

IRConcepts

Summer 2007

A Publication of
Industrial Relations Counselors, Inc.

Exploring Ways to Improve Labor-Management Relations and Collective Bargaining

At IRC's *Exploring Ways to Improve Labor-Management Relations and Collective Bargaining Summit* at ORC Worldwide's headquarters in New York on March 6th and 7th, a group of experts and practitioners in the field discussed the relationship between management and organized labor in terms of its current state, the forces pressing upon it, and the outlook for its future. This session built on dialogue about the future of collective bargaining at recent FMCS National Labor-Management Conferences and may well be part of a continued national dialogue and action on these matters.

Organized labor today is a small and shrinking part of the total workforce, and it is struggling at a number of levels to find a more vital role in the global economy. But the new forces in that economy are equally challenging to management, whether or not its own workforce is organized. These forces, which affect companies across the spectrums of industry and size along with their workers, were identified by the conference's speakers and participants:

- **Globalization** of both business and labor competition
- **Changing nature of the workforce** that requires more educated, specialized employees to compete in the growing information economy rather than in the shrinking manufacturing base
- **Changing nature of labor** from a monolith to a reflection of the dual labor market:

- Skilled workers needed by business who are nonmilitant and can take care of themselves, represented by the AFL
- Unskilled, immigrant workers in service industries—labor's traditional base—for whom a more aggressive stance is an attraction, represented by the SEIU and HERE

- **Mergers & acquisitions** at a continually frenzied pace, across industries and locations
- **Outsourcing** of both specific work and workers
- **Cost explosion of traditional employee benefits**, particularly health care and pensions
- **Growing multiples between pay at the top and bottom**, which encourages union militancy, and is contributing to the shrinkage of the middle class
- **The prospect of imminent change in U.S. political leadership**, possibly reverting to old-style political solutions for global business and labor problems

Each speaker presented his own unique perspective on how these forces are influencing today's practice of labor relations and collective bargaining, citing different examples ranging from the shift in the basic structure of labor and management to a new model—management and labor working together in strategic partnerships to achieve agreed-upon business goals.

IRConcepts is published by Industrial Relations Counselors, Inc., established in 1926 "to advance the knowledge and practice of human relationships in industry, commerce, education, and government."

Sydney R. Robertson
President
212-852-0403
sydney.robertson@orcww.com

Robert J. Freedman
Director of Research
212-852-0404
robert.freedman@orcww.com

Industrial Relations Counselors, Inc.
500 Fifth Ave
New York, NY 10110

IRC and IRConcepts are
trademarks owned by
Industrial Relations Counselors, Inc.

www.ircounselors.org

The Future of Collective Bargaining as an Institution: Perils and Prospects

Joel Cutcher-Gershenfeld

Professor and Dean, University of Illinois Institute of Industrial and Labor Relations

Professor Cutcher-Gershenfeld pointed out that, as a result of fundamental shifts in markets, work, technology and society, the basic structure of the relationship between management and organized labor is shifting as well. A growing move to “bargain over how to bargain”—reassessing the “rules of the game”—is of central importance in this context.

He has found that about 10 percent of labor-management relationships are now on a transformational path that is designed to align strategic-level concerns and workplace-level concerns within the collective bargaining process. That path often integrates essential workplace innovations into enabling contract language through the application of interest-based bargaining (IBB) and related methods for understanding fundamental interests as a context for bargaining.

While the net result of such transformational labor-management relations can be a new, strategic partnership between the parties, he reports that a greater percentage of labor-management relationships are going in the opposite direction. They have become more adversarial, with more divergence in union and management views, less workplace innovation, and a fall-off in a preference for IBB.

Even in the contested context, many of the techniques involved in IBB are, he says, being incorporated into a range of new approaches to bargaining—not necessarily using specific labels. The parties are increasingly engaged in joint training; joint data collection prior to bargaining; pre-agreements on ground rules and a bargaining plan; use of facilitators and brainstorming during bargaining; use of content experts and subcommittees during bargaining; new uses of electronic technology such as projecting text on a screen and taking joint minutes; and innovative ways to engage and calibrate constituents. In a limited, but important number of

cases, the parties are increasingly even coming together over nontraditional, larger joint goals such as police and fire agreements to improve public safety, education agreements to improve student performance, or industrial agreements to improve environmental outcomes.

He pointed out that there is especially the need to educate the workforce on business realities in today’s economy. There is a parallel need for employers and the general public to see collective bargaining as still able to contribute to the stability of a middle class in society. Basic questions arise to what extent it makes economic sense to invest in education in these domains. Will employers invest in educating a workforce on business issues given current high rates of turnover (both voluntary and involuntary)? Will education take place such that collective bargaining is not just seen as a private deal on wages, hours, and working conditions?

He concluded by pointing out that one key to more effective bargaining is communication between and within the parties during all phases of the relationship—not just at the bargaining table. The Internet is a growing vehicle, for both labor and management, to establish such ongoing communication. Essential in this process will be the same kind of standardization and use of process disciplines as are found in quality improvement efforts and related initiatives. On the management side, top management—not HR—needs to set a clear direction and policies for the organization’s labor relations so that local-level management can operate on firm ground. For both labor and management, this will involve shifts in the basic institution to match today’s global knowledge economy.

Roads to Union–Management Collaboration

Michael Maccoby

Anthropologist, Psychoanalyst, and Consultant on Leadership, Strategy, and Organizational Behavior

Dr. Maccoby explained how the current system of union-management relations is based on an

outmoded reality—the industrial model of the 20th century—as the work, scope, and structure of today’s workplaces are subject to global economic, social, and especially technological forces. (He points out that more jobs are lost to the U.S. economy today due to automation than are due to outsourcing.)

Improving union-management relationships today needs to be part of the process of improving work, according to economic and human values. This involves incorporating concerns about quality, productivity, and making work more satisfying. One way to achieve the necessary collaboration between unions and management, he has found in his extensive work on union-management projects, is by focusing on the customer—i.e., that which creates value.

The nature of the relationship between the union and the company sets the tone for how they relate to one another, and he suggests that unions be considered a supplier—and treated accordingly. That then puts the union in the position of working to become the “supplier of choice.” Similarly, some unions (such as the International Union of Bricklayers and Allied Craftworkers) have focused on continuous development of worker competencies while the American Federation of Teachers has a policy of aiding professional development.

While “partnering” does not reflect the true power relationship between the parties, he noted, “collaboration” does—as it means working together for a common purpose. He also noted that collaboration is in the interest of unions as well as management—for example, in one case, as a result of the establishment of a collaborative relationship with management, union membership rose, from 65 percent to 85 percent. And, as the wage differential is receding for skilled workers (due to demographically based shortages), unions can “sell” prospective members on benefits of education and quality work.

In doing such work, it becomes clear that there are no final answers. He discussed the initial excitement and ultimate disappointment of efforts such as reengineering and Total Quality

Management (TQM), and quotes Tom Davenport, who said, “All knowledge-work organization is experimental.” Ultimately, companies and unions both have a profound interest in being competitive and having good jobs in an ever-changing economy. And experiments in cooperation have led to better business results.

In later discussion, he pointed out that the collective bargaining system, starting with the Wagner Act, is built on something that no longer exists. We have gone from industrial to knowledge work; automation, continuous process change, global competition have demanded agility, not inscribed rules; and an every-three-year contract flies in the face of these new realities. Rather, employees involved in the work are required to participate responsively, not by the book. Yet, he concluded, many companies are not ready to go to the next level and cooperate with labor—they need to have a compelling business reason to do so.

The Workplace of the Future

Hal Burlingame

Director, Industrial Relations Counselors, Inc.; non-Executive Chairman, ORC Worldwide; retired Executive Vice President, Human Resources, AT&T Inc.

From the 1980s until 2000, AT&T prospered and then rode the wave of change in the telecommunications industry with an innovative program called Workplace of the Future, in which Mr. Burlingame played a central part. He described the “virtuous circle” on which it was based, integrating the popular Economic Value Added (EVA) approach to organizational improvement with two other elements—Customer Value Added (CVA) and People/Employee Value Added (PVA). From EVA, investment flowed to employees; from employees work and service offerings flowed to customers; and from customers revenue flowed back to the company treasury.

Focusing on the pivotal PVA segment of this circle, he described a “new conversation” between labor and management about the nature of the employment contract, in which everyone had to take a fresh look, and information had to

be much more widely shared. Management had to open the books and unions had to abandon notions of seniority and outdated, strict work rules. All this change required dedicated champions on both sides who faced detractors on all levels of both sides.

