
Book Review

Disputes and Conflicts Inside Organizations: A Systems Approach

Mary P. Rowe

Robert R. Blake and **Jane Srygley Mouton**, *Solving Costly Organizational Conflicts* (San Francisco: Jossey-Bass, 1984).

David Ewing, *Justice on the Job* (Boston: Harvard Business School Press, fall, 1989).

William L. Ury, **Jeanne M. Brett**, and **Stephen B. Goldberg**, *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict* (San Francisco: Jossey-Bass, 1988).

Alan F. Westin and **Alfred G. Feliu**, *Resolving Employment Disputes Without Litigation* (Washington: The Bureau of National Affairs, 1988).

James T. Ziegenfuss, *Organizational Troubleshooters: Resolving Problems with Customers and Employees* (San Francisco: Jossey-Bass, 1988).

Disputes are inevitable within institutions. And in recent years there has been a great deal of interest in intra-company and intra-institutional conflict. The five books considered in this review all emphasize the design of systems to handle disputes. The books are experience-based and thoughtful discussions that will be of great use to anyone who is a manager, and to every-

one who works in the field of negotiation. The books are particularly oriented toward program design, so anyone who *designs* (or supervises) complaint systems will be especially interested. These books do not substitute for each other; each simply offers important pieces of what the designer of systems needs. (If you are seeking to understand complaint *systems* you will need them all.)

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I will begin with two general conclusions about all five books. I then discuss the theoretical bases of the books, in negotiations terms. I touch on why the books were written and why they are needed. We turn then to my own overview of the functions and characteristics needed in a complaint system, and a discussion of the five books within that particular context.

There are two general conclusions I would like to make about this set of books. The first is that complaining, grieving and intra-organizational disputing can—and should—be seen as a major topic in the theory and practice of negotiation. Many readers will find this obvious. But many negotiation theorists, reasonably enough, think mostly about mighty, “macro” international problems, multi-billion dollar commercial disputes and cosmic, public policy mediation problems. For me therefore, as an intra-institutional ombudsman, it is a pleasure to find my own (micro-negotiations) field discussed in five wonderful new books.

A second, and related, conclusion is that complaining and intra-company conflicts can—and should—be thought about in a *systems* context. A CEO can design a dispute system just as she can design any other management system for the company and, moreover, there are many reasons why she should. The most important reason is this: In order to provide both distributive solutions to grievances (arbitration or adjudication) and integrative dispute resolution (problem-solving, and negotiated or mediated or generic solutions), a given employer needs a complaint *system*.

This point actually is not so obvious to those of us who grew up thinking only of litigation, or only of labor-management grievance procedures, or solely about management prerogatives (up or down decision-making by the manager). Please pause for a moment.

If you think of complaint procedures mainly in terms of “due process,” or if you think of employee problems mainly in terms of “rights in conflict,” or if you think of organizational conflicts in terms of management rights or the uses of power, or of “up or down decision-making,” then you may have been thinking mainly about arbitration and adjudication of grievances—of senior managers or outside arbitrators just deciding what should happen in the case of an organizational feud. And you may have been thinking mainly about people’s *rights*, and relative *power balances and imbalances*, for example between a worker and his supervisor, or a work group and another work group.

In order to think about the way employees and managers really are, we should now be thinking, in addition to the topics above, of a much broader spectrum of disputants and of complaints. We should include integrative, problem-solving mechanisms, in addition to traditional, due process, distributive grievance handling. Why? To give one example, consider the fact that a *substantial number of disputes arise between workers, or between managers who are peers*. Bargaining contracts do not provide for such disputes, and many of these disputes are not easily accessible to the relevant supervisor. Many complaints are of a subtle nature, diffuse and subjective, or lie in the domain of professional judgment, say in a high tech firm, or among health care practitioners. Others concern policy matters, so unless there is some way to address a policy or a structure, it is difficult to address the problem of an individual. Moreover, due process mechanisms sometimes cannot adequately address even those problems that *do* superficially appear to be appropriate for adjudication. For example, some formal complaints are made just to express feelings that have little to do with the

stated complaint, such as those made simply to express dislike of a heavy-handed supervisor.

