

Conflict Management in Unionized Environments

Learning Objectives

- Describe the history of labor-management relations and collective bargaining in North America.
- Describe the evolution of ADR in unionized settings.
- Demonstrate an understanding of the impact of workplace culture on labor-management conflicts.
- Analyze and describe the differences between conflict management processes in unionized versus nonunionized environments.
- Explain the common steps of a union grievance process.
- Demonstrate an understanding of conflict management trends in unionized environments.

JOHN AT THE BUREAU OF RECLAMATION

John inherited a highly unionized workforce with a history of animosity and poor working relationships between unionized employees and management. A number of sources of friction exist that are related to the unionized nature of the working environment:

- There are tensions and conflicts between those employees who pay union dues and join the union and those employees who choose not to do so. The pay rates negotiated by the union apply to nonunionized employees, too, so some employees choose to be **free riders**, meaning

they enjoy the benefit of a public good without paying their share for it. A public good is something that, by its nature, is either supplied to all people or to none, regardless of whether or not each individual has paid a fair share for the enjoyment of that good. For example, national defense, clean air, public roads, and public libraries are all public goods; if they exist for anyone, then they exist for everyone.

- There is a history of adversarial relationships between union leaders and managers stemming from two main sources: (1) both groups have historically assumed their interests were mutually exclusive and any negotiations would therefore result in zero-sum outcomes; (2) past contract negotiations have led to labor strikes, **sick-outs** in which employees staged massive work stoppages by calling in sick for work to show their solidarity and bargaining strength; and (3) there have been allegations of bad-faith negotiations surrounding the union contract renewals.
- The number of alleged contract violations under the bureau's previous director was quite high, leaving union leaders and employees to feel that managers at the bureau didn't respect or adhere to the contractual obligations as they should.

What a mess! These conflicts are reducing the agency's ability to efficiently carry out its mission and reifies the public's assumptions about the demanding nature of public employees. John knows he needs to improve relations with the unions and reduce the number of grievances being filed—but how? To make matters worse, in four months the union contract comes up for renegotiation. John is looking forward to that like a root canal.

Unionized environments hold the potential for two distinct types of conflict and collaboration. First, unionized organizations have the same types of conflicts seen elsewhere: claims of wrongful termination, unfair treatment, harassment, workplace safety concerns, discrimination, intrateam disputes, personality conflicts, and so forth. Second, unionized workplaces include organized and highly ritualized forms of negotiations between labor unions and company leaders, called **collective bargaining**, which is a process of negotiation between employers and the employees' representatives aimed at reaching agreements that regulate working

conditions and pay. A **collective bargaining agreement** is the agreement reached between an employees' union and the company outlining the terms of employment. This agreement covers the initial contract between a group of employees and company leaders as well as periodic renegotiation of that contract. In each of these separate arenas, various forms of ADR have been used successfully to reduce antagonism and improve collaborative outcomes. As we examine the history of unionization in the United States and current trends in unionization, we will present and define terms used commonly in unionized workplaces. These terms will then be used throughout this and subsequent chapters.

LABOR-MANAGEMENT CONFLICT IN THE UNITED STATES

In the early twentieth century, the US economy was transitioning from a heavy reliance on agriculture to a greater reliance on industrial productivity. This meant large population shifts from rural to urban areas, a trend that echoes still today. During the Great Depression, the slowing US economy generated a surplus of skilled and unskilled labor. Until 1938 the United States had no federal minimum wage law or laws governing the use of child labor. As public sentiments shifted in favor of such laws in the northern and New England states, factories moved into the southern United States, where historically higher unemployment led to less political opposition to low wages and child labor (University of Iowa, 2011).

Unions began forming in the United States as early as the 1830s but became stronger during the Great Depression of the 1930s. In the United States the National Labor Relations Act of 1935 was passed by Congress, covering most private nonagricultural employees and employers engaged in interstate commerce. The act made it illegal for companies to spy on, harass, or retaliate against employees who attempt to form unions for collective bargaining. Companies cannot refuse to negotiate with the representative appointed by union members nor can unions require employees to join as a condition of employment.

In 1947, in response to labor unrest and repeated strikes, Congress moved the mediation function from the Department of Labor to the Federal Mediation and Conciliation Service (FMCS) (Barrett, 2007). The FMCS provides mediation services to industry and government organizations, including mediation services to end the 2011 strike in the National Football League.

Unions began in sectors such as mining and manufacturing, where they remain the strongest even today. Unions have traditionally represented blue

collar workers. Employees who are **blue collar** work at jobs that are based on hourly pay and usually include manual labor. They may be considered skilled laborers or unskilled laborers. **Skilled labor** is used in jobs that require special training, knowledge, and often an apprenticeship, such as plumbers, electricians, or carpenters. **Unskilled labor** is used in those jobs that require little training and education, making workers easily replaced at a lower cost to employers. Traditionally, the labor market has had a larger surplus of unskilled rather than skilled laborers, making the former more vulnerable to poverty and at a bargaining disadvantage in terms of their ability to press employers for higher wages or better working conditions.

White collar is a term used to describe skilled workers who do not usually wear uniforms, undertake intellectual rather than physical work, and usually have pursued education beyond secondary school (meaning they have attended college or university). These employees generally include supervisors and managers. The labels of white versus blue collar are loosely defined, with many jobs meeting one or more of these conditions but not all. For example, teachers and others who work for local, state, and federal government entities are often part of unions regardless of their specific job duties. Nurses wear uniforms and sometimes have physically demanding work yet are considered white collar due to the level of education and commensurate salaries associated with their jobs. White collar workers have historically been the slowest to unionize for various reasons: they have been harder to train and replace, thereby increasing their capacity to bargain individually for higher wages and better working conditions, and they often see their interests as more aligned with organizational managers and fear that alienation of those leaders will stifle their ability to move up within the organization.

Unions are commonplace for workers employed by the US federal government. In fact, multiple unions often compete for members among the same pool of government workers, thereby reducing the power of these workers to bargain as a collective.

