A BEHAVIORAL-SCIENCE VIEW OF THE FUTURE OF COLLECTIVE BARGAINING IN THE UNITED STATES

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March 3, 1979

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Based on a presentation to the U.S. Federal Mediation and Conciliation
Service National Seminar in San Francisco, January 1979. The research
on the Joint Labor-Management Committee of the Retail Food Industry was
supported by the U.S. Department of Labor, Office of Assistant Secretary
for Policy, Evaluation, and Research (Contract # J-9-D-0047).

The contents of this report express the opinion of the author,
and do not necessarily reflect the views of the federal agencies.
Major new pressures confront labor and management representatives in collective bargaining in the United States. Rapid technological change, intense international competition, shifts in the location of manufacturing activities, and the rise of non-manufacturing sectors threaten massive displacement of manufacturing jobs. The workforce itself has changed as a better educated, more heterogeneous, and more cynical generation reaches maturity.

Perhaps the most significant change confronting bargainers is the expanding role assumed by government in shaping the terms and conditions of employment. Equal employment opportunity, occupational safety and health, pension reform, and wage guidelines create administrative problems for bargainers, while providing important new protections to disadvantaged groups.

These frequently lamented impositions on bargaining are usually discussed individually, and in terms of the new bargaining items they raise. From a behavioral-science perspective, however, the greatest impact of these challenges is cumulative and procedural. New bargaining relationships will probably be needed to cope with these challenges; in fact, signs of such a transformation are already evident. The purpose of this article is to describe the likely direction of these changes and to discuss their implications for
the roles of negotiators and third parties who will be involved with these changes.

But first, to better understand the challenges that face collective bargaining, it may be helpful to describe the new complex environment in more abstract terms.

Challenges to Existing Bargaining Practices

A wider range of issues confronts negotiators. Problems of women's and minority rights, actuarial projections of pension and health funds, and layoff protection complicate the economic tradeoffs of a simple era. Perhaps the strongest testimony to the increasing range of issues covered in bargaining is the sheer size of current agreements: contracts of several hundred pages are not uncommon in mature bargaining relationships.

Issues appear suddenly and change rapidly. The unexpected extension of age discrimination protection to age seventy shows how fast important new pressures can arise in the bargaining environment. New issues can stem from the legislative process, technical and electronic research, medical research, and competitive changes. All share two characteristics - unpredictibility of result and immediate impact on current contract terms. It is impossible for any three-year contract being negotiated now to anticipate the major issues that will appear in the newspapers that
will be read by rank-and-file union members in 1982 and that will affect the policies of public and private employers.

Cooperation between union and management is possible on many issues. For economic issues, the conflict between union and management is clear and largely inevitable - a dollar for wages is a cost to management and an income to a union member. But for many newly emerging issues, conflict is not so compelling. Both union and management face the threat of government sanction for discriminatory employment practices that arise under their agreement. Foreign competition affects both labor and capital. And most modern managers show concern for the health and safety of their workforce, even beyond that stimulated by insurance premiums and workmen's compensation laws.

To summarize the turmoil in the current bargaining environment, negotiators must cope with complicated, changing, unpredictable issues, and with the possibility that cooperation rather than conflict might resolve a particular issue more effectively. Not surprisingly, negotiators in many situations have acted positively to respond to this new environment. Some of these responses are discussed next.
Characteristics of the New Bargaining Relationships

More issues are routinely included in negotiations. It is a small, immature, or unprofessional negotiation that does not include some discussion of affirmative action, E.R.I.S.A. requirements, health hazards, technological forecasts, etc.

Expert supplement negotiators on both sides of the table. More and more frequently, legal, economic, actuarial, medical, and industry specialists are included in negotiations or provide background material for union representatives and labor-relations managers.

Negotiators meet to consider issues outside of contract negotiations. Regular meetings during the life of the contract as part of the grievance procedure are common in U.S. bargaining. However, many negotiators or other representatives are meeting outside of the grievance procedure to discuss unexpected contract developments or to explore unresolved issues from past negotiations.

Joint problem-solving approaches are used. The number of joint union-management committees established to explore issues of common concern grows each day. Industry-level programs exist for specific purposes in retail food, over-the-road trucking, nuclear power-plant constructions, and men's garments. Local communities have formed joint committees to deal with declining economies. In-plant committees tackle various problems - from productivity under the Scanlon Plan to the quality of work life - in major companies such as the Dana Corporation and General Motors.
These joint committees do not rely on the exchange of proposals and the threat of economic force that is characteristic of traditional negotiations. Rather they share information in the careful identification of problems and attempt to generate creative solutions.