Of yet more importance, many people do not actually *want* distributive solutions to their complaints and conflicts. Moreover, it may not be in management's interests "just to decide" all disputes, nor is it necessarily in management's or a union's interests to let many disputes go to arbitration, which can be, in many different ways, a costly process. These points are central to the work of contemporary ADR and negotiation theorists, but they have been overlooked by many observers of the workplace, who are concerned "only" with rights and power.

Theoretical Bases of the Five Books

Ury, Brett and Goldberg write in the context of the highly unionized coal industry. All three are specialists in negotiation and they begin by presenting a negotiation theorist's view of labor-management disputes. (This is a wonderful section, very appropriate for class assignment in courses on negotiation.) They ask the reader to think of a worker's grievance in terms of *interests, rights and power*. If a worker grieves, this may be because he has interests at stake; if so, the real interests should be addressable and addressed. Arbitration, which has its roots in ideas of rights and of power, may or may not directly address the *interests* of the worker.

On this lucidly articulated theoretical base, the authors of *Getting Disputes Resolved* discuss a brilliant and courageously pursued plan used for mediating worker complaints in the coal industry. They describe years of *interest-based* mediation of the grievances of miners who once had sought arbitration (read "rights") or pursued wildcat strikes (read "power"). It is central to the reasoning throughout the

book that disputes should be resolved if possible at the least costly level. Interests should be met wherever possible through problem-solving and mediation. When a dispute escalates, it should be "looped back" to problem-solving, whenever possible. Moreover, relatively low-cost backups can also be instituted, to provide more adjudicative input short of the fully-articulated formal grievance procedure.

In *Solving Costly Organizational Disputes*, Blake and Mouton, without using the language of negotiation theory, prescribe a similar program for negotiating the real interests of organizational groups in conflict. The background and language of these authors is organizational behavior; the authors are well-known management consultants and authors. The milieu of the book is major organizational conflicts. Blake and Mouton draw some distinctions between individual and group conflicts. Nevertheless, their innovative program, called *The Interface Conflict-solving Model*, in fact, depends on familiar theory. The purpose of an *Interface Conflict-solving Model* consultant is to support groups which are in conflict with each other to follow a stylized procedure to identify their own interests, and to resolve their differences on the basis of interests and principles, rather than on the basis of rights or power.

Ziegenfuss similarly pursues the language of interests, rather than just rights and power, in his book on *Organizational Troubleshooters*. The entire orientation of the book is to solve problems before they escalate and in particular before they might escalate into a costly confrontational or litigational mode.

Resolving Employment Disputes Without Litigation by Westin and Feliu, and Ewing's forthcoming book, tentatively titled *Justice on the Job*, were written by authors who *are* mainly ori-

ented toward rights and power. The central words in these two books are, respectively, "fairness" and "due process." Each book is organized around the presentation of descriptions of complaint systems actually in use in corporations; Westin and Feliu give twelve, while Ewing presents fifteen separate case studies. However, since both books do describe what is *actually* happening in corporations, and since successful systems depend so much on helping people deal with interests as well as rights and power, each of these books winds up presenting some problem-solving procedures as well as concentrating on adjudicatory modes.

Why Are Internal Dispute Resolution Procedures Needed?

Each of these books was written for particular, and very important, specific reasons. Ury, Brett and Goldberg describe extraordinarily costly arbitration, wildcat strikes, and worker-management antagonism in the coal-mining industry. Blake and Mouton use real and hypothetical examples to demonstrate the high costs engendered by inter-departmental conflicts in corporations. They discuss examples of line-staff, union-management, corporate-field, parent-subsidiary, and merger conflicts.

Ziegenfuss provides numerous examples from health care, manufacturing, service companies and government agencies. Ziegenfuss writes in detail about external pressures on companies; Ewing has an elaborate, very thoughtful discussion on why companies are increasingly interested in problem-solving. Westin and Feliu are focused on alternatives to litigation. They write eloquently on the increase in employment disputes fostered by the profound

increase in diversity of the U.S. workforce, and also include a detailed chapter on the legal stimulus to fair procedure systems. (This book is very useful for anyone who is teaching these two topics.)

As a full-time ombudsman for the last sixteen years, it is evident to me that diversity, safety problems, ethical problems, increasing violence, drugs, an increasingly rights-conscious society, and increasing competition do indeed combine to make intra-organizational conflict management and complaint systems a "growth industry."