Unions have performed a critical role in the democratization of the workplace. They have provided a voice for the needs and interests of workers within specific organizations as well as within the broader society and political system. Unions have played an important role in reforming laws concerning child labor, workplace safety, minimum wages, and antidiscrimination laws. Yet, the evolution of labor-management relations as well as the supporting legislation has codified and institutionalized a relationship characterized as adversarial.

“Yet, collective bargaining and union-management relations are as important today as ever to a healthy economy and a strong democracy. The need to achieve more competitive workplaces together with an increasing standard of living merely increases the importance of innovative, cooperative labor-management relations and effective conflict resolution. Collective bargaining, therefore, needs to be adapted and improved, not abandoned” (Chaykowski, Cutcher-Gershenfeld, Kochan, & Sickles Merchant, 2001, p. 10).

TRENDS IN UNIONIZATION

Unionization has gone through various phases of formation and reformation in the United States and Canada. Current trends indicate we are entering a difficult time for unions. Union membership is at its lowest point since the Great Depression, with about 9 percent of US employees currently covered by collective bargaining contracts (The incredibly shrinking U.S. middle class, 2011). Public employees’ unions have taken a hit as the **Great Recession** has induced cuts to government budgets, resulting in stagnating salaries, reductions in force, and the resulting increased workloads for remaining employees. (The Great Recession refers to the period of negative and slow economic growth and high unemployment and underemployment that began in approximately 2007 and continues at the time of this writing [December 2011].) Technology has reduced the demand for clerical workers, travel agents, professional proofreaders and copy editors, as well as broadcast news analysts and journalists as content has moved online (Goudreau, 2011). The shrinking middle class has led to a labor surplus with unemployment and underemployment at historic levels, making this a tough time for union organizers to argue for higher wages or improvements in working conditions. Employees are hesitant to report employer violations of labor regulations or to agitate for change in other ways because they see the plight of their unemployed friends and neighbors. As the number and percentage of Americans in poverty rises, and those considered middle class continues to shrink, it is possible there will be a resurgence of unions, but this isn’t likely until the problem reaches crisis proportions, if history is our guide.

In the United States, state laws regarding unions vary, with barriers to union formation and maintenance higher in some states than in others. Some states, such as Georgia, are considered right-to-work states, meaning that union membership cannot be required in order to obtain or maintain a job. This increases the

incidence of the free-rider problem and creates a somewhat challenging political environment for unions. Similarly, the steps employers may take to discourage unionization efforts vary somewhat by state, resulting in vastly different rates of unionization among states, largely because of the political and legal cultures toward unions.

The changing nature of work may also bode poorly for the future of unionization efforts. As more people work from home or remotely, they are physically isolated from their coworkers, which makes collaborative efforts to unionize more difficult.

In spite of these trends, some white collar professions are seeing movement toward unionization (Stafford, 2011). For example, nurses are joining unionization efforts at a faster pace than many other workers because of frustration with heavier workloads, increased hours, and a desire to address power inequalities within hospital hierarchies that result in unpleasant working conditions. Currently, about 10 percent of nurses in the United States are part of a collective bargaining agreement but recent attempts to expand nurses' unions into nonunionized hospitals have succeeded in 80 percent of cases.

Unionization efforts are most common in dysfunctional organizational environments, where employees are disgruntled and their concerns have not spurred corrective action by organizational leaders. At the University of Missouri-Kansas City's Institute for Labor Studies, director Judy Ancel argues that efforts to unionize and the success of those efforts is proportional to the strength and efficacy of hospital management: "There's the old saying that bad managers get unions. The desire to unionize is directly related to working conditions" (Stafford, 2011).

Shelly Freeman, an employment law attorney and consultant at HROI (Human Resources Return on Investment) in Kansas City, sees a trend in the unionization of the nursing profession. She says this trend is "one based on working conditions, uncertainty about health care reform, and hospital budgets squeezed by reimbursement cutbacks from the government." She advises employers to listen to their employees. "Organizations that don't get unions are good at communicating directly with their employees and not through intermediaries" (Stafford, 2011). Unions arise when employees perceive their working conditions, including pay, to be unfair and sense that the organization's leaders are unwilling to listen, collaborate, and bring positive change.

Although unionization has been relatively slow to catch on with white collar employees, one emerging trend is for these employees to join a hybrid professional

association union. These organizations can give employees greater influence on workplace policies and governance without actually negotiating collective contracts (Overman, 2011). In these hybrid organizations employees can join and pay dues if they wish and the organization takes up whatever agenda items its members deem appropriate—without negotiating collective contracts for members. For example, these organizations can be a conduit to share employee concerns, desires, or ideas regarding benefits, working conditions, and workplace policies. They can also lobby for governmental laws or policies that favor their industry, from an employees' viewpoint rather than the shareholders' or CEO's perspective. Verizon employees went on strike in August 2011, and the result of that strike appears to be movement toward a hybrid professional union organization that will work to voice concerns from employees in a more coherent and powerful fashion (Overman, 2011).

Unionization efforts in the airline industry have been highly active, with most major US airlines pilots and flight attendants covered by collective bargaining agreements. Although airline employees can bring their company's work to a halt through the use of strikes, they must use this power with restraint because the financial viability of many struggling companies could not withstand a long strike (Hirsch, 2006). Since deregulation of this industry in 1978, employees' pay and benefits have gone up and down with the economic fortunes of their employers. In good times, pay and benefits increase, and in lean times they have decreased (Hirsch, 2006). Research on the airline industry wages and unionization shows that unionized airlines have retained more of the pay and benefits for their workers during hard economic times than nonunionized airlines. What's more, pay goes up faster for unionized employees when economic booms hit the industry. This is likely due to their ability to more quickly channel the employees' voice and demands to company leaders than those airlines without unions (Hirsch, 2006).