An intriguing example of a common concern overriding the conflict between union and management can be seen in the textile industry where representatives meet frequently to develop a coordinated industry position toward imports. Despite the acrimony that surrounds the national AFL-CIO boycott of J.P. Stevens, these discussions continue. It is even rumored that Stevens' representatives have occasionally participated.

Some aspects of these new approaches can be best understood in the context of a specific example.

A Case Example: The Joint-Labor-Management Committee of the Retail Food Industry

Since 1974, a group of top-level executives and union leaders in the retail food industry have met regularly to discuss common concerns. The issues range from rationalizing local contract negotiations to providing equal employment opportunity, occupational safety and health, pensions, health and welfare funds, and guidelines for equitable wage settlements.
The Joint Labor-Management Committee (JLMC) has two levels. The policy-level Executive Committee meets quarterly; the operational Steering Committee meets monthly. Both committees have relied on consulting firms and university-based research to supplement their own staff expertise in specific areas such as pensions and safety.

While negotiators remain staunch adversaries in local contract negotiations (which occur continuously), the JLMC has adopted a problem-solving approach, especially in the Executive Committee and in specific subcommittees.

A Bargaining Bureaucracy

The JLMC suggests some of the new collective-bargaining procedures that will be needed to cope with increasing demands from the external environment. A paradigm for the current bargaining procedure might be stated as follows: When the (infrequent) expiration of the labor agreement approaches, bargaining committees meet occasionally to exchange demands. These meetings intensify and each side sends fewer representatives as the expiration looms. Proposals and counter-proposals are made until, under time pressure, the chief negotiators meet together, perhaps with the assistance of a mediator, to make final concessions needed to resolve their differences
and avert a strike. For the life of the agreement, meetings between the two sides are confined (except at the lowest level) to discussions of specific grievances about the application or interpretation of the agreement.

The new form of collective bargaining that is evolving differs from this paradigm in many respects.

1. Meetings are frequent during the life of the contract, and independent of its expiration.

2. Discussions examine external events and potential problem areas, rather than internal complaints about current practice.

3. Groups of experts play a major role in all stages of decision-making, including the final decision on some issues.

4. Representatives often adopt a problem-solving approach.

A sociologist would describe this new form of collective bargaining as a **bureaucracy**, since it has a continuous life; specialized tasks are assigned to experts; and decisions are made on rational grounds rather than by resorting to tests of economic power.

Some of the characteristics popularly associated with bureaucracies can also be seen. Groups, rather than individuals, often make the final decisions; seemingly endless studies are
undertaken on major issues; and there is a proliferation of subcommittees. However, these characteristics have been shown in research literature to be vital to work organizations faced with complicated and changing environments, such as those described for collective bargaining. They are not merely unpleasant side effects.

On balance, then, the bargaining bureaucracy is a logical evolutionary stage in a human decision-making system faced with an increasingly complex environment. We can expect the interests in collective bargaining - labor, capital, and the public - to be better served by this procedure than they can be by the episodic, personalistic rituals which served a simpler age.

Evolutionary processes, of course, are not completely predictable, and the external environment may not favor development of such a bargaining bureaucracy. American management, for example, may continue the assault on the labor movement that characterized the campaign against the labor law changes that were proposed in 1977. The mature relationship described here as a bargaining bureaucracy requires mutual acceptance by each party of the legitimate role of the other as a representative of interest groups in the society. Without that acceptance, collective bargaining may
degenerate into a simple test of economic strength. Indeed, many observers of the American labor movement predict such a reaction to management's assault. The 1980s may see the emergence of a labor party to pursue labor's goals in the political arena, and direct attacks on traditional managerial prerogatives, if an accommodation between labor and management is not reached.

Nonetheless, the accommodation assumed by the present analysis is also likely. An obvious question remains: What are the implications of a bargaining bureaucracy for negotiators and other third parties, most of whom learned their jobs under the traditional system?

The Negotiator's Role

The negotiator is no longer the "expert". It is no longer possible for the negotiator to understand all the ramifications of problems facing the employer or the union. The negotiator must depend on the advice of experts in various disciplines.