Both Mr. Burlingame and Dr. Maccoby (who was the main consultant to the Workplace of the Future program) agreed that what was really involved was less a traditional labor-management effort than a leadership development issue on both sides. And Dr. Cutcher-Gershenfeld pointed out that such an effort cannot work bit by bit—it has to be implemented throughout the organization, on three levels simultaneously: from the top down, restructuring; from the bottom up, energy; and in the middle, a strategic planning process for standards, and protocols as guiding principles. This effort facilitated performance in turbulent times and helped strengthen AT&T as its industry structure was changing. Ultimately, it was this effort that—when the breakup of AT&T did occur—made possible a smooth transition process for the people at the company.

Reinforcing Dr. Maccoby's point that even the most effective organizational change efforts today are temporary, Mr. Burlingame described how, when management change occurs, often there is a reversion to "old style" labor-management relations, and what had been built over decades took just a moment to be shattered. Yet today, as AT&T has now been reunited with SBC, it seems as though "SBC is attitudinally in this space, approaching labor issues in a pretty constructive way." The biggest challenge they will face with this is the new power of the financial markets that look only at EVA and are not attuned to the day-to-day reality of organizations' operations.

The Case of Harley-Davidson

Stephen Weidman

Director, Corporate Labor Relations and Human Resources, The Harley-Davidson Motor Company

While acknowledging the unique, "egalitarian biker" culture of Harley-Davidson, Mr. Weidman

said that labor relations is really about human relations and that, despite being a classic "old-style" manufacturing company, Harley has created and maintained a partnership approach to labor relations—because they find it to be a value proposition for the company. Today, after a tumultuous financial history, Harley is a highly profitable, \$6 billion organization with \$1 billion of profit.

He described four key facets of the management value proposition. First, a partnership works best where there is an equality of power on each side. Harley, dealing with both the Machinists and the Steelworkers unions, recognizes that power—and the fact that each side, in opposition, could really damage the other side. And so they find they are both better off working together.

Second, they find that a management-union partnership is better than any available alternatives. There are an awful lot of working people in the U.S. who need protection, he said—and they can look to unions, government, or self-help (which he defined as "get a lawyer"). "I have not found unions to be unreasonable," he said. "And they're better than government or lawyers." He, too, views unions as "suppliers," and pointed out that companies don't have adversary relationships with their other suppliers, so they shouldn't with their unions, which is the company's most long-lasting supplier relationship.

Third, with Harley's cooperative history, they are able to get the participation of their workforce in solving problems—getting people's brainpower as well as brawn. He said that, by and large, 20 percent of employees will love a company, 20 percent will hate it—and it's that middle 60 percent that a strong relationship with a union can help engage.

Finally, he said, when management offers a partnership approach, it benefits from a higher quality of union leadership. (As the adage goes, "A company gets the union it deserves.") An adversarial environment encourages an adversarial union, but when union leadership is involved in both business issues and in operations, the company benefits from their knowledge, skills, and leadership.

At Harley, all union presidents and all general managers are policy-setters, sharing all information and operating pragmatically, with mutual respect and trust, to engage in mutual problem solving. It is management by influence rather than authority—a consensus culture, in which some decisions are made by management, some with union input, and some are made jointly. Union members work with nonunion workers on training and other operational activities, while some plant managers and union presidents manage plants without supervisors.

He said that the partnership culture is so ingrained into the company that even if new leadership came along and wanted to change it, that would be very difficult. And yet Harley did recently have its first strike in 15 years—over the issues of health care and legacy costs, which Mr. Weidman pointed out are the two intractable issues facing every large employer in the nation, ones that cannot be solved on an individual company basis.

A New Private Equity Path

Steve Sleigh

Principal, The Yucaipa Companies LLC; former Director of Strategic Resources, International Association of Machinists and Aerospace Workers

While the pure bottom-line-results orientation of today's financial markets was mentioned by many at this conference as in opposition to labor-management harmony, Mr. Sleigh demonstrated that enhanced profitability and cooperative work modes can productively coexist. The private equity firm of which he is a principal began with the purchase of a California supermarket chain that was carried out with the approval of its unions and which, in private hands, continues to work cooperatively with its unions.

As with any private equity fund, institutional investors put up capital and the fund looks for underperforming public companies to purchase, to improve their operations, and to sell back to the capital markets at a profit. The unique approach of this fund is that the improvements are

often made through better labor relations—by partnering with the company's unions to find and implement better ways to work, to everyone's eventual benefit. Despite the potential benefits of labor-friendly private equity only 3 percent of multi-employer pension plan assets are invested in private equity compared with 6 percent of corporate pension plan assets and 15 percent of endowment fund assets. Mr. Sleigh cited the example of Spirit Aerosystems as a successful private equity investment that created value for investors, managers, and employees.

He pointed out that these relationships, like any others, are not necessarily forever-after. But each party sees it to be in its interest to cooperate—as long as everyone else does. And one of the knottiest issues is CEO compensation, particularly as workers may be agreeing to take wage cuts. But unions are recognizing how such buyouts can be in their interest—and so the private equity fund is now getting leads from unions as to underperforming companies that could be turned around in a buyout. A buyout by a labor-friendly private equity group can spur a radical transformation of labor relations that otherwise is unlikely to occur.

Barriers to Management and Union Change

William P. Hobgood

Arbitrator, Mediator, and former Vice President, United Airlines

Taking a balanced look at both sides of the bargaining table, Mr. Hobgood notes that the signs of a bad relationship are obvious: a high grievance level, protracted bargaining, low productivity, public conflict, and strikes. But, drilling down, he points out that the root causes of such results come from deficiencies in both management and labor leadership.

Some of the realities that hinder good relations include the fact that most change efforts ignore the political character of collective bargaining, and management either doesn't understand or ignores the union political structure. Both em-

ployer and union leadership are often reluctant to go past their traditional roles, and show little willingness to assume new and broader responsibilities. Management leadership tends to have a quarterly mind-set, while union leaders are largely elected as adversaries to management.

Management often underestimates the investment in time and money necessary to put the relationship on a more cooperative footing—with processes such as team building and interest-based bargaining that need to be leadership driven, typically by management, to improve the bargaining relationship. Often such efforts are focused on activities rather than outcomes and the role of supervisors, who need to be key players, is ill defined.

Yet there are positive pointers to better relations. While they are neither necessary nor sufficient to improve labor-management relationship, external threats such as global competitive pressures can serve to encourage constructive change. So can recognition of the fact that each of the parties needs the other to succeed. And once the desire to improve the relationship exists, effective conflict resolution systems can be applied, along with a focus on real performance that includes provision for profitability, institutional security, and job security.

A Union Leader's Outlook

Thomas R. Donahue
Former President and Secretary/Treasurer, AFL-CIO

After a lifetime of union involvement, Mr. Donahue has concluded that employers and unions have much more in common than their differences, and that partnerships—which he terms mature bargaining relationships—reflect those commonalities. They work, he said, when each party remains true to its base, representing the interests of their side, while respecting the other side.

While he has seen many successful efforts at learning to live and work together, he says there are still appropriate moments for a strike. These

can sometimes be healthy, he says, in “clearing the air” and reminding the parties of their mutual needs, tempering employers’ narrow focus on stockholder value and unions’ narrow focus on extracting the “last drop of benefits.”

Sometimes, he said, the real results of a strike do not favor the winner. He cited situations in which the company put up a strong fight, and won on all issues—only, after the strike, to find that morale had plummeted and turnover had soared. And the company learned to look to interest-based bargaining as a better alternative than the traditional take-no-prisoners stance, thereby coming to a good outcome for all concerned.

On the other hand, he cited unhappy cases, such as when United entered into its disastrous ESOP plan—and when AT&T sold off a manufacturing plant to management as the wire and cable industry was shrinking. He was put on the board as the union representative, but the company was again sold, and finally sold again, to be liquidated.

Echoing other speakers, he remembered examples of labor-management cooperation that worked beautifully—for a time, including Chrysler and AT&T.

He was active on the AFL-CIO Committee on the Evolution of Work in the 1980s and 1990s, a group designed to orient the labor movement to serving its members. Its Third Report was published in 1994 as a call to partnership, a step beyond cooperation. While 35 national union presidents signed up to the report, they could not shift the membership and now, 13 years later, they are still talking about the way ahead.

Summing up, he said that five basics have to be in place for cooperative arrangements to succeed: finding a willing partner; acquiring the tools to make it work; developing communications skills to sell it up and down both the corporate and the union sides; recognizing limits—that, as in any relationship, there will always be stresses; and having dedicated people to make it work. And he said that the biggest barrier to the use of interest-based bargaining is the issue of cost, on both sides.

He left the group with a basic philosophical question he said he has spent a long time thinking about and to which there is no obvious answer: Considering both the traditional legal “master/servant” relationship of management and labor and the practical unity of the work of the job and the person doing it, who “owns” the job—the worker or the management?

