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DISPUTE RESOLUTION AND THE TRANSFORMATION OF U.S. INDUSTRIAL RELATIONS: A NEGOTIATIONS PERSPECTIVE

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INTRODUCTION:

Virtually every industry in the United States is grappling with fundamental changes in industrial relations and organizational arrangements. In the course of our own research tracing these changes (Kochan, Katz and McKersie, 1986; Walton, 1988; Cutcher-Gershenfeld, 1988), it has become clear that the degree and nature of change varies greatly across industries, within a single industry, and even within a single firm. As well, upon close examination, the variation can be understood as the product of a highly negotiated set of interactions among stakeholders to the employment relationship.

This paper is a progress report on current research aimed at deepening understanding of the current variation in industrial relations practice via the examination of negotiations processes. In this research we have examined changes that are underway in three industries -- paper, railroads, and auto supply -- which have been selected to represent a range of competitive pressures and a range of production processes. As well, we are drawing on our own prior research on current changes in a number of other industries, including shipping, automobile manufacturing, airlines, shipping, automobile manufacturing, airlines,

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1 These remarks represent preliminary findings from a larger study on the negotiations processes associated with fundamental change in industrial relations. The study is being conducted by Robert McKersie, Richard Walton and Joel Cutcher-Gershenfeld with support from the W.E. Upjohn Foundation for Employment Research. Research assistance on the project has been provided by Kathleen Scharf and Patrick McHugh.

2 Names listed in alphabetical order. The authors are on the faculties of Michigan State University, the Massachusetts Institute of Technology, and Harvard University, respectively.
and electronic office products. The paper is divided into two main sections; the first section traces changes and strategic options in three industries and the second section examines the implications for theory and practice. At the outset, however, it is important to note that the material reported here is highly preliminary -- we are presenting our current thinking at this stage of the research, rather than any final conclusions.

PART I: NEW PATTERNS IN LABOR-MANAGEMENT NEGOTIATIONS

We observe two dominant avenues by which labor and management have engaged in negotiations that have led to fundamental changes in industrial relations. The first avenue involves urgent pressure -- typically from management -- for changes that are seen as essential for organizational survival. We will be using the term "necessity bargaining" to characterize the set of interactions associated with such pressure. The second avenue emerges out the broad range of activities that labor and management leaders may agree to jointly establish and administer, including training, employee involvement, health and safety, new technology, employee assistance programs, job security, absenteeism, health care, and strategic planning. We will be using the term "administrative bargaining" to characterize the set of interactions associated with these joint initiatives. In order to illustrate the concepts of necessity bargaining and administrative bargaining, as well as to place them in context, we will begin with an examination of three highly contrasting U.S. industries.

Throughout the analysis in this section of the paper, we will make reference to Table 1, which examines management's short-run and long-run ability to impose change in three industries. These abilities are then linked in the Table to bargaining responses. As the format of the table implies, it is the strategic choices facing management that is the point of departure for much of the analysis presented here.

Insert Table 1 Here
The Paper Industry

The industry has been heavily unionized by one dominant union, the United Paper Workers, and remains heavily unionized. The primary approach to change over the past several years has been via what we would term necessity bargaining, aimed at lowering labor costs. In this context, management becomes the driving force in bargaining as it demands to eliminate "cold days" (when the mills are shut down for major holidays), to reduce Sunday premium pay, and to develop more flexibility via the elimination of work rules. While imports have not been a major factor in this industry, many companies find their overall rates of return to be unsatisfactory and they realize that their compensation costs are typically far above market rates for the (mostly rural) communities within which their facilities are located.

The strong desire on the part of the companies to lower labor costs has met substantial resistance on the part of the workers involved. For example, long, drawn-out strikes have occurred at mills owned by Boise-Cascade and International Paper. The strong resistance is explained primarily by the fact that the financial pressure on the industry is not so severe as to make the demands of the company compellingly persuasive. Walton (1988) notes that economic pressure needs to be severe enough to capture the attention of the workforce, but not so severe as to make any adaptation seem fruitless. Thus, we would conclude that economic pressure in the paper industry is on the low side of what would be considered a motivating level of economic stress.