This transition will be very difficult. Negotiators may deny that it is needed, and try to maintain expertise in most or all problem areas. This allows the negotiator to avoid feelings of dependency or even helplessness that arise when the judgement of another must be substituted for his or her own. Unfortunately, such a denial is harmful for the new relationship. Decisions are made without all of the information that
is available, and the negotiator wastes time and energy trying to keep up in a few areas, while neglecting the new duties he or she now has.

**Negotiators must learn to manage groups of experts.** If a negotiator has several experts working on a problem, such as the legal implications of an affirmative action plan, the negotiator must be able to facilitate group discussion and decision-making. The facilitator's role is complex, but some of its activities include insuring that the group has accurately defined the problem; that a reasonable range of alternatives has been examined; and that frank opinions from the entire group have been solicited. The negotiator must rely on the members of the groups as experts, so the negotiator's task becomes one of managing the decision-making process, rather than directly making the final decision.

**Negotiators must have behavioral flexibility.** Joint problem solving and hard bargaining require quite different approaches. The former emphasizes the open exchange of information and rational analysis of alternatives, while the latter rewards secrecy and the forceful advocacy of firm positions.

The bargaining bureaucracy requires negotiators who can accurately assess which approach is appropriate for a given issue and who possess the ability to move easily from problem
solving to bargaining and back again. The ability to take a hard line is not enough.

Negotiators must manage their side of the joint bureaucracy. The assignment of people to specific tasks in the bureaucracy raises important strategic decisions: What issues should be under discussion at the present time? Who should be assigned to participate in each discussion? At what level in the bargaining bureaucracy should the final decision be made? Are the various discussions making adequate progress? What remedial steps can be taken to get a discussion moving again?

The successful negotiator in a bargaining bureaucracy will be the one who can most accurately diagnose his or her organization's performance and find ways to facilitate the work of the members of the bargaining team.

Role of the Third Party
Changes in the various third-party roles will reflect the evolution of the negotiators whom they serve.

Neutral third parties will need a wider variety of strategies. Traditional collective bargaining has shaped two distinctive third-party roles in the United States: mediator and arbitrator. Mediating is discussed in some detail below.
The demand for grievance arbitration will remain, especially for cases of individual due process. In addition, arbitrators will be called to resolve factual disputes between the experts representing each party. Unlike interest arbitration, these decisions will often fall in very technical areas, such as the impact of specific chemicals on workers' health. Thus, the demand will grow for neutrals from disciplines that relate to the new bargaining issues. Expedited and "mini" arbitrations should also become more common during the term of a contract.

Mediators will need many new skills. Mediators will probably bear the brunt of the changes in bargaining. They will have to help the parties manage their joint bureaucracies, rather than simply helping them resolve impasses during contract negotiations. The problem they are confronted with is how to get each side to work jointly on problems between negotiations. Mediators will encourage negotiators to diagnose their own collective-bargaining system.

The Relationships by Objectives program of the Federal Mediation Service is a tentative beginning in this major area. Whether the Mediation Service will provide that help directly, or train other consultants and experts, is still an open question.
Since negotiations will not be one-on-one interpersonal sessions, mediators must understand the problems facing negotiators who must manage groups of experts. Mediators will have to work with negotiators who do not personally have all the information they need for many tough issues.

Mediators will also have to help parties develop their own expertise in the complicated issues facing collective bargaining, or they will need to provide a source for experts who can assist the parties. It will be important to have a broad range of contacts across the spectrum of issues that will arise in bargaining.

Finally, mediators must be able to assess when a cooperative approach is appropriate and possible in a bargaining situation and develop a range of skills to facilitate that process. The skills appropriate for a cooperative process are probably quite different from the existing skills in mediation. This suggests that mediators will need to devote some time to acquiring new skills to serve the new bargaining bureaucracy.

Summary
From a behavioral-science perspective, the cumulative impact of the various pressures on collective bargaining may transform contract negotiation and administration into a bargaining bureaucracy.
The bargaining bureaucracy implies different skills, functions, and objectives for negotiators and third parties that are involved in collective-bargaining situations. This evolution in American labor-management relations is by no means assured. Nonetheless, professionals should evaluate the possibility and implications of such fundamental change in their discipline, and remain alert for signs of its development.