The airline industry, particularly US airlines, has suffered a string of financial setbacks starting with the attacks of September 11, 2001. These attacks prompted a host of new security regulations that brought added costs to airlines just as consumer fears reduced demand for seats on flights. As the industry was beginning to recover from these setbacks, the Great Recession caused a reduction in demand for business and leisure travel. The airlines reacted, in part, by seeking pay and benefit cuts for existing and retired employees. Adversarial relationships between unions and management worsened in nearly all major companies. Rather than working together to get through hard times, each group seemed to assume their

survival would come at the other's expense. Traditional bargaining methods and zero-sum thinking have prevailed (Gittel, Von Nordenflycht, & Kochan, 2003). This has led to increased problems with customer service complaints, decreased passenger satisfaction, and further reduced profitability.

In opposition to this trend, Southwest Airlines has used a people-first philosophy. They have not laid off employees during the recession and have made cuts elsewhere. The CEO has argued that once companies start downsizing, the impact on morale and customer service can have devastating effects. He believes that employees should be treated as members of the family. In difficult times, family members find ways to work together to get by rather than seeking individual survival at the cost of other family members. As a result, the employees at Southwest are highly loyal and have high job satisfaction and low turnover. Customers notice the difference and Southwest has been able to maintain and even expand its market share during difficult economic times. Southwest employees have not sought to unionize. It seems they feel their concerns are heard and met by the company without the added transaction costs of a union to represent them collectively.

Increasingly, companies are fighting unions without resorting to underhanded strong-arm tactics, but using collaborative initiatives designed to increase trust and meet their shared interest in a happy, stable, productive workforce that feels fairly rewarded for its contribution. This may be the biggest trend in unionization during the next generation, but it is too early to reach conclusions based on empirical evidence. As Gittel and colleagues (2003) note in their research, "We conclude that efforts to recover from the current crisis in the airline industry that depend primarily on reductions in wages or union power will at best bring only short-term relief from immediate financial pressures. Sustained improvement in service quality and financial performance will require more fundamental improvements in the quality of labor relations" (p. 3).

The future of labor relations in North America depends in part on the future of manufacturing. As the manufacturing sector's share of the economy declines in the United States and Canada, the economy has transitioned to jobs in the knowledge sector. That means jobs in education, service, technology development, research, and other skilled areas have grown. Most of these jobs involve white collar workers who have not traditionally been union members. Unions are seeking to expand their presence in this sector but have not had a high degree of success. This trend, combined with the long-term weakness in the economy,

has not boded well for union expansion. Simultaneously, many employers have realized the many benefits that come from proactively addressing the needs of their workers and sought to create or maintain more collaborative rather than adversarial relationships. They have noted the impact that positive employee relations has on their public image and brand as well as its impact on profitability. These two trends appear to mean that we will continue to see the gradual decline of union power within North America, with some anecdotal exceptions, particularly in those sectors or companies in which employees have been poorly treated for long periods of time, such as the hotel and fast-food industries.

In the present and the foreseeable future, the large public and private sector employers with current unionized workers will continue to exist and relations between management and labor will continue to evolve. In some of these organizations (e.g., car manufacturing) we are seeing a shift in worldview with the heightened recognition of shared interests between workers and employers—without a competitive company, no one has a job. With this as a central focus of labor-management negotiations, unions are mindful of the need to keep their demands reasonable and organizational leaders are mindful of the benefits of creating a positive workplace culture that values the individual and collective contribution of their workers as well as harvesting their ideas for improvements in products and services. Those organizations that retain adversarial relations between labor and management are likely to become less competitive over time, with predictable reductions in profitability and longevity. In fact, the only organizations able to remain this dysfunctional in the long term are likely to be those that have a monopoly on specific types of services, such as public agencies, or cartels, such as the airline industry or nationwide health care providers.

COMMON STEPS IN THE UNION GRIEVANCE PROCESS

The earliest ADR systems in the United States evolved in highly unionized workplace settings. Collective bargaining agreements between employers and unions frequently include an arbitration clause or a broader dispute resolution clause. These clauses lay out the steps that each side will go through when either one believes a breach of the contract has occurred. Generally, allegations of contract breaches are made against the company by the employee, represented by a union delegate. It is not impossible for the company to argue that the union has not upheld its commitments as laid out in the collective bargaining

agreement but it is much less common. A **union grievance** is any alleged violation of the “contract, past practice, employer rules, previous grievance or arbitration settlements [which set precedence for the contract’s interpretation], or any violation of laws such as Occupational Health and Safety, Americans with Disabilities Act, Family Medical Leave Act, or EEOC regulations on race, age or sex discrimination” (UE Information for Workers, 2011).

For example, provisions for overtime pay are commonly addressed in collective bargaining agreements such that optional overtime is offered to the employee with the highest seniority first. If that employee chooses to decline the opportunity for overtime, then the opportunity would go to the next most senior employee until a worker is found who agrees to accept the added hours or additional shift(s). Supervisors may find this onerous for a few reasons: perhaps the employee with the right skills is not the one with the most seniority, the most senior employee historically has turned down opportunities for overtime yet the offer must be made to him or her before the offer can be made to a less senior employee, or the supervisor may simply believe that another worker is more enjoyable to work with or works harder than the most senior employee. If supervisors do not follow the terms of the contract in offering optional overtime work and pay to the most senior employee, then they may be seen as playing favorites, bypassing senior employees to instead benefit their friends or preferred employees. If the supervisor offers the overtime to someone other than the most senior employee, then she has breached the terms of the collective bargaining agreement and the senior employee who was bypassed can pursue a claim through the union grievance process.