These are books that are primarily about cost control. Ziegenfuss includes some discussion of improving productivity through improved conflict management and upward feedback, and the other authors certainly care about the benefits of complaint systems, as well as about cost containment. However, there is not a great deal in any of these books about *demonstrated* increases in productivity or in creativity due to improved modes of disputing within the employment context. These topics have been thought about by many people, but we are not very adept at *tracking* the benefits of improved disputing.

I raise this point because I believe that designing complaint systems that actually meet the interests of all concerned, disputants as well as top management, may well improve productivity, even if we do not know very much about this point. We think about the importance of "designing goods and services to meet the needs of the consumer." In this case, the disputants are one set of the "consumers," one of the groups of stakeholders whose needs should be met by complaint systems designers. Meeting the interests of these unusual "consumers" may well produce benefits beyond just cost control.

Functions and Characteristics Essential to an Internal Dispute Resolution System

My own typology of functions required for an effective complaint system includes the following:

1. Complaint-handlers should communicate respect for people's feelings, and help people who are hurt, confused, angry, aggrieved or frightened to deal with their feelings.
2. Any person in the workplace should be able to get information about how the system works, what fairness is, how to raise a concern. Everyone should have a safe channel to *provide* information back to management about unsafe conditions, unethical practices and the like.
3. All employees and managers (and disputing groups) should be able to find effective counselling, to learn how to sort out their complaints and conflicts, and how to negotiate their problems directly if desired.
4. There should be effective shuttle diplomats and process consultants, who act as go-betweens and educators, for individuals and for groups.
5. Formal mediation should be available for individuals and for groups.
6. There should be fair, prompt and thorough investigation of complaints where appropriate.
7. There should be appropriate complaint and appeal channels, with impartial arbitration, peer review, or other appropriate adjudication.
8. There should be effective provision for upward feedback and systems change, both as a problem resolution device for the specific complaint, and to prevent further problems as appropriate.

In addition, I would list as necessary characteristics, that there be multiple options available to complainants, and that complainants as much as possible could *choose their own options as to how to complain*¹ (learning to deal on their own, asking for a mediator, asking for advisory arbitration so they'll know where they stand, etc.). I believe that complaint systems must have in them a confidential adviser available to all for such problems as reports of harassment and unethical behavior. Large systems should have different kinds of people available as complaint handlers: African-American, female, technical people etc. *Everyone* in the organization should have recourse (managers, employees, union workers, professionals, etc.) *and on any kind of concern*.

Ury, Brett and Goldberg discuss a similar set of ideas in their chapter on principles of complaint system design. In *Getting Disputes Resolved*, they advocate early negotiation based on interests, with an emphasis on resolving problems at the least costly level. Their book explicitly recognizes the functions of dealing with feelings, and of getting and giving information. Counselling, and helping disputants help themselves are briefly discussed in a section on "providing resources," although the emphasis is almost entirely on helping people help themselves into *mediation* rather than helping to teach disputants to negotiate their problems *directly*.

These authors very briefly mention the concept of in-house ombuds practitioners, but they do not appear to be fully aware of the considerable proliferation of helping resources in North American companies: troubleshooters, ombudspeople, employee relations and employee assistance people, consultants, etc. Most examples in the book are, in fact, drawn from unionized coal mining, one school, or external and international dispute resolution; there

is little about disputes among managers or in non-union settings. This may be one reason why there is so little in the book about helping people learn a method to negotiate their problems on their own (as distinguished from helping them to use problem-solving third parties) and why there is so little about complainants being able to choose options.

The authors include a fascinating, though much too brief, discussion of building in "loop-backs to negotiation," that is, de-escalation devices to keep disputes reverting toward problem-solving. (This extraordinarily useful subject clearly deserves a serious treatise of its own.) Much of the book is devoted to formal mediation, and to the authors' painstaking and impressive experience in designing dispute resolution systems and practicing mediation in the coal-mining industry. The authors do not much discuss investigation, as a function of complaint systems, but do discuss a variety of low-cost procedures to provide alternative resolutions based on rights or power. There is a very brief discussion of preventing disputes and of feedback after disputes; the authors do not discuss the use of systems change as a way of settling individual grievances.