Case of Kaiser Permanente

Peter diCicco

Former Executive Director of the Coalition of Kaiser Permanente Unions

In 1996, Kaiser Permanente (KP), America’s leading not-for-profit, fully integrated, and highly unionized health maintenance organization, was facing some difficult challenges. Both its management and staff were suffering from the prevalence of the growing unpopularity of managed care and from the explosive growth of non-union, for-profit health care companies. And so, having suffered a bitter strike in the late 1980s and early 1990s that nobody won, the company began to work toward a genuine partnership with its unionized employees—not simply cooperation or a new labor strategy, but a joint recognition of the need for fundamental change in order to meet their mutual goals of making life better for their customers and communities.

The union leaders, representing most staff except doctors, and senior KP executives developed a partnership agreement through an intensive negotiation and problem-solving process that took most of 1996 and into 1997. The toughest issue after job and union security was that of leadership: the scope of shared decision making. The unions gained the right to input (not veto) at the highest level: its representative sits in on meetings of the board and all its committees except compensation, with both sides respectful of their determination to achieve total transparency and confidentiality.

Working down from there, management and labor worked together to achieve agreed-upon business goals (such as service quality improve-

ments and expanded membership), with union members learning to be proactive, demonstrating their vested interest in the success of their company.

In 2000, the spirit of cooperation extended to the bargaining table, where the two sides determined to institute a facilitated, single, national “interest-based negotiation” process, in which various task groups engaged in joint study, problem-solving, and negotiations on subjects ranging from quality and service to work-life innovations to wages and benefits—and then submitted recommendations to a centralized common issues committee. Ultimately, the national agreement and derivative local contracts were ratified by substantial margins—92 percent overall.

Working to improve ongoing operations, the partnership follows two strategies: applying the partnership principles and process to address specific, “naturally occurring” events or crises; and an incremental, steady, planned diffusion of those principles and process across the organization, guided by extensive investment in education and training of managers, union representatives, and employees.

He noted that the interest-based bargaining process can seem frustrating because it takes a long time to take hold. It’s slow at first, he said, but when it takes off the results start multiplying. So both sides really have to be committed to slogging on to make it work.

All of this has worked. In 1998-1999, KP enjoyed a turnaround in its financial performance—and designed and opened a brand-new hospital in a new California location incorporating improvements in physical design and in the flow of patient care that came out of the joint effort. At that and other facilities, a wide range of measures, from financial results to patient care to health and safety, rose and continued to rise year after year. And a 2005 union survey of members showed dramatic improvements from 1998 in their attitudes toward their job, attitudes that are critical to the quality of patient care, and the competitive success of the organization.

Examples of Strategic Labor–Management Partnerships

Thomas J. Schneider
President, CEO and Founder, Restructuring Associates Inc.

Also involved in the case of Kaiser Permanente detailed by Peter diCicco, Mr. Schneider related several examples of burgeoning partnerships.

Catholic Healthcare West has 44 hospitals in California, Nevada, and Arizona, with 40,000 employees whose staff and nurses had been organized since 2002 by the SEIU. Facing stiff competition, particularly from Kaiser Permanente, in 2006 they agreed to form a labor-management strategic alliance to simultaneously redesign three hospitals and the delivery of care—all systems, processes, and jobs—in Las Vegas, starting with a clean slate rather than instituting incremental change. The initial meeting with representatives of labor and management took place in July 2006 and in just seven months committees were formed, had identified initial functions, processes, and problems for redesign to improve performance, and had gained the approval of the steering committee. Now they are beginning to carry out their cooperative endeavors. One of the goals is to become a “Magnet” hospital, one deemed so by nurses as a best place to work; this status both attracts the best nurses and, therefore, attracts doctors and patients as well.

The management and SEIU at Allina Healthcare, the largest health care delivery system in Minnesota, have now worked jointly for a year on specific important performance-related challenges by means of a process that not only focused strongly on communicating their message throughout the organization, but also trained all middle and lower-level managers and stewards in alternative dispute resolutions processes and effective conflict resolutions skills, and jointly trained management and stewards regarding contract interpretation.

In these and other workplaces, he said, the core business strategy is strategic and operational en-

agement, essential to improving performance results. High performance requires discretionary effort and judgment, which will not appear unless the people who know and have to execute the work feel engaged, a sense of ownership, in it. The most critical concept is that cooperative labor-management relations must be a core business strategy, line-driven rather than driven by HR or labor relations staff.

Best Practices in Interest-based Bargaining

Michael Gaffney
Mediator, Facilitator, Educator; Consultant, Restructuring Associations; formerly Cornell University School of Industrial and Labor Relations

Dr. Gaffney pointed out that prior to the introduction of interest-based bargaining (IBB) to industrial relations in the mid-1980s; there was no way to connect then emergent structures of labor-management cooperation with mainstream industrial relations activity (contract bargaining and contract administration). Collaboration between management and union prior to the 1980s was relegated to parallel structures specifically enjoined not to address issues having to do with terms and conditions of employment, i.e., the important stuff. IBB provided a means by which the parties could move the ethos of collaboration from the wings into the mainstream.

FMCS data earlier cited by Dr. Cutcher-Gershenfeld demonstrates how significant that penetration has been, awareness and use of IBB tending upward. That same data, however, also indicates recurrent problems with IBB application and some recent slippage in terms of bargainer preference for this approach. While it is likely that this loss of ground may have been due in part to difficult economic conditions during the survey period, it is Gaffney’s opinion that the problem lies as well within the IBB method itself—or at least within a version of IBB which borrows heavily from the organizational development values and practices of the mid-1980s—from which environment the early champions/trainers/consultants emerged.

This version of IBB asks for behaviors, which in Gaffney's opinion, are unrealistic in many bargaining settings (particularly those entailing low to only moderate levels of trust, a modicum of training, and no external facilitation), resulting in frequent disappointment. Gaffney mentioned a number of unrealistic components of this version of IBB which he dubbed "fragile" (prohibition of positions, prohibition or discouragement of caucuses, no or low tolerance of display of emotion, implicit assumption that a win/win solution can be achieved in every instance and consequent lack of instruction on how to deal with distributive/monetary issues).

Gaffney recommended an alternative "robust" version of IBB that was much more sober in these regards. The subsequent discussion among the summit participants focused primarily on one issue—whether or not the absence of positions was the sine qua non of IBB.

Going Forward and Some Concluding Thoughts

Conference speakers and attendees alike agreed on a number of issues:

- Management and organized labor need each other to keep their organizations competitive in today's harsh business climate.
- Mutual respect and a willingness to work hard in understanding each party's objectives are essential.
- Transparency and information-sharing are the necessary foundations of mutual trust.
- A huge hurdle is the fear of change in traditional roles.
- Continuing, intensive communication is essential in three domains:
 - Within management, starting with the full education of the CEO
 - Within union membership
 - Between management and union membership

There was no attempt to generate a consensus view from summit participants, but ORC staff came away with the following thoughts about union and management efforts to improve their relationships.

- 1. The process should commence with an in-depth joint review of what each party hopes to get out of the changed relationship and whether the hoped-for benefit is worth the cost.** In this respect, management and unions may need help in developing a joint vision of the future. Are the visions of a desired future consistent? If the price of union participation is management neutrality in organization drives and recognition on the basis of an authorization card check, rather than an election, is management willing to agree to that?
- 2. The arrangement needs to function at corporate, strategic business unit, and workplace levels, to address strategic, collective bargaining, and workplace issues.** Piecemeal approaches are not likely to be successful; relations at one level are synergistically influenced, for good or for bad, by relations at other levels.
- 3. Issues need to be sorted out in terms of the manner in which they are to be addressed: management decides and informs the union, management seeks input from the union and decides, decisions are shared in some manner, etc.** Potential bumps in the road need to be anticipated and provided for: management believes a decision must be made too rapidly to allow for consultation or bargaining, major outsourcing, facility closure, shifts from interest-based to traditional bargaining, etc.
- 4. Planning for education, training, and communication activity is needed.** Training in interest-based bargaining may be required. Union members and representatives often need better understanding of P&L statements, etc. Managers in functions other than HR often need to be sensitized as to behavior that will lead to a union's abandonment of a cooperative arrangement.

Minimum standards of dialog frequency for each level should be set.

5. Each party needs to examine its own internal arrangements as they relate to the relationship. The union will have to find ways to prevent an opposing faction from using successful labor-management collaboration as coziness warranting regime change. Management should consider whether and how to take relationship performance into

account in the management reward system.