The collective bargaining agreement lays out each step in the grievance process and requires all parties to use each step in order, without skipping or bypassing a step unless both sides agree to do so. There are some variations among the grievance process steps in many collective bargaining agreements but it is common to expect the employee to first engage in some form of direct negotiation before taking the first formal step in the grievance process. This means the employee should speak directly with his or her supervisor or manager, share information related to the complaint—which must be an allegation that the collective bargaining agreement has been violated in some manner. Most organizations have something akin to an open-door policy, meaning that employees can go to any supervisor or member of management to share their concerns and seek redress or assistance with problem solving. In reality, most organizations prefer

for employees to use the chain of command, starting first with their frontline supervisor and moving up the chain as necessary to solve the problem. The National Labor Relations Board (in the United States) gives employees the right to talk with their supervisor with or without the union representative's presence. Employees who are covered under a collective bargaining agreement cannot craft agreements affecting wages, benefits, or working conditions without the approval of the union. This means that if a supervisor and employee strike a bargain to solve a problem, they will need to seek the blessing of the union's representatives before the agreement is finalized.

Once a union member decides she or he needs the help of the union to resolve a problem, there are specific steps to be taken. If the employee decides to get their union involved, this will trigger step one in the grievance process. A **union steward** is the first point of contact for each rank-and-file union member when a grievance arises. The union steward is usually a position elected by the union members, someone who is generally liked and trusted by the employees. The steward can advise the union member as to whether the complaint is an actual violation of the union contract as well as offer information about the available dispute resolution options. A union representative may also accompany employees to any grievance process such as mediation or arbitration and represent them in that process. The steward can provide information about the contents of the collective bargaining agreement and those issues that may or may not fall under its terms. For example, employees may be disgruntled at the general way in which their supervisor treats them or communicates with them but these are not issues that are covered under the collective bargaining agreement. Working hours, safety conditions, overtime pay, breaks and vacation days, benefits, the process of promotion and merit pay raises, and nonretaliation for the filing of grievances are the types of issues typically covered in the collective bargaining agreement.

Step One

The first real step in the grievance process may be the most important. This is the step in which the employee contacts the union steward to share his or her concern. The steward or other union representative will attempt to understand who was involved, what was said or done by the parties involved, when it happened, where it happened, and what the underlying cause of the problem was. This person will also try to find out if there were any witnesses who can support the employee's

statements of fact. Then the steward must decide if this problem is covered under the collective bargaining agreement. At this step, the steward may discuss the matter with the chief steward to better understand past practice on the issue and whether any similar grievances have been filed and resolved that set a precedent that the company and the union would need to follow. The steward may develop a list of information requested from the company, which would provide their answers to these questions (what, when, where, how, who, and why). Once this information has been received the steward will usually set up a meeting with the organization's representative, such as the employee's supervisor, to speak to him or her about why the problem occurred and to get his or her perspective. Any act of discipline against an employee would follow this process. It is the supervisor's duty to tell the steward why the action was taken.

At this point, the steward would tell the company what happened from the employee's perspective, state which part of the contract was violated, state which specific action or remedy the union is seeking, and request any further information needed by the union. In the overtime case, the union would want to know which employee received the overtime, his or her seniority status, and reasons why the company chose to overlook the most senior employee (assuming the contract awarded overtime on the basis of seniority). The most commonly requested remedy would be for the senior employee to receive pay for these hours that were not worked as a result of being overlooked. The supervisor may agree with the union that a contract violation occurred, whether it was accidental or not. She may agree to grant the union's requested remedy. At this point, the agreement should be put into writing and any necessary department or division, in this case payroll, should be notified so the agreement can be implemented. Most violations of the union contract are resolved at this level. Step one often seems informal, from the employees' vantage points, meaning they may not even know this is called *step one*. They may instead think of more formal steps such as arbitration when they think of grievance steps.

Step Two

If the steward and boss are unable to resolve the issue in step one, then the steward puts the complaint into writing and it becomes a formal grievance. If the union believes the employee was in the wrong or if the union's leaders believe the complaint is not covered in the union contract, the union may decide not to proceed with the complaint and to drop it at the end of step one. Each union

contract spells out the time limits for the union to file a written grievance on behalf of the employee. If these time limits are missed, the grievance is dead. The steward's written grievance report will include a statement of the problem at the heart of the alleged contract violation, which part of the contract was violated, and a requested remedy. At this point, some unions will attempt to show the employer that the other workers are supportive of their coworker against whom the violation has occurred. They may do this by wearing buttons or stickers, signing petitions, and holding meetings to keep the membership informed of the progress of the dispute. At this point the upper management of the organization gets involved and may grant the requested remedy or see the dispute progress to step three.

Step Three

The third step will vary among organizations. In some, the third step is mediation. Grievance mediation tends to be “faster, cheaper, and unused” according to Camille Monahan's (2008) research (see also Bingham, 2004). For those organizations who have implemented either mandatory or voluntary mediation, union members and managers have found it more satisfying than arbitration. Yet arbitration has been the default dispute resolution process used in collective bargaining agreements for so long that many contracts are simply renewed without much thought as to updating these procedures based on newer trends. In grievance mediation, the parties come together with the assistance of a jointly chosen mediator. They talk about the issues in dispute and see if there is a solution that they both feel is preferable to going to arbitration, where they could win it all or lose it all. If the union seeks to create a precedent for future similar disputes, then they will not want to use mediation. However, they may use mediation for exactly that reason—because they do not want one particular case to determine future outcomes. In mediation the union and management could agree to hold negotiations to amend the contract in order to accomplish the same goals as an arbitral settlement but with both sides having more control over the language and specifics of that amendment than would occur through an arbitrator's decision. In grievance mediation, if the parties are unable to reach an agreement, they could still proceed to arbitration. Because arbitration is an adversarial rather than a collaborative process, it can further erode working relationships between employees and supervisors with ongoing relationships and between the union and the organization.

