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An Introduction to U.S. Collective Bargaining and Labor Relations

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An Introduction to U.S. Collective Bargaining and Labor Relations

Abstract

[Excerpt] This comprehensive textbook provides an introduction to collective bargaining and labor relations with a focus on developments in the United States. It is appropriate for students, policy analysts, and labor relations professionals including unionists, managers, and neutrals. A three-tiered strategic choice framework unifies the text, and the authors' thorough grounding in labor history and labor law assists students in learning the basics. In addition to traditional labor relations, the authors address emerging forms of collective representation and movements that address income inequality in novel ways.

Harry C. Katz, Thomas A. Kochan, and Alexander J. S. Colvin provide numerous contemporary illustrations of business and union strategies. They consider the processes of contract negotiation and contract administration with frequent comparisons to nonunion practices and developments, and a full chapter is devoted to special aspects of the public sector. *An Introduction to U.S. Collective Bargaining and Labor Relations* has an international scope, covering labor rights issues associated with the global supply chain as well as the growing influence of NGOs and cross-national unionism. The authors also compare how labor relations systems in Germany, Japan, China, India, Brazil, and South Africa compare to practices in the United States.

Keywords

Collective bargaining, labor relations, U.S. labor history, U.S. labor law, contract administration, contract negotiation, dispute resolution

Disciplines

Collective Bargaining | International and Comparative Labor Relations | Unions

Comments

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Harry C. Katz,
Thomas A. Kochan, *and*
Alexander J. S. Colvin

An Introduction to U.S. Collective Bargaining and Labor Relations

FIFTH EDITION

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PART I

Introduction

1. A Framework for Analyzing Collective Bargaining and Labor Relations
2. The Historical Evolution of the U.S. Labor Relations System
3. The Law and Legal Systems
4. The Role of the Labor Relations Environment

1

A Framework for Analyzing Collective Bargaining and Labor Relations

DEFINING PRINCIPLES OF THE FIELD OF INDUSTRIAL RELATIONS

Whether we are at work or at leisure, we are affected by the conditions under which we work and the rewards we receive for working. Work plays such a central role in our lives and in society that the study of relations between employee and employer cannot be ignored.

This book traces how members of labor and management, acting either as individuals or as groups, have shaped and continue to shape the employment relationship. Employment is analyzed through the perspective of **industrial relations**, the interdisciplinary field of study that concentrates on individual workers, groups of workers and their unions and associations, and employers and their organizations and the environment in which these parties interact.

Industrial relations differs from other disciplines that study work because of its focus on labor and trade unions and the process of **collective bargaining**. Thus, this book describes how collective bargaining works and helps explain, for example, why it may lead to high wages in one situation and low wages in another.

The study of labor relations focuses on the key participants involved in the process, the role of industrial conflict, and the performance of collective bargaining. This chapter defines these various aspects of labor relations and describes how this book analyzes them.

THE PARTICIPANTS

The key participants (or parties) involved in the process of labor relations are management, labor, and government.¹

Management

The term **management** refers to individuals or groups who are responsible for promoting the goals of employers and their organizations. Management encompasses at least three groups: (1) owners and shareholders of a company, (2) top executives

and line managers, and (3) labor relations and human resource staff professionals who specialize in managing relations with employees and unions. Management plays key roles in negotiating and implementing a firm's labor relations policies and practices.

Labor

The term **labor** includes employees and the unions that represent them. Employees are at the center of labor relations. They influence whether the firms that employ them achieve their objectives and shape the growth of unions and the demands unions make.

Government

The term **government** includes (1) local, state, and federal political processes; (2) the government agencies responsible for passing and enforcing public policies that affect labor relations; and (3) the government as a representative of the public interest. Government policy shapes how labor relations proceed by regulating, for example, how workers form unions and what rights unions have.

KEY ASSUMPTIONS ABOUT LABOR AND CONFLICT

Labor Is More than a Commodity

One of the most important assumptions that guides the study of labor relations is the view that labor is more than a commodity, more than a marketable resource. For instance, workers often acquire skills that are of special value to one firm and not to another. The possibilities that such workers will be able to earn as much "in the labor market" as they can at their existing employer are limited. In addition, changing jobs often costs workers a lot: moving locations can be expensive and can also entail large personal and emotional costs. For these reasons and others, labor is not as freely exchanged in the open, competitive market as other, nonhuman market goods are.