Another factor that fosters full-fledged confrontation is the employer strategy of unilateral implementation of changes in work practices. Paper companies seem to have perfected the techniques of operating plants with supervisors, hiring replacements and instituting changes with the new workforce. Unlike our other two industries (railroads and auto supply -- where it is very difficult to attain full production with a skeletal crew), it has been feasible in paper (and other continuous-process industries) for management to operate the facilities for a sustained period of time. It is for this reason that management's ability to impose short-term change is classified in Table 1 as "high."
Thus, in the short-run, a number of relationships have deteriorated to the point of open conflict. Interestingly, in this contentious context, some paper companies have been quietly pursing change on a more cooperative basis. In effect, they offer the union an alternative of seeking change more gradually and quietly, without the breakdown in labor-management relations. This quieter, more cooperative path is not characterized by the same urgency and depth of change in contractual issues as necessity bargaining, but nor has it lead to extensive change via joint governance and administrative bargaining. An interesting long-run set of questions is whether the quieter approach will evolve into broader administrative bargaining and whether the direct, necessity bargaining approach to change will lead to different outcomes than the quieter, more cooperative approach.

Over time, there is some evidence on the long-term dynamics associated with the necessity bargaining. While the confrontations associated with necessity bargaining are certainly significant emotional events, there are indications that the contention is at least somewhat reversible. For example, after a bitter strike at the Rumford Mill of Boise Cascade, the parties have recently opened negotiations early and signed a long-term agreement that appears to meet the parties' mutual objectives.

While there are some nonunion mills that have been opened in new locations, the more typical pattern seems to be the expansion and upgrading of existing facilities (where unions are very much a part of the scene). The evidence suggests that the strategy of opening up a nonunion greenfield mill is not easily available to the parties due to the high fixed capital costs. This is why we have classified the long-term ability to avoid the union in Table 1 as "low." Thus, from an analytical point of view, an important determinant of the apparent need to improve the long-run labor-management relationship is the inability of management to move its facilities.

We are not now in a position to provide any definitive evaluation of the contrasting alternatives that we observe in the paper industry. On the one hand, the quieter, more cooperative approach produces change, but slowly. The long-term results from this approach could be substantial, but there is not yet evidence regarding
whether the potential will be realized. On the other hand, it is clear that the necessity bargaining approach leads to significant changes in the short run, but usually at a very high cost to morale and the quality of the labor-management relationship. Over the long run, there is some evidence that some degree of reconciliation is possible. Thus, the paper industry seems broadly divided between two dynamics -- one that involved escalating, highly contentious necessity bargaining followed by reconciliation; and the other that involves quiet, cooperative initiatives that expand in scope at a slow pace.

**The Railroad Industry**

By many measures, the railroad industry has undergone substantial change over the past ten to fifteen years. Employment has dropped in half and a number of branch lines have been sold to independent operators, often with dramatic changes in contractual arrangements. However, by comparison with other industries where significant changes have occurred in compensation arrangements and work rules, the core features of collective bargaining arrangements in this industry have primarily remained intact. Hence, short and long-term dimensions of Table 1 for the railroad industries are labeled as "status quo."

The status quo nature of the industry in the short run is explained by several factors. First, with respect to economic necessity, the picture is similar to the paper industry. The major companies are making profits, although they are far below what would be considered an acceptable rate of return. Secondly, the unions and the workers are in a position to resist a lowering of their compensation (which is the highest of any industry) due to the unions' ability to engage in secondary boycotts (under the Railway Labor Act) and the willingness of the unions to do so (that is, the solidarity of the unions). With the exception of the experience of the Florida East Coast Railway (that sought to operate trains in the face of a strike several decades back), none of the large railroads have contemplated full scale necessity bargaining.

One railroad, Guilford, is a small regional carrier that did recently continue to operate in the face of a strike (until it was ordered to rehire workers via an emergency
board and several arbitration decisions). It is interesting to note that now, Guilford has followed the route of several of the paper companies wherein the confrontation has been followed by reconciliation. Guilford has signed an encompassing contract with the United Transportation Union for all of the craft workers. This industrial form of union representation is preferred by management -- a common complaint in airlines and railroads is that they do not have the advantages of one union as is found in the trucking industry.

