rights expressed in elections together constituted a process of democratization begun by the revolution (Williams 1994). Yet the unprecedented electoral transition from a revolutionary government forced a reevaluation of the relation between the FSLN and the mass organizations it had mobilized (Haugaard 1991; Quandt 1995). Suddenly the unions faced an unfriendly government and an FSLN with divergent interests.

Blunting the Neoliberal Offensive

The first phase of the Chamorro government's economic plan, directed by Francisco Mayorga (Central Bank president), featured massive devaluations followed by the introduction of a new currency which would be pegged to the dollar. Economic stabilization was to be achieved by drastic fiscal and monetary austerity, including large salary lags and layoffs in the public sector (Evans 1995). The assault on public sector employees, including suspension of the Civil Service Law and cancellation of collective bargaining agreements, appeared calculated to disarticulate a key Sandinista union stronghold (Neira and Acevedo 1992:53-55). In response, the public employees struck and occupied offices in May 1990, supported by a new coalition of pro-FSLN unions called the National Workers Front (FNT). The government was forced to back down, granting a 100% public sector wage hike and indexing wages.

Following this settlement, the Mayorga Plan proceeded to raise utility rates and bus fares, slash credit, and severely cut government spending with predictable recessionary impact. These stabilization measures were accompanied by structural reforms, including the return of state agricultural enterprises to former owners. When the government suspended talks with unions in June 1990, the FNT called a general strike. Strike supporters built barricades in the neighborhoods, while the far right organized its own violent response, bringing the country to the brink of civil war by July 1990 (O'Kane 1995:187-8). The FSLN stepped in to mediate an agreement signed on July 11, 1990, followed by negotiations on basic social and

economic principles in September. In a pact signed on October 26, 1990 (*Concertación* I), the unions agreed to exhaust dialogue before striking. The government agreed to prioritize the reactivation of production, respect pre-1990 property transfers, and set aside a share of privatized state enterprises for worker ownership. The Higher Council of Private Enterprise (COSEP) refused to sign, protesting the government's compromise on privatization.

The 1990 general strikes demonstrated that economic stabilization and adjustment could not be implemented without consulting the still powerful unions. Mayorga was replaced by more moderate technocrats at the end of the year, and a new "Lacayo Plan" announced in March 1991 marked a less confrontational approach that proved more successful in negotiating social pacts and securing international finance. The Lacayo plan still called for 400% devaluation coupled with demand restraint. Even though a real wage drop was projected, the plan front-loaded the annual wage adjustments, following IMF advice "to forestall a prolonged dispute with the strong labor unions" (IMF 1991:10-13). The political impact of layoffs was softened by three compensation programs: the Emergency Social Investment Fund (FISE), which created short-term public works jobs; the Fund for Assistance to Oppressed Sectors (FASO) to resettle Nicaraguans returning from abroad; and the Occupational Conversion Plan (PCO), which offered state employees several months' severance pay if they "voluntarily" left their jobs and renounced public employment for four years. The FISE generated little employment at inadequate wages. Workers lured by the PCO—mainly women—often tried to survive in informal sector commerce, an alternative undercut by recession (Fernández 1994:52-3).

Market Forces vs. Labor's Organizational Power

The Lacayo Plan succeeded in offering the appearance of social compensation, while unemployment soared to 54% by 1994. The program was introduced at a time when there was little popular support for yet another general strike. The 1990 strikes had also sharpened FNT-FSLN differences, as some unionists felt that the intervention of the party leadership to end the strikes had undercut the FNT's subsequent bargaining position (Stahler-Sholk 1995:95). By the time of the second round of negotiations (*Concertación* II) in May-August 1991, the unions opted to stop opposing what seemed to be the inevitable privatization of state enterprises and settle for a 25% worker-owned share. Once this pact was signed, the government got an IMF Standby loan in September 1991 which unlocked more external finance (IMF 1991), and inflation was reduced to 3.5% in 1992. In 1994 the IMF granted an Enhanced Structural Adjustment Facility (ESAF) loan, committing Nicaragua to neoliberal orthodoxy through 1997 (IMF 1994).

Having achieved this success in stabilization, the government proceeded with trade liberalization, credit restrictions, and large devaluations, which together caused massive job loss in industry (ECLAC 1995:25). At the same time, partial privatization of banking meant a drastic cutback in credit to peasant producers and cooperatives, while elimination of the state grain trading agency further squeezed the rural poor, putting downward pressure on agricultural wages. The Chamorro government's vision of structural adjustment was explicitly based on "necessary realignments in the relative price of labor" (World Bank 1993:19).

Part of the new low-wage strategy for creating additional incentives to capital included labor market "flexibilization." As a condition for obtaining a World Bank Economic Recovery Credit, the government submitted a "letter on labor policy" in April 1994. This called for new legislation to allow more temporary labor contracts, reduce severance pay, ban workplace takeovers by strikers, and expand Ministry of Labor (MITRAB) powers to declare strikes illegal. Proposed new Labor Code reforms would restrict public sector workers' right to strike, limit collective bargaining agreements, and eliminate MITRAB's power to obligate management to negotiate with unions. Other policy changes after 1990 that undermined organized labor included the elimination of closed shops and of automatic payroll deductions of union dues and MITRAB recognition of multiple unions in the same enterprise.

By mid-1995 the largest Sandinista union, the urban-based CST, had shrunk from 130,000 to 50,000 members (Vargas 1995). Sandinista optimists hoped the new Area of Workers' Property (APT) would serve as a refuge and organizing outpost against neoliberalism (Núñez Soto 1994). However, a preliminary assessment suggested that such prospects were essentially limited to enterprises that were 100% worker-owned, with a unified union in a recession-proof sector (Stahler-Sholk 1994:75-82). Even under such favorable circumstances, APT firms were cut off from loans from the National Development Bank (BANADES) for three years on the pretext of unclear legal status, until thousands of agricultural workers staged a sit-in in Managua in 1995. Also, the inherently conflicting roles of worker/manager in a capitalist economy caused divisions. These were exploited by capitalists, who bought shares to gain voting power, and by MITRAB, which decertified APT unions on the grounds that they were no longer workers (Borge 1995).

Autonomy or Atomization?

Following the 1990 election, the FNT unions found themselves in the unaccustomed position of direct confrontation with the state. The FSLN

leadership, meanwhile, began to develop some distinct institutional interests as a political elite, using grassroots mobilization as a bargaining chip for a place at the table with the government (Ruíz 1995). Class interests also diverged as some Sandinistas moved from the state to managerial positions in the APT, or into the "new Sandinista bourgeoisie" (Spalding 1994). These trends heightened FNT suspicions of the strategy of negotiating social pacts (O'Kane 1995:189-93).

Ironically, what Hellman (1992:54) calls the "fetishism of autonomy" could prevent unions from joining any club that would have them as a member. Since neoliberalism tends to dismantle corporatist mechanisms while dealing a sudden blow to wages and employment levels—especially in the public sector, where Latin American unions are generally strong (Roxborough 1992:428-9)—the capacity of unions to respond before they are dismantled may depend precisely on their ability to forge political alliances. The negotiation of social pacts does not have a predetermined outcome; but if *concertación* is well coordinated with the disruptive power of a broad-based social movement, it may counteract the effort of a technocratic government to carve out a depoliticized space for top-down economic adjustment (Munck 1995; Przeworski 1995:80-5). The political party/union dynamic in Nicaragua is therefore relevant to other efforts to define alternatives to neoliberalism.

References

Borge, Carlos. 1995. Interview, member of Board of Directors, Sandinista Workers Central (CST), Managua, 7 July.

ECLAC (UN Economic Commission for Latin America and the Caribbean). 1995. "Nicaragua: Evolución Económica durante 1994." LC/MEX/R.519. Mexico, 8 May.

Evans, Trevor. 1995. "Ajuste Estructural y Sector Público en Nicaragua." In Trevor Evans, ed., *La transformación Neoliberal del Sector Público: Ajuste Estructural y Sector Público en Centroamérica y el Caribe.* Managua: CRIES/Latino Editores, pp. 179-261.

Fernández-Poncela, Anna M. 1994. "The Disruptions of Adjustment: Women in Nicaragua." *Latin American Perspectives*, Vol. 23, no. 1 (Winter), pp. 49-66.

Haugaard, Lisa. 1991. "In and Out of Power: Dilemmas for Grassroots Organizing in Nicaragua." *Socialism and Democracy*, Vol. 7, no. 3 (Fall), pp. 157-84.

Hellman, Judith Adler. 1992. "The Study of New Social Movements in Latin America and the Question of Autonomy." In Arturo Escobar and Sonia E. Alvarez, eds., *The Making of New Social Movements in Latin America*. Boulder, CO: Westview, pp. 52-61.

IMF (International Monetary Fund). 1991. *Nicaragua—Request for Standby Arrangement*. Washington, DC: IMF, 12 Sept.

_____. 1994. *Enhanced Structural Adjustment Facility, Policy Framework Paper, 1994-97*. Washington, DC: IMF, 2 Jun.

Munck, Ronaldo. 1994. "Workers, Structural Adjustment, and *Concertación Social* in Latin America." *Latin American Perspectives*, Vol. 21, no. 3 (Summer), pp. 90-103.

Neira Cuadra, Oscar, and Adolfo Acevedo. 1992. *Nicaragua: Hiperinflación y Desestabilización. Análisis de la Política Económica 1988 a 1991.* Managua: Cuadernos CRIES, serie ensayos No. 21.

Núñez Soto, Orlando. 1994. "Una Nueva Utopía Sandinista." *Envío* (Managua), Vol. 13, no. 149 (Jun.), pp. 15-20.

O'Kane, Trish. 1995. "New Autonomy, New Struggle: Labor Unions in Nicaragua." In Minor Sinclair, ed., *The New Politics of Survival: Grassroots Movements in Central America.* New York: Monthly Review/EPICA, pp. 183-207.

Oquist, Paul. 1992. "The Sociopolitical Dynamics of the 1990 Nicaraguan Elections." In Vanessa Castro and Gary Prevost, eds., *The 1990 Elections in Nicaragua and Their Aftermath.* Lanham, MD: Rowman and Littlefield, pp. 1-40.

Przeworski, Adam. 1995. *Sustainable Democracy.* Cambridge, England: Cambridge University Press.

Quandt, Midge. 1995. "Unbinding the Ties That Bind: The FSLN and the Popular Organizations." In Minor Sinclair, ed., *The New Politics of Survival: Grassroots Movements in Central America.* New York: Monthly Review/EPICA, pp. 265-88.

Roxborough, Ian. 1992. "Neo-Liberalism in Latin America: Limits and Alternatives." *Third World Quarterly*, Vol. 13, no. 3, pp. 421-40.

Ruíz, Henry. 1995. "Henry Ruíz Rompe el Silencio." Interview by Jorge Katín with Cmdte. Henry Ruíz, member of FSLN National Directorate. *Semanario*, 29 Jun.-5 Jul., pp. 16-17.

Spalding, Rose J. 1994. *Capitalists and Revolution in Nicaragua.* Chapel Hill, NC: University of North Carolina Press.

Stahler-Sholk, Richard. 1987. "Organized Labor in Nicaragua." In Sheldon L. Maram and Gerald Michael Greenfield, eds., *Latin American Labor Organizations.* Westport, CT: Greenwood Press, pp. 549-75.

_____. 1990. "Stabilization, Destabilization, and the Popular Classes in Nicaragua, 1979-1988." *Latin American Research Review*, Vol. 25, no. 3 (Fall), pp. 55-88.

_____. 1994. "El Ajuste Neoliberal y Sus Opciones: La Respuesta del Movimiento Sindical Nicaragüense." *Revista Mexicana de Sociología*, Vol. 56, no. 3 (Jul.-Sept.), pp. 59-88.

_____. 1995. "The Dog That Didn't Bark: Labor Autonomy and Economic Adjustment in Nicaragua under the Sandinista and UNO Governments." *Comparative Politics*, Vol. 28, no. 1 (Oct.), pp. 77-102.

Vargas, Dámaso. 1995. Interview, Sandinista Workers Central (CST) Secretary for International Relations and FSLN Deputy in National Assembly. Managua, 5 July.

Vilas, Carlos M. 1991. "The Revolution That Fell from the Grace of the People." *Socialist Register 1991.* London: Merlin, pp. 302-21.

Williams, Philip J. 1994. "Dual Transitions from Authoritarian Rule: Popular and Electoral Democracy in Nicaragua." *Comparative Politics*, Vol. 26 (January), pp. 169-85.

World Bank. 1993. *Nicaragua—Stabilization and Adjustment: Enabling Private Sector-led Growth.* Consultative Group Meeting for Nicaragua. Paris, 2 Apr.

XV. SIXTY YEARS AGO: HISTORICAL PERSPECTIVES ON THE WAGNER ACT

A Fatal Flaw: Individual Rights and the Wagner Act

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For nearly fifty years, from its origins and passage in 1934-35 until the mid-1980s, the Wagner Act seemed as clear in its principles and aims as any major piece of legislation enacted by Congress. The Act's drafters, its supporters, and two generations of scholars agreed that the NLRA sought to promote the collective power of working people through trade unionism and collective bargaining between more equal parties in order to enable workers to obtain a larger share of the value that they created. More recently, however, it has become fashionable to assert that the Wagner Act itself intended to subordinate theretofore autonomous trade unions to the authority of the state and to foster the interests of corporate enterprises (Tomlins 1985, 1986; Gordon 1994). Such critics also imply that either "the legislation's sponsors did not know precisely what they were doing or, alternatively (and less likely), that the consequence was not unintended." In other words, consciously or unconsciously, the designers of the Wagner Act left workers and their unions to the tender mercies of the state and corporate officials served by the state (Tomlins 1995).

I maintain that "the sponsors of the legislation knew precisely what they were doing," and that was to enhance the strength of trade unionism and the collective power of workers in order to stimulate purchasing power and that the legislative history of the Wagner Act sustains such an interpretation (Gross 1974, 1981). The problems or flaws in the Wagner Act

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derived not from confusion or ignorance among the drafters and sponsors of the legislation but rather originated in an unforeseen contradiction between their legislative tactics and strategy and fundamental values honored by the broader political and public cultures. As the research of James Gross and Peter Irons has shown, the drafters of the bill designed a strategy both to amass the greatest number of votes in Congress and to enable the law to pass judicial scrutiny (Irons 1982). Thus the drafters stressed that their creation would decrease the incidence of industrial conflict and liberate interstate commerce from the barriers erected by strikes, yet guard the right of individual workers to determine their own fate. In the time remaining, I would like to focus our attention on two matters: (1) why the drafters incorporated a defense of individual rights in their bill and (2) why that tactic evolved into a fatal flaw.

When the drafters of the Wagner Act sat down to discuss their legislative strategy, they faced a history and tradition congealed in all three branches of the federal government that privileged the rights of individual workers above the collective interests of organized labor. Even the strongest advocates of collective action defended the right of individual workers to spurn collective, i.e., trade union, remedies for their grievances. For example, at the turn of the twentieth century a federal commission investigation of industrial conditions in the United States concluded that economic realities gravely disadvantaged individual workers. "The workingman," concluded the Industrial Commission, "is almost alwāys under grave disadvantage as compared with the employer. . . . Under such conditions the result of free competition is to throw the advantages into the hands of the stronger bargainer." In words redolent of the logic of the Wagner Act, the commission's final published recommendations in 1902 asserted that *only* the organization of workers into unions and the establishment of the closed shop could equalize bargaining power between employees and employers, guaranteeing workers democratic citizenship in the shop as well as the state (Dubofsky 1994:33-34).

Simultaneously, however, the commission also defended the right of nonunion workers to labor on their freely chosen terms. For the next thirty years, nearly every federal defender of labor's right to organize and act collectively likewise asserted the equal right of workers to repudiate unionism and collective action. From Theodore Roosevelt through Herbert Hoover, a series of presidents praised responsible unionism yet insisted that neither unions, fellow workers, nor employers could compel recalcitrant workers to unionize. Labor and industrial relations reform legislation from the Erdman Act of 1898 through the Norris-LaGuardia Act of 1932 promoted responsible unionism and the right of employees to organize free from the

coercion of employers without ever repudiating the individual worker's right to bargain for himself/herself. Either implicitly or in some cases explicitly, congressional and presidential action in the sphere of industrial relations operated on the principle of the open shop, i.e., that union membership or nonmembership may not be a legally enforceable condition of employment (Dubofsky 1994:chs. 2-4). For the first two and a half years of the New Deal, that well-established tradition nearly paralyzed the National Labor Board, the first NLRB, and all the administrators of industrial relations policy. In practice, that tradition and the principles undergirding it stymied trade unions from organizing the open-shop bastions of corporate enterprise. And that was the reality that the drafters of the Wagner Act sought to alter.

The principles of individual choice and worker rights were even more firmly embedded in jurisprudential traditions and circles. The fear that the workers acting through unions usurped illegitimately the function of public law was an old one in American legal history. It had been the concern at the heart of judicial rulings in the first half of the nineteenth century that condemned strikes for closed shops and minimum wages as criminal conspiracies. Comparable anxieties concerning private individuals acting collectively and taking the law into their own hands underlay the tendency among state and federal judges in the late nineteenth and early twentieth centuries to issue injunctions against strikes and boycotts. Judges, for example, believed that they had little choice except to protect employers, nonunion employees, and the public-at-large from the power to call strikes "by any set of irresponsible men under the sun." Another judge ruled tersely that workers and employers are "guaranteed to them by the law of every free country . . . the right to work as one pleases, and the right to contract for labor as one chooses . . . . It is the right not so much of property as of liberty which every man enjoys in this country as his birthright" (Dubofsky:chs. 1-4).

Now, to be sure, alongside the jurisprudential tradition that enshrined the right of employers to choose their employees without restriction and the right of workers to forego union membership, a new legal consciousness began to emerge at the end of the nineteenth and the beginning of the twentieth century, one that recognized the validity and necessity for collective organization in a corporate economy. Arising from the revolt against formalism in the social sciences, philosophy, and the law and flowering in the school of legal realism, this new legal consciousness nevertheless persisted in worrying about the power of private bodies to usurp public authority. Even the most advanced of legal realists were unsure about where precisely to draw the line between private power and public rights.

Should unions have the power to compel employers to hire only union members (the closed shop)? Should workers be required to join unions as a condition of employment? Should employers be free to hire whomever they preferred regardless of union membership? No consensus emerged on these questions. Employers, it was commonly agreed, should not be allowed to deny workers jobs solely on the basis of union membership (hence the clause in the Erdman Act that forbade "yellow-dog contracts" on the railroads, a prohibition made general in the Norris-LaGuardia Act of 1932). Yet it was also commonly argued that union attempts to coerce closed shops with employers or to force individual workers to join unions remained dubious legal rights/concepts. Public rights could not be sacrificed to private accommodations unless absolutely voluntary and consensual; the law could not sacrifice constitutional rights or public justice to the claims of nongovernmental agencies (Ernst 1995).

That was the history that influenced the men who drafted the Wagner Act, most of whom were firm legal realists and students of the "progressive" social sciences. And that was why they embedded firmly in their legislation language that stressed the right of workers to choose freely whether or not to be represented by unions. As drafted and enacted, the Wagner Act secured the right of individual workers to be protected against coercion by employers, and it ceded workers, not unions, the power to choose bargaining units and bargaining agents. If workers voluntarily chose to labor under a closed shop, the Wagner Act allowed such agreements. Equally, if workers freely elected to be represented by independent unions or to represent themselves, the law sanctioned such arrangements (provided, to be sure, that no such outcomes resulted from the specific forms of employer antiunion action proscribed in the Wagner Act). Put another way, the law denied both employers and trade unions the power to determine the fate of workers. Tomlins is absolutely right to claim that the Wagner Act circumscribed the authority and *theoretical* power of trade unions to define their jurisdictions, bargaining spheres, and title to workers. Equally so, the law circumscribed the power of employers to use their property as they preferred and the ability of the "free market" to render rewards and punishments equitably.

If the Wagner Act indeed secured the right of free choice for workers, how was such free choice to be determined and implemented? Who was to decide and on what basis how workers had actually spoken or chosen? Here the staff of the NLRB usurped the formerly private rights and power of employers and trade unions. The NLRB determined the properly constituted bargaining unit; it also selected the legitimate institutional representative or agent for the workers in the defined unit, and it decided how

to establish a majority or plurality among workers that would bind the entire bargaining unit to a single agent (exclusive representation). The NLRB, however, was not free to act arbitrarily; NLRB staff were expected to respect the freely expressed choice (through secret ballot elections) of workers. Where the worker's voice was unclear as in conflicts between small units of craft workers encompassed within larger mass-production units, the Board considered history and tradition in determining whether to respect the wishes of a minority. Hence the Globe Doctrine, which simultaneously respected the voice of the majority and the wishes of small minorities.

Almost from the moment that the Wagner Act passed Congress and the NLRB began to enforce it, its critics and the enemies of collective worker action used the defense of the rights of individual workers to dilute the law's effect. Yes, said the critics, workers merited protection from despotic employers; equally, however, they insisted that individual workers also needed protection against the tyranny of unscrupulous labor leaders or an oppressive majority of fellow workers. Yes, union organizers should be free to approach workers and sell them the benefits of organization. Employers, however, should be equally free to promote the advantages of a nonunion enterprise among their employees. After all, how could an employee make a free, informed, uncoerced decision unless he/she obtained a full menu of information from all the actors party to the process of unionization and collective bargaining?

From the investigations of the NLRB undertaken in the late 1930s by the Smith Committee through the power politics and legislative debates that preceded the passage of the Taft-Hartley and Landrum-Griffin Acts, the enemies of the Wagner Act and trade unionism cloaked their anti-union, anticollective action aims in the rhetoric of individual rights and free choice. Anyone who has perused the published record of the Smith Committee investigations, the legislative history of Taft-Hartley, and the congressional debate over Landrum-Griffin cannot escape realization of how effectively the critics of the NLRB used the rhetoric of individualism, rights, and free choice. Again and again, the sponsors of Taft-Hartley and Landrum-Griffin stressed that workers required statutory defenses against tyrannical and corrupt labor bosses; that workers should be as free to reject unions as to accept them, whatever a majority of workers, however large, preferred, without fear of job loss; that the state should ensure that unions conduct themselves democratically with due respect for the rights and interests of individual members; indeed that union membership should not strip workers of their fundamental civil liberties as guaranteed by the Constitution's Bill of Rights; and also, to be sure, enable employers to pursue

their own constitutional right to address their employees freely through speech, print, and assembly (Gross 1984; Lee 1966, 1990; Dubofsky 1994:ch. 8). These criticisms of collective action resonated widely within the larger political culture partly because unions sometimes violated basic human rights and partly because the defense of constitutional rights appealed to a diverse audience. In a manner of speaking, the critics of the Wagner Act who crafted Taft-Hartley and Landrum-Griffin acted as precursors of the subsequent "rights" movements. Only the individual worker in accord with his/her own conscience, claimed "rights talk," may decide how to regulate his/her own labor; the individual had to be free to choose without restraint by external private bodies or the police power of the state.