6. The effort to improve relationships cannot be based on wishful thinking (instantaneous transformation; the ups and downs of relationships can be ironed out; fostering relationships can eliminate win-lose issues). Nevertheless, the search for common ground and improved relationships can be fruitful.

About IRC and ORC Worldwide:

In the wake of the Ludlow Massacre in the Colorado minefields of 1917, John D. Rockefeller, Jr., created an organization to foster improved employer/employee relations—Industrial Relations Counselors, Inc. (IRC). Incorporated in 1926, it was the first research organization in its field.

IRC advocated the establishment of employee representation plans, which involved employee-elected representatives and regular meetings with management to discuss matters of mutual interest. The idea was greeted with less than enthusiasm by many of Rockefeller's fellow industrialists, but it led to his conviction that there could be a "unity of interest" between labor and management—it was not always necessary for one party to lose in order for the other to win; win-win arrangements and agreements were possible.

IRC continues to be dedicated to its original objective: "To advance the knowledge and practice of human relationships in industry, commerce, education, and government." IRC's work has been guided over these 80-plus years by a board of trustees comprising distinguished leaders of American industry.

IRC became an exemplar of the progressive management view that labor and management, while adversaries, had common interests and that it was the task of the industrial relations function to seek ways to establish this unity of interests. From its inception, IRC has conducted innovative research and produced publications that have broken new ground in the employee relations field. In the 1930s, legislators drew on IRC expertise concerning pension systems

and European experience with unemployment insurance in the establishment of the federal social security system and the design of unemployment insurance in the United States. IRC was also deeply involved in advancing the interests of progressive employers in the formation of national labor policy.

Between 1927 and 1932 IRC was the official representative of American business to the International Labour Office in Geneva, and conducted research there on employment issues in several European countries. IRC research has also dealt with all aspects of collective bargaining policy, remedies in emergency disputes, executive retirement, and job evaluation. For many years IRC's own management development and education courses broadened the expertise of human resources professionals and increased line managers' understanding of employee relations issues. Periodic IRC symposia bring together business leaders and academic researchers to review HR topics of mutual importance.

After several decades, IRC spun off its for-profit company that is today known as ORC Worldwide. Since 1953, ORC has served to assist clients, primarily *Fortune 500* firms, with specialized knowledge and advice about human resources management.

For further information about IRC and ORC's activities in the labor and employee relations field, please contact Thomas Connors, Senior Vice President, ORC Worldwide at 212-719-3400.

www.ircounselors.org

Agenda

Welcome

Hal Burlingame, Director, Industrial Relations Counselors, Inc.

Fiona Webster, Director, International and Social Labor Affairs, ORC Worldwide

The Challenge for the Institution of Collective Bargaining

Joel Cutcher-Gershenfeld, Dean and Professor, University of Illinois Industrial and Labor Relations Center

Successful Intervention in the Workplace

Michael Maccoby, Anthropologist, Psychoanalyst and Consultant on Leadership, Strategy and Organizational Behavior

The Workplace of the Future

Hal Burlingame, non-Executive Chairman, ORC Worldwide and retired Executive Vice President, Human Resources, AT&T Inc.

The Harley-Davidson Motor Company Experience and Relationship Transformation Situations

Stephen Weidman, Director, Corporate Labor Relations and Human Resources, The Harley-Davidson Motor Company

A New Private Equity Path

Steve Sleight, Principal, The Yucaipa Companies LLC, former Director of Strategies Resources, International Association of Machinists and Aerospace Workers

Intra-Organizational Bargaining: Insider and Outsider Perspectives

William P. Hobgood, Arbitrator, Mediator and former Vice President, United Airlines

A Union Perspective

Thomas R. Donahue, former President and Secretary/Treasurer, AFL-CIO

The Kaiser Permanente Experience

Thomas J. Schneider, President, CEO and Founder, Restructuring Associates Inc. and Peter diCicco, former Executive Director of the Coalition of Kaiser Permanente Unions

Group Discussion of Thoughts and Experiences Addressed So Far

Rory Mullett, ORC Worldwide

Getting to Real: Second-Generation Interest-Based Bargaining

Michael E. Gaffney, Mediator, Facilitator, Educator and Consultant, Restructuring Associates, formerly Cornell University School of Industrial and Labor Relations

Descriptive Bibliography

Appelbaum, Eileen (Rutgers) & Hunter, Larry W. (Wisconsin-Madison), *Union Participation in Strategic Decisions of Corporations*, NBER Working Paper 9000 (March 2003), <http://www.nber.org/papers/w9590>

This paper looks at the subject primarily from a union point of view. Its table, "Choices Facing Union Leaders in the Design of Institutions for Strategic Partnership" (on the following page) is particularly valuable.

Strategic partnerships are unlikely to evolve from other partnerships or employee involvement programs, and they raise dilemmas for unions. At the local level, unionists have to reinterpret and redefine their roles and convince the membership of the values associated with cooperation. Involvement at more strategic levels is more problematic. Responsibility without corresponding authority is unattractive. Will management share enough to make the arrangement influential? Will management take action inconsistent with the arrangement under pressure?

The primary incentive for union involvement is the viability of the firm, but the arrangement is unlikely to be able to address the turbulence outside the firm that seems to be endemic to the current economy. To gain worker support, the arrangement must provide not only employment security but union institutional security. Management neutrality with respect to organizing and outsourcing prohibition may be required. History does not appear to support the notion that innovative union-management arrangements have provided greater security.

Organizing the arrangement in terms of linkages with union structure and including all relevant parties can be difficult. An international's responsibilities with respect to a particular firm and the industry may be conflictual.

A study of CBAs expiring between 9/1/97 and 9/30/07 found that about 47 percent contained

some form of "partnership," but fewer than 3 percent of them were strategic.

Arrangements negotiated by the IBEW, CWA & IBW, USWA, and IAMAM are discussed. The CWA/IBEW/AT&T Workforce of the Future is discussed in greater detail in *Agents of Change* by Heckscher et al., digested below. The USWA and IAMAM arrangements follow here.

In 1992 the USWA adopted a "New Directions" bargaining program, seeking "an ongoing voice" in decisions affecting the shop-floor, plant, and corporate performance. Its main provisions included no layoffs, involvement in workplace and corporate decisions, restructuring to increase flexibility, improving productivity and reducing costs, neutrality, and card check. These provisions were negotiated with the major integrated companies in the 1993-94 round and renegotiated in 1999. Contracts with other steel companies "contained many of the substantive features." The authors report variations in implementation from company to company but an overall positive effect despite union and management skepticism as to whether the arrangement can live up to expectations with respect to union participation in top-level strategic decisions.

The IAMAM has High Performance Work Organization (HPWO) Partnerships at about 50 facilities (out of several thousand), including Harley Davidson. The IAMAM is looking for: [1] a business plan incorporating long-term returns, market expansion, and workforce growth, [2] accurate accounting of all activities supporting the firms products/services, and [3] changes in process to improve quality and productivity. Extensive education, training, and planning are involved; several years of relationship exploration may precede an agreement. Beyond growth and joint decision-making, the IAMAM seeks employment security and an education and communication plan for all employees.

The paper also includes a fairly extensive section on union membership on boards of directors.

Choices Facing Union Leaders in the Design of Institutions for Strategic Partnership

Type of Choice	International Union	International or Local Union	Local Union
Establishment of partnership	<p>Does the international union advocate partnerships as a matter of policy?</p> <p>Does the union support board seats?</p> <p>Does the union support negotiated strategic partnerships?</p> <p>What policy should the union demand of the company with respect to subsequent organizing campaigns?</p>	<p>Does the union bargain for partnership structures?</p> <p>If management is reluctant to agree, how much is partnership worth?</p> <p>How should future organizing campaigns and acquisition of nonunion operations be handled?</p>	<p>Should workers buy stock in their own company?</p> <p>Should partnerships accompany concession bargaining?</p> <p>What role should employment security guarantees play in the partnership agreement?</p>
Identity of union representatives in strategic level decisions	Should active international union leaders be permitted to involve themselves in governance decisions of individual companies?	What criteria will be used to select representatives?	Who will the representatives be?
Continuing support for representatives	Will the international union provide training and technical support for the representatives?	Will the union attempt to coordinate with or instruct the representatives?	Will structures be established for communication between representatives, local union leaders, and local members?

Beaumont, Phillip B. & Hunter, Laurence C, both with the University of Glasgow, "Collective Bargaining and Human Resource Management in Britain: Can Partnership Square the Circle?" in Kochan & Lipsky, *Negotiations and Change: From the Workplace to Society* (Cornell 2003), p. 161

Much of this article seems to have little relevance to the U.S. labor-management situation, but a couple of aspects are worth noting.