The authors do discuss the idea of "multiple options." There is an eloquent section on systems design and involving all relevant parties in that design, though not much discussion of letting complainants choose their own options when it comes to the individual complaint. There is very little on managers as complainants, or on other peer disputes, or on the kind of disputes that may require confidentiality (which are, in my experience, a significant proportion of interpersonal conflicts).

Solving Costly Organizational Conflicts is a wonderful book that deals, as I see it, with several of the necessary functions of a complaints system. Blake

and Mouton differentiate between an *Interpersonal Facilitator Model* and their *Interface Conflict-solving Model*. The Facilitator (in their view) is an outsider who diagnoses, proposes solutions, serves as shuttle diplomat and perhaps mediator between the leaders of groups or departments. (Unfortunately, like Ury et al., they do not discuss the facilitator as someone who can also simply teach others how to deal effectively with disputes on their own.) In the *Interface Conflict-solving Model*, the outsider teaches a highly stylized method, sets up the interactions, pulls together principal actors from disputing departments, oversees the assignment of spokespersons who are not the department heads, and then helps the parties diagnose and resolve their dispute themselves.

The *Model* has six steps. Each group first develops an optimal or ideal model of what should be going on. The disputant groups (made up of lead figures in the departments) then get together and jointly outline a *consolidated*, ideal model of what should be going on. In this discussion they deal together via their spokespersons. (This may remind some readers of the somewhat similar device in Interaction Associates' model of "How to Run a Meeting.") Each group then separately describes the actual relationship between the groups. In the fourth step, the groups work together to outline a consolidated picture of the actual relationship. Changes to be made are then jointly agreed upon. Finally, follow-up dates are scheduled for review and new planning.

This *Model* does provide for dealing with feelings, for factual input. The *Model* itself constitutes consulting on *how to help groups help themselves*. (Since many dispute resolution theorists and practitioners best understand *intervention*, this technique may be of particular interest to those who want

to use and teach new tools.) The *Interface Conflict-solving Model* does provide for a particular type of informal investigation of what is going on in the dispute, and in particular it does deal with systems change, and with an ongoing device for ongoing systems change. Obviously the device is for groups rather than individuals, and does not itself constitute a whole complaints system. But by this same token, the *Interface Conflict-solving Model* adds an elegant option, for those designing complete complaints systems, to help in dealing with groups in addition to individuals.

James Ziegenfuss is also from an organizational management background; he has published widely on intra-company disputes and also those disputes that an employer may have with customers, and clients (e.g., patients). He picks up this theme again in *Organizational Troubleshooters*. Troubleshooters typically have all the functions of any complaint-handler or dispute-handler described above, except that of arbitrator or judge.

Ziegenfuss quotes the *Oxford American Dictionary*: a troubleshooter is "a person employed to trace and correct faults in machinery, etc., or to act as a mediator in disputes." (Incidentally, my unabridged copy of the *Oxford English Dictionary* does not include the word ombudsman.) In Ziegenfuss' description, a troubleshooter, or ombudsperson, is more likely to investigate, and is more engaged in upward feedback toward changing the organization, than are the dispute-handlers described in the other books. In particular, Ziegenfuss sees the troubleshooter or ombudsperson as contributing toward change in culture, goals and values, of improvements in technical processes, in management, in organizational structure, and in the quality of psychosocial life in the workplace.

An ombudsperson is not, of course, a

system, but rather part of one. The ombuds practitioner is a *peculiar* part of a system, because he or she embodies all but one of the functions of a complete system; one might think of an ombudsperson as a vertical slice of system. Moreover, troubleshooters can formally have the title of ombudsman, or can and do appear in most organizations under a variety of other titles. For this and other reasons, a given employer may have its troubleshooters practicing in somewhat different ways, a point well-recognized by Ziegenfuss. In fact, one of the strengths of this book, from the point of view of a practicing ombudsperson, is that the author understands the profession. A great many negotiations specialists and other kinds of practicing neutrals identify ombudspeople by only one or two of their functions, which to us is like being recognized only for our right arm or our left foot.