That being the case, I would like to suggest a revision in Willie Forbath's hypothesis that the American labor movement in the late nineteenth and early twentieth centuries (meaning the AFL) in the aftermath of judicial rejection of both collective worker action and state welfare legislation adopted an aggressive "rights" philosophy that denigrated positive state action even in behalf of workers (Forbath 1991). Rather, it makes more historical sense to observe that just at the moment that the American state chose through the Wagner Act to legitimate the collective power of workers, employers and their political advocates reinvigorated the concept of constitutionally protected individual rights as a restraint on the collective power of working people.

For almost thirty years the federal courts usually interpreted labor law and industrial relations policy to buttress the power and influence of trade unions—and sometimes employers—against the will and desire of individual workers (Cox 1958; Feller 1973; Atleson 1983; Lynd 1981; Stone 1981). For the last ten or more years, however, many federal judges have begun to protect individual workers against the institutional claims of the unions to which they belong, liberating them to cross picket lines without penalty, to refuse to pay union dues without job loss, and to violate union discipline without cost. These same judges have erected barriers to trade union proselytization of prospective members while liberating employers to combat unions through almost any means short of outright coercion or blatant violence.

How the concept of individualism and constitutional rights has served to undermine the promise of the original Wagner Act and NLRB came home to me with graphic clarity during a conference I attended last October in Washington, D.C., to celebrate the 60th anniversary of the NLRB. Participants came from academia, primarily schools of law and industrial and labor relations, and from among current and former members of the NLRB. What especially struck me was how the NLRB staff from the Reagan-Bush

years, now largely in private law practice as management consultants, reinterpreted the meaning and purpose of the Wagner Act. Fastening on the Act's defense of the individual worker's right to choose and its condemnation of industrial conflict, these "labor lawyers" asserted that the Wagner Act was not a form of "affirmative action" intended to benefit trade unions as a separate class but rather an effort to extend the constitutional blessing of liberty to individual workers who might then choose to bargain collectively, with or without independent trade unions. Thus does the language of rights serve simultaneously to render harmless the effort by the state to redress the situation of citizens long the victims of overt discrimination as well as the ability of workers to join together effectively in order to promote their interests through collective action.

The tension between the rights of workers (citizens) as individuals and as members of a collective (unions), between liberty as a product of narrowing public power and as the consequence of positive state action, and between the elected public government and private voluntary governance has always existed precariously in the law, the state, and society. Today, as yesterday, popular attitudes and legal consciousness question collective actions that diminish individual rights. The age of Victorian legal culture may be long dead and the antistrike injunction of the late nineteenth century a relic, but the right of individual workers to cross picket lines, to serve as replacement labor, and to claim a right to work, regardless of union membership, remain alive and well. Those rights live because the appeal of individualism and the desire for negative liberty resonate across a wide spectrum of society. And it is this popular sanctification of individualism and constitutional rights that partly diluted the promise of the Wagner Act.

References

Atleson, James. 1983. *Values and Assumptions in American Labor Law.* Amherst, MA: University of Massachusetts Press.

Cox, Archibald. 1958. "The Legal Nature of Collective Bargaining Agreements." *Michigan Law Review.* Vol. 57, pp. 1-36.

Dubofsky, Melvyn. 1994. *The State and Labor in Modern America.* Chapel Hill, NC: University of North Carolina Press.

Ernst, Daniel R. 1995. *Lawyers against Labor: From Individual Rights to Corporate Liberalism.* Urbana, IL: University of Illinois Press.

Feller, David. 1973. "A General Theory of the Collective Bargaining Agreement." *California Law Review,* Vol. 61, pp. 663-856.

Forbath, William E. 1991. *Law and the Shaping of the American Labor Movement.* Cambridge, MA: Harvard University Press.

Gordon, Colin. 1994. *New Deals: Business, Labor, and Politics in America, 1920-1935.* New York: Cambridge University Press.

Gross, James R. 1974. *The Making of the National Labor Relations Board.* Albany, NY: SUNY Press.

_____. 1981. *The Reshaping of the National Labor Relations Board, 1937-1941*, Albany, NY: SUNY Press.

Irons, Peter H. 1982. *The New Deal Lawyers*. Princeton: Princeton University Press.

Lee, R. Alton. 1966. *Truman and Taft-Hartley*. Lexington, KY: University of Kentucky Press.

_____. 1990. *Eisenhower and Landrum-Griffin*. Lexington, KY: University of Kentucky Press.

Lynd, Staughton. 1981. "Government without Rights: The Labor Law Vision of Archibald Cox." *Industrial Relations Law Review*, Vol. 4, pp. 483-95.

Stone, Katherine. 1981. "The Post-War Paradigm in American Labor Law." *Yale Law Journal*, Vol. 90, pp. 1509-80.

Tomlins, Christopher L. 1985. "The New Deal, Collective Bargaining, and the Triumph of Industrial Pluralism." *Industrial and Labor Relations Review*, Vol. 39, no. 1 (October), pp. 19-34.

_____. 1986. *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880-1960*. New York: Cambridge University Press.

_____. 1995. Book review in *Business History Review*, Vol. 68, pp. 593-97.

Legal Craftsmanship? The Drafting of the Wagner Act

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Statutes are like children. You do the best your intelligence and instincts can do to shape them. And then you send them out into the world, their fate in the hands of others—who may be sympathetic but uneducable, or worse, hostile and clever—protected only by the ability of words to persuade.

The art of legislative drafting lies accordingly in the careful attention beforehand to exactly what the draftsmen expect the law to accomplish, of the legal pitfalls it might expect to encounter and, more difficult, of the Act's potential in unforeseen (or unforeseeable) circumstances. On the one hand, drafting with too broad a brush, to give the greatest flexibility, might be an invitation to give almost any reading, even one that perverts the drafters' purpose. On the other hand, an excess of caution, too great an attention to detail, may invite a cribbed construction to the same effect.

The conventional wisdom is that the Wagner Act was a superbly crafted instrument. It was drafted with the participation of a number of very able lawyers—including Leon Keyserling, Calvert Magruder, Thomas Emerson, and Philip Levy—over a period of a year and whose attention to detail continued even into a consideration of the amendments offered during the legislative hearings; it steered carefully by such signposts as existed in prior law; and it drew deeply from the experience under Section 7a of the National Industrial Recovery Act. In other words, the draftsmen were nothing if not clear-headed about what they meant to accomplish and how to go about it: they wanted to require employers to bargain collectively with representatives chosen by a majority of the employees to create an effective administrative agency to vigorously enforce these rights, and as James Gross put it, to give that agency "the widest scope . . . to permit it to build up a constructive body of labor law"[1] applicable to all workers engaged in interstate commerce.

The effectiveness of the effort was scouted at the time by Walter Lippmann, who argued that the bill could not be made to work, that among other things it was fatally vague and would produce only "interminable and

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inconclusive litigation."[2] Note, for example, his comment on the law's sweep: "The first question that arises is: What wage earners are covered by the bill? The answer is important if we are to have a precise and certain law. Senator Wagner's answer to this vital question of jurisdiction is completely and absolutely vague."

The conventional view is that if there were major failures, they lay in the policy choices made, not in the language chosen to accomplish them. And for once the conventional wisdom is right. Let me address that aspect of the Act that triggered Lippmann's criticism, embodied in the statutory definition of an "employee." The issue is of contemporary significance in light of the United States Supreme Court's decision in *Lechmere, Inc. v. NLRB*,[3] that "nonemployee" union representatives are to be denied access to an employer's premises unless the persons they seek to address are outside the "ordinary flow of information."

The initial presubmission draft on point,[4] prepared by Leon Keyserling in early 1934, read:

> The term "employee" as used herein includes every person in the service of a person, firm, or corporation (subject to the continuing authority of such person, firm or employer to supervise and direct the manner of rendition of his service) who regularly performs any work for such employer.

Note that it contemplates only "regular" employment by persons defined virtually to invite the exclusion of those considered independent contractors at common law.

A later draft continued these elements but borrowed additionally from the definition of a "labor dispute" under the Norris-LaGuardia Act (itself a work of superb craftsmanship):

> "Employee" shall mean any person in the service of an employer (subject to the continuing authority of such employer to supervise and direct the manner of rendition of his service) who regularly performs any work for such employer. Wherever the term "employee" is used in this Act, it shall not be construed to mean the employee of a particular employer, but shall embrace any employee subject to this Act, unless the Act explicitly states otherwise. Thus, "a dispute between employer and employees" is not confined to a dispute between an employer and his employees.

A later version added to the above the inclusion of

> any such individual whose work has ceased as a consequence of or in connection with any current labor dispute or because of any

> unfair labor practice except that the term employee does not include individuals covered by the Railway Labor Act (approved May 20, 1926), as amended from time to time.

The definition in the Wagner Labor Disputes of 1934 pulled several of these threads together:

> The term "employee" means any individual employed by an employer under any contract of hire, oral or written, express or implied (including any contract entered into by any helper or assistant of any such individual, whether paid by him or his employer, if such assistant or helper is employed with the knowledge, actual or constructive, of the employer), or any individual formerly so employed whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice: *Provided*, that the term "employee" shall not include an individual who has replaced a striking employee. Wherever the term "employee" is used, it shall not be limited to mean the employee of a particular employer, but shall embrace any employee, unless the Act explicitly states otherwise.

It eliminated the requirement of regularity and the seeming exclusion of independent contractors—in fact, by including the assistants or helpers paid by "employees," it would include both independent contractors (or "inside contractors") as well as *their* employees. It retained the inclusion of displaced workers but excluded strike replacements. And it retained the idea, borrowed from Norris-LaGuardia, of nonproximity in the relationship.

The substitute bill introduced by Senator Walsh (drafted by Charles Wyzanski) retained the latter, but it included strike breakers as employees, it included only workers displaced by unfair labor practices, and it excluded other categories dictated by political considerations:

> The term "employees" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute connected with any unfair labor practice, and who has not obtained any other regular employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his father, mother, or spouse.

The final version, which became law, provided:

> The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse.

Compare the final product with Keyserling's initial draft and note the result of the crafting process: It abandoned any requirement of "regularity"—or inquiry into the manner of supervision, which would have invited the exclusion of persons thought to be independent contractors at common law. Though the final definition did not include "independent contractors" in terms, the choice of words invited their inclusion, just as the United States Supreme Court was to opine in *Hearst Publications* in 1944.[5]

Further, it included persons displaced *either* by unfair labor practices *or* as a result of a current labor dispute; and although it accepted the exemption of persons who had obtained "other regular employment," it added that that employment had also to be "substantially equivalent." Of the latter, Philip Levy wrote to Calvert Magruder that a striker who "might in desperation accept some undesirable but nevertheless regular employment" should continue to be considered a statutory employee. As a result of these inclusions, the reinstatement rights of strikers are irrespective of any unfair labor practice; and Levy's insistence upon "substantial equivalence" as a condition of statutory exclusion has proven to be of considerable significance.

An aspect of the draft that warrants special attention, referred to at the outset of these remarks, is the choice made early on to borrow from the Norris-LaGuardia Act to separate the idea of statutory employee status from the idea of a proximate employment relationship. This has—or should have—at least two important consequences.

The first concerns the scope of statutory protection of concerted activity for the mutual aid or protection of employees under Section 7. In a 1958 case, *NLRB v. Texas National Gas Corp.*,[6] an individual employee was discharged for walking off the job to protest the discharge of a (now former) coworker for sleeping on the job. The Board afforded a remedy. The Fifth Circuit refused to enforce on the ground that the sleeper was not a

statutory employee at the time of the discharged employee's protest and, not being such, there could be no concert of action between "employees." "The statement that 'employee' includes any member of the working class is too broad," the court opined. A person rightfully discharged cannot be "an employee within the intent and meaning of the Act." But that is exactly what the Act said. It is for that reason that acts of discrimination against union activists—or relatives of union activists—who are not even in the employ of the employer who instigates their discharge violate the Act.[7] Contrary to Lippmann, the "employee" to whom the Act applies is both "precise and certain," and for that reason, *Texas National Gas* has never been followed.

Second is the Act's application to the expressive activity of union organizers and protesters on the employer's premises or the premises of a third party, the issue revisited in *Lechmere*. In that case the Court rejected the balance of expressive and property interests struck by the Board and held that its prior decision in *Babcock & Wilcox*[8] continued to be dispositive. And so it is to that decision we must turn.

In the caselaw prior to *Babcock & Wilcox*, the NLRB had used a test balancing the union's expressive rights against the employer's property rights, in which the degree of inconvenience to the employer was a factor. Accordingly, expressive activity by persons not otherwise licensed or invited to be on the premises would be a much more likely source of inconvenience than expressive activity by the employer's own employees. Such was the approach, for example, in *Marshall Field & Co. v. NLRB*,[9] in which the Seventh Circuit struck the balance differently from the Board but in which it sustained, as "of lesser importance," the right of nonemployee union organizers to solicit off-duty employees on a company-owned street that joined its two stores: the private way was used by both employers and customers and it was "open to the public for pedestrian use." But in *Babcock & Wilcox*, what had been a prudential consideration became a jurisprudential touchstone: The "distinction" between "employees" and "nonemployees," the Court opined—between those in and those not in an employment relationship with *this* employer—"is one of substance" driving a different analysis altogether.

From what appears, that distinction rests upon nothing more than the Court's having said it.[10] Indeed, it seems quite at odds with Section 2(3) which, as we have seen, was at considerable pains to ensure that nothing is to turn on the lack of a proximate employment relationship. In fact, Philip Levy wrote a memorandum to Calvert Magruder on April 17, 1935, defending the statutory definition from the attacks of several witnesses before the Senate committee. Abandonment of that provision would, he argued,

restrict the capacity of a "nonemployee" or outside union to serve as a statutory representative; and he joined his defense of that clause with a proposal to "offset" critics in the hearing by amending Section 2(3) to *exclude* "any individual who in the opinion of the Board has maliciously (wilfully) inflicted physical injury to person or property in connection with any current labor dispute." This, he argued, would merely codify existing NLRB practice; but by codifying it, the definition "cannot be expanded by amendment to take in [that is, to exclude] *union organizers* or labor organizations. Moreover it is so worded as to apply only to specific employees, rather than to all the employees or labor organizations in whose behalf violence is practiced. [Emphasis added.]"

The amendment was never added. But in terms of the *Babcock/Lechmere* question, it would have been surplusage. The statute was nothing if not clear that a (nonviolent) union organizer was a statutory "employee," the lack of a proximate employment relationship to the employer to the contrary notwithstanding. In any event, the Court never adverted to Section 2(3)—not in *Babcock*, not in *Lechmere*.

We should puzzle about why that was. The companies' briefs to the Court in *Babcock & Wilcox* argued to the distinction between "employees" and "nonemployees," but they did so in the context of the prudential consideration the Board had earlier assayed. (Indeed, they argued to the vitality of the decision in *Marshall Field* under which access at *Lechmere* would have been afforded, for a parking lot open to customer traffic would seem to be indistinguishable from a private street connecting two buildings in the heart of downtown Chicago.) In return, however, the Solicitor General's brief to the Court in *Babcock & Wilcox* never argued to the statutory definition.

I do not think *Babcock & Wilcox* or *Lechmere* can be laid at the door of poor craftsmanship. Reconsider the sequence of drafts laid before you and the final product. Is there any more the draftsmen should have done in 1935 to anticipate these cases? It is possible that the lawyering that went into them could have been better; such, at least, is a plausible partial explanation of *Babcock & Wilcox*. But as Philip Levy wrote to Calvert Magruder apropos another section of the bill, "[I]f the Board is going to be pro-employer, the jig is up." And one could say that as well of the judiciary as final arbiter of the text. Such is the limit of the draftsman's craft.

Endnotes

[1] James A. Gross, *The Making of the National Labor Relations Board*, Vol. 1, p. 130 (1974). The other leading works are Irving Bernstein, *The New Deal Collective Bargaining Policy* (1950); Peter Irons, *The New Deal Lawyers* (1987); and Christopher Tomlins, *The State and the Unions* (1985).

[2] *New York Herald Tribune*, March 28, 1935, p. 21, col. 1.

[3] 112 S.Ct. 841 (1992).

[4] The early drafts of the Act were published by Kenneth Casebeer, *Drafting Wagner's Act: Leon Keyserling and the Precommittee Drafts of the Labor Disputes Act and the National Labor Relations Act*, 11 Indus. Rel. L.J. 73 (1989).

[5] *NLRB v. Hearst Pub., Inc.*, 322 U.S. 111, 124 (1944).

[6] 253 F.2d 322 (5th Cir. 1958).

[7] See, e.g., *NLRB v. J.G. Boswell Co.*, 136 F.2d 585 (9th Cir. 1943); West Kentucky Coal Co., 10 NLRB 88 (1938) *enf'd* 116 F.2d 816 (6th Cir. 1940).

[8] 351 U.S. 105 (1956).

[9] 200 F.2d 375 (7th Cir. 1953).

[10] Note, *Still as Strangers: Nonemployee Union Organizers on Private Commercial Property*, 62 Tex. L. Rev. 111 (1983). This otherwise able student note opines that the legislative history did not address the question of "trespassing" union organizers and that the statutory language is "indeterminate." But it, too, neglects Section 2(3).

The Union Officer before and after the Wagner Act

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How profoundly did the Wagner Act change the distribution of authority in society? The Act signaled a momentous constitutional shift in favor of Congress and ratified the end of employers' virtually absolute rights over the workplace. But what of the authority of labor union officers as governors of their newly empowered organizations? This was a question I sought to investigate (in very preliminary fashion) as a matter of law, by comparing a sample of court decisions concerning the internal affairs of labor unions in a single state for an equal span of years before and concurrent with the Wagner Act's passage (1913-35) and afterwards (1936-58), prior to Landrum-Griffin.

My hypothesis in starting out was that the Wagner Act would again prove a watershed event. I expected the legal authority of union officers—that is to say, their legal rights—to strengthen in discernible ways, alongside their higher status as congressionally sanctioned participants in industrial affairs.

Our question takes on a different coloration when situated first in the era leading *to* the Wagner Act, rather than the one leading from it. For, from the time union officers obtained national prominence, they have been thought to present a threat to rights of individuals, both inside and outside of their organizations. Opposition to the Wagner Act coalesced almost immediately around the issue of individual rights. Even among labor's friends, the picture of strong internal leadership soon conjured up the specter of "business unionism."

Yet when labor unions emerged in their modern form in the late nineteenth century and arguably up until the eve of the Act, reigning theories of legal authority had it that officers of various kinds were persons designated in law to have greater rights, permitted to impose their will on others under their supervision, regardless of what private or constitutional rights might be valid in other relations. Besides common law jurists, liberal thinkers who went so far as to conceive of the polity as a vast expanse of

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personal liberty provided exceptions for officers. Bentham, the most systematic rights theorist until Holmes and Terry, called these exceptions "legal powers"—persons with legal permission to harm others in the course of performing functions the law deemed necessary. Among these he listed husbands, parents, guardians, masters, judges, military officers, and the sovereign it- (or her)self.[1]

If it feels awkward to call all of these designees "officers," think of them as "state-certified martinets," whose disciplinary actions were upheld in courts of law as a matter of right over competing rights claims—to the extent that they were allowed to be heard. Union officers, outside the privileged circle by virtue of the interests they represented, had a long and bitter experience with this system. With other workers they asserted rights of speech and assembly and jury trial and, to equal nonavail, rights as parties in railroad receiverships and in "yellow dog" litigations. In so far as their own organizations were concerned, their authority was understood to derive from contracts creating private rights that perforce brought the full spectrum of union affairs under the jurisdiction of other officers, namely judges.

In analyzing the New York cases,[2] I asked three questions: (1) How did judges conceptualize the sources of union authority? (2) How ready were courts to review decisions made by union officers? (3) How often did courts substitute their own judgments for the judgments arrived at by union officers?

The importance of the first question for the authority of union officers will be evident from the remarks above. The way judges conceived of the origins of union authority had a direct bearing on officers' "rightful" actions and whether they had precedence over other rights claims from above or below. As is well known, unions were for the most part unincorporated and as such were treated as arising out of a voluntary contract among the members, the union constitution and bylaws spelling out the terms upon which members were associated.[3] This conception was not replaced following the Wagner Act, although by the end of the period studied, its interpretation was modified in minor respects.

The most vivid demonstration of the contract idea is the "New York Rule" (found also in other places) that an officer's action did not create a liability in the organization—payable against the treasury—absent evidence of the approval of every single member. A main effect was to deny damages to members held to have been illegally expelled or otherwise disciplined.[4] Tellingly, there are cases both before and after the Wagner Act when New York judges awarded damages without apparent regard to the rule; however, only in the last year, 1958, is it held outright that damages may be

awarded upon evidence that only a portion—not all—of the membership acquiesced in the discipline (by attending a meeting where they were informed, etc.).[5] The earlier rule continued in force, however, in accusations for libel.[6]

There is no need to belabor that voluntary contract is weak ground for authority; and legal scholars in every decade considered here gave contract a drubbing for its inappropriateness as applied to unions.[7] Faced with real cases, judges regularly weighed individual members' rights against less voluntarist elements fundamental to union organization—in fact, officers' rights, although they were seldom referred to as that.[8] Notable was a deference to stability and, on that basis, to hierarchy. Judges repeatedly invoked stability interests, for instance, to justify the revocation of a local's charter without notice;[9] to find loyalty an implied condition of membership of such significance to justify expulsion;[10] to find equitable property interests for members in longstanding practices[11] and timeliness of elections (the union leader is "not the arbiter of social pleasure; he is the dispenser of bread").[12]

In the New York cases, the tempering of voluntarism with realism appears to increase after the Wagner Act. At least statements like the one just quoted appear with greater frequency. Thus it was important that union discipline not be arbitrary "now that union membership is so generally . . . essential to a laborer's right to earn a living."[13] "The unauthorized and illegal actions of the plaintiff tended to destroy the stability and effectiveness of the agreements existing in the industry."[14] Trade unions are no longer "mere unincorporated associations . . . [they] have as perpetual an existence as corporations."[15] Insurgents must proceed lawfully if "unionism is to be made clean and fresh, in keeping with the enlightened will of the top AFL-CIO leadership."[16]

Still, all this is nuance. No competing idea around which union officers' authority might have been stabilized emerged to replace voluntary contract. The only candidate nominated appears in one of Judge Hammer's disquisitions on Communist party membership, where he remarks that labor unions "have inherent power, somewhat akin to the police power of the state," to regulate their affairs "so as to attain the objects and purposes for which they were constituted" and to discipline members and officers for "conduct tending to thwart or destroy its objects."[17] However, no other judge seems to have taken up his suggestion.