The Trades Union Congress has created a TUC Partnership Institute, which has defined partnership in terms of six principles: [1] shared commitment to the success of the enterprise, [2] recog-

nition of legitimate interests, [3] commitment to employment security, [4] focus on the quality of working life, and [5] adding value.

The authors say that the profile of the sort of organization to successfully adopt the partnership approach is one that:

1. Is under competitive/performance pressure
2. Sees HRM practices as a major way to respond to pressure
3. Is relatively highly unionized
4. Has unions not historically hostile to the HRM

5. Has an existing relationship that needs fixing but isn't hopeless
6. Has a management that sees the distinction between negotiating and employee-management relationships and is willing to invest in both
7. Has a management that understands that unions can't sell change if they haven't been involved in the design of the change
8. Has an international, as well as a local, that is welcome in the design process
9. Addresses issues of concern to the represented early
10. Needs early success

See Appendix A for a 6/22/04 speech by Ron Bloom, Special Assistant to President, USWA, to a management group setting forth what the Steelworkers look for in a relationship with management.

Brommer, Buckingham, Loeffler (FMCS Commissioners and Deputy Director), *Cooperative Bargaining Styles at FMCS: A movement toward choices*, <http://www.fmcs.gov/internet/assets/files/Articles/Pepperdine/CBStylesatFMCS.pdf>

This article compares and contrasts:

- traditional bargaining
- enhanced cooperative negotiation (ECN)
- modified traditional bargaining (MTB)
- interest-based bargaining (IBB)

As indicated by the ordering above, ECN is closer to traditional bargaining than MTB, which is closer to IBB than ECN.

ECN entails [1] mediator-facilitated issue preparation and exchange, [2] proposal preparation and exchange, and [3] traditional bargaining. It requires less training of the participants than MTB or IBB.

MTB requires more training than ECN but less than IBB. It entails more focus on interests than traditional bargaining. In effect the process starts the parties on an interests path but makes

reversion to traditional bargaining okay. There are three phases: [1] option generation *à la* IBB but without the necessity of agreeing to standards or criteria for evaluation; [2] sharing interests and proposal exchange on non-economic issues, followed by traditional bargaining thereon; [3] an interest approach to economic matters, followed by traditional bargaining on all remaining issues. Unlike IBB, there is no requirement to completely share information or for consensus, but it does encourage information sharing.

The article provides greater detail on IBB and its predecessor "PAST" approach. The essential message with respect to IBB is akin to "no pain, no gain," it offers substantial benefits provided the parties are willing to live with its disciplined approach and invest the time it requires.

The basic idea is that there is no one approach that is better for all parties and situations (one size doesn't fit all). Hence FMCS offers four models ranging from traditional bargaining to IBB with a couple of choices in between.

Cooke, William N., *Labor-Management Cooperation: New Partnerships or Going in Circles?* (Upjohn Institute for Employment Research 1990)

This book addresses the literature; presents original survey findings that reflect different perceptions of local union leaders, national/international union officers, plant management, and corporate management; provides a statistical assessment of the survey results; and presents the observations of an individual who knows his subject matter. The findings seem somewhat overwhelmed by the methodology. In addition, Cooke sees management as having to choose among union-avoidance, cooperation, or a mix of the two strategies and doesn't focus enough on the balance between traditional/distributive bargaining and cooperation. Management could choose to deemphasize cooperation and emphasize hard-nosed traditional bargaining in the belief that this is the way to a better deal rather than because cooperation is inconsistent with union avoidance. In summary, following is a distillation

of some key points. (For all of the listed benefits and costs, Cooke cites relevant literature.)

Potential benefits of cooperation to management include:

1. increased productivity and efficiency
2. improved quality
3. improved customer relations and service
4. reduced waste and rework
5. reduced overhead, materials, and material handling costs
6. enhanced supplier service
7. improved communications
8. improved relations between supervisors & employees
9. reduced grievances and disciplinary action
10. stronger identity and commitment to company goals
11. reduced absenteeism, tardiness, and turnover
12. increased organizational flexibility and adaptability

Potential costs to management include:

1. added costs to reorient and train managers, employees, and union representatives
2. perceived loss of authority and status
3. displacement or loss of employment for middle managers and supervisors
4. wasted time spent in meetings
- (5. Cooke does not list slower response time resulting from need to consult)

Potential benefits to employees include:

1. intrinsic rewards from participation/involvement
2. more say in how work gets done
3. improved working conditions
4. more money from gainsharing and other incentives
5. improved supervisor-employee relations
6. quicker resolution of problems; reduced need to grieve
7. heightened dignity, self-esteem, and pride in work

Potential costs to employees include:

1. working harder, not necessarily smarter
2. displacement or loss of employment from increased productivity
3. unwanted peer pressure to be involved or not involved

Potential benefits to union leaders include:

1. credit from members for improvements
2. more influence in management decisions
3. improved communication with management
4. reduced day-to-day contract administration problems
5. greater member involvement in union affairs

Potential costs to union leaders include:

1. perceived cooptation by management
2. undermining of traditional roles of unions and collective bargaining
3. heightened political conflict over leadership role
4. increased uncertainty of reelection
5. loss of member commitment and union influence

Trust and commitment to cooperation are critical and interrelated. Neither is easy to develop. Disenchantment and demoralization readily follow when hoped-for gains are not achieved. Balancing cooperation and traditional bargaining is difficult. Many of the benefits of cooperation are hard to measure, as are some of the costs of traditional bargaining (e.g., morale, distrust, insecurity).

Factors consistent with perceived successful cooperation (These statements may be seen to oversimplify Cooke's heavy data.):

- high union leader participation
- frequent team meetings
- committee-based programs

Factors consistent with perceived lack of success:

- continued employment loss
- subcontracting

- low union leader participation
- infrequent team meetings

To make cooperation work:

- build in a problem-solving mechanism such as fact finding, mediation, or arbitration
- attempt to reach, up front, a consensus of standards of behavior in relation to trust and commitment
- agree that when either party perceives the other isn't meeting trust/commitment standards, it will be immediately brought to the other party's attention
- identify where and how much union input to company decisions is expected
- agree as to how union input contributes to cooperative gains
- agree as to the union's share in terms of income and security from the gains of cooperation

Cutcher-Gershenfeld, Joel (with MIT at time of article, now with University of Illinois, Urbana-Champaign, Institute of Labor & Industrial Relations) and Kochan, Thomas (MIT), "Taking Stock: Collective Bargaining at the Turn of the Century," 58 *Industrial and Labor Relations Review* No. 1, 3 (October 2004)

This article examines two sets of FMCS data and draws three broad conclusions:

1. The transformation of labor-management relations depends on aligning efforts at three levels (workplace, collective bargaining, and strategic)
2. The aligning factors are readily identifiable:
 - a. workplace practices supporting worker use of skills and knowledge
 - b. negotiation processes encouraging problem-solving and producing contract terms that support ongoing innovation during the contract term
 - c. joint strategic level interactions supporting ongoing innovation

3. Fewer than 10 percent of relationships report that transformative efforts have resulted in cooperative and improving relations.

Two possible implications are derived. One is that there is no need to transform traditional bargaining and adversarial relationships. The other, favored by the authors, is that the context in which the relationships exist and the bargaining takes place is changing and there is a corresponding need for the institution of collective bargaining to change or innovation will be minimal and decline will be steady and long-term.

A selection of the salient observations follows:

- Many of the more highly visible experiments have not been sustained.
- Pressure from domestic and international competition increases the likelihood of new, transformative contract language.
- Forcing does not necessarily reduce the likelihood of new, transformative contract language, but fostering is needed.
- Positive action at one level increases the likelihood of positive action at other levels, but positive action at all three levels is needed.
- Management and union representatives report the same phenomena differently.
- Management representatives were higher on IBB than union representatives in 1996 and 1999, but both were a little less positive on IBB in 1999 than 1996.

Cutcher-Gershenfeld, Joel (with MIT at time of article, now with University of Illinois, Urbana-Champaign, Institute of Labor & Industrial Relations), "A Five-Phase Model for Examining Interest-Based Bargaining" in Kochan & Lipsky, *Negotiations and Change: From the Workplace to Society* (Cornell 2003), p. 141

Simultaneous interest-based bargaining (IBB) and demonstrating vigorous representation to constituents is complicated. Traditional bargaining is more consistent with the latter and can

prevent the other party from trumping your interest-based approach with a power move. But traditional bargaining doesn't easily address a number of issues (e.g., quality, work and family, strategic investment). FMCS data indicates the use of IBB is growing, as is the preference for IBB over traditional bargaining, but the latter is not growing as fast as the former, and management is more favorably inclined to IBB than unions are.

The five phases follow. Success in one phase depends on the results in the prior phase and substantive results are dependent on success with the process.