Furthermore, labor is more than a set of human resources that a firm allocates to serve its goals. Employees are also members of families and communities. These broader responsibilities influence employees' behaviors and intersect with their work roles.

A Multiple-Interest Perspective

Because employees bring their own aspirations to the workplace, labor relations must be concerned with how the policies that govern employment relations (and the work itself) affect both workers and their interests and the interests of the firm and the larger society. Thus, labor relations takes a **multiple-interest** perspective on the study of collective bargaining and labor relations.

The Inherent Nature of Conflict

A critical assumption that underlies analysis of industrial relations is that there is an inherent conflict of interest between employees and employers that derives

from the clash of economic interests between workers seeking high pay and **job security** and employers pursuing profits. *Thus, in the study of industrial relations, conflict is not viewed as pathological. Although* conflict is a natural element of employment relations, society has a legitimate interest in limiting the intensity of conflicts over work.

Common and Conflicting Interests

Employers and their employees have a number of common interests. Both firms and their work forces can benefit, for example, from increases in **productivity** through higher wages and higher profits.

No single best objective satisfies all the parties in a workplace. *The essence of an effective employment relationship is one in which the parties both successfully resolve issues that arise from their conflicting interests and successfully pursue joint gains.*

Collective bargaining is only one of a number of mechanisms for resolving conflicts and pursuing common interests at the workplace. In fact, collective bargaining competes with these alternative employment systems. Not all employees, for example, perceive deep conflicts with their employers or want to join unions. In dealing with their employers, some workers prefer individual over collective actions. Others exercise the option of exit (quitting a job) when dissatisfied with employment conditions rather than choosing to voice their concerns, either individually or collectively.²

One of the roles of public policy is to give workers a fair opportunity to choose whether collective bargaining is the means they prefer for resolving conflicts and pursuing common interests with their employer.

Tradeoffs When Goals Conflict

Since many of the goals of the major actors—workers and their unions, employers, and the public or the government—conflict, it is not possible to specify a single overriding measure of the effectiveness of collective bargaining. Focusing on any single goal would destroy the effectiveness of collective bargaining as an instrument for accommodating the multiple interests of workers and employers in a democratic society.

Unions could not survive or effectively represent their members, for example, if employers were completely free to suppress or avoid unionization. Likewise, employers could not compete effectively in global or domestic markets if collective bargaining constantly produced wages or other conditions of employment that increased costs above what the market would bear.

THE THREE LEVELS OF LABOR RELATIONS ACTIVITY

In this book, we use a three-tiered approach to analyzing the operation of labor relations.³ (Figure 1.1 provides the framework for this approach.) First we consider the economic, social, and legal contexts of collective bargaining, then we look at the operation and outcomes of the bargaining system.

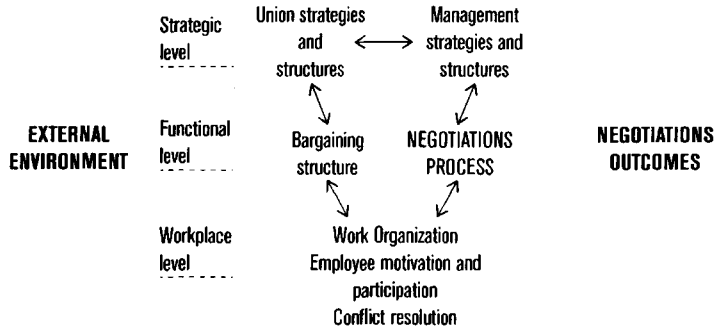


Figure 1.1. The three-tiered approach to the study of labor relations

The top tier of industrial relations, the **strategic level**, includes the strategies and structures that exert long-run influences on collective bargaining. At this level, we might compare the implications for collective bargaining of a business strategy that emphasizes product quality and innovation with a business strategy that seeks to minimize labor costs.

The middle tier of labor relations activity, the **functional level**, or the collective bargaining level, involves the process and outcomes of contract negotiations. Discussions of strikes, bargaining power, and wages feature prominently here.