Returning to the short-run status quo characterization of the railroad industry, it is important to note that a range of approaches have developed as the companies have sought to achieve breakthroughs in manning levels and work rules. CSX engaged in a very ambitious problem-solving exercise with all of the unions and an imaginative package resulted that provided for substantial reductions of the workforce via early retirements and attrition, as well as a sharing of future benefits with the workers. However, the unions have not been able to sell the package to their members. Thus, there is no support for the union leaders to engage in the full range of ongoing, administrative negotiations that would be required to give life to the dramatic changes.

Over the long run, the railroads are very much locked into their route systems and to their relationships with the unions that are "on the property." The term we hear frequently mentioned by railroad management is that one way or another they are seeking to develop "leverage" as a way of compelling changes in operations. A number of major carriers have sought to break out pieces of the business and sell them to third parties or to place them under subsidiaries that would enable management to restructure operations and to renegotiate labor agreements. Some of these efforts have been successful, but others have been effectively stopped by injunctions that unions have obtained from the courts. We believe much more of this testing of the limits will take place, given the pressures for change and the difficulty of conventional collective bargaining in bringing about what management sees as the necessary adaptation. For the moment, however, the railroad industry seems to have neither the impetus for necessity bargaining, nor the foundation for administrative bargaining.
The Auto Supply Industry

This industry presents a very interesting profile of a rapid decline in union density over the past ten to fifteen years. Yet, at the same time, there has been the emergence in the few remaining unionized facilities of a number of far-reaching problem-solving efforts to improve effectiveness and job security.

In the short run, change has proven difficult for management to achieve in this industry. The union is in a very good position to resist concessions because it is more difficult to maintain production and deliveries during a strike (in contrast with the paper industry); there are often other firms ready to take over unfilled orders; and customers are pressuring firms to operate on just-in-time delivery basis with reduced inventories. Hence, the short-term potential for change has been labeled in Table 1 as "low" and the resulting pattern is "status quo."

Faced with a perceived need for change and with initial resistance from the unions and workers, many companies have avoided protracted discussion and pursued a long-term strategy of shutting unionized plants down and opening new, nonunion facilities. Companies such as Eaton, TRW and Dana, for example, have experienced a precipitous drop in the percentage of their blue collar workers that are unionized. A key element of the strategy of such firms is the use of all of the latest human resource management techniques aimed at filling the functions normally assumed by a union (assessing worker priorities, dispute resolution, and sharing information). Motivating such moves are considerable economic pressures and labor costs that are a relatively high percentage of operating costs.

No doubt, many companies have taken the escape option prematurely. It takes time to convince a workforce about the economic realities; sometimes two or three rounds of "education" and ratification votes are taken before a majority of union members will accept substantial changes in contractual work rules and compensation arrangements. And there is evidence to suggest that many workers can come to accept the necessity of change in order to meet competitive pressures.

Where companies have been more patient, we find a dramatic emergence of
administrative bargaining. For example, in the Budd Detroit Stamping Plant, which is organized by the UAW, there has recently been a period of growth (after a long decline) that is partly fueled by a range of successful administrative initiatives. These include a revitalized employee involvement program, the use of an autonomous team structure to manage the stamping die transition process, the extension of the team concept to quality issues, and the potential use of team structures for all production operations. Sustaining these new arrangements has required a more continuous form of administrative bargaining between line production managers and union leaders. As well, since there are parallel developments in other Budd plants, the corporate industrial relations staff and the international union leadership have found it necessary to bring together the key members of both bargaining teams on a quarterly basis throughout the term of the current contract. Similarly, the top union (UAW) and management leaders a major parts supply plant in the Rochester Products Division of General Motors have found it necessary to meet on a weekly basis (every Monday morning) in order to administer an extensive employment security program.

Thus, in the auto supply industry, the short-term picture has been constrained for many parties, while the long-term picture features two divergent extremes. On the one hand, contentious relations go beyond necessity bargaining to the elimination of the collective bargaining relationship. On the other hand, far-ranging administrative bargaining has been associated with fundamental transformation in industrial relations.