That courts might have supervised union officers along a different model, or one supplementary to contract, is not altogether far-fetched. One available alternative, evolved to regulate public officers, was based on a distinction between "judicial" actions, performed according to discretion without interference by others, and "ministerial" actions, performed as a

duty subject to review by superior authority. These distinctions were also applied to directors of business corporations, who, like union officers, theoretically derived their authority from free contract. In matters where directors were said to be "clothed" with discretion, courts would not entertain stockholder suits for damages flowing from an exercise of judgment, however erroneous.

The closest analogous rule in internal union disputes was "exhaustion of remedies," according to which a court of justice would not hear a case prior to the plaintiff having run his or her cause through the various appeals procedures provided by the union's own constitution. The rule presumed oversight of union affairs, the very terminology suggesting the unsatisfactory character of the union's processes. More important, the rule left virtually no area where a union officer's right to decide precluded a judge's intervention. Union officers were "clothed" with discretion to decide most things first, but never finally; the only possible exception seems to have been the business of levying and collecting dues.

New York judges both before and after the Wagner Act gave lip service to the exhaustion rule. There are, however, three things that distinguish the post-Wagner Act cases from those earlier. In the first place, perhaps testimony to the higher standard of appeals procedures offered by the more mature unions (only 10 of the total of 25 relevant cases in the sample after the Wagner Act, or 40%) arrived in court before the internal remedies had been exhausted—this based on the court's own determination of the posture of the case. This compares with 15 out of 20 cases, or 75%, in the pre-Wagner Act sample.

Secondly, of the 10 post-Wagner Act cases where the plaintiff had failed to exhaust his internal remedies, 5, or half of them, were heard by the court on the merits. In the pre-Wagner Act cases, the figure is 10 of 15, or 67%. One set of reasons given for overriding the rule in both periods is that the proceedings themselves are defective in some way: inadequate notice,[18] no charges proffered,[19] procedures take too long for effective relief.[20] Another reason is that given the particular claim or personalities at bar, there was no chance for an impartial review under the procedures offered.[21] In the pre-Wagner Act period, judges seem more willing to simply state the rule and say that it is an insufficient defense;[22] in one case there is a (rare) dissent from a holding on a failure to exhaust, simply stated.[23]

A third (mildly) interesting difference is the reasons judges give when they decline to hear a case based on the exhaustion rule. Here it is in the post-Wagner period that judges seem satisfied to simply enforce the rule, perhaps embellishing it with a remark as to how "family matters" should be

settled within families.[24] In the pre-Wagner Act period, possibly reflecting the lower prestige of union procedures and of union officers themselves, judges were more inclined to flank the rule's enforcement with secondary explanations—the claim was based on a privilege (union office), not a right;[25] the complaint was improperly drawn;[26] or to justify the quality of the union's proceedings—they were not arbitrary, capricious, or in bad faith.[27]

Exhaustion of remedies aside, in the majority of cases before them, New York judges came to the opposite conclusion from union officers who had last internal say in the matter; this was true in both the pre-Wagner and post-Wagner periods. Before the Wagner Act, of the 24 cases tried in the sample, 14 (58%) were decided over union officers' own rulings. After the Wagner Act, of 30 cases tried, 16 (53%) overruled union officers' rulings.

The pertinent rule in these cases was that once having assumed jurisdiction, courts would not weigh evidence upon which a judgment by an appropriate union tribunal was based or substitute its own judgment where charges were sustained after fair hearing.[28] This rule was not strictly obeyed after the Wagner Act any more than before. In one case in the later group, for instance, new and self-interested evidence was allowed in the balance.[29] In both periods, judges made substantive calls in overriding union determinations: for example, that concededly "irregular" behavior (holding special meetings to amend bylaws and elect autonomous local officers after ordered to stop) did not constitute bad faith and unfair dealing as defined by the union's constitution[30] and that "smear sheets" against union officers remained within the limits of fair campaigning.[31]

The diversity of issues presented and the size of the sample make comparisons within specific categories difficult. For example, in two cases of pension claims presented, the pre-Wagner Act decision read the word "may apply" in the constitution to give discretion over the benefit to union officers;[32] whereas the post-Wagner Act decision held that "may apply" was there for pensioners' benefit to choose between retirement and working.[33] One interesting change that plausibly distinguishes the periods, however, concerns the degree to which courts protected individuals' rights more frequently than union officers' when the latter were plaintiffs contesting decisions made by union superiors.

To test the latter pattern, I compared the 24 and 30 cases in the two groups respectively, tabulating judicial overrides of union tribunals against the character of the plaintiff—whether the plaintiff was a union officer in conflict with union higher-ups or simply a union member. In the pre-Wagner Act group, the difference between officers and individual members

was negligible, 59% overrides versus 57%. After the Wagner Act, individuals prevailed in court at the level of 64%, while 44% of union officers were successful in their appeals.

Just what such a finding would mean if it were based on a larger number of cases might be worthy of further investigation. It might suggest a heightened concern for individual rights, even a support for democratic ferment, that would be enacted in the LMRDA; it might reflect a hands-off attitude toward unions in disputes with their own functionaries in light of improved internal procedures. Or it might indicate that unions during this period were able to regulate their own functionaries with greater fairness than they were individual insurgents or dissidents.

The failure of unions to become authoritative managers of their own affairs comparable to the officers of the institutions they challenged—the failure of the Wagner Act to foreshadow this development—obviously has many causes not mentioned here and, in any case, not reasonably contained in our time frame. On the other hand, nearly a quarter century passed when union political strength and party politics should have favored an offensive of that kind. Probably a better explanation lies inside the union movement and the strife of one sort or another that plagued the years in question.

In remarks already too compressed, I will suggest another tack to the problem, one that would emphasize what might be called the changing American *Rightgeist*. The idea of unions as voluntary contracts was infirm, and it precluded realistic evaluation of the diverse structures of union authority. That said, it partook of a legal-intellectual susceptibility to generalities, to systems, under which previous authority had been legitimated and under which it is at least imaginable that an authoritative union office-holding, a structure of union officers' rights, might have been constructed as well.

Here too, one can think of many adverse elements in labor law history that would have impeded such a move (although they were not apparently much alive in the New York courtrooms observed). Most important of these in the end may have been the unions' own victories in the field, which amounted to a long assault on the old legal regime at its logical foundations. This meant, among other things, that any rebuilding must take place under radically different intellectual auspices. However closely one ties such figures as Pound, Holmes, Hohfield, Felix Cohen, and Hale to the struggles of working people, it will perhaps be agreed that they were too embroiled in exposing the contingency of all rights, the illogicality of all exceptions, to project new arrangements of rightful authority for labor union officers or anyone else.

This is not to argue that these efforts necessarily would have been successful. But within that broader historical context—the possibility of modern authority—the Wagner Act may again warrant scrutiny as a watershed event.

Endnotes

[1] Jeremy Bentham, *Of Laws in General* (H. Hart, ed., 1970), 200.

[2] The New York cases, 61, are the largest group in a seven-state sample.

[3] *Brownfield v. Simon*, 94 Misc. 720 (1916).

[4] *Scivoletti v. Leckie*, 4 A.D.2d 773 (1957).

[5] *Madden v. Atkins*, 1 N.Y. 2d 283 (1958). See also *Polin v. Kaplan*, 257 N.Y. 277 (1931); *Robinson v. Dahm*, 94 Misc. 729 (1916).

[6] See *Lubliner v. Reinlib*, 184 Misc. 472 (1944). Under the New York General Associations Law, a union and an individual could not be sued concurrently.

[7] The most cited is Z. Chafee, "Internal Affairs of Associations Not for Profit," 43 *Harvard Law Review* 993 (1930).

[8] But see *Irwin v. Possehl*, 143 Misc. 855 (1932), at 858.

[9] *Nilan v. Colleran*, 283 N.Y. 84 (1940).

[10] *Polin v. Kaplan*, 257 N.Y. 277, 282-3.

[11] *Caliendo v. McFarland*, 13 Misc. 2d 183 (1958).

[12] *Duzing v. Nuzzo*, 177 Misc. 35 (1941), 37.

[13] *Coleman v. O'Leary*, 58 N.Y.S. 2d 812 (1945), 817.

[14] *Cromwell v. Morrin*, 91 N.Y.S. 176 (1949), 183.

[15] *Martin v. Curran*, 303 N.Y. 276 (1951), 293-4.

[16] *Ash v. Holdeman*, 13 Misc. 2d 411 (1958), 416.

[17] *Weinstock v. Ladisky*, 197 Misc. 859 (1950), 871.

[18] *Bricklayers, Plasterers & Stonemasons v. Bowen*, 183 N.Y.S. 855 (1920).

[19] *Coleman v. O'Leary*, 58 N.Y.S. 2d 812.

[20] *Shapiro v. Gehlman*, 244 A.D. 238 (1935).

[21] *Rodier v. Huddell*, 232 A.D. 531 (1931).

[22] *Walsh v. Judge*, 223 A.D. 423 (1928).

[23] *Gersh v. Ross*, 238 A.D. 552 (1933).

[24] *Hendren v. Curtis*, 164 Misc. 20 (1937).

[25] *Kaplan v. Elliot*, 145 Misc. 863 (1932).

[26] *Andrews v. Local No. 13*, 133 Misc. 899 (1929).

[27] *Shapiro v. Gehlman*, 152 Misc. 13 (1934).

[28] *Bricklayers v. Bowen*, 183 N.Y.S. 855; *Ames v. Dubinsky*, 5 Misc. 2d 380 (1947), 409.

[29] *Irwin v. Foley*, 261 A.D. 136 (1941). See also *Blek v. Wilson*, 237 A.D. 712 (1933).

[30] *Koukly v. Canavan*, 154 Misc. 343 (1935).

[31] *Madden v. Atkins*, 4 A. D. 2d 1 (1956).

[32] *Bannester v. Gray*, 261 N.Y. 445 (1933).

[33] *Lowe v. Feldman*, 11 Misc. 2d 8 (1957).

XVI. DISTINGUISHED PANEL— "A TALE OF THREE AGENCIES"

FMCS: Past, Present, and Future

JOHN CALHOUN WELLS
FMCS

The Federal Mediation and Conciliation Service (FMCS) has long provided neutral, third-party assistance to our nation's collective bargaining community. During a nearly half century of mediation service, many changes have taken place in the practice of labor-management relations. However, the marketplace changes since the late 1970s and continuing to this day and their transforming impact on management and labor are so sweeping and profound as to be without precedent. FMCS today is responding vigorously to these economic and social pressures and reinventing itself to assure its relevance to the changing needs and interests of unions and firms. This paper addresses the FMCS response. It does so in three parts, with brief attention to the past (1947 to the late 1970s), greater attention to the transitional period from the late 1970s to 1993, and more detailed attention to the innovations undertaken since 1993.

Background of FMCS—Creation and Expansion of Charter

The Federal Mediation and Conciliation Service was created as an independent agency of the federal government in 1947 by the Taft-Hartley Amendments to the National Labor Relations Act of 1935, 29 U.S.C. 151 *et seq.*, "in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation."[1] This "dispute mediation" has been the "bread-and-butter" work of this agency since its creation.

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The Taft-Hartley Act also requires FMCS to make available "full and adequate governmental facilities" for voluntary arbitration. Since 1947, FMCS has provided labor and management parties with arbitration services by maintaining a roster of about 1,700 private arbitrators with demonstrated experience in collective bargaining and labor-management issues. Upon request, FMCS furnishes to the parties a panel of names of arbitrators for their selection. FMCS is the only national provider of arbitrators exclusively for resolution of employer-union disputes.

Since its creation in 1947, the agency's charter has been expanded by a variety of subsequent statutory enactments. For example, in 1974 Congress extended our jurisdiction beyond "industries affecting commerce" to nonprofit health care institutions,[2] and by 1994, health care institutions represented 10.5% of our mediation business.[3] In 1970 Congress extended our charter beyond the private sector to the U.S. Postal Service,[4] and in 1978 to the federal government sector. Most recently, our work in the federal sector was expanded by Executive Order 12871, issued by President Clinton on October 1, 1993, which directs the formation of labor-management partnerships in the federal government.[5] By 1994, 11.2% of our work was in the federal sector.[6]

FMCS's charter was further enlarged by the 1978 Labor-Management Cooperation Act,[7] which specifically authorizes and directs FMCS to encourage and support the establishment and operation of plant, area, and industrywide joint labor-management committees which

> are established for the purpose of improving labor-management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.[8]

The 1978 act also authorized FMCS to provide grant funds to establish or expand labor-management committees. Since 1981, FMCS has awarded in excess of $11 million to more than 200 labor-management committee grant applicants experimenting with innovative joint approaches to workplace issues.

While FMCS had been engaged in "preventive mediation" efforts from its inception,[9] the 1978 Act elevated the importance of this work—broadly defined as third-party assistance with joint processes designed to improve the parties' relationships and enable mutual benefit—and articulated it as basic to FMCS's mission.

Drawing on its conflict resolution skills, FMCS has helped in resolution of disputes outside of the management-labor arena since former Director

William Simkin was asked by Congress to mediate a land dispute between the Navajo and Hopi Tribes in the 1970s. The Administrative Dispute Resolution Act of 1990 and the Negotiated Rulemaking Act of 1990[10] expanded FMCS's role as resource and provider of ADR services, authorizing it to provide consultation, training, and mediation in disputes involving federal agencies. Through its "alternative dispute resolution" (ADR) program, FMCS helps to reduce governmentwide litigation costs, improve federal government operations, and facilitate regulatory reform by giving citizens a voice in the regulatory process. For our purposes, ADR refers to a variety of techniques for resolving disputes without litigation, such as mediation and arbitration.

Changing Role of Mediation: Past and Present

Past

Traditionally, mediation has been synonymous with resolution of negotiation conflicts between labor and management. Since the creation of FMCS until approximately the late 1970s, the profile of this collective bargaining dispute mediation has been defined largely by the traditional adversarial relationship between union and firm. The role of the mediator was to provide skilled and seasoned third-party assistance, usually in the last days or hours before contract expiration to help resolve the differences and avert a strike. As practiced, this was essentially crisis mediation, and the mediator's image was that of a firefighter parachuting in at the eleventh hour to settle a dispute and prevent a strike. This traditional model of mediation continues, but the transforming developments of the late 1970s and 1980s have led to its transition.

Late 1970s until the Present

It is my belief that mediation, like the practice of labor-management relations, is now in a transitional phase driven by well-known societal forces of change such as foreign competition and the rise of domestic, nonunion competition; rapid technological innovation; deregulation; and growing workforce diversity. The landscape of collective bargaining today is one of extremes. On the one hand, disputes are increasingly complex and contentious, as unions struggle to protect what they have previously won, and companies are pressed to cut costs. While the number of strikes has declined, those that occur are often longer and bitter.

On the other hand, more and more parties are seeking competitive advantages by adopting more collaborative relationships. These strategies are diverse. Many entail a serious attempt to redefine the relationship

between employees and supervisors through labor-management partnership and mechanisms for employee involvement. Many see these strategies as critical to improved economic performance through higher productivity and better product or service quality.[11] When this occurs, it yields profits for firms and increased employment opportunities and security for workers and their unions. Consequently, and as a matter of common sense, American companies will increasingly engage their unions to cooperate in their introduction and implementation.

Competitive factors and the need to improve economic performance have driven the introduction of new bargaining processes, and even the nature and content of collective bargaining agreements are in transition. New pay systems, new work systems, and new forms of ownership are also increasingly evident.[12] Labor-management relations are increasingly becoming part of competitive strategy, and many corporate executives and union leaders acknowledge that new ways of working together are an economic and competitive necessity.

Some leading examples are Ford and the United Automobile Workers; XEROX and Levi Strauss and the Amalgamated Clothing and Textile Workers Union (now UNITE); Philip Morris and Nabisco and the Bakery, Confectionery, and Tobacco Workers Union; General Electric and the International Union of Electrical Workers; Champion, James River, and Scott Paper and the United Paperworkers International Union; Harley Davidson and Weyerhaeuser and the International Association of Machinists; Inland Steel, Magma Copper, and Reynolds Metals and the United Steelworkers of America; and AT & T and NYNEX and the Communications Workers of America and the International Brotherhood of Electrical Workers.

The United States government is providing a national laboratory for one of the most remarkable recent developments in labor-management relations. As part of the reinventing government process initiated by Vice President Gore's National Performance Review,[13] Executive Order 12871 was issued by President Clinton on October 1, 1993. It is a clarion call for every federal government agency to engage in partnerships with the unions representing its employees as a way of reforming government. There has been significant interest by federal agencies and unions in exploring their relations as a vehicle to drive change within agencies and transform them into organizations capable of delivering the highest quality services to the American people.

These trends are significant, even though they represent a small fraction of American workplaces, since they are being driven by some of our nation's most important organizations. Over time, and with demonstrated

successes, innovations practiced by these respected firms and unions and in the federal government may act as catalysts for change throughout our nation's workplaces.

All of this has meant more preventive mediation business for FMCS, as the parties have sought to learn new concepts and skills to carry out their changing roles and increasing responsibilities. We are witnessing a growing interest by the collective bargaining community in experimenting with new ways of relating: management and labor are increasingly looking at new models of negotiations, such as interest-based, mutual gains, or "win-win" bargaining; different conflict resolution processes; joint problem-solving techniques; and greater sharing of information and data. While we have not been involved in all of these high-profile innovations, we have worked with some of these parties, and our work with small and medium-sized employers and within the federal government helps to diffuse these new practices throughout business, industry, and the nation.

FMCS mediation statistics confirm these trends. Over the last ten years, the number of collective bargaining dispute mediation cases actively handled by FMCS declined by about 37%. We believe this is due to a declining number of bargaining units; the longer duration of contracts; and the declining incidence of strikes, coupled with the increasing use or threatened use of striker replacements. Concurrent with this decline in dispute work, the number of preventive mediation cases handled by our mediators during this time period has increased by nearly 169%. If this trend continues, one can envision a future not too distant in which preventive mediation will equal dispute mediation among FMCS collective bargaining services.

During the last few years there has also been a dramatic increase in requests by foreign nations for our assistance in developing labor-management relations and conflict resolution systems. As the nations of the world struggle to compete effectively in the new world marketplace, many are examining the role and structure of their labor relations systems and workplace governance issues. In 1994 alone, FMCS mediators trained or briefed labor, management, or government representatives from 85 different countries, with special attention being given to requests for assistance from former Eastern Bloc nations as well as Russia.

Similarly, as the public grows more intolerant of government regulation and with litigation as a means of resolving conflict, the demand by other federal agencies for FMCS alternative dispute resolution assistance has exploded in the last two years and could, if that trend continues, quickly exceed our current delivery capabilities. FMCS mediators have also contributed their skills to provide schoolyard mediation services to school

boards in several major cities. The problem of violence in our nation's classrooms, as in our workplaces, and in our communities is well known. While this mediation service is today very limited, given the lack of appropriated funds or staffing, we do this work on a pro bono basis, since it is clearly in the public's interest for federal mediators to introduce problem-solving and conflict resolution skills in our nation's schools. This is a mediation service with tremendous growth potential and national benefit.

The Future: FMCS Reinvention Blueprint

In December 1993, shortly after my appointment as the director of FMCS, I initiated an agencywide strategic planning process by assembling the Mediator Task Force on the Future of FMCS. This task force, collaboratively selected from a broad cross-section of FMCS employees, was empowered to make recommendations on the agency mission, goals, and policies for the future, leading to the development of specific agency changes and a strategic action plan by which to achieve these.[14] The purpose of the task force was to prepare FMCS for the future, taking into account the competitive factors affecting today's workplaces and the way bargaining and labor-management relations are being conducted. A basic premise for creating the task force was that FMCS must be mindful of the substantive factors affecting our traditional customers—the unions and firms in the organized sector of the U.S. economy and the public sector and how this, in turn, has affected the bargaining process and workplace relationships:

> A key assumption underlying the establishment of this Task Force was that if FMCS simply does what it has always done, even if it does these things very well . . . then time will pass us by, and our services, while still important, will find fewer customers and we risk becoming an organization of the past (*Report of the Mediator Task Force*: I).

Many of the speakers who addressed our task force, all of whom were national figures in business, government, labor, or the academic world, said that FMCS has a critical role to play as catalytic agent for workplace innovation in breaking down resistance to change, especially where new approaches have not yet been tried or taken hold. Our mediators can serve as a valuable source of information and ideas about successful models of change.

The task force issued its *Report and Recommendations* in July 1994. Its vision for the future is FMCS being a customer-driven organization continually seeking to improve performance. We must be capable of delivering

the highest quality services, equal to the best in the private sector, responsive to the changing needs and interests of the collective bargaining community and others seeking our conflict resolution assistance.

Full-Service Mediation

To achieve this vision, the task force makes the case for FMCS to be a "full-service" mediation agency with "360-degree" mediators able to deliver the full array of services which our customers seek. This concept embraces the role of the mediator as an aide to the parties in collective bargaining who can enter a tension-filled dispute under traditional, adversarial conditions and builds on the growing, successful practice of assisting management and labor in the creation and design of new partnering processes for workplace improvement. No longer can mediators simply be firefighters. Increasingly, they must become purveyors of best practices—catalysts for change-—able to encourage, motivate, and assist a collective bargaining pair to undertake a constructive transformation for the purpose of improved profitability and employment security. Mediators can help the parties develop better ways to communicate and relate, establish joint problem-solving procedures and more creative methods of bargaining and, perhaps, even encourage or help them to create high-performance workplaces. All of this is driven by the necessity to improve economic performance in the workplaces of America and the standard of living of American citizens.