Ziegenfuss writes extensively about the characteristics of the ombudsman profession, touching on such central points as the neutrality issue, confidentiality, sources, and use of power. As with the other books, a major focus is on program design. He provides chapters on a "day in the life of" the ombudsperson, on designing and implementing a program, the use of the tools of troubleshooters, on cases and experiences of these practitioners, and on evaluation and control of problem-solving programs.

One of the contributions of *Organizational Troubleshooters* is to recognize the extraordinary proliferation of this profession in the past twenty years. (I estimate that there are now on the order of 8,000 practitioners of this general type attached to public and private organizations in North America.) Ziegenfuss' extensive experience in health care, his close professional contact with corporate ombudspeople and

his understanding of customer and client complaints, adds breadth and depth to the intra-organizational dispute-handling approaches of the other authors reviewed here.

Alan Westin and Alfred Felio are also very experienced observers of the employment dispute arena. Westin, a political scientist at Columbia, is well known in the field of employee rights, especially with respect to equal opportunity, privacy and whistleblowing. Felio is a management lawyer and also known for work on privacy rights. *Resolving Employment Disputes Without Litigation* is a very clearly written exposition of "internal fair procedure systems." The foci of the book are long, thoughtful discussions of why you should have a fair procedure, and a dozen examples of internal procedures. There is also a short chapter on key characteristics of successful procedures.

The functions of the system that get the most attention from these two authors are communication and fair investigation and adjudication. In addition, Westin and Felio lay appropriate emphasis on top management commitment—"forever"—, protection against reprisal, commitment to change policies, and removal of poor managers when necessary. They also identify the need for a "keeper of the flame," a "person who embodies and defends the integrity and pervasiveness of the fair procedure system." In my experience, this person may be a skilled professor who gives his or her heart to the coal mining industry, it may be an outside management consultant who has a very long and close relationship to a given company, it may be a troubleshooter or ombudsperson, and sometimes, happily, it is a CEO. I agree strongly that a keeper of the flame is important.

David Ewing's forthcoming book, tentatively titled *Justice on the Job*, also concentrates on investigation and adjudication of disputes. This beautifully-written and finely articulated work will present yet more of the context of successful complaint systems, more analysis of the characteristics of complaint systems, more understanding of various elements of how these structures work. Ewing, former editor of the *Harvard Business Review* and honored for his years of exploration of dissent and whistle-blowing, is particularly interested in the in-house investigator-adjudicator (he also tags this person a "power mediator".) He is also interested in board-type, in-house adjudication. His case studies are among the best I have seen.

Summary

Suppose you read all five of these books, as you prepare yourself to design, use, supervise, or teach about complaint systems? You will emerge with negotiations theory lucidly applied to complaints from Ury, Brett and Goldberg, and very impressive case examples of formal, interest-based grievance mediation. You will learn an elegant technique from Blake and Mouton that helps groups help themselves to learn and use a method to handle and resolve conflicts. You will gain insight about the panorama of functions and activities of an ombudsman-troubleshooter, that peculiar, mini-micro, complaints device, from Ziegenfuss. Westin and Felio and Ewing, among them, have identified and/or addressed all the major issues in response to the classic question, "What are nonunion companies doing in-house, about fair adjudicatory process and why are they doing it?," and they each give detailed case studies.

What you will not get from three of

these books is enough emphasis on helping complainants (whether employees or managers) deal responsibly and effectively on their own with their problems. Moreover, you will not get enough about "choice" by complainants, as distinguished from choice by negotiations specialists, or choice by managers, about how disputes should be handled.

More generally speaking, what you will not get from any one of these books is a fully integrated map of all the (union

and nonunion) complaint system functions and characteristics that are necessary for a first-rate system. Each discussion is a superb building block for *that* book which, at this point in time, no one has yet come close to having written. However, you will be able to consolidate from these books a multifaceted view of why complaint systems are needed, and will be able to consolidate the best of contemporary thought as to how to build such systems.

NOTE

1. It is surprising to me how little attention is given, by negotiations specialists, to **choice**. Even the Multi-Door Courthouse was designed on the basis of channeling complainants where they "ought to go." Especially as we in the United States enter into an ever more diverse society, I believe that all who are interested in conflict resolution should consider more attention to choice of options, rather than "best options," since choice itself is considered, by so many people, to have value.