If mediation has failed or if the organization does not have a mediation option, then the next step of the process will likely be grievance arbitration. Union contracts carefully detail the process by which arbitrators are chosen, with each side having some power to veto or recommend one or more arbitrators. In some cases a single arbitrator is the norm and in others the contract calls for a panel of three arbitrators. Arbitrators conduct a hearing that is similar in many ways to the format of a public hearing or trial. Witnesses may be called or asked to submit written statements. The rules of evidence and procedure will either be written out explicitly in the union contract or the standard procedures of the organization supplying the arbitrator will be used, such as the American Arbitration Association. Arbitration is generally binding for both the union and the company or agency. If the ruling covers an issue that was vague or unclear in the union contract, then the arbitrator's ruling will set a precedent for all future similar cases between the union and the organization. Some unions have developed encyclopedic rulings that continue to grow as the contract is interpreted and reinterpreted, much like the constitution and common law, forming dozens of printed volumes going back decades.

EXAMPLES OF CONFLICT MANAGEMENT IN UNIONIZED SETTINGS

In addition to the common steps in a union grievance process, employees in unionized workplaces may also have the same resolution options open to those in nonunionized workplaces. Whether unionized or not, many employers adopt some variation of the open-door policy; they may have mediation programs, hotlines to report harassment or abusive behaviors, and the right to litigate certain types of conflicts on the job. In addition to, or sometimes instead of, the dispute resolution processes open to nonunionized workers, those who are represented by a collective bargaining agreement have a union grievance process that likely includes arbitration but may also include mediation, peer review panels, the use of an ombudsman, and so forth.

It should be noted that training can itself be a way to prevent and address disputes in a unionized workplace. Employees who are aware of workplace policies and feel those policies reflect their best interests and were created through fair and transparent measures are more likely to follow them. Training in communication and leadership skills can help managers and supervisors to address problems proactively.

THE EVOLUTION OF COLLABORATION IN LABOR-MANAGEMENT RELATIONS

The concept of evolving labor-management relations was introduced in the earlier section on trends in unionization. This section will focus more specifically on the methods necessary to spur the evolution of collaborative relationships between labor and management in North American organizations. The findings noted in this section may also apply in Europe and other Western cultural regions but the shorter history of labor-management relations in the United States and Canada may lead to more rapid change than in some other regions.

On both sides of the labor-management divide, it is clear that teamwork and positive, collaborative relationships are conducive to long-term organizational health as well as to fostering high levels of workplace morale. When labor and management work against one another, they both lose. This is likely to be increasingly true in the fast-paced globalized marketplace in which a work stoppage creates an opening for one's competitors to move in and usurp market share. For labor-management relations to become more collaborative, both sides must understand the benefits of this change, build trust through reciprocity, and work creatively together to solve problems that arise, keeping the focus on shared interests. Companies have made these changes in multiple ways: "Various names have been given to these innovations, including mutual gains, bargaining, principled negotiations, employee-centered management, employee involvement, quality of working life, innovative work practices, the high-performance workplace and learning organizations" (Alexander, 1999, p. 1). Transitioning to collaborative relationships will bring the tangible benefits of reduced sick time and turnover as well as employee engagement, which brings forward innovative ideas and high morale.

To build trust, organizations should consider sharing information on profits and losses, benchmark the wages and benefits offered by competing firms, and engage in open discussions with union leadership about changes that can make both groups better off. Sharing information, listening to one another, and displaying a sincere willingness to work together toward mutual goals is the way to help transition from historically adversarial relationships to more collaborative ones. "It isn't the changes you do, it is the transitions. Change is not the same as transition. Change is situational: the new site, the new boss, the new team roles, the new policy. Transition is the psychological process people go through to come to terms with the new situation" (Bridges, 1991, p. 3). Without trust,

the “corporate community is reduced to a group of resentful wage slaves and defensive, if not ambitious, managers. People will do their jobs but they will not offer their ideas, their enthusiasm, or their souls . . . The corporation becomes not a community, but a brutish state of nature, a way of all against all in which employment becomes nasty, brutish and short” (Solomon & Flores, 2001, p. 5).

The willingness to transition from adversarial to collaborative relationships needs to be led by the organization (Kotter, 1996). Leaders within the organization must make some visible changes to the way they treat employees so that it is clearly more than lip service. An easy first step is to create reward structures for employee ideas that are shared upward and adopted for the improvement of customer service or product quality or efficiency. The next step could be a formal invitation to employees to participate in focus groups, surveys, or other information-gathering methods that take the temperature to gauge morale as well as the points of opportunity for positive change. Work with union leaders and all levels of supervisors and managers from across the organization to create some overarching goals for change as well as specific actions and timelines necessary to enact those goals. This sounds like strategic planning, and it certainly can be a full-fledged strategic planning initiative designed to redefine labor-management relations. Or it can be smaller, more focused on specific changes to the organizational culture and top-down policies.

Leaders within the organization can decide to proceed with the status quo or to make a change. Big change usually comes during a period of crisis and the accompanying realization that current methods simply are not working. Many employers are unwilling to lead this change, even as they complain about the cost of adversarial relationships. “Employers have a tendency to govern by contractual rights using their position and power as a threat; unwilling to involve unions in the decision-making process, while protecting their turf, and perpetuating conflict” (Blackard, 2000, p. 49). This behavior reflects an unwillingness to share power, with the belief that the success of the enterprise rests on the unilateral control of power by the organization’s leaders, perhaps addressed to some extent by the countervailing strength of the collective bargaining units. This mind-set is becoming increasingly antiquated—it reflects a rigidity that makes organizations less able to adapt to change and compete globally. For public organizations, it reifies negative public stereotypes of these agencies as inefficient, bloated, and rule bound. In 2004, the Conference Board of Canada stated that the Canadian labor relations system is based on assumptions of adversarial relationships. An

us-versus-them mentality permeates the relationship. “Work stoppages, whether lockouts or strikes, illustrate this confrontational reality” (Colvin, 2004, p. 695).