1. prepare
2. open
3. explore
4. focus (package development)
5. agree

Preparation entails morphing positions into interests, which entails intra-organizational bargaining. First, constituents have to accept the use of a nontraditional approach; second, they have to be willing to evaluate the outcome in win-win, rather than win-lose, terms, giving some weight to the relationship.

Opening in IBB avoids the traditional overstated positions. It can strongly influence the balance between the issues to be forced (traditional, distributive bargaining) and those for which fostering the relationship is a significant consideration, as well as overall forcing/fostering attitudes with respect to the negotiations.

Exploring is the effort to visualize a potential deal and where the land mines are. In traditional bargaining, it is usually done off stage by the chief negotiators; in IBB, it's open brainstorming with whole bargaining committees. The openness helps produce win-win solutions but can be problematic in terms of constituent expectations. The tension between forcing and fostering can hamper exploration.

Focusing is trying to gel the vision of a potential deal. It's less significant in traditional bargaining because the perimeters there are defined by

initial positions, and exploring in IBB may well have increased the number of issues contemplated at the time of opening. There needs to be joint recognition that it's time to narrow. The process entails identifying connections between issues, "what if" exchanges, agreeing to criteria to evaluate options, etc. It's tough—the forcing/fostering balance is very much in play, at least some trust is needed, maybe the other party was only talking IBB as a façade.

Agreeing isn't just the falling of the final domino. The effort to come up with the words may reveal there wasn't a meeting of minds. Even if there was, finding the right words isn't always easy. Moreover, the constituents have to buy in, and they may have reservations to the effect that the IBB process is too cozy.

The parties' relationship and bargaining process is not immune to external economic, political, and social winds.

Heckscher (Rutgers), Maccoby (independent consultant & author), Ramirez (HEC [a French business school]), & Tixier (Institut d'Etudes Politiques de Paris), *Agents of Change: Crossing the Post-Industrial Divide* (Oxford 2003)

This is a book about reconstructing systems of relationships, focusing on labor-management relations. The authors' experiences with four interventions provide points of departure:

- Maccoby's work at AT&T, including workplace restructuring and worker participation and involving unions in operational planning
- Ramirez' involvement with redefining the strategic direction of the Italian State Railroad
- Heckscher's efforts to facilitate strategic dialog between unions and management at Lucent Technologies
- Tixier's efforts to help the French electric monopoly and its unions deal with the pressures of opening markets

There are lessons here for unions and management and for neutrals trying to assist the parties. Although the authors would likely contend (and may well be right) that the parties cannot be successful without non-party intervention, I have tried to collapse the lessons into what the parties need to do. And, although the book derives lessons from all four interventions, only the AT&T and Lucent cases will be discussed in any detail here. Finally, the authors are pessimistic as to whether the parties and/or interveners have the knowledge and/or ability to do what needs to be done.

Organizations have stakeholders, and there is a need for some form of organized stakeholder relations to maximize mutual gains. It's not just about labor-management relations. It also involves relations between top and middle management, national and local unions, companies and customers, environmentalists, etc. But in labor-management relations there are fundamental obstacles:

- management visualizing leadership in a non-bureaucratic way
- union visualizing member job involvement without weakening the ability to fight when necessary
- union acceptance of responsibility for the effectiveness of the company
- management taking responsibility for maximizing employment security
- an environment requiring radically more speed and flexibility than in the past

Successful collaboration requires cooperation at three levels: strategic (institutional/corporate), operational (divisional/SBU), and doing (workplace).

Zooming in on AT&T: “Cooperation is not enough.”

The unions were never significantly involved at the strategic level. After intensified competitive pressure, the acquisition of non-union companies, and management turnover leading to less neutrality and support for collaboration, the

CWA withdrew from the Workplace of the Future program.

There were benefits from participatory efforts in the workplace, and managers and union representatives gained insights as to their behaviors and relationships from the operational-level dialogs, but there were gaps and challenges:

- Less than a third of the workforce was involved.
- Although some management bonuses were related to WPoF participation, measures and rewards for managers weren't fully aligned with the program.
- The strategic-level board did not meet regularly, and the union did not participate in decision making at that level.
CWA attempts to organize newly acquired units were resisted, causing distrust.
- The relationship between corporate labor relations and line management in the new union-free units became strained.
- Other key management supporters of collaboration left.

Had AT&T's new management bought into the WPoF vision, the results it was producing and the momentum it was gaining would likely have changed the story.

Zooming in on Lucent

Lucent carried WPoF from AT&T, but the climate for collaboration was more difficult—extreme industry turbulence, fundamental management strategy shifts, and major divestitures and layoffs.

In this context, management did not regard WPoF as very important. Assurances that union membership would remain relatively constant did not prove to be true. Management's view was that while business growth was a shared responsibility, membership was a union concern.

There was a process for involving unions in divestitures. The company paid for two financial advisors picked by and responsible to the union. The unions input to bid specifications. The advisors

looked at the bids and reported to the union. The union could meet with potential buyers and could tell the company their preferences. Finally, the union negotiated a CBA with the buyers and severance with Lucent while the buyer and Lucent negotiated on sales terms.

Management fragmentation, lack of HR/LR clout, and lack of middle management experience with a dialogic role hampered dialog, as did union identity as combating management, lack of resources and skills to engage in business dialog, internal politics, fragmentation between the national and locals, and a history of being reactive rather than proactive. In addition to the difficulty of changing interparty relations, each party had difficulty changing intraparty relations.

Zooming out

Three basics:

1. There are no off-the-shelf solutions; the parties have to tailor the approach to fit their situation.
2. Rational self-interest is not the whole nine yards; the history of the relationship may, and often does, lead to “irrational” behavior.
3. The approach has to be systemic—looking at inter-, intra-, and extra- party relationships, including environmental influences.

The parties also need to have dialog on how they want to have dialog. But, dialog alone isn’t enough. Patterns of behavior that were appropriate at one time can persist after the situation has changed. Each party needs to reflect on its self-image in relation to the other party as well as on its image of the other. Then, it may be possible to change the situation through trial and error, not in one fell swoop but one bite at a time.

A common understanding of the past and not incongruent visions of the future are necessary to be able to work together in the present.

A vision of joining forces to overcome a threat to the survival of both parties hasn’t proved to be enough. A future involving, among other aspects of the picture, a shift from job to employment

security could be worth consideration. The employer would invest in employees’ marketability, either internally or elsewhere.

For the most part, the parties were not able to reconstruct their relationships, but they did learn to cooperate and solve problems more effectively within the framework of the processes they were trying to change. Management did not buy into the notion that the union could actually add value and certainly did not want to see the union as a more powerful force within the firm.

Interparty similarity is discoverable. Setting aside management wishful thinking that the union will go away, interdependency is also discoverable.

CBAs work by stabilizing relations for a period of time, but this is inconsistent with the need for flexibility and rapid adjustment required by the business environment.

The old industrial relations system is no longer viable. Obstacles to stable and trusting labor-management relationships include:

- opening of markets
- weakening/delegitimation of unions and government regulations
- corporate focus on knowledge and service value-added
- a big increase in reorganizations and strategic re-focusings
- more empowerment of frontline knowledge workers
- co-productive arrangement blurring formerly clear organizational boundaries

Corporate strategy needs implementation, and implementation requires the involvement of stakeholders, and stakeholders contribute value. The need for effective collaboration within a firm is as great as that between firms. The old loyalty for security tradeoff is no longer an adequate lubricant for collaboration. The shift in emphasis from traditional to interest-based bargaining helps but is alone not sufficient. Although there is no clear light at the end of the tunnel, the need to keep striving for it is clear.

McKersie (MIT), Eaton (Harvard, Kennedy School), & Kochan (MIT), *Interest-based Negotiations at Kaiser Permanente*, MIT Sloan School Working Paper 05-4312-03 and IWER Working Paper 05-2003, downloadable without charge from <http://ssrn.com/abstract=413101>

This paper deals with the negotiations involving the establishment of the “partnership” between Kaiser and the coalition of unions with which it bargains. The analysis concludes with the 2001 contract. Twenty-six locals representing 70,000 employees and a variety of bargaining unit types were involved. There is considerable focus on doing national and local bargaining “at once.” Although not explicitly stated, the article’s bottom line seems to be that interest-based negotiation (IBN) defines the relationship and roles.

The parties bargained again in 2005 (after the article was written). Information on 2005 from the union coalition may be found at www.bargaining2005.org and www.impartnership.org.

The toughest issues were union security, employment security, and the scope of shared decision making. Union security was resolved by agreement on management neutrality and card check. Employment security was resolved by agreement on a goal of providing “maximum possible employment and income security within Kaiser Permanente and/or the health care field.” The meaning of this language was subsequently clarified.