The task force reflected on the changing role of mediators and caseload trends. FMCS has a cadre of mediators who are highly committed, experienced in collective bargaining, and knowledgeable in traditional mediation skills. However, as a whole, they may not today possess the requisite skills required to provide full-service mediation. To best prepare for the future, the task force concluded, "FMCS as an agency should acquire the knowledge, skills, and abilities to remain a major contributor to both the labor relations and conflict resolutions systems . . . . At a minimum, the agency must have sufficient expertise about current trends to be able to advise the parties meaningfully about them, even if ultimately it cannot deliver the hands-on service" (p. 38). To provide this wider range of services—both labor relations and ADR—which our customers are seeking,

> mediators will need state-of-the-art bargaining, problem-solving, facilitation and conflict resolution skills. At all levels of FMCS, up-to-date, consistent, and substantive training and expertise will be absolutely critical for our future vision to become reality (ibid.).

The task force identified, as central to its strategic vision of a full-service mediation agency, eight core competencies which the agency must

possess. The collective ability of mediators to perform professionally in these eight core competencies "will position FMCS to meet customer demands in the year 2000 and beyond with responsive, high-quality services" (p. 41). These competencies are (1) expertise in collective bargaining and labor-management relations; (2) assistance to the parties in the negotiation of collective bargaining agreements; (3) processes to improve labor-management relationships; (4) facilitation and problem solving; (5) processes to improve organizational effectiveness; (6) design and implementation of conflict resolution systems; (7) education, advocacy, and outreach; and (8) knowledge, skill, and ability in information systems.

To attain this level of performance, the agency has implemented a strategic action plan[15] which is based on the task force's recommendation that FMCS must "vigorously examine every aspect of the way its organization is structured, work is performed, and services are delivered."[16] This action plan is the sequential series of steps by which we seek to carry out our reinvention and to realize our future vision. The different components of the plan are interdependent and intended to mutually reinforce each other:

- Customer satisfaction, providing high-quality services which are responsive to the needs and interests of the parties, and customer research through focus groups and surveys, the results of which will be used as measures of our performance and as a gauge for improvement.
- A comprehensive professional development plan, making education, training, and continuous improvement an integral part of every employee's job;
- A revised employee performance appraisal system to positively reinforce the attainment of the core competencies.
- Redefined agency management responsibilities focusing on leadership, motivation, and coaching rather than supervising, distinguishing responsibility in the field operations for customer outreach and external relations from support and development of the workforce, and therefore focusing on each.
- Strengthened hiring criteria to attract and employ only those individuals who demonstrate the desire and ability to quickly develop into "full-service" mediators.
- Strategic use of modern information technology.
- A restructured field operation, streamlining nine districts to five regions, reducing managerial positions from 18 to 15; providing the single largest promotion opportunity for mediators in FMCS history by opening up all 15 new field leadership positions to bid by mediators

and equalizing the manager/mediator ratio to 1 to 20 throughout the nation.

- A sound labor-management partnership with our internal union at the FMCS national office—to practice what we preach—and address such issues as training and work design with a goal of achieving the good government standard; to wit: "the promotion of increased quality and productivity, customer service, mission accomplishment, efficiency, quality of work life, employee empowerment [and] organizational performance."

Conclusion

The extraordinary economic and social changes taking place in the marketplace have wrought comparable changes in collective bargaining and labor-management relations. Consequently, our customers are often seeking new and different mediation services from us. We are responding to these marketplace pressures by reinventing FMCS to be an increasingly value-added contributor to our nation's collective bargaining and conflict resolution systems. We are attempting to be a catalyst for workplace innovation and more constructive methods for resolving conflict. Our strategic action plan takes a private sector approach to managing this federal agency, focusing on our customers and their needs, improving the quality of our services to them, and strengthening mediation performance.

We are attempting a comprehensive, systemic approach to reinventing our agency. This strategy, we believe, will enable us to strengthen mediation performance and become a full-service agency with "360-degree" mediators with the requisite knowledge, skills, and abilities to perform this expanded role. Examples set by many leading private sector organizations persuade us that up-front investments in people through education and training, as well as information technology, reap tremendous rewards in employee performance. We are putting our customers first, placing primary emphasis on high-quality services, mediation performance, and customer satisfaction ahead of the institutional interests of the agency and its employees. We believe this more entrepreneurial approach to the operation of FMCS will best enable us to serve the changing needs of the collective bargaining community and is in the best interests of the American taxpayers.

Acknowledgment

This paper is in part drawn from an earlier paper submitted to the *Negotiation Journal* for publication to appear later this year. I wish to thank Wilma B. Liebman, coauthor of that paper, for her important and valuable contribution to this piece.

Endnotes

[1] Section 203 Labor Management Relations Act (Taft-Hartley), 29 U.S.C. 173. While this statutory charge has directed FMCS mediation services since 1947, mediation activity on the part of the federal government dates from 1913 with the establishment of the U.S. Department of Labor (DOL). The Secretary of Labor was the nation's chief labor mediator and appointed Commissioners of Conciliation to promote industrial peace. With the passage of Taft-Hartley, FMCS was created as an independent agency to sever any connection to DOL, to avoid any appearance of conflict of interest, and to maintain an independent group of neutral mediators. This tradition of independence, neutrality, and acceptability to both management and labor exists to this day and is integral to national policy.

[2] Public Law 93-300, sec. 1(a), 1974, 88 Stat. 395.

[3] The data in this paper are drawn from FMCS Annual Activity Reports prepared by FMCS Mediation Information Services.

[4] Historically, FMCS has provided mediation services through its mediation staff to labor and management parties in the private, federal, and nonfederal public sectors. While Taft-Hartley governs only private sector parties (excluding the railroad and airline industries) and specifically excludes governmental entities from its coverage, it nonetheless transferred to FMCS all functions previously performed by the Department of Labor's Conciliation Service. That service provided assistance in the private, federal, and state and local sectors. The FMCS therefore continued to perform these functions in those sectors. It was specifically authorized first by Executive Order and then by the Federal Service Labor-Management Relations Statute of 1978, 5 U.S.C. 7101-35, to provide mediation and other services for the collective bargaining of two million nonpostal federal employees and the federal government. The Postal Reorganization Act of 1970, 39 U.S.C. 1001 *et seq.*, directs FMCS to mediate national postal labor negotiations and to provide fact finders and arbitrators.

[5] President William J. Clinton, *Executive Order 12871 of October 1, 1993, Labor-Management Partnership* (The White House), 58 Fed. Reg. 52,201 (1993) (Executive Order). The order appointed the FMCS Director to the National Partnership Council, the body directed to promote development of partnerships throughout the executive branch, and the order's guidance dictates a major role for FMCS as a nationwide trainer and facilitator of federal partnership efforts.

[6] By 1994, 15.6% of FMCS work was in the state and local public sectors. While no federal statute expressly mandates FMCS involvement in these disputes, the agency has assisted some states or localities in the design of mediation systems and training of mediators. In a number of states the collective bargaining laws mention FMCS as a source of mediation services. In other states the parties jointly request and have received FMCS assistance where the laws mention mediation without providing any service, where insufficient mediation services are provided, or where the laws do not mention mediation at all.

[7] Public Law 95-524, sec. 6(c), 1978, 92 Stat. 2020.

[8] Section 205A(a)(B), 29 U.S.C. 175a. This act was passed as an amendment to Taft-Hartley.

[9] FMCS has provided preventive mediation services since its creation in 1947 and before as the predecessor U.S. Conciliation Service. See *The First Annual Report of the FMCS (for Fiscal Year ended June 30, 1948).*

[10] Public Law No. 101-552; Public No. 101-648.

[11] For a useful analysis of the role of worker participation in the success of the enterprise, see Ray Marshall, *Unheard Voices: Labor and Economic Policy in a Competitive World* (New York: Basic Books, 1987).

[12] *Report of the Mediator Task Force on the Future of FMCS* (Washington, DC: FMCS, July, 1994); *Fact Finding Report,* Commission on the Future of Worker-Management Relations (Washington, DC: U.S. Departments of Labor and Commerce, May 1994); Barry Bluestone and Irving Bluestone, *Negotiating the Future* (New York: Basic Books, 1992); Thomas A. Kochan, Harry C. Katz, and Robert B. McKersie, *The Transformation of American Industrial Relations* (New York: Basic Books, 1986).

[13] See *From Red Tape To Results, Creating A Government That Works Better & Costs Less, Report of the National Performance Review* (Washington, DC: Vice President Al Gore, September 1993).

[14] *Report of the Mediator Task Force on the Future of FMCS* (Washington, DC: FMCS, July 1994).

[15] *FMCS Strategic Plan, Fiscal Years 1995-1997* (Washington, DC: FMCS, November 1995).

[16] Ibid., 3.

References

Bluestone, Barry, and Irving Bluestone. 1992. *Negotiating the Future.* New York: Basic Books.

Clinton, William J., President. 1993. *Executive Order 12871 of October 1, 1993, Labor-Management Partnership.* The White House. 58 Fed. Reg. 52,201.

Commission on the Future of Worker-Management Relations. 1994. *Fact-Finding Report.*

Federal Mediation and Conciliation Service. 1948. *The First Annual Report of the FMCS (for Fiscal Year Ended June 30, 1948).* Washington, DC: GPO.

_____. 1994. *Report of the Mediator Task Force on the Future of FMCS.*

_____. 1995. *Strategic Plan Fiscal Years 1995-1997.*

Kochan, Thomas A., Harry C. Katz, and Robert B. McKersie. 1986. *The Transformation of American Industrial Relations.* New York: Basic Books.

Marshall, Ray. 1987. *Unheard Voices: Labor and Economic Policy in a Competitive World.* New York: Basic Books.

National Performance Review. 1993. *From Red Tape To Results, Creating A Government That Works Better & Costs Less, Report of the National Performance Review.* Washington, DC: GPO.

XVII. POSTER SESSION I

Examining the Relationship between Labor-Management Climate and Industrial Relations Outcomes: Evidence from Organized Labor

TERRY H. WAGAR
St. Mary's University

This study examined whether labor-management climate was associated with a number of industrial relations outcomes. Union officials tended to be less optimistic than employers in their assessment of labor climate. However, the results of the study indicated that a more positive labor-management climate was related to several industrial relations outcomes, including higher productivity, product/service quality, morale, and union member commitment to the organization. In addition, enhanced supervisor-union member relations, a lower rate of grievances, and a lower rate of absenteeism were also associated with a more favorable labor-management climate.

Is Contingent Labor Cost Effective?

STANLEY NOLLEN
Georgetown University

Contingent workers have no expectation of continuing employment and little or no attachment to a company. Most temporary and some part-time workers and independent contractors are contingent. Companies use contingent labor to achieve workforce flexibility, reduce labor costs, and ease management tasks. However, based on experiences of three companies, this research suggests that contingent labor may not reduce labor costs. Wages and benefits were lower, productivity was lower, and unit labor cost was lower for contingent workers compared to regular employees doing similar jobs. However, training costs were not recovered in two of the three companies, and this resulted in higher total labor costs for contingent workers in these cases.

Union Density in the U.S. and Canada: Explaining the Divergence

ROLAND ZULLO
University of Wisconsin-Madison

The author argues that the divergence in union density rates between the U.S. and Canada is largely due to legal and political institutional differences in those nations. In particular, the evolution of labor law in the U.S. has been shaped extensively by judicial interpretation in subordination to a federal constitution without a high degree of political influence by organized labor; whereas in Canada, provincial labor law has been shaped largely by the legislative process (in an environment that was not restricted by a strong federal constitution) and by effective, labor-supported political parties. As a consequence, the evolution of labor law in the U.S. has taken a more individualistic course, which is less conducive to collective forms of employee representation.

An Inductive Configurational Approach to Human Resource Management Practices and Policies

GYU-CHANG YU
University of Wisconsin-Madison

The present study explores how organizations actually combine several HR practices into more global systems at an organizational level. First, a taxonomy of HR systems was empirically derived based on 15 HR variables using a national representative sample of U.S. establishments. Then the paper examines the factors associated with organizations' choices of HR systems. From cluster analysis and two validation studies, two- and ten-cluster solutions were identified. The two-cluster solution divided organizations into two contrasting groups according to the extent to which an organization utilizes various HR practices. The ten-cluster solution showed more varied and distinct patterns of HR practices of organizations. Logit and multinomial logit models suggest that several environmental and organizational characteristics contributed to explanations of the different organizational choices of HR systems: for example, organizational size, market competition, percent female workers, unionization, organizational type, industry type, and affiliation to a larger organization. However, measures of strategic characteristics and other environmental variables were not statistically significant. Data limitations aside, the models suggest that organizational characteristics and long-term environmental constraints play a more important role in shaping the HR systems in most organizations.

Fact Finding and Conciliation in Police and Fire Disputes in Ohio

MARCUS HART SANDVER
Ohio State University

KATHRYN J. READY
University of Wisconsin-Eau Claire

ANDREW JEWELL
Ohio State Employment Relations Board

This study identifies the role that fact finding and conciliation play in the resolution of public sector collective bargaining disputes in Ohio. Specifically, this study investigates the 1042 negotiations that have transpired in Ohio over the past seven years involving police officers and firefighters. Special attention is paid to the 245 disputes which have been resolved in fact finding and the 121 disputes which have been resolved through conciliation (interest arbitration). Data are presented and analyzed which show that per capita income of the municipality and method of dispute resolution used to resolve collective bargaining disputes (e.g., fact finding) have a significant positive effect on wage rates.

Under What Conditions Is Self-Employment Viable?

JOHN GAREN
University of Kentucky

This paper considers self-employment as a pay system typified by strong, output-incentive pay and independence of worker action. Empirical tests are conducted to determine if self-employment occurs in conditions conducive to this type of pay system. Costs of monitoring workers are key in determining the incidence of self-employment. Using job characteristics from the Dictionary of Occupational Titles merged with Current Population Survey data, strong support for this approach is found. Additionally, we investigate whether workers are tied to their current job characteristics, making movement into self-employment difficult. We find that job characteristics are flexible, but hourly workers are still at a disadvantage in obtaining jobs that are likely to involve self-employment.

Human Capital and Labor Market Effects of Major League Baseball Expansion

W. DAVID ALLEN AND CHRIS PAUL
University of Alabama at Huntsville

A model of the implications of major league baseball expansion for marginal player quality is presented and tested with data for players who made their major league debuts the year before and year of National League expansion, 1992 and 1993, respectively. The empirical results support the theoretical predictions. On average, players who debuted during the expansion year possessed between one-third and one-half fewer seasons of minor league experience than those who debuted the previous year. Additionally, minor league players between the ages of 20 and 27, their peak athletic performance years according to previous studies, were the largest benefited group.

Determinants of Skill-based Pay Plans: Preliminary Results from Survey Data

CYNTHIA L. GRAMM AND JOHN F. SCHNELL
University of Alabama at Huntsville

We use data from a survey of human resource managers in Alabama business units to estimate a probit model of the determinants of the use of skill-based pay. Our key findings are that the use of skill-based pay is (1) significantly more likely if employees are members of a self-managing or semiautonomous work team or that employees are rotated from one job to another than when employees perform a single job and (2) significantly more likely if the minimum educational requirement for employees is less than a high-school education than if it is for a high-school degree or higher.

Employer Human Resource Policies and Worker Attitudes toward Unions

JACK FIORITO AND ANGELA YOUNG
Florida State University

This paper examines the influence of human resource management policies on nonunion workers' intentions to vote for unions. Data are drawn from the 1991 National Organizations Survey which provides matched worker and employer responses. Worker responses are used to

develop measures of attitudes toward jobs, employers, unions, ideology, and demographics. Employer responses are used to develop measures for human resource policies and general organizational characteristics. Preliminary findings indicate that compensation cuts, union pressures, bureaucratic structuring, and supportive worker attitudes and subjective norms encourage prounion voting, while an emphasis on incentive pay reduces prounion voting.

Wage Loss for Severely Injured Workers: Does Vocational Rehabilitation Help?

THOMAS J. CLIFTON
LeMoyne College

This paper attempts to evaluate the effectiveness of vocational rehabilitation in helping the severely injured worker restore his/her earning capacity. A random sample of 330 severely injured workers in the Minnesota workers' compensation system was used in this analysis. The study improves on previous studies in two ways: First, the data set contains prerehabilitation wages, and second, the nonrandom assignment into vocational rehabilitation is controlled for in estimation. Results from the study indicate that participants in vocational rehabilitation have, on average, a 24% to 27% wage loss. Higher levels of education and preinjury wages are positively related to higher postinjury wages. Back injuries and the amount of disability were found to decrease postinjury wages. After controlling for self-selection, estimates of the effect of vocational rehabilitation range from 0% to 19%. However, this outcome was dependent on the sample chosen. Regardless of the methodology used, vocational rehabilitation was not found to have a positive effect on postinjury wages. Possible explanations for these findings are presented.

Industry Demand for Part-Time Workers

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Using 2SLS to account for endogeneity of supply and demand, effects of production technology, industry and job characteristics on the distribution of part-timers across 155 industries are estimated. Data are collected from the 1987, 1982, and 1977 *Enterprise Statistics; Dictionary of Occupational Titles; Current Population Survey* (March 1988, October 1989, January 1991).

Results show that industry use of part-time labor is determined by rigidities in factors of production and conditions leading to ILMs. Use of computers does not have a uniformly negative effect. Using them for discrete tasks has a positive effect, while using them for integrative tasks reduces the likelihood of employing part-timers.

Work-Family Benefits Effects on Role Conflict, Satisfaction, and Earnings

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PAUL PERCY
Liberty University

Researchers have found positive associations between work-family benefits and desirable job outcomes. However, they have not studied whether this relationship results directly or indirectly from work-family benefits reducing work-family conflict. This paper uses survey data from nurses to examine this issue. The results suggest that interrole conflict serves to mediate the relationship between work-family benefits and job satisfaction but that work-family benefits do not directly influence employee earnings.

Job Placement Gender Discrimination and Firm Performance

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The human resource economics area has had a longstanding interest in gender discrimination. At the same time, there is growing interest in the relationship between human resource strategies and firm-level performance. We capitalize on these dual interests by investigating the impact of job placement gender discrimination on firm performance. Our 1992 data on the percentage of women managers at 200 of the largest U.S. corporations suggest that discriminating firms are penalized in terms of lower performance. Women managers appear to play a significant role in helping large U.S. firms stay competitive in today's global marketplace.

Unions—Providing Equality Efficiently

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In this paper the author argues that research on the value that unions bring to the market place has tended to frame unions' value in terms of efficiency and not equality. As a result, studies have tried to assess whether unionized or nonunion firms are the more efficient. However, what unions bring to the workplace is equality. The only other major institution that also attempts to provide market place equality is the government. Preliminary but indirect evidence supports the fact that of the two, unions provide marketplace equality more efficiently than the government. That being the case, policy makers should place more emphasis on fostering labor organizations and less on passing more protective legislation.

XVIII. POSTER SESSION II

What's Right and Wrong with Grievance Arbitration: An Empirical Investigation of Employer Perceptions

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The grievance arbitration process has come under criticism by both academics and practitioners. This study investigated the perceptions of more than 500 employers with regard to the arbitration process. When considering the typical arbitration case, on average about eleven months passed from the date of the grievance to the rendering of a decision. Employers perceived the arbitration process as quite formal and legalistic and believed that the use of an arbitration board contributed to the time delay. In addition, there was a perception that the use of legal counsel by the employer increased the probability of "winning" a case (if the union opted not to use a lawyer).

Employee Choice of Health Care Plans: A Policy-capturing Approach

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In many organizations, employees choose a health plan from a roster of providers. Surprisingly, little is known about how these workers actually make their decisions. Using a policy-capturing methodology, this study measured the impact of five variables (fixed costs, variable costs, coverage, quality of the plan, and the flexibility to choose physicians) on the decision-making processes used by employees when selecting a health plan. Results suggest that coverage levels and the freedom to choose physicians are the two most influential factors in this process. Conversely, the "quality" of the health plan was considered to be the least important dimension overall.

The Erosion of The Seniority Wage System in Japan and Korea: The Significance of Recent Developments

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SUNG SOO PARK
Chonnam National University

The adequacy of the seniority wage system in Japan and Korea has been increasingly questioned in recent years. The present study documented the recent erosion of the seniority wage system in Japan and Korea, identified forces behind such developments, and analyzed their implications to the future of national industrial relations systems. The authors concluded that the new pay system will most likely be one emphasizing individual ability and performance, and the future depends on how the new system successfully provides tools to stimulate employee motivation and commitment without the living guarantee principle.

Dual Health Insurance Coverage and Labor Market Turnover

MARK C. BERGER, DAN A. BLACK, AND FRANK A. SCOTT
University of Kentucky

In this paper we examine the impact of employer-provided health benefits on job turnover. Because many employer-provided plans extend coverage to a worker's entire family, the value of an employer's employment offer to a worker depends on whether the worker's spouse provides the family with health benefits. We develop a theoretical model that shows if a worker's spouse has employer-provided health insurance for the family, the worker will value employment offers with and without health benefits differently than a worker whose spouse does not have employer-provided health benefits. Most important, this distortion arises from the reliance on employer-provided benefits and is independent of any preexisting conditions clauses or issues concerning the portability of health plans. It is the direct result of the increase in the acceptable offer set that double coverage provides. While the impact of spouse-provided coverage on a worker's turnover probabilities is theoretically ambiguous, its impact on efficiency is unambiguous. Having a worker's valuation of an employment offer depend

on his spouse's health insurance plan only limits the efficient allocation of labor. We test our theoretical model using data from the April 1993 CPS and SIPP data sets. Our preliminary estimates suggest that spouse-provided benefits substantially increase the likelihood of turnover.

How U.S. Companies Address the Skill Shortage in Their Training Programs

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University of Lille, France

AUDE D'ANDRIA
University of Paris

Changes in international competition, globalization, and complexity of the economy explain that increasingly higher skill is a necessity. Since 1980 there has been a growing awareness that insufficient training is a problem facing the U.S. In this paper we study firms' possible answers in different environments. We develop an analysis based on a questionnaire seeking to determine the orientation followed by firms in their training approach. We find a nonsignificant effect of the public/private status of the firms, but a rather significant effect of the sector in which a company competes. We present the details of this sector effect, which is not a mechanical effect in a deterministic way but appears as a component of firms' strategies. We discuss these results in a systematic approach of firm complexity.