When senior management pursues significant changes to policies without seeking the advice or consent of the union or the input of nonunionized workers, then it is clear that the mental switch to a collaborative style has not yet occurred. This behavior sends the signal that workers’ ideas and concerns are not important to the successful accomplishment of the organization’s mission and it is generally wrong. Not only could nearly all organizations benefit from the input of their internal stakeholders, but they will also need their buy-in in order to successfully implement any significant changes. Especially in large organizations, employees know they can drag their feet to torpedo any changes they deem unappealing; eventually top leadership will either give up on the changes that are not bringing the desired results quickly enough or they will be replaced through normal turnover processes. Upper leadership generally turns over more quickly than mid-level managers, and many employees use this to their advantage.

BECOMING A COLLABORATIVE LEADER IN A NONCOLLABORATIVE ENVIRONMENT

What if the senior leaders in your organization are unwilling to make the deep cultural and policy changes necessary to reverse the ingrained habits of distrust and opposition between themselves and their unionized employees? Then you as a manager at any level within your organization can likely make changes within your work unit that seek to create a microculture of collaboration and mutual respect. Change in an organization’s culture or patterns of behavior must come from the executive level to have the most impact but absent that will, managers and supervisors at all levels can affect the outlook and behaviors of those in their units. Be transparent about what you are doing and why you are doing it. Let employees know that you value their ideas and want everyone to be as happy as possible in their working lives. Get to know them as individuals—an important step toward building the trust necessary for reciprocal relationships and mutual support. Work with them to create benchmarks or goals to work toward within your unit and discuss any rewards or recognition that you or the group will provide for realization of those goals. Be clear about what is within your control and what is not. Communicate to the union steward or other union officials that you see them as partners in change and success rather than as obstacles. In fact, the union’s

structure and close communication with its members can serve as a conduit for information and ideas upward in the organization as well as communicating problems early on. Linden (2003) describes collaborative leadership as the “art of pulling people together from different units or organizations to accomplish a task that none of them could accomplish—at all or as well—individually” (p. 42).

The characteristics of a collaborative leader include the willingness to take risks, accept responsibility, adapt to change, maintain a future orientation—meaning you do not allow past problems to define the present or the future and you have a good sense of timing and good interpersonal skills, especially listening and framing skills (Linden, 2003). It takes courage for leaders to initiate this change when maintaining the status quo might buy enough time to meet one’s own financial needs. True leaders are willing to pursue deep change, which means they will be “purpose-centered, internally driven, other-focused, and externally open (Quinn, 2004, p. 21). Collaborative leaders build trust through open communication, listening, and responding with empathy. It is important to keep commitments, and if doing so becomes impossible, leaders must communicate why this is the case and seek help with overcoming obstacles. Managers seeking to change the culture and adversarial nature of relationships between themselves and unionized workers must model the trust, transparency, empathy, and respect with which they hope to be treated. When faced with a dysfunctional history of labor-management relations, supervisors and managers at all levels should view this as an opportunity to bring effective change rather than continuing to complain about the ways in which the unions create obstacles to organizational success.

ADR IN THE CREATION OF COLLECTIVE BARGAINING AGREEMENTS

For more than one hundred years, arbitration has been used to settle disputes over wages, working conditions, and benefits between collective bargaining employees and their employers. The Erdman Act of 1898 is only one such example. It arose after the volatile labor unrest between railroad workers and required arbitration to settle disputes regarding the terms of labor-management contracts when bargaining and negotiation failed to result in an agreement. As opposed to the arbitration of union grievances, also called *rights arbitration*, the arbitration of the terms of the actual union contract has come to be known as interest

arbitration. Historically, when unions and management cannot reach agreements about wages and working conditions, they have resorted to a contest of power to see who will prevail through the use of strikes and lockouts. Whichever group can last the longest, wins. Yet both groups also lose, and this has been repeatedly demonstrated throughout labor-management history. This fact has been acknowledged most explicitly in the public sector, in which the general public suffers when police, firefighters, and other public employees strike.

In 1962, Executive Order 10988 made it illegal for many types of public sector employees' unions to resort to the strike option. In fact, employees may risk jail for striking in spite of this order. Disgruntled public employees have found many ways to display their dissatisfaction with proposed contract terms that work around this ban on the use of strikes, such as the blue flu or massive sick-outs, in which employees call in sick or do the minimum amount of work necessary to avoid the penalties of officially violating the order. In 1981, US president Ronald Reagan fired ten thousand air traffic controllers for striking after being warned that a strike would not be met with a compromise from the Federal Aviation Administration. In an effort to avoid these negative outcomes, interest arbitration has been used either by mandate or by mutual agreement between labor and management.

There are various forms of interest arbitration. For example, "last, best offer" arbitration is famously used by professional baseball players but it is also used by many public employees as well. In this kind of arbitration, the arbitrator examines the last offer made by each side to determine which was the most fair and the most generous. Then, the arbitrator chooses the best offer in its entirety without picking and choosing the best elements of each proposal or deciding to compromise between the two offers. The goal of last, best offer arbitration is actually to avoid arbitration. Both sides have incentives to be as generous as possible or risk having to accept the other side's proposal.

In 2010, the US Congress rejected the Employee Free Choice Act yet some of its provisions may be adopted voluntarily by unions and organizations, especially those seeking to create their first contract on the creation of a new employee union. Under this proposal, the union would have only ninety days to negotiate a first-time collective bargaining agreement. If no agreement is reached, either side can demand mediation. After thirty days, if no agreement is reached through mediation, then a contract will be imposed on the company and the union by a third-party arbitrator.

So how do contracts created by arbitrators compare to those reached through mutual negotiation? “Interest arbitration tracked the downward path in wage growth; there is no evidence that interest arbitration ‘pulls up’ or ‘pushes down’ wages. We do find that wage settlement patterns through arbitration have less variation as compared with bargained settlements” (Zullo, 2011, p. 1). On the whole, there appears to be relatively few differences in the outcome of arbitrated versus negotiated agreements, except that agreements reached through negotiation allow union and company negotiators to claim more agency in the outcome as well as use the negotiations as a forum to share information and build better relationships.