The agreement on the scope of shared decision making included strategic initiatives, quality, member and employee satisfaction, business planning, and business unit employment issues. Specifically:

- Decision making is to be governed by two criteria: [1] the degree to which the parties’ constituents or institutional interests are likely to be affected, and [2] the level of expertise or added value the parties can bring to bear.
- If either party’s vital interests are likely to be affected, consensus should be used.
- If constituent or institutional interests

are even marginally affected, consultation should precede a decision.

- If one party has little, if any, interest in the outcome and no particular expertise on an issue to be decided, informing is adequate.
- In the absence of consensus, mandatory bargaining subjects will be resolved in accordance with contractual and legal rights. On non-mandatory and non-contractual subjects, management has the sole responsibility and right.

The objectives of the Partnership are: [1] improving the quality of health care, [2] expanding KP membership and market share, [3] improving performance, [4] securing employment security, [5] making KP a better place to work, and [6] involving employees and union leaders in decision making.

There seem to be three levels of union-management organization:

1. A national “strategy group” co-chaired by KP’s VP for Workforce Development (probably the most senior HR official) and the Director of the union coalition, supported by a staff unit, and including about 50 union and management leaders who meet several times a year, plus a third-party consultant jointly selected by the parties.
2. Regional union-management teams
3. Service area (business unit?)/facility union-management teams

The national level unit reports to a senior management group and the coalition’s governing unit. Interestingly, the management group consists of two groups representing different components of KP’s business. The authors look at this and the union coalition as partnerships, in addition to that between the company and the coalition.

After the Partnership Agreement was signed, the parties decided to separate Partnership activities from collective bargaining, but subsequently adopted an approach involving a single integrated national negotiation, allowing retention of local

agreement expirations, and a series of decentralized task forces focusing on particular issues.

Eight internationals with 25 locals were involved. Almost 400 union and management people and 20+ neutral facilitators were involved. There were bargaining task groups on [1] wages, [2] benefits, [3] work/life balance, [4] performance and work-force development, [5] quality and service, [6] employee health and safety, and [7] work organization and innovation. These groups reported to a centralized Common Issues Committee.

In the end, there was a reversion to quasi-traditional bargaining in a nine-hour marathon session.

Features of the contract included:

- card check at new locations
- a trust fund to diffuse the Partnership (including training), funded in part by 6-cents/hour employee contributions
- joint determination of staffing
- flexibility subject to seniority and union jurisdiction
- open communication
- non-punitive corrective action procedures

The parties believe the contract facilitated improved patient care, delivered in a more participatory, cost-effective manner. The first-year cost of growing the Partnership (training and Partnership staff) was estimated to be \$12 million, about half coming from employee contributions.

Success factors include:

- educating bargainiers and ratifiers in IBN
- enabling each side to withdraw and bargain toward the expiration dates of existing agreements
- when parties find it difficult to agree on general standards or criteria for settlement, focusing on agenda items that must be resolved in order to reach agreement
- accessing reliable data
- consistently communicating the final deal to avoid multiple interpretations
- tracking what's going on at all levels

- up-front understanding of the subject matter being addressed by each decentralized task force, and sharing their results with each other
- keeping late night sessions to a minimum

Rubinstein, Saul & Heckscher, Charles, both with Rutgers University, "Partnerships and Flexible Networks: Alternatives or Complementary Modes of Labor-Management Relations?" in Kochan & Lipsky, *Negotiations and Change: From the Workplace to Society* (Cornell 2003), p. 189

The partnership model is defined to mean one in which workplace relations are modified to support employee value-added participation in problem solving and decision making and to involve union leaders in high-level business strategy.

Partnerships have experienced problems where technologies and markets are changing so fast that flexibility becomes management's dominant goal. Unions' need for voice and employment security do not resonate in harmony with keeping the firm's boundaries flexible.

Lessons from the Saturn experience (before it came unglued) included:

1. The perception that union involvement in running a business is a legitimate role, consistent with trying to ensure the long-term job security of its members
2. Joint development of risk and reward formulas
3. Co-management requiring a new set of skills for union leaders (all members required a minimum of 92 hours of training)
4. Strong support for the model required from corporate and the international
5. The local needing to be able to both do the partnership stuff and vigorously represent individuals

Employment security implies training of existing employees when new skills are needed and can also be inconsistent with efforts to focus on

core competencies and get other companies to do complementary non-core work.

There may be more opportunity for partnership with respect to higher value-added work than lower. As to low value-added work, management's interest in stringent cost control is at variance with the union's basic interests. As to high value-added work, employees need more business understanding, and their security can be enhanced by enhanced mobility. Hence, employers, unions, and government have an interest in investments/alliances that will enable employees to add to their value and organizations to have better access to necessary talent.

Appendix A

Ron Bloom, Special Assistant to the President, United Steelworkers of America, remarks to Steel Success Strategies, the Plaza Hotel, New York, NY, June 22, 2004.

This morning I would like to share with you, Eight Simple Rules for dealing with the United Steelworkers of America, A Word from my Sponsor and A Cautionary Tale.

First, let me of course thank Peter and the folks at American Metal Market for inviting me to speak to you here today. I have looked over the program and it seems quite interesting. There seems to be a good balance—forty-seven speakers from the companies and one from the union. Seems about fair.

Anyway, here we go.

Rule Number One: We are not looking for love, or even particularly to be liked, but we do demand respect and not just in the morning, or when you need us, but all day long.

Now we understand that the people who own steel companies, the boards of directors who operate the companies on their behalf and the management that the boards employ all agree that they would strongly prefer that their employees not be represented by the Steelworkers Union and that life would be better if we would

go away and never come back. And so we are skeptical, to put it mildly, when people tell us how much they like us.

And while Steelworker representation is in fact good for a company and most assuredly critical for the survival of the industry, for now, I will not bother trying to convince you of that.

I will save my thoughts on the virtues of Steelworker representation for the after-dinner speech, when you have had something to drink—actually a lot to drink—and after I have offered definitive proof of the existence of the tooth fairy and persuaded you to register democratic and vote for John Kerry.

Instead, at least for now, let's agree to have an honest and open relationship, based on clear thinking and mutual respect. Let's not pretend that our interests are identical, but let's agree that we have enough in common to work together on projects of mutual concern.

Rule Number Two: We can accept your mission—but only if you accept ours.

We can accept the mission of the industry's owners—making a return on their investment; the mission of management—running successful companies, lowering their handicap and making a buck or two along the way; and the mission of the various lawyers, accountants, investment bankers and others—feeding off the industry while contributing nothing—except of course for Peter Marcus—but we will not do so, unless, in exchange, you accept our mission—representing workers.

Our mission is to represent every non-management employee in the steel industry, and we can never have a stable relationship with an industry stakeholder who does not accept this basic raison d'être of our union. How could we?

As I said earlier, we do not expect that if all other things were equal, you would want us to grow and prosper. But, all other things are not and never will be equal.

You need us to accept your mission in order for you to succeed and while it would be nice for you

if we would accept your mission without you accepting ours, unfortunately for you, that deal is not available. And the deal that is available—we accept you, you accept us, is better than the real world alternative.

So, take the deal and let's move on.

Rule Number Three: We seek a level playing field, which to us means that we oppose competition based on hourly labor costs. We believe that this is in every company's general interest but we understand that it is in no company's specific interest.

It doesn't take an MBA from Harvard or a PhD in metallurgy to figure out that if everyone pays their workers \$25 per hour and you can get away with paying them \$20, you will make a little more money. The problem is, number one its unfair, which I know you do not find terribly relevant, but I figured that I needed to at least say it, and number two that advantage only works until everyone else ratchets their wages down to the same level and the cycle starts all over again.

Companies that win in this industry should be those that build a sustainable advantage based on better technology, better quality, better management, or better strategy, not those who figure out a way to short-change their workforce.

The reality is, left to your own devices, you will eat each other up in a race to the bottom and in the process do nothing but make your customers rich.

We are the glue that holds this industry together, that forces you to reach for those elusive better angels of your nature. And you should thank us for it.

Rule Number Four: These mills are ours.

The steel industry has many stakeholders but none of them are as completely committed to its success as the Steelworkers Union.

For holders of financial assets—particularly shareholders—everything is based on the moment, there is no memory and no future. Everyone who owns shares in a publicly traded company when the market closes on a given day can

be assumed to have made an affirmative choice to buy them that day—either because they actually did or because they chose not to sell.

But those shareholders feel absolutely no obligation to make the same decision tomorrow. There is and under our current rules, can never be, real commitment or loyalty from a shareholder to a given company or the industry.