Our Tax Dollars at Work: Federal Contracts Awarded to Labor Law Violators

CHARLES JESZEK, JACKIE WERTH, RONNIE SCHWARTZ, AND CHERYL GORDON
U.S. General Accounting Office

This paper explores the extent to which serious violators of the National Labor Relations Act receive federal contracts. Our analysis of NLRB cases and federal contract data found that significant federal monies go to such companies, with serious violators receiving more than $23 billion, or 1 out of every 12 federal dollars (1993) awarded to private contractors. The paper analyzes the characteristics of the labor law violations committed and the federal contracts received and also discusses issues that would have to be addressed by future efforts to regulate contractor labor practices.

Are Longer Hours Reducing Productivity in Manufacturing: Estimates Applying a Production Function Model

EDWARD SHEPARD AND THOMAS CLIFTON
LeMoyne College

This paper provides statistical evidence of the effects of overtime hours on worker productivity using aggregate panel data for 18 manufacturing industries within the U.S. economy. An economic production function model is specified and estimated using data for the years 1956-1991, provided by the U.S. Department of Labor, Bureau of Labor Statistics; the U.S. Department of Commerce; and the Federal Reserve Board. Standard approaches are applied to specify and estimate a factor-augmented production function model, with possible effects of overtime on productivity incorporated through the specification of factor effort functions. The empirical results suggest that use of overtime hours lowers average productivity, measured as output per worker hour, for almost all of the industries included in the sample. These results hold up under several alternative specifications and estimation techniques, including controls or corrections for autocorrelation, heteroskedasticity, rates of capacity utilization, and possible endogeneity of the constructed variable representing use of overtime hours.

Ownership Structure and the Adoption of Large-Group Incentives (LGIs)

ROBERT MANGEL
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This paper uses an agency framework to explore the impact of firm ownership structure on the adoption of large-group incentives (LGIs). The results show that stable ownership by institutional investors is positively related to the adoption of LGIs. This finding suggests that institutional investors are putting long-term performance pressure on managers. The results also provide strongly significant evidence that firms with high ownership concentration are less likely to adopt LGIs, a finding that is potentially driven by risk aversion or entrenchment on the part of the owners.

Business Environment, High-Involvement Management, and Firm Performance

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NANCY BROWN JOHNSON
University of Kentucky

This paper tests configurational theory. Configurational theory argues that firms with holistic management practices consistent with their environment will outperform those firms whose management practices are neither aligned with each other or their environment. High-involvement management (HIM) captured management configurations. We hypothesized that businesses in uncertain environments with HIM (strategic alignment) outperformed those businesses in uncertain environments without HIM. This hypothesis was supported using a sample of large Korean businesses. However, strategic alignment in stable environments did not affect firm performance. Thus we conclude that strategic alignment may be more critical in uncertain than in stable environments.

Occupational Segregation and Earnings in the Youth Labor Market

PATRICIA SEITZ
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The link between occupational sex and race/ethnic segregation and wages is investigated for a cohort of youth in the 1980s; data are drawn from the National Longitudinal Survey of Labor Market Experience, Youth Cohort. Occupational segregation is as extensive for youth as for adults. As workers move out of the youth labor market, sex segregation decreases slightly and race/ethnic segregation increases. Occupational sex and race/ethnic segregation demonstrate negative wage effects in both the youth and adult labor market periods, but these effects diminish when occupational-level measures of skills, supply/demand, and social organization are held constant.

Individual Liability of Supervisors for Acts of Sexual Harassment

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A controversy has emerged in the federal courts regarding whether or not supervisors may be held individually liable in sexual harassment cases. Those courts conferring such liability have done so because "agents" under the 1964 Civil Rights Act are also defined as "employers." On the one hand, those courts holding that no individual liability exists have reasoned that the Civil Rights Act limits liability to employers with 15 or more employees and that the 1991 Civil Rights Act provides damages on the basis of employer size. Obviously, the U.S. Supreme Court will be required to resolve the controversy among the circuits regarding this important issue.

Attitudes toward Collective Bargaining and Compulsory Arbitration

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This paper examines attitudes toward collective bargaining and compulsory arbitration in Ontario, Canada. It is based on questionnaires and in-depth interviews with 44 union and management officials (and advocates representing unions and employers) actively engaged in negotiations in four sectors governed by arbitration statutes: police, fire, health care, and provincial government employees. The results indicate most respondents are neutral or dissatisfied with arbitration and agree arbitration inhibits genuine collective bargaining and provides a face-saving device. There are significant differences in the perceptions of union and management respondents with respect to the importance of various arbitral criteria and whether arbitrators base their awards on the replication principle and total compensation. Union and management respondents also differed in their evaluations of alternatives to compulsory arbitration. Significant sectoral differences appeared with respect to the impact of arbitration on the bargaining process; e.g., health care respondents agreed more often that arbitration had a chilling effect on negotiations. The predictability of arbitration outcomes was inversely related to arbitration usage; i.e., predictability encouraged voluntary settlements.

Ethnic Difference in Job Satisfaction Extrinsic Sources: Israeli Arabs and Jews

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This study compares universal and ethnic group differences models for the impact of extrinsic work outcomes on job satisfaction. Interview data were collected from 94 minority (Israeli Arab) and 101 majority (Jewish) production workers in five Israeli manufacturing plants. Hierarchical multiple regression results lend strong support of an ethnic group differences model to describe the impact of three extrinsic factors (pay, perceptions of discrimination, and positive cross-ethnic relations with coworkers) on minority-majority job satisfaction differences.

Three Dimensions of Voice and Their Relationship to Perceived Fairness

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Three types of procedural voice influenced perceptions of procedural and managerial fairness. True voice procedures and the managers who implemented them were considered fairer than misvoice and forced voice procedures. A degree-of-voice continuum was found for forced voice when procedural fairness was evaluated and for forced voice and misvoice when managerial fairness was evaluated. Implications of the dimensional voice model and directions for future research are discussed.

XIX. REPORT OF THE IRRA NAFTA COMMITTEE

Free Trade, Labor Markets, and Industrial Relations: Institutional Developments and the Research Agenda

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RUSSELL SMITH, *Washburn University*
MARCUS SANDVER, *Ohio State University*
KATHRYN READY, *University of Wisconsin-Eau Claire*
MORLEY GUNDERSON, *University of Toronto*
LANCE COMPA, *NAALC Secretariat, Dallas*
RICHARD P. CHAYKOWSKI, *Queen's University*

In 1995, IRRA President Walter Gershenfeld appointed the IRRA NAFTA Committee with a mandate to report to the membership on developments related to free trade and its consequences for labor and industrial relations. During the first year of operations, the committee spent its time defining the scope of its mandate and identifying tasks that could be accomplished given the resource constraints. Since the IRRA membership includes both researchers and practitioners, the scope of this committee's work spans the following activities: (1) providing an annual update on key institutional developments in trade as it relates to issues of work, workplace, and industrial relations; (2) providing an overview of new evidence and research on these topics; and (3) providing a guide to resources available for policy analysis and research in this area.

Addressing this mandate fully is likely to be a multiyear effort. To get started on what is expected to be an ongoing effort, we have tried to pull together an overview of selected institutional developments and a brief review of research. This paper generates a list of resources that can serve as a starting point for interested policy analysts and researchers.

Defining the Context for Policy and Research

As North America (Canada, the United States, and Mexico) gradually industrialized over the course of the twentieth century, a system of worker protection and representation developed in each country mostly in response to domestic pressures. This history is well documented in the case of each of the three NAFTA countries. With the emergence of new regional and global trading regimes, the old protection and representation systems have become less effective. For example, the ways in which unions could "take wages out of competition" are no longer effective or possible. New questions of worker protection and representation arise in the open trade[1] context. Is it possible to ensure that firms moving to low-wage areas do not reverse historical trends to return to "sweat shops" of the old days? Does open trade open up new avenues for firms to evade unions? Does open trade mean that some workers in low-skill jobs would be relegated to being an underclass without adequate improvements, income security, or protection from arbitrary employer treatment? To raise these issues is not to suggest that labor exploitation in an open trading regime is the only issue of concern to this committee. In that sense, worker protection is not a narrow concern for employees alone. It concerns employers and governments as well. Unless trade improves the lives of all (or a vast majority of) citizens, it is unlikely to enjoy popular support at the ballot box. In that way, everyone has a stake in making the open trading regime a fair transaction system.

Over the next ten years, we are likely to see a variety of regulatory experiments aimed at preserving or enhancing fairness and equity on the job and in workplaces. To move forward, policymakers will look for the kind of analysis and research engaged in by IRRA members. This report and future reports of this committee will strive to provide a focal point for dialogue, debate, and dissemination of these efforts within the IRRA. Although NAFTA will be a key development for the committee to follow, we have made an attempt in this report to look at other trade developments such as MERCOSUR in the southern hemisphere. This is especially important since such regional trade agreements are likely to proliferate or become part of wider trade agreements, such as the Free Trade Area of the Americas (FTAA) currently under negotiation.

This year's report provides a profile of the three NAFTA partners. This is followed by an overview of the structure and operations of the North American Agreement on Labor Cooperation (NAALC), one of the supplemental accords to NAFTA. In the next section we provide two perspectives on expansion of trade across the Americas: an account of Chile's potential

entry to NAFTA and another on the common market of the south (MERCOSUR), the labor mechanisms within the MERCOSUR process, as well as a discussion of labor issues in the FTAA negotiations. The last section briefly outlines empirical research evidence on wage and employment effects of trade.

An Economic Profile of the NAFTA Partners

The North American Free Trade Agreement (NAFTA) joined Mexico, the United States, and Canada together in a trading bloc that in 1995 included a combined population base of roughly 382 million and a total labor force of approximately 183 million workers (SCLC 1996:7). While NAFTA has created a framework for further economic integration, significant differences among the three countries in their industrial composition and development, socio-political characteristics, and institutional arrangements have led to distinct trade relationships and national labor market outcomes.

Trade Relationships

As the largest of the three economic partners, the United States has been a predominant focus of Canadian and Mexican trade activity. For the United States, Canada ranks as its largest and Mexico ranks as its third-largest trading partners (Fleck and Sorrentino 1994). In 1993 roughly 73% of Canada's and 80% of Mexico's merchandise exports, respectively, were destined for the United States (CANSIM; IADB 1994).

The level of economic integration between Canada and the United States has traditionally been high; between 1971 and 1990, 68%-70% of all Canadian merchandise imports were from the U.S., while Canadian exports to the U.S. increased from about 68%-70% in the 1970s to around 75%-78% in the late 1980s (CANSIM). An initial step in extending and formalizing Canada-U.S. trade linkages occurred in the auto manufacturing sector with the 1965 Auto Pact. But the 1989 Free Trade Agreement (FTA) was the major trade breakthrough that significantly extended the trade partnership between Canada and the United States.

From a Canadian perspective, NAFTA extended a bilateral trade agreement to one that would ensure that the evolving Canadian-American and Mexican-American trade relationships were symmetric, while simultaneously opening a new dimension (i.e., the Mexican economy) to Canada's traditional north-south trade orientation. Since the FTA (and NAFTA) came into effect, the U.S. share of Canadian merchandise imports increased from 69% in 1990 to 75% in 1995, while the share of Canadian exports destined for the U.S. increased from around 75% in 1990 to roughly 80% in 1995 (CANSIM).

The development of trade linkages between Canada and the United States has been facilitated by the broad similarities in their market orientation and structures and the fairly open character of their trade policies. In contrast, prior to the 1980s, the Mexican economy had been both more highly regulated and protected, which tended to restrict the nature of its trade relationships with other countries.

Fleck and Sorrentino (1994:4-5) note that during the decade following the Mexican economic crisis of 1982, the government implemented a broad program to deregulate and privatize the domestic economy, progressively open the economy to outside markets, and dramatically decrease the number of state-owned businesses.[2] Throughout the 1980s and 1990s, Mexico has been subjected to a variety of pressures that have slowed its economic progress, including economic (e.g., shocks to oil prices in the mid-1980s, effects of ongoing economic restructuring, and instability in financial markets in 1995), natural disasters (e.g., earthquakes), and political unrest (especially in the Chiapas in 1994). By 1986 Mexico was included in the General Agreement on Tariffs and Trade (GATT) and in 1994 had joined the Organization for Economic Cooperation and Development (IADB 1994; Fleck and Sorrentino 1994:5). These developments sent a strong signal to the rest of the world of a fundamental shift in Mexican economic policy because Mexico had refused to join GATT in years prior to 1982.

Mexico has historically enjoyed an extensive trade relationship with the United States. More recently, trade in manufacturing has expanded through the *maquiladora* program, which was first established in 1965 and further liberalized during the 1980s (Fleck and Sorrentino 1994). While the extent of trade between Canada and Mexico remains quite limited, it has increased under NAFTA.[3]

Labor Force Trends

In 1993 when NAFTA negotiations were concluded, the U.S. labor force had reached about 128 million, the Mexican labor force was about 33 million, while that of Canada was 13.9 million. Perhaps the two most important labor force trends common to all three countries are the changes in the gender composition of the labor force and the nature of the shifts over time in industrial employment shares.

In both Canada and the United States there has been a doubling of the labor force participation rates (LFPR) of women since World War II. Although the LFPR of women in Mexico has increased substantially since the 1970s, at 31% (in 1993), it remains far lower than that of either the United States or Canada (Fleck and Sorrentino 1994:10, Table 2).

All three countries have experienced a relative shift in employment shares away from goods-producing industries (especially primary and manufacturing industries) toward services-based industries; but in Mexico the shift toward services has occurred much more recently and remains less pronounced (reaching a share of 51% in 1993) relative to either Canada or the United States. In further contrast to Canada and the United States, where the share of total employment in agriculture had declined to less than 4% by the 1990s, the share of employment in agriculture remains very high in Mexico (27% in 1993) (see Fleck and Sorrentino 1994:16).

While the share of total employment accounted for by manufacturing has declined in Mexico over the past fifteen years, employment in the *maquiladora* industries has increased dramatically, from a level of around 67,000 in 1975 to more than 540,000 in 1993 (reaching 10% of manufacturing employment). In 1993, 81% of all *maquiladora* employees were production workers, 60% of whom were women (Fleck and Sorrentino 1994:16, Table 4).

Labor Costs

The competitiveness implications of widely differing labor costs and standards has been a major concern for American and Canadian manufacturers trading with Mexican firms.[4] Although indexes of hourly compensation costs in Canada and Mexico (relative to the U.S.) have fluctuated over the past twenty years, there has remained a substantial and consistent advantage for Mexican manufacturers over both Canadian and American producers (refer to Figure 1). Notably, there are also marked differences in the composition of total compensation costs across the three countries, including direct pay, benefits and allowances, and social insurance expenditures. Social insurance costs are the highest as a proportion of total compensation costs in manufacturing in the U.S. (23% in 1994) and the lowest in Mexico (11%), with Canada in between (16%) (Kmitch et al. 1995; Table 3, p. 9). Conversely, total direct pay (wages and benefits) was the highest in Mexico (89%) and the lowest in the U.S. (77%), with Canada in between (84%).

Unemployment Rate Differences and the Informal Sector in Mexico

Among the three countries, Canada has typically experienced the highest unemployment rate and Mexico the lowest. Prior to 1980 the Canadian unemployment rate tended to track closely that of the U.S.; through the 1980s and 1990s the Canadian rate was typically around 2% greater than the U.S. rate, due to such factors as changes in the growth and composition of the Canadian labor force, changes in unemployment insurance legislation,

and industrial restructuring (see, for example, Card and Riddell 1993). Even with some adjustment to match U.S. unemployment concepts, the measured Mexican unemployment rate has remained particularly low over the past decade; this has been attributed in part to the absence of an unemployment insurance system (Fleck and Sorrentino 1994:20). Importantly, measured unemployment rates do not appear to accurately reflect the high degree of underemployment in Mexico. Fleck and Sorrentino (1994:17-28) show why this is the case and provide a rigorous assessment of the methodological issues associated with the measurement of unemployment in Mexico, as well as a description of the characteristics of the unemployed.

Unlike labor markets in either the United States or Canada, in Mexico there is a significant and growing informal sector which has been estimated to consist of between roughly 26%-38% of the 1988 nonagricultural workforce (i.e., 7-11 million workers) (Fleck and Sorrentino 1994:12-13). It is estimated that 20% of all workers in the sector were unpaid and that among the businesses in this sector, around 80% involved self-employment and that the majority engaged in service-producing activities (Fleck and Sorrentino 1994:13).

NAALC and the Secretariat

The North American Agreement on Labor Cooperation (NAALC) was negotiated as one of the supplemental accords to NAFTA largely in response to concerns about adverse impacts of trade on labor. Under the agreement, a Commission for Labor Cooperation was set up with headquarters in Dallas. The Secretariat is the trinational operational arm of the Council of Ministers, the governing body of the Commission for Labor Cooperation. In addition, each NAFTA partner has created a National Administrative Office (NAO). While the NAOs are independent of the Commission, the Secretariat maintains close cooperation with the NAOs, coordinating activities as needs arise. A detailed account of the commission's structure and processes can be found in Morpaw (1995) and in Bulletin of the Commission for Labor Cooperation.

The commission is guided by eleven "labor principles" contained in Article 11(1) of the NAALC: freedom of association and protection of the right to organize, the right to bargain collectively, the right to strike, prohibition of forced labor, labor protections for children and young persons, minimum employment standards, elimination of employment discrimination, equal pay for women and men, prevention of occupational injuries and illnesses, compensation in cases of occupational injuries and illnesses, and protection of migrant workers. Article 11(2) states that the parties may

cooperate through seminars, training, working groups and conferences, research projects, technical assistance, and "such other means as the Parties may agree."

The commission organized a number of conferences and workshops in its first two years: a conference in Washington, D.C., on the freedom of association; a workshop in Mexico City on equality issues in the workplace in 1995; and a conference in Montreal on industrial relations in 1996. The commission also sponsored a construction industry study tour on occupational safety and health. The Council of Ministers met in September 1995 to approve a research workplan which involves preparation of three "baseline" reports in the area of labor markets, labor law, and best practices. These reports were expected to be published in mid-1996.

Ministerial Consultations under NAALC[5]

Article 22 of the NAALC allows any party to request consultations with another party at the ministerial level regarding any matter within the scope of the NAALC. These consultations aim to resolve issues in a comparative manner in the spirit of the agreement. So far, Article 22 has been invoked on two occasions, once by the United States and once by Mexico: both cases concern freedom of association issues. These two ministerial consultations are summarized below.

U.S. request. On October 13, 1994, the U.S. NAO accepted for review a public submission raising issues including freedom of association and the right to organize. It was alleged that workers at a Sony plant in Nuevo Laredo, Tamaulipas, Mexico, were intimidated, pressured, and eventually dismissed by the company when they attempted to organize a union; that the plant management colluded with the established union and local authorities to elect a union leadership that was compliant to the demands of management; that police used violence to break up a peaceful demonstration by workers; and that Mexican authorities improperly denied registration when the workers attempted to organize an independent union. Allegations pertaining to minimum employment standards were not accepted for review by the U.S. NAO, as appropriate relief had not been sought under the laws of Mexico.

The U.S. NAO gathered information from a variety of sources including a public hearing held in San Antonio, Texas, on February 13, 1995, and a report of review was issued on April 11, 1995. In its Public Report of Review, the U.S. NAO recommended ministerial consultations on the matter of union registration and also recommended additional joint cooperative activities on matters of internal union elections and democracy. Further, the U.S. NAO

committed to undertake a study of Mexican Conciliation and Arbitration Board (CAB) cases involving allegations of unjustified dismissals and requested information from the Mexican NAO on the allegations of the use of excessive force by the police in breaking up the workers' demonstration.

The ministerial consultations resulted in a three-part agreement:

1. In the first part, the parties agreed to conduct a series of three public seminars on union registration and certification, an internal study on union registration by the Mexican authorities, and a series of meetings between Mexican authorities and the parties concerned.[6]
2. In compliance with the second part of the agreement, the Mexican Secretariat of Labor designated a team of independent experts to conduct a study of labor law and practice related to the registration of unions.
3. Finally, in accordance with the third part of the agreement, officials of the Mexican Secretariat of Labor and Social Welfare met with management representatives of the company on June 26 and with the local labor authorities and a number of the workers directly involved in the case in Nuevo Laredo on August 23, 1995. The U.S. NAO contracted a team of experts to conduct a study on selected Mexican CAB cases involving allegations of unjustified dismissals. The study was expected to be made available to the public in 1996.

Mexico request. On February 9, 1995, the Mexican National Administrative Office (NAO) received a public communication regarding the issue discussed below presented by the Telephone Workers Union of the Republic of Mexico. The Mexican NAO, under its prerogative in the NAALC and according to rules established for this purpose, reviewed the contents of the public communication. The review focused on provisions under U.S. law to protect and promote the freedom of association and the right to organize, which are fundamental labor principles in the three countries.

In February 1994, employees of Sprint, a telecommunications company in San Francisco, California, began to organize a union with the support of the Communications Workers of America. Thereafter, these employees and the company signed an agreement before the National Labor Relations Board (NLRB), the U.S. entity charged with supervising union elections. One week before July 22, 1994, the agreed date of the union election, the company closed down its offices in San Francisco, alleging serious financial problems. More than 200 workers were left unemployed.

On July 18, 1995, the workers argued before an administrative law judge (ALJ), that the company was closed to impede the formation of a

union in clear violation of freedom of association and right to organize laws. On August 30, 1995, an ALJ found that the company had violated Section 8(a) of the NLRA by engaging in activity that interfered with the employees rights under the Act. However, the ALJ also found that the closure of the facility was undertaken for lawful business considerations. The case is now pending under appeal to the NLRB.

On May 31, 1995, upon concluding its review, the Mexican NAO released a report recommending to then Secretary of Labor and Social Welfare Santiago Ofiate that he request consultations with the U.S. Secretary of Labor Robert Reich. This report is available to the public from the Mexican NAO.

On June 2, 1995, Secretary Oñate requested ministerial consultations with his U.S. counterpart regarding the effects of the sudden closure of a workplace on the freedom of association and the right to organize. The U.S. Secretary of Labor accepted the request for ministerial consultations. On July 26-27, officials from the two labor ministries met to define the scope of the consultations and the plans to carry out the ministerial consultations.