Although some union contracts for the private sector include resorting to binding interest arbitration, others retain the right to strike when the two sides cannot find mutually agreeable terms for contract renewal. During the Great Recession, historically high labor surpluses have worked to depress wages and reduce the profitability of many companies. In these hard times, a strike by collective bargaining employees is highly risky, and some employers may choose to replace striking workers rather than continue to compromise on issues of wages or benefits. However, the cash reserves of most corporations are also lower than in the past and few companies seek to harm their brand name or relationships with customers by engaging in a highly visible labor dispute. These economic circumstances mean labor and management need each other more than ever and could view this as an opportunity to build more collaborative relationships for mutual survival during rough times.

EXAMPLES OF COLLABORATION IN LABOR-MANAGEMENT RELATIONS

Increasingly, there are many examples of positive evolution in the relationships between labor and management. These changes reflect increased realization that neither group is served by maintaining an adversarial mind-set and working to undermine the other side only makes one’s own group weaker in the end.

In 1980, the United Steelworkers of America (USWA) was in the middle of a labor crisis. The US steel industry was faced with cheap competition from countries with few environmental and worker safety laws as well as miserably low wages. These factors led to pressures for cuts in the workforce and wage reductions, with workers angry at the union and their employers. Faced with this

situation, the union decided that collaboration between labor and management was the best method to promote “genuine worker involvement while tapping into the talents of our members . . . We [USWA] took a very proactive and positive approach to labor-management participation teams (LMPT’s) which, in turn, made a very significant contribution to improvement in quality and productivity in many plants” (Kaufman, 2001, p. 159).

In their 2005 book, Linda Kaboulian and Paul Sutherland examined innovative collaborations between teachers’ unions and school districts. For example, the Cities of Rochester and Boston agreed to create various forms of autonomy so the schools have more discretion over curriculum, budgeting, and personnel to shape an approach that best serves their students. In Toledo, union members and teachers agreed to play an active role in evaluating teacher performance as a peer function designed to not only affect merit pay but also to help struggling teachers improve their performance so that students can succeed. Rather than allowing administrators to evaluate teachers, in spite of the fact that some of these administrators had been out of the classroom for years, the teachers’ union worked with district leadership to craft a system that was not only more fair and transparent but that also had a better chance of improving classroom outcomes. Kaboulian and Sutherland say that the most important factors for creating collaboration between unions and district leaders is to have regular, no-surprises communication between the two groups. Bring in mediators or facilitators as needed to help address difficult problems together. In those school districts where collaboration between the union and school district has failed, it can nearly always be traced to a lack of frequent, open communication.

The contracts between the unions and school districts are all about relationships between adults rather than focusing on the relationships between adults and students or the needs of students. Both sides can benefit from seeing their relationships differently and that the core common interest they share is a desire to educate students and improve student achievement. They need to work together to create a better product: education. Rather than seeing labor-management relations as a negotiation that occurs every four to five years when the contract comes up for renewal, both sides see their relationship as one that requires ongoing negotiation, discussion, and problem solving as issues and opportunities arise.

The executive branch of the US federal government has recently acknowledged that the negative relationships between employee unions and management

has been an impediment to mission accomplishment and is in need of change. Toward this end, President Barack Obama signed Executive Order 13522 (December 2009), which established the National Council on Federal Labor-Management Relations (Kohli, 2010). This council will establish forums to discuss and promote closer collaboration, transparency, and joint efforts related to improved service delivery and mission accomplishment within federal government agencies in the executive branch, training of executive branch employees in dispute resolution techniques, and increased employee engagement in mission accomplishment and problem solving. This order requires forty-seven agencies to submit plans for the improvement of labor-management relations, including the development of metrics used to evaluate progress toward this goal. One sample plan from the Department of Health and Human Services (HHS) includes a plan to improve the quality of workforce life as well as enhance its service delivery. The plan includes methods for addressing workplace disputes quickly and in a nonadversarial way, focusing on the use of ADR processes such as mediation. This agency, like many others, has a long way to go. A recent study revealed that only 48 percent of HHS staff said the organization is able to recruit staff with the right skills, only 40 percent felt that promotions were truly based on merit rather than favoritism, and less than one-third believed that adequate steps are taken to address a poor performer who cannot or will not improve (Kohli, 2010). Addressing these problems will require better collaboration between unions and organizational leaders than has occurred in the past. But doing so is crucial, especially when we consider the size and scope of the federal workforce. “A 1 percent productivity gain across the federal workforce is worth \$1.5 billion a year. But more important than increased efficiency is the potential change in how Americans view government. It’s not hard to imagine that citizens would perceive the government more favorably if every interaction they have is one where the federal employees are committed to going the extra mile to make a difference” (Kohli, 2010).

There is a clear trend toward greater labor-management collaboration and a rethinking of this important relationship. Clearly, changing the adversarial nature of these relationships brings risks for unions and the organizations in which their members work. Employers and managers often fear giving up coercive control in favor of having power over employees. Unions may fear that these efforts are backdoor attempts to lead workers to feel the unions are no longer necessary. Instead of envisioning these changes as threatening, there is more to be gained from viewing them as an opportunity for mutual gains. The existing union

structures can be used to funnel workers' ideas and concerns to management as well as to mobilize workers to adopt changes to work processes and policies that will have mutual benefit.

Interest-Based Negotiation in San Francisco Hotels

The San Francisco Hotels Partnership Project was created in 1994, involving twelve unionized first-class hotels and two of the city's largest union locals. The project's primary goals included increased market share for participating hotels, retention and improvement of pay and job security, and new programs for employee involvement, training, and career development. Labor and management agreed that they had a common interest in raising the quality of service in the hotels through joint problem solving, increased on-the-job training, and the creation of opportunities for advancement within and across participating hotels. A joint steering committee controls funds from state training agencies and employer contributions. Problem-solving groups have been created in each hotel, composed of two-thirds workers and one-third managers, with facilitation by a neutral third party. The teams deal with issues of job design, workload training, job security, and hotel operations. A training program for 1,600 workers in ten hotels has provided a common foundation in communications skills, critical thinking, problem solving, and teamwork. A recent pilot effort trained 160 workers, many of whom work in non-food service positions, for certification as basic banquet servers. These workers are available through the union's hiring hall to any of the participating hotels to help alleviate the heavy workload demands during the end-of-year holidays. Future study teams will explore additional ways to increase job stability through referrals of part-time workers across participating hotels, increased training and promotion opportunities, and work redesign to accommodate older

(continued)

(continued)

workers. These innovations were the product of an IBN following training and with the facilitation of the Federal Mediation and Conciliation Service.