PART II: IMPLICATIONS FOR THEORY AND PRACTICE

Necessity bargaining and administrative bargaining both involve negotiations over issues of fundamental change, which are outside the traditional agenda that parties usually bring to the collective bargaining table. However, necessity and administrative bargaining represent very different paths toward these issues. In this section of the paper, we will surface the implications for theory and practice of the different paths.
Implications for Practitioners: Necessity Bargaining

As we have suggested above, managers in a number of industries are coming to the bargaining table with positions that are rooted in what they see as economic necessity, which we have termed "necessity bargaining." The managers are often surprised, however, to find that bargaining over such matters does not become a joint problem-solving process over how best to respond to competitive pressures. Instead, the negotiations can deteriorate into a highly contentious proceeding. We have seen this deterioration occur around issues ranging from premium pay on weekends to the number of job classifications.

One key factor in the deterioration of necessity bargaining into a low-trust, high conflict set of relations is the failure of both labor and management to recognize that there are more than the obvious substantive issues on the table. For example, a management demand for reduced classifications may reflect more than just a traditional management preference for flexibility -- it may be seen by managers as an indispensable component of their competitive survival as a firm. For labor, the demand for reduced classifications may be seen not only as an encroachment on previously won benefits, but as a threat to the very institutional security of the union. Thus, for both parties, there are survival issues at stake that go well beyond the specifics of work rule changes.

Recognizing the existence and the legitimacy of these deeper survival issues is a key step toward avoiding the deterioration of necessity bargaining. At an interactive level, recognition may take the form of each side being explicit about what is at stake and checking to ensure that it understands what is at stake for the other side. At an institutional level, the existence of forums oriented toward problem-solving bargaining (joint committees, task forces, etc.) can play a critical, complementary role.

It is important to note an interactive dilemma associated with being explicit about what is at stake for each side. This involves the risk that the acknowledgement of the other side's deeper interests not be construed as agreement with the other side's
position. A related issue associated with necessity bargaining concerns distinguishing crisis pressures from rhetoric. Even if one side or the other tries to be explicit about what is at stake, it may not sound appreciably different from past management rhetoric about competitive pressures or past union rhetoric about institutional security. Typically, fundamentally deeper levels of information sharing are a necessary requirement in order to distinguish present realities from past rhetoric.

Finally, the clear implication from the analysis in Section I on short-term and long-term options suggests that the use of necessity bargaining in the short-term be linked to a realistic evaluation of long-term options. Thus, if a paper mill does not have long-term flexibility, it is predicable that even the most hard-edged strategy by management will eventually have to be followed by some form of reconciliation. This is not to say that a hard-edged short-term strategy is ill-advanced. There is some evidence to suggest that the unfreezing quality of a hard short-term strategy may lead to some important managerial gains without irreparable damage to the relationship. The evidence on this point is, however, incomplete.

Implications for Practitioners: Administrative Bargaining

For many practitioners, the bargaining associated with many new employment issues contrasts strongly with the bilateral, periodic set of adversarial interactions that typically characterize collective bargaining. New patterns of negotiations can be found with respect to issues ranging from training, to employee involvement, to health and safety, to new technology, to employee assistance programs, to job security, to absenteeism, to health care, to strategic planning. Setting aside current debates over whether bargaining over wages and benefits has also changed (Freeman, 1986; Mitchell, 1985), there is substantial evidence that, on the above range of issues, the negotiations involves a more continuous, multilateral decision-making process that we have termed "administrative bargaining."

As parties expand the scope of issues that they are willing to address via administrative bargaining, they quickly learn that a joint administrative responsibility
for a given program area does not mean that they will only face easy, consensus decisions. Rather, fundamental disagreements will periodically emerge regarding program specifics and even broad goals. We feel that such conflicts are inevitable in any mixed-motive relationships. As such, the clear implication for practitioners is to anticipate that conflict will emerge in course of joint initiatives.

At the level of interpersonal interaction, it becomes important to be able to engage in clear confrontations without engendering defensiveness, as well as to engage in active listening and other communications skills. Equally, at an institutional level, it is important to ensure that formal and informal mechanisms for dispute resolution exist side-by-side with the joint administrative structures. Ultimately, we would hypothesize that legitimizing competing interests would lead to stronger programs, even though the administration might be more complex.