On December 15, 1995, the U.S. and Mexican governments reached an agreement spelling out a three-step plan to address the public submission. The agreement signed by Secretary Reich and new Mexican Secretary of Labor Javier Bonilla[7] states:

- Secretary Reich will keep Secretary Bonilla informed of any further legal developments outside the Labor Department in the case;
- The Secretariat of the Commission for Labor Cooperation will study the effects of sudden plant closing on the principle of freedom of association and the right of workers to organize in all three countries;
- The U.S. Department of Labor will hold a public forum in San Francisco to allow interested parties an opportunity to convey to the public their concerns on the effects of the sudden closing of a plant on the principle of freedom of association and the right of workers to organize.

The Road Ahead for NAALC

Although the NAALC is only in its second year, it is not too early to ask what it may have achieved so far and what one may expect it to achieve over the next few years. Its creation itself is a historic development. It can be seen as the first few steps in moving toward a regulatory system that will protect labor interests in a global economic order. The commission has succeeded in setting in motion a process of consultation, education, and training to

increase awareness of labor issues and to facilitate debate and dialogue aimed at creating better solutions to labor issues. Further, the commission has succeeded in sending a signal that industrial relations actors in any of the three countries can file a complaint on the basis of events in the "territory of another Party." These actions explicitly recognize the transnational nature of labor market outcomes under NAFTA. These are impressive gains for labor interests given that few would have predicted this development five years ago.

Impressive as these developments are, the critics would point out, it is not enough to fully meet the challenge that open trade creates for ensuring fairness and equity on the job. The commission has no remedial powers and Article 11(3) states, "The Parties shall carry out the cooperative activities referred to in paragraph 1 with due regard for the economic, social, cultural and legislative differences between them." Such language effectively allows any of the three parties to opt out of any action citing "economic, social, cultural and legislative differences." Thus all activities of the commission will have to be guided by consensus which in itself is not a bad way to begin this process. It is just that consensual decision making takes time, and in the short run, it may give the impression to employers and workers that the commission is ineffective. If we accept that the NAALC is a good start, it also follows that the commission will have to gradually increase the scope of its activities so that it can demonstrate a significant impact on the expectations and behavior of workers and employers. To make a difference, the commission must move boldly and rapidly in identifying industries and regions where the most egregious violations of the eleven principles in Article 11(1) are taking place. It can then direct its functions of consultation, education, and training at those employers and workers. If the commission's activities take shape too slowly and conservatively, there is a real danger that it will be seen as mere bureaucratic overlay on events that need real action.

Chile's Entry to NAFTA[8]

One of the more interesting new developments for Pan American researchers is the proposed expansion of the NAFTA partnership to include Chile. The deliberations in Washington, Ottawa, Mexico City, and Santiago about this proposed expansion, if successful, will usher in a new phase in free trade in the western hemisphere. It could be the next step toward creating a Pan American free trade area.

In terms of economic reform, Chile has led the way in Latin America because of its aggressive policies and move toward free trade, fiscal and monetary reform, privatization, deregulation, and social security reform.

Chile opened its economy to imports in the 1970s when the rest of the region protected local industries with high trade barriers. Chile's move toward privatization has stimulated private sector growth.[9] Foreign firms control 70% of Chile's insurance assets, 56% of its securities trading, and 20% of its 38 banks. During the past decade, Chile's growth rate averaged 6% per year. In 1994 inflation fell to less than 9%, and unemployment leveled at 6.4%. Growth in 1995 is expected to be 7.5%, with unemployment falling to 5.4% and inflation falling to 8.1%.

Since 1982 more than half of all foreign investment in Chile has been concentrated in its mining sector, with the United States the major investor. Chile is the world's leading producer of copper. In 1992 Chile passed a law allowing the state-owned copper company CODELCO to enter into joint ventures with foreign investors. Fresh fruits are Chile's principal agricultural export to the United States, with table grapes accounting for more than half the value of Chilean agricultural exports. Chile has become, after Mexico, the second largest supplier of fruit and vegetable exports to the United States and sells approximately 40% of its agricultural exports in the United States. Most of these do not compete with U.S. agriculture due in part to their different growing periods.

As part of its strategy to open export markets, the Chilean government has placed considerable emphasis on expanding ties with Asian nations, and in November 1995 Chile was accepted as a member of APEC. In recent years the government also has negotiated trade agreements with several Latin American countries. These arrangements largely focus on tariff and quantitative import restrictions. In 1991 Chile negotiated a trade agreement with Mexico. Chile signed free trade agreements with Venezuela and Colombia in 1993. The government also signed minor agreements with Argentina (1991) and Bolivia (1993) and is negotiating with Ecuador. Chile is currently negotiating a free trade arrangement with MERCOSUR, and an agreement is expected in 1996.[10] Chile also began bilateral negotiations with Canada in January 1996 after hopes for NAFTA accession dimmed because of the lack of fast track negotiating authority in the United States. This relationship is being opposed by the leadership in the Chilean labor movement (CUT).

As a result of these trade agreements, Chilean companies are making inroads into a variety of companies throughout South America, including manufacturers, utilities, and banks. In Peru, Chilean companies are building supermarkets, distributing pharmaceutical products, and helping run the telephone system. In Colombia, Chilean companies are starting up a pension fund. In Brazil, Chileans are moving into industries such as bottling and textiles (Moffett 1994).

Eduardo Frei became president in March 1994 and is attempting to carry out the same basic economic policies as his predecessor, Patricio Aylwin. These policies include emphasizing strong public finances, sustaining conditions for high rates of saving and investment, deepening Chile's integration in the world economy, reducing poverty, and promoting reforms in health and education. Frei is committed to expanding trade through diversification of exports, to encouraging foreign investment, and to developing strong domestic programs to further raise living standards for all of Chile's 13.7 million people. Approximately 28% (4 million) of Chileans are poor, and 5.5% (780,000) are extremely poor, as President Frei noted in 1996 at the United Nations Hemispheric Conference on Eradication of Poverty and Discrimination (CHIP News, Jan. 19, 1996). Chile, like Mexico, has a labor force that is growing more slowly than the economy, and the country is in need of outside investment.

Because of its liberal import policies and expanding economy, Chile is an attractive market for a wide range of U.S. products and services. In 1994 Chile's combined trade with the United States reached $4.8 billion, making the United States Chile's largest trading partner.[11] The United States exported $2.8 billion to Chile, meaning that 24% of Chile's imports came from the United States. Corn fertilizer, computer parts and accessories, communication transmitters, and construction vehicles headed the list of U.S. exports to Chile. Almost 18% of Chile's total exports went to the U.S. The U.S. is the largest single foreign direct investor in Chile, with investment mostly concentrated in mining and, to a lesser extent, in transportation, forestry, and telecommunications. Approximately 27% of Chile's trade was with the Latin American nations and 25% with the United States in 1994.

Chile wants to become part of an enlarged NAFTA. During the December 1994 Summit of the Americas in Miami, the parties agreed that negotiations for full accession of Chile into NAFTA would begin after May 1995, with Chile joining NAFTA as early as April 1996. However, with the loss of fast track negotiating authority in the U.S., the increased politicization of the accession process, and the "tequila effect" of the Mexican peso crisis plaguing Latin American countries, it is most likely that Chile's accession will not occur until sometime in 1997 (after the U.S. presidential elections). One of the first steps in this process will be to draw up a set of standards in connection with Chile's accession that could be used for every potential entrant—an onerous task because of the variability in Latin American countries, economic policies, trade liberalization policies, political stability, and previously established trade agreements. To this end, the Chilean government has named a committee of 150 representing government,

industry, labor, and the environment to develop a plan for Chile and its involvement with NAFTA countries.

Labor Representation in the MERCOSUR Institutional Structure

MERCOSUR as a Common Market

In this section of our report, we turn to other trade developments in the Americas. Shortly after the United States' and Mexico's June 1990 announcement of negotiations leading to a North American Free Trade Agreement (NAFTA), Argentina, Brazil, Paraguay, and Uruguay began negotiations to form a common market in August 1990. The common market was to be called the "Common Market of the South," or MERCOSUR (its acronym in Spanish) and MERCOSUL (its acronym in Portuguese). MERCOSUR's broad design and negotiating program were set forth in the Treaty of Asuncion of March 26, 1991, with the end of the transition period set for December 31, 1994.[12]

While the timing of MERCOSUR was a response to the NAFTA and Enterprise for the Americas programs, the MERCOSUR idea reflects a long tradition of Latin American integration. This tradition dates from the early 19th century independence movements and includes the Latin American Free Trade Association (1960) and the Latin American Integration Association (1980). The immediate precursor was the Argentina-Brazil Program for Economic Cooperation and Integration, which began in 1985 and was ratified in 1989 by the Treaty for Integration, Cooperation, and Development. MERCOSUR, with its January 1, 1995, target date, should be understood as an acceleration of an existing economic integration effort, rather than as a totally new initiative.

The MERCOSUR program goes beyond NAFTA in that, in addition to establishing a free trade area by reducing or eliminating tariffs and other barriers to trade among its members, it attempts to establish a customs union with a common external tariff and to promote a common market with free movement of the factors of production, as well as coordination of macroeconomic policies. The treaty provided for phased-in, across-the-board tariff reductions for intra-MERCOSUR trade to bring tariffs to 0% by the end of the transition period, while allowing each country a list of exceptions of goods that will continue to have protection over the next few years. Agreement was reached on a common rate structure of external tariffs in August 1994, with rates between 0% and 20% (with an average rate of 14%). Lists of exceptions allowed each country to maintain tariffs for the next few years above or below the common MERCOSUR rate. In 1995 additional lists of exceptions were allowed to deal with temporary supply

and demand imbalances. Sectoral regulations were to be harmonized to facilitate intraregional trade and movement of factors.

While MERCOSUR is promoted as a common market, the result so far is closer to an incomplete free trade area because of the lists of exceptions. Similarly, the customs union framework is incomplete in that significant exceptions to the common external tariff exist, as do the often discretionary raising and lowering of tariffs for specific sectors. These exceptions will be phased out over the next ten years. Continuing negotiations within the MERCOSUR institutions will result in the harmonization of policies which will move the region in the direction of a common market and full economic integration.

The MERCOSUR Institutional Structures

Unlike NAFTA, MERCOSUR provides (1) explicit discussion of labor issues as an ordinary activity and (2) representatives of labor organizations as an integral part of the MERCOSUR institutions, especially through Subgroup 11 (10 after August 1995) on Labor Relations, Employment, and Social Security and through the Economic and Social Consultation Forum (after December 1994). The MERCOSUR institutions are a mechanism for negotiations among the executive branches of the four countries with formal input from the social actors, consistent with Latin American corporatism, on a MERCOSUR-wide basis. They were established by the Treaty of Asuncion in March 1991 and were made permanent and augmented at the December 1994 meetings of the four presidents and the Common Market Council (CMC) in Ouro Preto, Brazil.

The CMC—the policy and decision-making body of MERCOSUR—is made up of the ministers of foreign relations and economy of the four countries. The Common Market Group (CMG)—the principal executive body—consists of representatives of the ministries of foreign affairs and economy (or its equivalent) and the central banks. The CMG has the power of initiative and is charged with monitoring compliance, enforcing its decisions, proposing specific measures having to do with trade liberalization, coordination of macroeconomic policies, and negotiating agreements with third parties.

Initially ten subgroups were authorized to assist the CMG in the coordination of macroeconomic and sectoral policies. The ten subgroups are (1) commercial issues, (2) customs issues, (3) technical standards, (4) fiscal and monetary policies relating to trade, (5) inland transport, (6) maritime transport, (7) industrial and technological policy, (8) agricultural policy, (9) energy policy, and (10) coordination of macroeconomic policies. In December 1991 the CMG established subgroup 11 on labor issues in response

to a recommendation by the four ministers of labor with the support of the national central labor organizations. Subsequently, subgroup 11 established eight committees to review various issues within the jurisdiction of the subgroup.

Several new bodies were created at the Ouro Preto meetings in December 1994. The Trade Commission was established, subordinate to the CMG, to administer MERCOSUR's trade rules and conflicts on a day-to-day basis. The Joint Parliamentary Commission, made up of legislators from the four national legislatures, was to coordinate the passage of implementing legislation in the four legislatures. The Economic and Social Consultation Forum is to be the body organizing the input of the economic and social sectors (largely meaning labor and business) on a MERCOSUR-wide basis, empowered to make recommendations to the Common Market Group.

Labor Mechanisms in MERCOSUR

Independently of MERCOSUR, the national central labor confederations of the four countries, with their counterparts from Bolivia and Chile, meet on a regionwide basis as part of the Coordinator of the Labor Centrals of the Southern Cone, or "Coordinadora." Founded in 1986 during the economic crisis and redemocratization process in Latin America, the Coordinadora predates MERCOSUR and was an unprecedented step toward the regional solidarity of the labor movement. The Coordinadora and especially its MERCOSUR members have made a series of recommendations regarding labor issues, the social dimension of integration, and the proposal for a Charter of Fundamental Rights, all in the spirit of making a better MERCOSUR rather than opposing it. At the semiannual meetings of the CMC, the presidents of the labor centrals often present a joint letter to the four MERCOSUR presidents.

Subgroup 11 was established with the support of the Coordinadora to be the forum for labor and employment issues. Unlike the other subgroups, subgroup 11 was tripartite from its founding and included government, employer, and labor representatives from the four countries. While the labor members were outnumbered, the membership composition created the possibility of a variety of national, sectoral, and mixed coalitions.

The major labor issue was harmonization of legislation, followed by regulation of migration and coordination of the social security systems.[13] Harmonization of employment standards was defined as avoiding marked differences among national systems, which would place one country at a competitive advantage or disadvantage relative to the others. Regulation of migration should be understood as facilitating migration and would include

eligibility to work, working papers, and recognition of professional education and certification. Social security harmonization would be supportive to workers who work in several countries over a career or reside in a country different than where they are eligible for retirement income.

A wide range of topics is reflected in the committees that were established: (1) individual labor relations and labor costs, (2) collective labor relations, (3) employment and labor migration, (4) training and professional certification, (5) safety and health, (6) social security, (7) specific sectors, and (8) international principles and conventions. The last two were established at the instigation of the Brazilian labor representatives. Committee 7 was an attempt to explicitly address labor issues neglected by the sectoral negotiations of other subgroups, where employers were the only representatives of the private sector. Labor representatives eventually were placed on the subgroups on industrial and technological policy and agricultural policy. Committee 8 became the arena for the debate on harmonization of labor standards.

The debate on harmonization reflected two conflicting perspectives. Labor representatives tended to favor upward harmonization through reform of national legislation, while employer and business representatives tended to favor greater flexibilization, implying downward harmonization, although positions taken often reflected alliances within national delegations. Upward harmonization proved elusive as the discussion was diverted toward a debate on labor costs and two alternate approaches were attempted. One was a proposal that all four countries set a shared floor on labor standards by ratifying a common set of International Labor Organization conventions. The second, originating with the Coordinadora, proposed the adoption of a Charter of Fundamental Rights of MERCOSUR, which attempted to be both a statement of hopes and aspirations and also a legal document. Although these efforts at upward harmonization—especially the Charter of Fundamental Rights—received much public attention, nothing concrete was accomplished.

MERCOSUR's labor contribution so far may be in the creation of regionwide forums for formal labor input. First among these is subgroup 11 as a forum where labor issues are debated and labor representatives from the four countries gain technical and regionwide organizational experience through interaction with each other and with employer and government representatives. The joint letters of the presidents of the central labor confederations to the MERCOSUR presidents serve the same function, as should the new Economic and Social Consultation Forum, which met for the first time in April 1996.

Labor in MERCOSUR, NAFTA, and the FTAA

Given the absence of concrete results in MERCOSUR, the controversial NAFTA Labor Side Accord appears attractive when looking from south to north because NAFTA provides at least a minimum venue for filing and hearing charges of violation of labor law and labor standards. Similarly, when looking from north to south, the marginal position of organized labor in Canada and the United States in NAFTA negotiations and the apparent weakness of the Labor Side Accord mechanism makes the MERCOSUR mechanism for labor participation seem attractive. In light of the tension between Brazil and the United States in the negotiations for a Free Trade Area of the Americas (FTAA), it is ironic that neither mechanism has been incorporated into this latest round of trade liberalization in the Americas.

In the FTAA negotiations, labor concerns are to be channeled through national governments, as evidenced by the Final Joint Declaration of June 1995 ministerial conference in Denver: "We welcome the contribution of the private sector and appropriate processes to address the protection of the environment and the further observance and promotion of worker rights through our respective governments" (IADB 1995a, 1995b). Similarly, the March 1996 FTAA ministerial conference in Cartagena, Colombia, rejected proposals from the Interamerican Regional Organization of Workers (ORIT), meeting as the Labor Forum, and the Tenth Interamerican Conference of Labor Ministers for the creation of an FTAA working group on labor issues, studies of the impact of integration on workers, and the creation of a tripartite consultation body with equal trade-union and employer representation, while reaffirming the promotion of worker rights through individual governments. Channeling of labor concerns strictly through national governments is in marked contrast to the labor mechanisms within MERCOSUR and NAFTA and seemingly with the statement that FTAA negotiations are to "build on existing subregional and bilateral arrangements in order to broaden and deepen hemispheric economic integration and to bring the agreements together" (IADB 1995b:45).

An Overview of Wage and Employment Studies

There is little direct empirical evidence on the impact of NAFTA on wages and employment amongst the trading partners. Furthermore, it is difficult, if not impossible, to disentangle the separate effect of agreements like NAFTA from the myriad of other interrelated forces that are occurring at the same time and that may be induced in part by factors such as NAFTA. These interrelated forces include technological change, global competition in general, other trade liberalization agreements such as the

Canada-U.S. Free Trade Agreement and GATT, industrial restructuring (especially from manufacturing to services in Canada and the United States), deregulation and privatization, prolonged recessions, and macroeconomic instability.

While there is little direct evidence on the impact of NAFTA, there are a number of studies that provide indirect evidence in that they analyze the wage and employment impact of trade liberalization in general, or they involve *ex ante* predictions of the expected impact of specific free trade agreements such as NAFTA. More than 75 empirical studies of the wage and employment impacts of such trade liberalization involving 11 different methodologies[14] were reviewed in Gunderson (1993). The following general conclusions emerged from those and subsequent studies:

- The impact of NAFTA is likely to be small relative to the effect of the myriad of other changes that are occurring, although it is not possible to determine the extent to which these other forces are induced in part by NAFTA.
- While the *overall* impact is likely to be small, the impact in particular sectors affected by trade liberalization can be more substantial. As expected, wages and employment are reduced in sectors subject to greater import competition, and they are increased in sectors experiencing export growth. This highlights the importance of adjustment policies to facilitate the reallocation of labor from-declining (e.g., import-impacted) sectors to expanding (e.g., export-led) sectors.
- Wage losses of displaced workers are quite substantial (e.g., in the neighborhood of 20%-30%), especially for older workers who are displaced to other firms and industries and hence experience a loss of firm- and industry-specific human capital.
- Trade liberalization and international competition have likely contributed to the growing wage inequality that has occurred in Canada and especially the United States. This is so because the import competition from labor intensive imports tends to be greatest at the low end of the wage spectrum, and the export expansion and restructuring demands have enhanced the skilled-wage premium at the high end of the wage spectrum. There is considerable controversy, however, as to the importance of trade liberalization as opposed to other factors including skill-biased technological change, especially associated with computers; supply-side changes such as the slower growth of the skilled labor force, reflecting demographic factors and less skilled immigration; and institutional factors such as deunionization and the erosion of the real value of minimum wages.

- Trade liberalization likely has reduced the union-nonunion wage differential since employers have a greater threat of locating "offshore" if union premiums are too high, and higher prices resulting from union wage premiums can lead to consumer substitution toward imports.
- Macroeconomic forecasting models and computable general equilibrium models tend to find more positive real wage and employment effects from free trade agreements like NAFTA in the longer run after the industrial restructuring has occurred and price levels have been reduced because of the greater competition and exploitation of economies of scale associated with the larger global market.
- While the effect of specific trade agreements like NAFTA is likely to be small, international competition in general has contributed to the substantial labor adjustment that has resulted from plant closings, mass layoffs, substantial income losses for displaced workers, wage polarization, and high unemployment that has occurred since the mid-1970s. It is unknown, however, whether these adjustment consequences ultimately would have been even greater had they not occurred in response to such competitive forces. It is also not known whether they involve "one-time" restructuring to a new competitive equilibrium or a continuous process of constant adjustment to ever-changing disequilibrium.
- Trade liberalization through such mechanisms as NAFTA is likely to have *indirect* effects through pressures on governments to harmonize labor policies and legislation and to contain wages in the interests of being competitive internationally. Employers have more credible threats to locate their plants and investments in countries with lower labor costs and fewer labor laws and regulations. Countries and different political jurisdictions within countries are under pressure to compete for that investment and the associated jobs by reducing the regulatory and legislative costs and perhaps by more direct policies to restrain wage increases (e.g., as in the maquiladoras of Mexico).
- The burden on labor can be exacerbated by the fact that trade liberalization makes it more likely that payroll taxes will be shifted to labor. Such payroll taxes are used to finance benefits like workers' compensation, unemployment insurance, health benefits, and pensions. Under trade liberalization it is more difficult to shift the cost forward to consumers since they are more able to buy in the international market. It is more difficult to shift the cost to capital since it can more easily "move" to countries without such payroll taxes. Under such circumstances, the burden of the payroll tax is more likely to be shifted backwards to the immobile factor of production—labor—in the form of lower compensating wages.

- NAFTA is likely to have substantial different geographic effects on Mexico, expanding the importance of the "hinterland," especially the northern regions which are closest to the United States and that are now less reliant on Mexico City for trade. Rural areas are likely to be adversely affected, especially by the importation of corn from the United States, and the poorer regions of the "South" are likely to be bypassed by many of the changes. In the United States the regional impacts are more dispersed and smaller, given the smaller overall impact. In Canada there likely will be some reorientation in a north-south direction and away from the traditional east-west direction, although the regional impacts are likely to be small.

Other Resources for Further Study

Throughout this report we have tried to identify resources that the reader may access for further research. This is expected be an ongoing effort. The Bureau of Labor Statistics maintains a cell on international labor statistics which produces international comparisons of hourly compensation costs, productivity, and the labor force. This unit has focused more of its resources on Mexico since the passage of NAFTA. There is a large research literature on trade and labor issues in Spanish which is generally inaccessible to English-only readers. This committee hopes to provide overviews of this literature in the future.[15]

Acknowledgments

Authors' names are listed in reverse alphabetical order. All are members of the IRRA NAFTA Committee; other members of the committee during 1995-96 were Maria Cook, Enrique de la Garza, Anthony Giles, Stephen Hills, Richard Lyon, Diane Massey, Edilberto Montemayor, Mark Sherman, Mark Thompson, and Timothy Williams. Anil Verma served as the Convener. The committee is grateful to the NAALC Secretariat in Dallas, the three NAOs, and Katharine Abraham and Connie Sorrentino at BLS for providing a variety of information used in this report.