Management, while somewhat more long-term oriented—still has genuine mobility and can usually be expected to depart for greener pastures if the price is right.

Customers and suppliers—while some have long histories with a particular company must also have limited loyalty. After all they have their own shareholders to please.

Workers, however, are truly the one constant in the life of an enterprise. The average turnover at most steel companies are about 3% per year. Many public companies have shareholder turnover of that amount in a morning.

So when we say that these are our mills we say it the truest sense of the word—no one cares more about them or is more dedicated to their success than we.

After all, possession is nine-tenths and in the union we always round up.

Rule Number Five: We may forgive, but we never forget and it's always personal.

We do, as I have indicated, have a lot at stake here. We genuinely suffer when steel companies fail and the mills close and we are therefore prepared to go more than the extra mile if we believe that you are genuinely interested in the company and its future.

But conversely, if we conclude that your concerns are purely about personal aggrandizement, about making a quick hit and leaving us holding the bag, or if we conclude that you do not respect our members or their institution, we will fight to protect ourselves with every weapon at our disposal.

And we think we are pretty good at it. Ask the

shareholders of US Steel, ISG, Allegheny-Technologies and Oregon Steel about the value of peace with the union. And ask the shareholders of AK about the price of war.

People often tell us that their antagonism toward our members and us is just business and that we should not take it personally. I worked on Wall Street for ten years so I understand that way of thinking. You screw me on Monday, I screw you on Tuesday, we both screw everyone else on Wednesday through Friday and we all meet for a round of golf on the weekend.

For us it does not work that way.

Although when you tell us to not take it personally we will often nod and smile, don't be misled. For us, it is always personal because—news-flash—we represent persons, and the decisions you make impact real people with real husbands and wives and children, trying to pay real mortgages and lead real lives. So when we are passionate and emotional, do take it personally—because we mean it that way.

We do not seek confrontation and we never start a fight. But we cannot do our job if we retreat when challenged.

The choice is yours.

Rule Number Six: With us—you get what you deserve.

Our members run our union and we have great faith in their ultimate wisdom. This does not mean that our leaders are afraid to lead. We are often far out in front of our members at a given point in time.

But do not expect that we will act in a manner that is divorced from the fact that ultimately, the Steelworkers Union is about giving working people control of their own lives.

But how that democratic impulse is expressed is largely up to you.

Think of us as a liability and a contingent asset. The size of the liability and whether or not, and to what degree, the asset becomes real is in your hands.

For the overwhelming majority of the twentieth century the industry first tried in every way possible to prevent our existence and then, when our coming became inevitable, tried to focus on minimizing the liability which they believed us to be by disagreeing with everything we said, rejecting our ideas because they came from us and trying to put us into the narrowest box possible.

For a while we played along. We checked our brains at the door and did what we were told and no more. While this approach brought decent wages and benefits, it also produced a failed industry, with catastrophic consequences for literally hundreds of thousands of innocent people.

Recently, an enlightened few have come to understand that the union as a contingent asset can be made both real and in fact quite large; that steelworkers, with the confidence and security that can only come from the protections provided by a collective voice, are in fact capable of contributing an enormous amount to every facet of the business.

It is axiomatic to note that no one knows how to run a steel mill better than those who do it, but the adoption of this simple insight is the only reason there is still integrated steelmaking in America today. And those who have truly embraced this philosophy are those whose future is brightest.

Put it another way, you get the union you deserve.

Rule Number Seven: We often have significant negative power; we seldom have as much positive power.

This negative power evidences itself most clearly in restructurings but extends generally to situations where any significant change is required. And we are not afraid to use that power.

But we have also learned that negative power only takes you so far, that to truly build something, to create an economically viable enterprise to operate our mills, we need positive power as well. And in order to exercise positive power, we have discovered, requires partners. And so, we have formed partnerships with management and with

capital providers to create these enterprises.

We think the record is pretty clear—a combination of the union’s negative power with the positive power of management and capital providers is the best route for first creating and then sustaining both economically viable companies as well as a viable industry.

And so we are looking, as I said earlier, not for love, but for long-term strategic alliances with providers of capital and those skilled in the art of management who want to join us in building an empire in steel.

Andrew Carnegie—where are you when we need you?

Which brings me to

Rule Number Eight: We represent workers not consumers and we understand that over the long run it is a lot easier to extract monopoly rents—which we most assuredly wish to do—out of an industry that is making at least some profit.

We do not accept the market as the proper arbiter for wages, hours and working conditions. The proper arbiter in a civilized society, one that believes in a middle-class, is collective bargaining.

But we recognize that in a capitalist society, over time, if capital does not earn a return it will stop showing up. And so our members, in their own self-interest, want to work for companies that make money. The more the better.

An honest reading of the history of the steel industry would tell you that capital has not in fact done very well. On a cumulative basis the world’s steel industry probably did not make a profit in the twentieth century.

Now I certainly am not saying that nobody has ever made a buck investing or working in steel.

There was this fellow named Carnegie who did OK, and Rockefeller did pretty well on his investment in Colorado Fuel and Iron (although he did have to endure some libelous accusations about a small misunderstanding in Ludlow).

And of course we have the wonderful spectacle of the fact that in 1946 six of the ten highest paid executives in the entire country were employed by the Bethlehem Steel Corporation. Gee, I wonder if that attitude had anything to do with how things eventually turned out for the shareholders, bondholders, workers and retirees at that company.

More recently, some folks made a few shekels betting on those ratty old LTV assets and its no good workforce and finally we can brag that our industry has produced the owners of both the largest and the most expensive private residences in the world.

But in the end, despite, or maybe because of some of that, this industry has not created a viable model for long-term success for its stakeholders.

Now I at least, want to keep doing this for a while—I don’t think my old partner really wants me back anymore—and while one could make an argument that the best thing to do is find enough dumb money for one more round, the Union’s horizon is a little longer.

We understand that the steel industry needs long-term financial success if we and our members are to prosper. We think this requires three things.

First, individual steel companies must have competitive cost structures. In this area, we have and will continue to do more than our fair share.

Second, we need a stable industry structure and that means consolidation. While America continues to have too few steel mills, it has far too many steel companies.

Now we understand the implications of that statement for the long-term job security and prospects of steel industry CEOs. And unlike the fate of many of our members, we are prepared to have much of this done through attrition. But in the end, if we want to have a stable industry, we need to have just a few companies, each of whom has enough presence in the market that they can have a bargaining as opposed to a begging relationship with their customers.

So guys, take one for the team. We have.

And finally, we need a political environment that supports both the making of steel and the making of products that consume it here in America.

Which brings me to the word from my sponsor.

Whether we like it or not, the steel industry's fate here in America depends on the willingness of the federal government to insist that global trade in steel is conducted on a level playing field, something which today we should all be able to agree, does not exist.

And we all should be adult enough to admit that the fact that the active and retired members of the Steelworkers Union reside at ground zero of the so-called battleground states and that our union has an incredibly sophisticated political organization, is the only reason that our pipsqueak little industry, an old-economy dinosaur, many of whose participants can best be described as HMO's with steel company subsidiaries, representing less than one-half of one percent of the American economy, has received the attention it has.

It sure isn't our charm and good looks, ample though they are.

Yet there are companies in the industry, I dare say some of whose representatives are sitting in this very room that, while they oppose in every way the union's mission of representing their workers, are more than willing to reap the benefits of our hard work.

Shame on you! But more importantly—shame on your owners for letting you be so shortsighted.

We should all be deeply resentful of these free riders. In the Union everyone pays dues because we know that if one is allowed to ride for free, all will want to, quickly leading to the weakening of the institution and everyone's eventual disadvantage. This is, of course, a principle everyone in this room understands and accepts as being at the core of civilized society. Taxes are not and cannot be voluntary.

It is obviously true that if there were no steel industry, there would be no Steelworkers Union. What may be less obvious but is in fact just as true, is that in America today, sisters and brothers, if there were no Steelworkers Union, there would be no steel industry.

And on that note, let me end with a cautionary tale.

There are three men walking through the forest—an Englishman, a Frenchman and a Steelworker. They are set upon by savages who capture them and take them to their leader. The leader announces that the men are to be killed and their skin used to make canoes but because these savages are decent, they will allow their captives to both choose the method of their death and to have the honor of taking their own lives.

The Englishman goes first. He requests a pistol, puts it to his head, shouts "God save the Queen" and shoots himself.

The Frenchman steps up next. He asks for a knife. "Viva La France" he cries and slits his throat.

Finally, the Steelworker steps forward. "I want a fork," he says. The chief is a bit perplexed but agrees to honor the request. The steelworker then takes the fork and madly starts stabbing himself all over his body.

"Screw your canoe."

Thank you.