Source: Chaykowski, Cutcher-Gershenfeld, Kochan, and Sickles Merchant (2001, p. 21). Reprinted with permission of the Association for Conflict Resolution.

CONCLUSION

Nothing in this chapter should be interpreted as an attack on the importance of unions. In fact, unions have an important role to play in enhancing employee engagement and collaborative workplaces and ensuring fair wages and safe working conditions. Union workers tend to earn more than nonunionized workers in the same profession. Union workers also have fewer wage differences based on gender or race. These are important accomplishments that should not be overlooked.

Both unions and management need to acknowledge they have shared interests in maintaining positive working relationships, an efficient and economically competitive organization, high morale, and low employee turnover. When employers and employees fully recognize their shared interests in the success of the organization and adopt a worldview that sees the other's success as key to their own, then unions can fulfill the role of being a communications conduit and organizing structure to realize jointly planned initiatives. As the saying goes, "We all succeed together."

For those organizations and leaders stuck in the adversarial patterns that have tended to characterize labor-management relationships in large public and private organizations, it is time to rethink and restructure this relationship. In their research into the challenges facing the US airline industry, Kochan, Von Nordenflycht, McKersie, and Gittell (2003) found that "efforts to recover from the current crisis in the airline industry that depend primarily on reductions in wages or union power will at best bring only short-term relief from immediate financial pressures. Sustained improvement in service quality and financial performance will require more fundamental improvements in the quality of labor relations." As Robert Quinn (2004) explains in his text on leaders and change, "To refuse

to change while the universe changes around us, is ultimately to choose a slow death” (p. 21).

JOHN AT THE BUREAU OF RECLAMATION

John knows that changing the nature of the relationship between the union and management at the bureau will be critical to his success as an organizational leader. The union grievance process takes employees and managers away from their important work and the adversarial relationships of the past no longer serve either side well. In the end, if the bureau does not accomplish its mission or gets a negative public reputation, it hurts unionized and nonunionized employees at all levels. What can John do to improve the working relationship with unions and union members in his bureau?

John began by having an informal lunch meeting with union leaders and shop stewards. He told them that he valued the union as an important vehicle for sharing employee concerns and ideas for organizational improvement with management. He told them he believed the union has great, mostly untapped potential as one of the drivers of organizational success. He hoped that they would join him in a day-long workshop with union stewards and managers in which the two sides will talk about ways they can work together to make the bureau a great place to work and one of the most admired and efficient state government units. John argued the organization’s success would benefit management and labor; therefore, they should put their heads together to find ways to work with one another rather than against one another. The first step was to get to know each other as people through informal dialogue efforts before any formal negotiations occur down the road.

During the workshop, union-management teams used an open-space technology format (see Chapter Twelve) to set the day’s agenda: (1) how to reduce the number of contract violations and grievance filings, (2) methods for funneling employee ideas for better service delivery to management, and (3) win-win proposals that should be considered in the upcoming contract renewal negotiations.

These workgroups developed concrete ideas, many of which were implemented successfully. For example, some of the grievances

were occurring because frontline supervisors had different interpretations of some provisions within the union contract. A jointly led training was developed and delivered to ensure that all supervisors had the same understanding of the contract's provisions and the best way to implement them. This resulted in a rapid reduction in grievance filings.

Although this relationship will require ongoing efforts at trust building and negotiation, John now feels confident that the union will serve as a pillar of strength for his organization rather than as a continued source of unproductive conflict.

KEY TERMS

Blue collar	Skilled labor
Collective bargaining	Union grievance
Collective bargaining agreement	Union steward
Free riders	Unskilled labor
Great Recession	White collar
Sick-outs	

SUGGESTED SUPPLEMENTAL READING

- Lipsky, D. B., & Avgar, A. C. (2004). Commentary: Research on employment dispute resolution: Toward a new paradigm. *Conflict Resolution Quarterly*, 22(1/2), 175–189.
- Mayer, G. (2004). *Union membership trends in the United States*. Federal Publications. Paper 174. Retrieved from http://digitalcommons.ilr.cornell.edu/key_workplace/174
- Monahan, C. (2008). Faster, cheaper, and unused: The paradox of grievance mediation in unionized environments. *Conflict Resolution Quarterly*, 25(4), 479–496.

DISCUSSION QUESTIONS

1. For employees, what are the costs and benefits of working in a unionized environment? What are the costs and benefits for managers and organizational leaders?

2. What are some common differences in disputing processes between unionized and nonunionized environments?
3. What can you, as a manager or organizational leader, do to reduce the animosity that may exist between workers and managers (whether you work in a unionized environment or not)?

EXERCISES

1. Research and discuss the trends in unionization in your state, region, or industry. How do you anticipate that unionization will affect your work as a manager?
2. Consider this scenario: it is time to negotiate the renewal of the union contract. The union leadership has asked for an increase of \$2.00 an hour of wages and three more days of vacation for employees. Company leadership is arguing against any changes to the current contract in order to maintain competitiveness. The company has a hard-nosed positional bargainer. You represent the union and seek to engage in an interest-based negotiation. What techniques would you use to get the other side to engage in interest-based negotiations? What are the positions, interests, and BATNAs of each side?

GOAL SETTING

Think of one change you can make in the next week to improve the relationship between different stakeholder groups within your organizations (e.g., managers and employees). Enact one small change and see what happens. It could be as simple as meeting for coffee to improve communication.