Endnotes

[1] The terms "open trade" and "free trade" are used interchangeably.

[2] Specifically, over the decade from 1982-92, the number of government-owned firms is estimated to have decreased from 1,555 to 223 (Fleck and Sorrentino 1994:4).

[3] The impact of NAFTA on Canadian-Mexican trade patterns appears to be small so far. During the 1980s Canadian merchandise imports from Mexico, as a proportion of all imports, was in the range of 1%-1.5%; by 1995 this had increased to 2.4% (CANSIM). But the proportion of all Canadian exports accounted for by trade with Mexico has

remained in the 0.3%-0.5% range throughout the 1980-95 period (CANSIM). But since 1990, the value of exports and imports has doubled.

[4] For a U.S. government assessment of some of the potential impacts of freer Mexican-American trade under NAFTA, refer to US-OTA (1992). In Canada much of the interest in the impacts of freer trade with the United States focused on the first free trade agreement (see, for example, Cox and Harris 1986 and Magun et al. 1988).

[5] This section is based on *Labor in NAFTA Countries*, Bulletin of the Commission for Labor Cooperation, Vol. 1, no. 1, March 1996.

[6] The first public seminar was held in Mexico City on September 13-14, 1995. The second was held in San Antonio, Texas, on November 8-9, 1995. It was agreed that the third seminar would involve panels from each of the three countries representing labor, management, and government. This program was held in Monterrey, Mexico, on February 29-March 1, 1996.

[7] Subsequently, Canada's Minister of Labor Alfonso Gagliano agreed to participate in this follow-up program of activities.

[8] This is based on Ready and Sandver (1995).

[9] Some restrictions on foreign investment in Chile remain. For example, foreign capital must stay in Chile for one year after the actual investment before it can be repatriated. Foreign investment is also subject to pro forma screening by the government of Chile, and royalty contracts must be approved by the Central Bank.

[10] Chile is not a member of MERCOSUR because it already has an 11% tariff rate, lower than the projected goal for the common MERCOSUR tariff rate. However, Chile would enjoy economic benefits through associate status.

[11] Total exports in 1995 are projected to reach $14.8 billion, with $3.9 billion going to the United States. Total imports are projected to reach $13.2 billion, with $2.4 billion coming from the United States.

[12] MERCOSUR and labor are considered in greater length in Smith (1995) and Smith and Healey (1994). See, also, *Latin American Labor News* (Labor and Free Trade in the Americas: Special Issue) Issues 12 & 13.

[13] A useful discussion of the labor issues in MERCOSUR is found in Perez del Castillo (1993).

[14] The methodologies included (1) trade exposure studies and ad hoc procedures that commented on the impact on particular sectors exposed to import competition, (2) accounting decomposition studies that related exports and imports to output changes and ultimately to employment, (3) input-output studies that measure the indirect as well as direct impacts of increased exports and imports, (4) industry wage studies that relate industry wage levels to exports and imports or tariffs, (5) aggregate wage studies of the Phillips curve variety that relate aggregate wage changes to measures of trade, (6) studies that relate base wages and employment in collective agreements and bargaining units to trade measures, (7) micro wage equations relating the wages of individual workers to measures of trade, (8) wage inequality studies that relate measures of wage inequality to trade, (9) studies of job displacement that relate wage losses and unemployment durations to trade measures, (10) macroeconomic forecasting models, and (11) computable general equilibrium models.

[15] Maria Cook at Cornell University, a member of this committee, is currently engaged in preparing this overview.

References

Card, David, and Craig Riddell. 1993. "A Comparative Analysis of Unemployment in Canada and the U.S." In D. Card and R. Freeman, eds., *Small Differences That Matter: Labor Markets and Income Maintenance in Canada and the United States*. Chicago: University of Chicago Press.

Cox, David, and Richard Harris. 1986. "A Quantitative Assessment of the Economic Impact on Canada of Sectoral Free Trade with the United States." *Canadian Journal of Economics*, Vol. 19, no. 3, pp. 377-94.

Fleck, Susan, and Constance Sorrentino. 1994. "Employment and Unemployment in Mexico's Labor Force." *Monthly Labor Review*. Vol. 117, no. 11 (November), pp. 3-32.

Gunderson, Morley. 1993. "Wage and Employment Impacts Related to the North American Free Trade Agreement." *Studies on the Economic Future of North America*. Vancouver: Fraser Institute.

Inter-American Development Bank (IADB). 1994. *Economic and Social Progress in Latin America, 1994 Report*. Washington, DC: Inter-American Development Bank, pp. 119-24.

_____. 1995a. "Final Joint Declaration and Plan of Work of Denver Trade Ministerial." Division of Integration, Trade and Hemispheric Issues.

_____. 1995b. "Economic Integration in the Americas." Periodic Note, July, p. 46.

Kmitch, Janet, Pedro Laboy, and Sarah Van Damme. 1995. "International Comparisons of Manufacturing Compensation." *Monthly Labor Review*. Vol. 118, no. 10 (October), pp. 3-9.

Magun, Sunder, S. Rao, B. Lodh, L. Lavallée, and J. Peirce. 1988. "Open Borders: An Assessment of the Canada-U.S. Free Trade Agreement." Discussion Paper No. 344, Economic Council of Canada, Ottawa.

Moffett, Matt. 1994. "Chilean Firms Blaze Cross-Border Trails." *Wall Street Journal*, November 7, p. A11.

Morpaw, May. 1995. "The North American Agreement on Labor Cooperation: Highlights, Implementation and Significance." Presented to the Annual Conference of the Canadian Industrial Relations Association, May 29, Montreal, Quebec.

Perez del Castillo, Santiago. 1993. "MERCOSUR: History and Aims." *International Labor Review*, Vol. 132, no. 5-6, pp. 639-53.

Ready, Kathryn J., and Marcus H. Sandver. 1995. "Policy Issues in Moving from NAFTA to the FTAA." *North American Outlook*, Vol. 5, no. 4, pp. 24-55.

Secretariat of the Commission for Labor Cooperation (SCLC). 1996. "Labor in NAFTA Countries." *Bulletin of the Commission for Labor Cooperation*, Vol. 1, no. 1 (March).

Smith, Russell E.. 1995. "Labor Issues in MERCOSUR." Presented at the IX Southern Labor Studies Conference, October 26-29, University of Texas, Austin.

Smith, Russell E., and Mark A. Healey. 1994. *Labor and Mercosur: A Briefing Book*. Durham, NC: Duke-UNC Program in Latin American Studies, Duke University.

U.S. Congress, Office of Technology Assessment (US-OTA). 1992. *U.S.-Mexico Trade: Pulling Together or Pulling Apart?* ITE-545. Washington, DC: U.S. Government Printing Office.

XX. ANNUAL REPORTS

IRRA EXECUTIVE BOARD MEETING
June 1, 1995
Hyatt Regency Hotel—Capitol Hill, Washington, D.C.

The meeting was called to order at 7:45 a.m. by President Walter Gershenfeld. Present were Past President Lynn Williams, President-Elect Hoyt Wheeler, and Board members Katharine Abraham, Peter Cappelli, Janet Conti (also Chapter Advisory Committee Chair), Daniel Gallagher, Morley Gunderson, Rachel Hendrickson (also Newsletter Editor), Marlene Heyser (also Program Committee Co-Vice Chair), Joan Ilivicky, Ruth Milkman, Jay Siegel, and John Stepp. Also present were Francine Blau, President-Elect-Elect; David Zimmerman, Secretary-Treasurer; Paula Voos, Editor-in-Chief; and Kay Hutchison, Administrator. Absent were Bernard DeLury, John Fossum, and Jack Golodner.

Guests at the meeting were Thomas Kochan, IIRA President; F. Donal O'Brien, Finance and Membership Committee Chair; Bruce Kaufman, Program Committee Co-Vice Chair; Paul Weinstein, Statistics Committee Chair; and Edward Harrick, Gateway IRRA Chapter.

President Gershenfeld welcomed Board members to the meeting and expressed his appreciation for the good attendance and the opportunity to meet during the 10th World Congress of the International Industrial Relations Association (IIRA).

Approval of Minutes. The minutes of the January 5, 1995, Executive Board meeting in Washington DC were approved as distributed.

Report of the IIRA 10th World Congress. IIRA President Tom Kochan welcomed Board members and guests to the 10th World Congress of the IIRA. He reported that more than 900 registrants were in attendance representing 55 countries. The Congress offers an array of opportunities for the exchange of information and learning and to meet old and new colleagues from around the world. President Kochan urged the strengthening of the relationship between the IRRA and IIRA. He cited the development of on-line research networks and dispute resolution projects as examples of

mutual interests. He suggested greater collaboration between the organizations in the areas of joint sessions, programs, and dues collections.

Report of the Program Committee. Chair Walt Gershenfeld reported that the program for the 48th Annual Meeting in San Francisco, January 5-7, 1996, was in good shape, and he thanked Program Committee Co-Vice Chairs Marlene Heyser and Bruce Kaufman for their active roles in program development. He described the recent establishment of seven interest sections within the Association and stated that the sections would be holding organizational meetings during the San Francisco meetings.

President Gershenfeld introduced Edward Harrick, Gateway IRRA Chapter and local conference chair for the 1996 Spring Meeting in St. Louis. Harrick reported that the featured topic of the meeting will be labor-management cooperation. Approximately 15 to 18 sessions are planned on topics of interest to academics and practitioners. Several area tours of labor interest have been arranged. Suggestions for keynote speakers would be welcomed by the chapter planning committee. The meeting will be held at the Henry VIII Hotel near the St. Louis airport, May 1-4, 1996. Room rates will be in the $70-per-night range and registration will be $130 or less.

Spring Site Selection Committee. Administrator Hutchison reported that a site has not been determined for the 1997 spring meeting. The Association will meet in conjunction with the ASSA in New Orleans in January 1997 and in Chicago in January 1998. Upon discussion, the Board directed that the national office determine which, if any, IRRA chapters were interested in hosting the 1997 Spring Meeting and, thereafter, the Spring Site Selection Committee set the location.

Janet Conti, CAC Chair, offered a resolution on behalf of the Chapter Advisory Committee in support of the encouragement of regional meetings but in opposition to the possible elimination of a national IRRA spring meeting. The resolution read:

> Working in cooperation with the National Chapter Advisory Committee, the Executive Board supports flexibility in the types of national spring meetings of the IRRA. The alternatives include meetings largely sponsored by a single chapter (with neighboring chapters assisting as appropriate), multi-chapter regional meetings, and national meetings organized around public policy issues. The national IRRA will provide facilitation support for local chapter activities.

The resolution was adopted.

Finance and Membership Committee. Chair Don O'Brien reported that the five-year decline in Association membership continues and that revenue

will decline substantially with the loss of members and the absence of spring meeting revenue in 1995. The committee proposes several new efforts to address the situation. The first is a one-year, half-price membership offer for local chapter members who are not currently national members. The committee further recommends the expansion of membership services in the areas of the membership directory, on-line services, sponsorship of training programs, and practitioner-friendly publications. It was moved, seconded, and adopted that an introductory, half-price membership for 1996 be offered to IRRA chapter members who are not national members. The introductory membership will include full membership benefits, including all publications.

Report of the Editorial Committee. Editor-in-Chief Paula Voos reported that the Editorial Committee had reviewed proposals for the 1997 research volume and recommended that a proposal entitled, *Government Regulation of the Employment Relationship: A Critical Appraisal*, to be edited by Bruce Kaufman, be selected as the 1997 volume. The Board adopted the committee's recommendation.

Editor Voos noted that interest has been expressed in undertaking more practitioner-friendly publications to enhance the value of Association membership. Editor-in-Chief Voos and CAC Chair Conti agreed to work together on the matter of IRRA publications of interest to academics and practitioners alike.

Report of the Chapter Advisory Committee. Chair Janet Conti presented the report of the Chapter Advisory Committee on the reorganization of CAC and its role in the structure of the Association. (The full CAC report is appended.) In sum, the report states that the CAC will:

1. Serve as an active working committee of the national IRRA representing its interests to the chapters while actively representing the interests and concerns of the chapters to the national organization.
2. Encourage individual CAC members to become involved as mentors or consultants to chapters to assist in program development, member recruitment, financial matters, and in relations with the national organization.
3. Serve as a training resource for chapters, including periodic programs for newly elected chapter officials.
4. Promote communications among chapters and the national, including input related to IRRA publications.
5. Encourage joint chapter and national membership.
6. Serve a practical role in identifying common interests among members by providing networking opportunities and relating those interests to the activities of the Association.

The report further recommended potential expansion of the number of CAC members, rotating terms for CAC members, CAC membership criteria, and the renaming of the committee as the National Chapter Advisory Committee (NCAC). Acceptance of the CAC report was moved, seconded, and unanimously approved.

Report of the Statistics Committee. Chair Paul Weinstein expressed the concern of the Statistics Committee over the detrimental impact of potential federal budget cuts on the Bureau of Labor Statistics, National Science Foundation, and other governmental agencies. He presented a motion to authorize the Statistics Committee to take positions on issues of concern with other organizations. Secretary-Treasurer Zimmerman cited IRRA bylaws to the effect that the Association will take no partisan position on behalf of Association members. Weinstein was advised to redraft the motion to limit its scope to the Council of Professional Associations on Federal Statistics (COPAFS), of which the IRRA is a member. Board members discussed the importance of the current federal funding debate. Motion was made and passed that, subject to the opinion of Association legal counsel, members be apprised of the proposed federal cuts and urged to express their individual concerns to the appropriate entity.

50th Anniversary Committee. 1997 President Fran Blau will be appointing a committee to head up the observance of the 50th anniversary of the Association in 1997. Suggestions of appropriate activities are welcomed and include, to date, special meeting sessions and the development of a videotape for chapter use.

Awards Committee. Chair Jay Siegel reported on efforts to establish an IRRA awards competition for students in the field. He requested approval, in principle, of the establishment of a competition to select a best paper (other than a thesis or dissertation) which will include a monetary award and publication in the annual *Proceedings*. The Editorial Committee would judge the papers, and efforts will be made to obtain perpetual funding for the award. The motion passed unanimously.

IRRA/JAI Press Proposal. Bruce Kaufman, Program Committee Co-Vice Chair, described ongoing discussions between JAI Press, publisher of the journal, *Advances in Industrial and Labor Relations* (AILR), and the IRRA to afford the publication of papers longer than those traditionally published by the Association. Under an arrangement beginning in 1998, up to six longer, Association-generated papers would be published in AILR. Three papers would be presented in each of two designated sessions at the IRRA Annual Meeting. As part of the cooperating arrangement, IRRA members would be offered JAI publications at reduced rates. It is anticipated that the joint opportunity will attract longer and better work. Board

members expressed concern over the Association's loss of publication rights in certain sessions and the issue of reprint costs. Kaufman indicated that those concerns would be addressed in the continuing negotiations with JAI Press. A motion to approve such arrangement was made, seconded, and passed.

1996 Nominating Committee. President Gershenfeld reported on his choices for the 1996 Nominating Committee. Following discussion of the suggested names, the Board empowered the president to select members of the committee giving consideration of the recommendations of the Board.

Constitution Review Committee. Rachel Hendrickson, member of the Constitution Review Committee, presented the preliminary recommendations of the committee for the revision of the Association constitution and bylaws. Due to the departure of several Board members and imminent lack of a quorum, the matter was tabled until the next meeting.

The meeting adjourned at 11:30 a.m.

IRRA EXECUTIVE BOARD MEETING

January 4, 1996

Westin St. Francis Hotel, San Francisco, California

The meeting was called to order at 7:15 p.m. by President Walter Gershenfeld. Present were Past President Lynn Williams, President-Elect Hoyt Wheeler, and Board members Peter Cappelli, Janet Conti (also Chapter Advisory Committee Chair), Bernard DeLury, John Fossum, Daniel G. Gallagher, Jack Golodner, Morley Gunderson, Rachel Hendrickson (also Newsletter and Dialogues Editor), Marlene Heyser (also Program Committee Co-Vice Chair), Joan Ilivicky, Ruth Milkman, Jay Siegel, and new Board members Roger Dahl, Bruce Kaufman (also Program Committee Co-Vice Chair), Craig Olson, and Robert Pleasure. Also present were Francine Blau, 1996 President-Elect; David Zimmerman, Secretary-Treasurer; Paula Voos, Editor-in-Chief; Kay Hutchison, Administrator and Managing Editor; and Lynn Case of the national office. Absent were Board members Katharine Abraham, Ruth Milkman and John Stepp, and new Board member Eileen Appelbaum.

Guests at the meeting were F. Donal O'Brien, Finance and Membership Committee, Chair; Maggie Jacobsen, 50th Anniversary Committee, Cochair; Eileen Hoffman, Nominating Committee, Chair; Anil Verma, NAFTA Committee, Chair; John Lawler, Ad Hoc Committee on the Internet, Chair;

Edward Harrick and Richard Horn, Gateway IRRA Chapter; and Arthur Johnson, San Francisco IRRA Chapter.

President Gershenfeld asked for a moment of silence in memory of Janice Wheeler, late wife of Hoyt Wheeler. Art Johnson, San Francisco Chapter President, welcomed members to San Francisco.

Report of the 1996 Spring Meeting. Ed Harrick, Gateway Chapter and Chapter Program Chair for the 1996 Spring Meeting, distributed copies of the preliminary program for the May 1-4 meeting in St. Louis. The theme for the conference is "Gateways to Labor-Management Cooperation" and features five keynote speakers and twenty concurrent sessions, including one on the Internet and another on the mission of the IRRA. Registration is $125, and room rates at the Henry the VIII Hotel are $76 per night. Harrick reported that 20 chapter members have served on the planning committee and approximately 100 people will be on the program. Richard Horn, Gateway Chapter Vice President, reported on several special activities planned. They include a film festival, labor history and art tours, and reception at Anheuser-Busch Brewery.

Report of the Nominating Committee. Chair Eileen Hoffman reported that the committee's unanimous choice for 1997 President-Elect is Don O'Brien. Candidates for Executive Board positions will be announced in the May IRRA *Newsletter*. The Nominating Committee requested that IRRA chapters be asked earlier in the process for their input with regard to nominations. Rachel Hendrickson motioned to accept the report; it was seconded and passed.

Approval of the Minutes. The minutes of the June 1, 1995, Executive Board meeting in Washington, D.C., were approved as distributed.

President's Report. President Gershenfeld reported the Philadelphia Chapter has undertaken a pilot project in response to the drop in national student memberships. Local chapter members have been surveyed for their expertise, and faculty members have been asked if they would like someone from the chapter to speak to their students on a topic. Students are given a brochure and encouraged to join the national IRRA and the local chapter.

While membership in IRRA for 1995 is again down, Gershenfeld said there remains a solid core of 2,500-3,000 members who renew each year. Gershenfeld reported that he had kept his pledge to recruit 100 new members through personal contacts, speaking engagements, mailings, and a personal letter to chapters and other organizations. He urged continued efforts to retain members.

President Gershenfeld reported that 900 people attended the IIRA 10th World Congress Meeting in Washington, D.C., in May which also

served as the 1995 IRRA Spring Meeting. The national office produced the IIRA conference *Proceedings* which were distributed to Congress attendees and all IRRA members in lieu of the regular spring *Proceedings*. Due to the financial success of the Congress, the organizers of the Congress have proposed awarding the IRRA $15,000 to establish three awards: (1) young scholar for best contribution to international comparative labor and employment research, (2) young scholar for best contribution to research that addresses an industrial relations/employment problem of national significance, and (3) young professional for his/her contribution to the industrial relations profession consistent with the values and mission of the IRRA. A motion was made, seconded, and passed to accept the IIRA funds for the purposes stated.

Gershenfeld also reported that the IRRA has arranged a research track of six sessions at the FMCS biennial labor-management conference in Chicago in May 1996.

Report of the Program Committee. President-Elect Hoyt Wheeler reported that the committee met and selected session proposals for the New Orleans meeting in January 1997. Proposals were submitted from all of the newly formed interest sections which will enhance the scope of topics on the program. He said the 1997 meetings will include several distinguished panels, a film screening, and training sessions.

Wheeler reported that a year ago the Board approved a recommendation from the Chapter Advisory and Finance and Membership Committees to move toward a more practitioner-oriented publication. A Publications Committee is proposed with members to be appointed by President Gershenfeld and Wheeler to assess the feasibility of moving forward on this proposal. The committee will report its findings at the spring meeting. A motion was made, seconded, and passed to approve formation of such committee.

Report on the 1997 Spring Meeting. The Spring Site Selection Committee was previously polled and selected New York City as the site for the 1997 Spring Meeting. Joan Ilivicky reported on hotel contacts she had made. Following discussion of available meeting rooms and hotel room rates, a motion was made by Hoyt Wheeler, seconded, and passed to accept the St. Moritz Hotel site but to authorize Ilivicky and the national office to pursue other options. Preference was expressed for mid-April or mid-May meeting dates.

Report of the NAFTA Committee. President Gershenfeld has appointed Anil Verma to chair the recently formed NAFTA Committee. Verma reported there are ten current members. The committee plans to hold a session at the spring meeting in St. Louis and will have a written report by

the end of June. Verma requested that consideration be given to what would be done with the report once it is finished since there is no current plan for publication.

Report of the Ad Hoc Internet Committee: John Lawler was appointed by then President Lynn Williams to chair an Internet Committee to examine ways for the IRRA to adapt computer technology in its operations and services. Other committee members include Roy Adams, Richard Hannah, and Daniel J.B. Mitchell. A written preliminary report was submitted for Board consideration. Lawler encouraged the Board to consider the options outlined and to establish priorities for their implementation.

Report of the 50th Anniversary Committee. 1996 President-Elect Fran Blau reported that Thomas Kochan of M.I.T. and Maggie Jacobsen of the National Mediation Board have been appointed cochairs of this committee which includes several past presidents and Board members. The committee will meet on Saturday, January 6, to begin developing plans for the 50th anniversary celebration at the 1997 spring and January 1998 meetings.