Because administrative bargaining involves a more continuous set of interactions, there are a number of aspects of bargaining strategy that stand in contrast with the strategies associated with periodic collective bargaining. First, the nature of deadlines, impasse threats, and other forms of leverage become much more subtle. Second, it is possible to make a series of small (or "nickel and dime") agreements -- many of which are not written down -- without fully assessing the sum total of the agreements. Third, highly effective innovations do not necessarily diffuse or become institutionalized. Finally, the result of more continuous administrative bargaining is that new channels of communications and decision making are established.

The implications for practitioners involved in more continuous relations, of course, is that it is periodically necessary to step back and assess the administrative relations. In this regard, we have found off-site strategic planning sessions are often critical to assess current status and explore redirection. Equally, we have found that collective bargaining is a particularly valuable forum for codifying successful innovations, which may suggest a strong interdependency between the more informal and continuous administrative bargaining and the more formal, periodic collective bargaining. Still, there are unanswered questions regarding the power implications of
side-by-side administrative bargaining and collective bargaining. For example, are union leaders constrained from distributive tactics because of their administrative responsibilities or is management more vulnerable to distributive tactics (such as holding joint programs hostage) or are both limits present?

Often, the interests of various stakeholders within labor (such as officers, appointees, stewards, skilled trades, etc.) and within management (especially distinctions between line production management and staff) become more sharply distinguished in the course of administrative bargaining. Equally, new stakeholders (such as outside customers, outside suppliers and communities) take on active roles. The result is greater intraorganizational tensions and a more multi-lateral form of bargaining.

To some extent, parties have responded by making the negotiations among these multiple parties more explicit. For example, production operations that are dependent on one another may refer to each other as internal suppliers and internal customers as they bargain over each other's quality, schedule and cost requirements. As well, new outside stakeholders may be given formal "seats at the table" for certain administrative structures. Still, there are deep questions to be addressed regarding mechanisms for direct and indirect participation by various labor and management stakeholders in administrative bargaining. Specifically, in what ways does ongoing administrative bargaining reinforce or undercut union democracy and the managerial chain of command?

Ultimately, the challenges of administrative bargaining operate both at the level of interpersonal interaction and at an institutional level. At the interpersonal level, the initial challenges concern building a capacity to bargain over how to bargain. That is, establishing joint administrative initiatives requires a form of negotiations over the norms for interaction associated with administrative bargaining. At an institutional level, labor and management leaders are really engaged in a process of crafting governance (Savoie and Cutcher-Gershenfeld, 1989), whereby the parties are constructing new institutional arrangements within which they will then operate.
Implications for Theory

If, as we would argue, industrial relations in the United States has entered a period where there are deep changes occurring in the patterns of interaction, we must consider what theories will best aid us in understanding the changes. In this regard, we have found that many of the principles derived from a behavioral perspective on negotiations have proven particularly powerful. However, we have found ourselves extending the Walton and McKersie (1965) framework beyond the relatively stable, periodic, and bilateral processes of collective bargaining.

Indeed, if we examine the four dimensions of the 1965 behavioral theory of labor negotiations, we see that recent events surface some of the most extreme aspects of each dimension. It is these extremes that have mapped our research agenda. We list them here by way of illustration and by way of invitation for further research by others. As a field, we feel that we need to know more about:

1. How distributive dynamics can deteriorate in the course of necessity bargaining and destroy a labor-management relationship.
2. How integrative dynamics can expand via administrative bargaining and transform a labor-management relationship.
3. How intraorganizational dilemmas are becoming more sharply articulated and how they now exist side-by-side with an emerging set of multilateral dilemmas associated with parties in addition to labor and management.
4. How attitudinal structuring becomes bargaining over the very norms and assumptions that frame negotiations.

Deeper understanding along these dimensions promises to fully embed current alternative dispute resolution initiatives within a broader conception of the changing nature of U.S. labor-management relations. Further, the analysis promises deepen and extend our understanding of the nature and dynamics of a transformation in U.S. industrial relations. Finally, it is via such an analysis that we may better learn how to assist unions in facing fundamental institutional questions and how to assist employers in facing profound competitive pressures.
REFERENCES


Freeman, Richard. "In Search of Union Wage Concessions in Standard Data Sets" in Industrial Relations. Vol. 25, No. 4 (Spring 1986).


Table 1

MANAGEMENT AND THE POWER EQUATION

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