Report of the National Chapter Advisory Committee. Chair Janet Conti reported that recommendations approved by the Board at the June 1995 meeting are being implemented. Three new members have been appointed to the NCAC: Marlene Heyser, Orange County Chapter; Mary Mauro, New Brunswick Chapter; and Collette Moser, Mid-Michigan Chapter. Conti said there are at least two positions yet to fill. The NCAC met in October at the New York regional conference held at West Point and supports the concept of regional chapter meetings. Conti reported that the NCAC will present two concurrent sessions at the St. Louis spring meeting: one on developing chapter visibility and a second on developing chapter leadership. The committee recommends that the *Chapter Handbook* given to chapter presidents be updated by 1997. The NCAC will appoint an ad hoc committee to encourage new IRRA membership in the academic ranks particularly among adjunct and part-time faculty.

Report of the Editorial Committee. Editor Paula Voos reported that the 1995 research volume on International Comparative IR will be out in February of 1996. The 1996 volume, *Public Sector Employment Relations In An Age of Transformation*, edited by Dale Belman, Morley Gunderson, and Douglas Hyatt, is on schedule. The 1997 research volume, to be edited by Bruce Kaufman, is entitled *Government Regulation of the Employment Relationship: A Critical Appraisal.* A decision on the 1998 volume is pending.

Report of the Finance and Membership Committee. Chair Don O'Brien said that reports from the administrator indicate a continued decline in national IRRA membership of 6% for 1995 despite various promotional

efforts. O'Brien said despite the decline, Administrator Hutchison projects a surplus for the year. The committee recommended there be no increase in individual dues for 1997 and proposed adoption of the 1996 budget as presented. The committee continues to discuss ways to stem the membership decline and to communicate the value of membership.

Report of the Awards Committee. Jay Siegel presented a written proposal for an annual student writing competition. The purpose of the award is to stimulate greater interest among students in industrial relations and to recognize student papers. The Board approved the proposal in principle with suggested modifications: that multiple authors would be accepted, that the broad definition of industrial relations as stated in the IRRA constitution be used, that the competition and winners be announced in the IRRA *Newsletter*, that papers be published in the *Proceedings*, and that there be two $500 cash prizes—one at the undergraduate and one at the graduate level.

Report of the Statistics Committee. President Gershenfeld reported in the absence of Chair Paul Weinstein and delegate Katharine Abraham who were unable to attend. There is concern for the possible future cutbacks at the Bureau of Labor Statistics. The Board approved Administrator Hutchison's recommendation to pay 1996 COPFAS dues of $500.

Report of the Administrator. Hutchison reported that although revenue for 1995 was down substantially (16%) due to the decline in membership and absence of a spring meeting, expenses were also down by 13%, resulting in an anticipated surplus. The national office continues to make extraordinary efforts to keep costs down. Hutchison reported that the Industrial Relations Research Institute at the University of Wisconsin-Madison has recently become an institutional member of the IRRA. Hutchison's written report to the Board mentions several new initiatives, including a half-price, introductory 1996 national membership offer to local chapter members; acceptance of credit cards for payments; and two-year dues renewal option at a discounted rate. The IRRA established an on-line listserver that currently serves approximately 250 subscribers. The national office moved to larger and more accessible quarters in August 1995. In October the membership database was converted to a new database membership system from which future membership directories will be directly generated.

A short break was taken at 8:50 p.m.

Report of the Constitution Review Committee. The Board reviewed proposed constitution and bylaw changes section by section. The first section of the constitution pertaining to name, purpose, and membership will be referred to a Committee on the Mission of the IRRA to be proposed by Hoyt Wheeler upon assuming the presidency. Proposed changes to the

bylaws were discussed and, following considerable discussion on the issue of strict or flexible rotation in the selection of candidates for IRRA president and president-elect, approved on a 9-1 vote as follows:

Bylaws, Section I Membership—approved as printed.
Bylaws, Section II Officers—approved with the following modification to (II,2): Selection of candidates for President and President-Elect shall follow a rotation reflective of the composition and diversity of the Association.
Bylaws, Section III Duties of Officers—approved as printed.
Bylaws, Section IV Local Chapters—approved as printed (allows chapters to be represented on the Executive Board by the chair of the Chapter Advisory Committee).
Bylaws, Section V—Amendments to Constitution or Bylaws—no changes.

Straw Poll of Membership on Name Change. Administrator Hutchison reviewed membership responses to the straw poll on the Association name conducted in conjunction with last year's annual election mail ballot. The Strategic Planning Committee Meeting had previously narrowed the range of possible names. The straw poll found no clear preference among the proposed new names, but that the majority of those casting ballots preferred to leave the name as the Industrial Relations Research Association. It was moved and seconded to leave the name as it is. A discussion ensued of having the soon to convene Mission Committee consider a name change. A motion to table discussion failed. A motion was made, seconded, and passed to not refer the issue of Association name to the proposed Committee on the Mission of the IRRA.

Report on the IRRA/JAI Press Contract. Bruce Kaufman reported that issues regarding publication rights and reprint costs had been worked out satisfactorily and that a contract with JAI Press has been signed. Under the arrangement, JAI Press, publisher of *Advances in Industrial and Labor Relations,* will publish papers longer than those traditionally published by the Association. Beginning in 1998, six papers in two designated IRRA annual meeting sessions will appear in AILR, and IRRA members will be offered JAI publication at reduced rates. Call for papers will appear in the IRRA *Newsletter.*

There being no new business, the meeting adjourned at 9:50 p.m.

IRRA GENERAL MEMBERSHIP MEETING
January 6, 1996
Westin St. Francis Hotel, San Francisco, California

President Walter Gershenfeld called the meeting to order at 5:50 p.m. and reviewed agenda items for the meeting.

President's Report. Gershenfeld announced that a grant in the amount of $15,000 had been awarded the Association from IIRA 10th World Congress proceeds for the purpose of establishing three awards to young scholars for outstanding contributions to research and professional service. Gershenfeld thanked Tom Kochan, IIRA Past President, and the U.S. Foundation which handled finances for the Congress.

Gershenfeld announced that President-Elect Francine Blau had appointed Tom Kochan and Maggie Jacobsen as cochairs of the 50th Anniversary Committee. The committee met to formulate plans for the celebration which will take place at the 1997 spring meeting in New York City and the 1998 winter meeting in Chicago.

President Gershenfeld reported that the Executive Board had approved a number of changes in the constitution and bylaws. The changes approved by the Board will be submitted to the membership for final approval.

Report of the Finance and Membership Committee. Chair Don O'Brien reported that despite major recruiting efforts by President Gershenfeld, membership was again down by 6%. With careful management of expenses, a projected deficit was avoided for 1995. The Board reviewed and passed the 1996 budget recommended by the Finance and Membership Committee. There will be no increase in dues for 1997. O'Brien said the committee continues to discuss ways to reverse the membership decline. The committee believes the Association needs to market and promote itself more effectively and must continue to provide services that are of value to the membership.

Report of the Editor. In the absence of Editor-in Chief Paula Voos, President Gershenfeld announced that a publishing agreement with JAI Press had been signed. This will allow longer IRRA papers to be published at reduced costs. Gershenfeld said the Board had not made a decision on how to handle the forthcoming June report of the newly formed NAFTA Committee, chaired by Anil Verma. Jay Siegel, Editorial committee member, reported that the 1995 research volume, *The Comparative Political Economy of Industrial Relations*, would be mailed at the end of January. The 1997 volume, *Public Sector Employment Relations in an Age of Transformation*, edited by Dale Belman, Morley Gunderson and Douglas Hyatt is on schedule. The 1998 research volume is entitled *Government Regulation of*

Employment Relations: A Critical Analysis with Bruce Kaufman as editor. There has been no decision yet on the 1999 research volume. Siegel said the February IRRA *Newsletter* would contain the announcement of an annual student writing award, one for an undergraduate and one for a graduate predoctoral student in the amount of $500 each. Multiple authors would be accepted for each category with judging by the Editorial Committee.

Report of the Administrator. Kay Hutchison thanked the San Francisco Chapter for its contribution to the program and the reception held on January 5. Hutchison also thanked President Gershenfeld and Program Cochairs Bruce Kaufman and Marlene Heyser for their leadership in planning the San Francisco program. The national office has continued to work to improve the efficiency of Association operations and offer new services. The Association has created a listserver which facilitates the exchange of information among members and will have a homepage on the World Wide Web shortly. Members are now able to renew their membership for multiple years at a discounted rate; and dues, conference registrations, and book orders can now be charged on credit cards.

Hutchison announced future meeting sites as follows:

1996 Spring Meeting - St. Louis, May 1-4
1997 Annual Meeting - New Orleans, January 4-6
1997 Spring Meeting - New York City, April 17-19
1998 Annual Meeting - Chicago, January 3-5
1998 Spring Meeting - site under consideration
1999 Annual Meeting - New York City, January 3-5

President Gershenfeld announced an arrangement with the FMCS whereby six separate panels of invited papers from IRRA will participate in the biennial FMCS Labor-Management Conference in Chicago at the end of May.

Gershenfeld introduced 1996 President Hoyt Wheeler who listed his initiatives for the coming year.

1. Development of seven IRRA sections to offer greater opportunities for participation in Association activities.
2. Appointment of a Mission Committee of the IRRA to develop a modern statement of who and what we are as an association.
3. Establishment of a practitioner-oriented publication.
4. Expansion of the program for New Orleans to include two distinguished panels.
5. Presidential visits to any local chapter that extends an invitation.

The meeting adjourned at 6:45 p.m.

IRRA EXECUTIVE BOARD MEETING
January 7, 1996
Westin St. Francis Hotel, San Francisco, California

President Hoyt Wheeler called the meeting to order at 8:40 a.m. Present were Past President Walter Gershenfeld, President-Elect Francine Blau, and Board members Peter Cappelli, Janet Conti (also Chapter Advisory Committee Chair), Roger Dahl, Bernard DeLury, Morley Gunderson, Rachel Hendrickson (also Newsletter and Dialogues Editor), Joan Ilivicky, Bruce Kaufman, Craig Olson, Robert Pleasure, and Jay Siegel. Also present were David Zimmerman, Secretary-Treasurer; Maggie Jacobsen, and Thomas Kochan, 50th Anniversary Committee, Cochairs; Marlene Heyser, Program Committee, Co-Vice Chair; F. Donal O'Brien, Finance and Membership Committee, Chair; Kay Hutchison, Administrator and Managing Editor; and Lynn Case, national office. Absent were Board members Katharine Abraham, Eileen Appelbaum, and Ruth Milkman.

Report on the IRRA Mission Committee. President Wheeler reported his intention to appoint David Lipsky as chair of a committee to review the mission of the IRRA. He charged the committee to develop a forward-looking, modern mission statement. The current mission statement was developed when the constitution was written in 1947. Wheeler has asked the committee to coordinate its work with the 50th Anniversary Committee. A motion to approve the formation of the Mission Committee carried on a voice vote.

Report on the 1997 Spring Meeting. While New York City has been chosen as the 1997 location, concern was expressed regarding the cost and quality of potential hotel sites. Joan Ilivicky and the national office will continue to look for other hotel options for 1997.

Report on the 1998 Spring Meeting. President Wheeler reported that two proposals for hosting future sites of spring meetings had been received from the San Diego and Oregon Chapters. Administrator Hutchison read the letter received from the Oregon Chapter and the Labor Education Research Center at the University of Oregon-Portland. Marlene Heyser reported the San Diego Chapter is interested in hosting a meeting no later than 1998. Wheeler reviewed the sites of future IRRA meetings as follows: New Orleans (Jan. 1997), New York City (spring 1997), Chicago (Jan. 1998), and New York City (Jan. 1999). A motion to hold the 1998 spring meeting in San Diego was made, seconded, and passed. Marlene Heyser will work with nearby local California chapters to secure April/May dates for 1998. The Oregon Chapter will be encouraged to consider hosting or later meeting.

Report of the 50th Anniversary Committee. Cochair Tom Kochan reported the committee had its first meeting on January 6 and received the charge from President-Elect Francine Blau to begin planning for IRRA's 50th anniversary celebration. The committee will use the occasion to look at the enduring values of the IRRA and to reach a broad audience through a variety of media and technology. Kochan reported that three subcommittees had been established: (1) Topics and History, (2) Media Options, and (3) Resource Development. Cochair Maggie Jacobsen said that the committee would meet again in St. Louis and that an announcement would appear in the IRRA *Newsletter.*

President Wheeler again thanked Kochan and the IIRA for the monetary gift given to the IRRA for the purpose of granting awards to young scholars and practitioners for their contributions to the field.

Report on Section Meetings. President Wheeler reported that all seven interest sections held organizational meetings in San Francisco. Attendance varied from 5 to 25 per section. Wheeler expressed the need for more coordination between the sections in the future. He asked that sections be invited to suggest topics or make proposals for future spring meetings.

Old Business. Jay Siegel raised several issues regarding the review process for the student writing competition. It was suggested that practitioners and students be involved in the process as well as academics. The Editorial Committee will oversee the review process.

The meeting adjourned at 9:25 a.m.

AUDITED FINANCIAL STATEMENTS
December 31, 1995 and 1994

We have audited the accompanying balance sheets of the Industrial Relations Research Association (a nonprofit organization), as of December 31, 1995 and 1994, and the related statements of revenue and expenditures, changes in fund balance and statements of cash flows for the years then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for o r opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Industrial Relations Research Association as of December 31, 1995 and 1994, and the results of its operations, changes in its fund balances and cash flows for the years then ended in conformity with generally accepted accounting principles.

Stotlar & Stotlar, S.C.

February 29, 1996

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

Balance Sheets
December 31,

	1995	1994
ASSETS		
Current assets:		
Cash	$184,130	$189,812
Other investments	75,458	71,421
Accounts receivable (less allowance for doubtful accounts)	8,447	6,679
Prepaid expenses	17,146	22,051
Inventory	24,252	30,298
Total current assets	$309,433	$320,261
Property, plant and equipment:		
Equipment	$ 36,007	$ 30,314
Accumulated depreciation	24,153	21,694
Net property, plant and equipment	$ 11,854	$ 8,620
Total assets	$321,287	$328,881
LIABILITIES AND FUNDS		
Current liabilities:		
Accounts payable	$ 41,355	$ 76,202
Accrued payables	114	427
Dues collected in advance	96,871	95,080
Subscriptions collected in advance:	11,103	14,996
Deferred income	2,000	2,060
Deferred grant income	20,000	20,000
Payable to IIRA	0	216
Total liabilities	$171,443	$208,981
Fund balance:		
Endowment	$ 40,000	$ 40,000
Unrestricted	109,844	79,900
Total fund balances	$149,844	$119,900
Total liabilities and fund balance	$321,287	$328,881

See Independent Auditors' Report and Accompanying Notes

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

Statements of Revenue and Expenditures
For the Years Ended December 31,

	1995	1994
Revenue		
Revenue from operations		
Membership dues	$159,432	$167,369
Subscriptions	21,502	16,550
Chapter fees	8,815	10,103
Book sales, net of refunds	20,784	11,472
Royalties	216	287
Newsletter advertising	2,753	3,776
Mailing list rental	4,190	5,761
Meetings	6,791	41,480
ASSA refunds	10,358	8,348
Total revenue	$234,841	$265,146
Expenditures		
Compensation		
Salaries	$ 72,003	$ 75,173
Fringes and taxes	20,507	20,441
Contract services	2,232	3,037
Total compensation	$ 94,742	$ 98,651
Publications		
Proceedings	$ 23,733	$ 23,258
Spring proceedings	1,798	4,983
Research volume	19,799	24,953
Newsletter	11,635	11,330
Directory	7,343	5,202
Prior years' publications	0	1,359
Total publications	$ 64,308	$ 71,085
Meetings		
General - Spring		
Meals	$ 0	$ 15,432
Travel	390	772
Postage & shipping	0	309
Printing	217	1,986
Miscellaneous	0	5,514
Profit reimbursement	0	4,258
Total spring meeting	$ 607	$ 28,271
Annual		
Meals	$ 4,431	$ 6,240
Travel	508	1,637
Postage & shipping	726	278
Printing	977	1,081
Miscellaneous	466	767
Total annual meeting	$ 7,108	$ 10,003
Total general expenses	$ 7,715	$ 38,274
National expenses		
Spring		
General and Board	$ 2,828	$ 686
Hospitality	2,554	1,402
Total spring meeting	$ 5,382	$ 2,088
Annual		
General and Board	$ 2,230	$ 5,639
Hospitality	0	1,527
Total annual meeting	$ 2,230	$ 7,166
Total national	$ 7,612	$ 9,254
Total meetings	$ 15,327	$ 47,258
Membership promotions	$ 7,878	$ 4,668
Chapter expenses	$ 1,647	$ 1,452
Committee expenses	$ 0	$ 1,741
Chapter Advisory Committee	$ 0	$ 541

See Independent Auditors' Report and Accompanying Notes

Office and general		
Computer and label costs	$ 713	$ 387
Office supplies	4,584	2,396
Postage and freight	4,622	4,787
Telephone and FAX	1,842	1,922
Accounting and auditing	3,179	3,430
Bank charges	714	64
Insurance	2,497	1,079
Depreciation	2,459	2,859
Duplicating	3,438	2,565
Miscellaneous	301	364
Donations	0	300
Dues	685	685
Equipment leasing	1,233	1,886
Education	229	272
Total office and general	$ 26,496	$ 22,996
Total expenditures	$210,398	$248,662
Excess of revenue over expenditures before other	24,443	16,484
Other revenue		
Other income	$ 350	$ 76
Interest income	7,697	5,248
Other expense	(1,172)	0
(Loss) on securities		(347)
Business taxes	(227)	(25)
Total other revenue	$ 6,648	$ 4,952
Excess of revenue over expenditures	$ 31,091	$ 21,426

See Independent Auditors' Report and Accompanying Notes.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

Statements of Changes in Fund Balance
For the Years Ended December 31,

	1995	*1994*
Unrestricted fund balance, beginning balance	$ 79,900	$ 58,474
Prior period adjustment	(1,147)	0
Excess revenue	31,091	21,426
Unrestricted fund balance, ending balance	$109,844	$ 79,900

See Independent Auditors' Report and Accompanying Notes.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

Statements of Cash Flows
For the Years Ended December 31,

	1995	*1994*
Financial resources provided by:		
Operations:		
Net income	$ 31,091	$ 21,426
Item not affecting cash and short term investments: depreciation	2,459	2,859
Decrease in prepaid expenses	4,905	0
Increase in dues paid in advance	1,791	0
Decrease in inventory	6,046	0
Increase in accounts payable	0	54,509
Increase in payroll taxes payable	0	405
Increase in deferred income	0	2,060
Increase in accrued interest	0	21
Increase in subscriptions collected in advance	0	1,780
Total funds provided	$ 46,292	$ 83,060

Uses of funds:		
Decrease in accounts payable	$ 35,994	$ 0
Decrease in payable to IIRA	216	9,784
Decrease in payroll ta es payable	292	0
Decrease in accrued interest	21	0
Increase in accounts receivable	1,768	1,301
Increase in prepaid expenses	0	5,735
Increase in inventory	0	7,868
Purchase of equipment	5,693	1,108
Decrease in dues paid in advance	0	14,054
Decrease in deferred grant income	60	0
Decrease in subscriptions collected in advance	3,893	0
Total uses of funds	$ 46,790	$ 39,850
Increase (decrease) in cash and short term investments	$ (1,645)	$ 43,210
Cash and short term investments		
Beginning of year	$261,233	$218,023
End of year	$259,588	$261,233

See Independent Auditors' Report and Accompanying Notes.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
Madison, Wisconsin

Notes to Financial Statements

NOTE 1—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The summary of significant accounting policies of the Industrial Relations Research Association is presented to assist in understanding the Association's financial statements.

Organization

The Association is a not-for-profit organization. Its purpose is to provide publications and services to its members in the professional field of industrial relations.

The Association is exempt from income ta under Section 501(c)(3) of the Internal Revenue Code. However, net income from the sale of membership mailing lists and newsletter advertising is unrelated business income, and is taxable as such.

Investments

Investments include balances held during 1994 and 1995 in the Kemper Government Securities Fund and the Kemper Money Market account. The Government Fund investment was liquidated on October 17, 1994.

Inventory

The Association's inventory of directories, research volumes, proceedings, and prior newsletters is carried at the lower of cost or market value.

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.

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 the upcoming 1996 and 1995 calendar years are reflected as deferred income on the balance sheet.

ALPHABETIC LIST OF AUTHORS

You are invited to become a member of

THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

The Industrial Relations Research Association (IRRA) was founded in 1947 by a group who felt that the growing field of industrial relations required an association in which professionally minded people from different organizations could meet. It was intended to enable all who were professionally interested in industrial relations to become better acquainted and to keep up to date with the practices and ideas at work in the field. To our knowledge there is no other organization that affords the multiparty exchange of ideas we have experienced over the years—a unique and valuable forum. The word "Research" in our name reflects the conviction of the founders that the encouragement, reporting, and critical discussion of research is essential if our professional field is to advance.

Our membership of 4,000 includes representatives of management, unions, and government; practitioners in consulting, arbitration, mediation, and law; and scholars and teachers representing many disciplines in colleges and universities in the United States and Canada, as well as abroad. Libraries and institutions interested in the publications of the Association are also invited to become members and, thereby, subscribers to the publications. Organizational memberships in the Association are also available.

Membership dues cover publications for the calendar year from January 1 through December 31 and entitle members to the *Proceedings of the Annual Meeting, Proceedings of the Spring Meeting*, a special research volume, a *Membership Directory* every four years, a quarterly *Newsletter*, and periodic issues of *Dialogues*.

Dues for the 1996 calendar year membership are listed below. Canadian and foreign memberships require an additional $10.00 to cover postage.

Regular membership	$ 56.00
Family membership (same address, no additional publications)	5.00
Contributing membership	100.00
Retired membership (must be a member for at least 10 years and not now gainfully employed)	25.00
Student membership (full-time, limited to 4 consecutive years)	25.00
Institutional or Library Subscription	56.00

Some members also make additional tax deductible financial contributions to the Association.

If you are not already a member, we invite you to join the IRRA by sending your membership application and dues payment. Inquiries regarding membership, meetings, and publications should be addressed to the IRRA office.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
University of Wisconsin-Madison, 4233 Social Science Bldg.
1180 Observatory Dr., Madison, WI 53706-1393
(phone: 608/262-2762, fax: 608/265-4591)

Sincerely yours,

Hoyt N. Wheeler
IRRA President 1996

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