The bottom tier of labor relations activity, the **workplace level**, involves the activities through which workers, their **supervisors**, and their union representatives administer the labor contract and relate to one another on a daily basis. At the workplace level, adjustment to changing circumstances and new problems occurs regularly. A typical question at this level, for example, is how the introduction of employee participation programs has changed the day-to-day life of workers and supervisors.

It is through the joint effects of the environment beyond the company and the actions of the parties in this three-tiered structure that collective bargaining either meets the goals of the parties and the public or comes up short.

THE INSTITUTIONAL PERSPECTIVE

The perspective that guides our analysis of labor relations was first developed by **institutional economists** at the University of Wisconsin. John R. Commons (1862–1945), the person who most deserves the title father of U.S. industrial relations, defined the essence of institutional economics as “a shift from commodities, individuals, and exchanges to transactions and working rules of collective action.”¹ Commons and his fellow institutionalists placed great value on negotiation and on compromise among the divergent interests of labor, management, and the public.

The institutionalists in the United States were heavily influenced in their thinking by the British economists and social reformers Sidney and Beatrice Webb, who were members of the Fabian socialist society. They viewed trade

unions as a means of representing the interests of workers through the strategies of health and burial insurance, collective bargaining, and legislative action.⁵

In following the Webbs, the institutionalists rejected the arguments of Karl Marx. Marx argued that the pain of the exploitation and alienation that the capitalist system inflicted on workers would eventually lead to the revolutionary overthrow of the system. He believed that workers would eventually develop a class consciousness that would pave the way for revolution and the ultimate solution to their problems—a Marxian economic and social system. Marx supported trade unions in their struggles for higher wages, but he believed they should simultaneously pursue the overthrow of the capitalistic system.

There are some interesting similarities in the views of Commons, Marx, and the Webbs. Like Marx and the Webbs, Commons and other institutional economists rejected the view of labor as a commodity, for two fundamental reasons. First, the institutionalists saw work as being too central to the interests and welfare of individual workers, their families, and their communities to be treated simply as just another factor of production.⁶

Second, the institutionalists echoed the Webbs and the Marxist theorists by arguing that under conditions of “free competition,” most individual workers deal with the employer from a position of unequal bargaining power. That is, in the vast majority of employment situations, the workings of the market tilt the balance of power in favor of the employer. The selection from Beatrice Webb’s classic essay on the economics of factory legislation in Britain, shown in Box 1.1, amply illustrates this argument.

The institutionalists concluded that labor required protection from the workings of the competitive market and that unions could materially improve the conditions of the worker. This led them to advocate two basic labor policies: legislation to protect the rights of workers to join unions and legislation on such workplace issues as safety and health, child labor, minimum wages, unemployment and workers’ compensation, and social security.⁷ Thus, in addition to making scholarly contributions, the institutionalists served as early advocates of the legislative reforms that became the centerpiece of the New Deal labor policy during the administrations of Franklin D. Roosevelt.

BOX 1.1

Beatrice Webb on the Balance of Power between the Employee and Employer

If the capitalist refuses to accept the workman’s terms, he will, no doubt, suffer some inconvenience as an employer. To fulfill his orders, he will have to “speed up” some of his machinery, or insist on his people working longer hours. Failing these expedients he may have to delay the delivery of his goods, and may even find his profits, at the end of the year fractionally less than before. But, meanwhile, he goes on eating and drinking, his wife

and family go on living, just as before. His physical comfort is not affected: he can afford to wait until the labourer comes back in a humble frame of mind. And that is just what the labourer must presently do. For he, meanwhile, has lost his day. His very subsistence depends on his promptly coming to an agreement. If he stands out, he has no money to meet his weekly rent, or to buy food for his family. If he is obstinate, consumption of his little hoard, or the pawning of his furniture, may put off the catastrophe; but sooner or later slow starvation forces him to come to terms. And since success in the higgling of the market is largely determined by the relative eagerness of the parties to come to terms—especially if this eagerness cannot be hidden—it is now agreed, even on this ground alone, “that manual labourers as a class are at a disadvantage in bargaining.”

Source: Excerpt from Mrs. Sidney Webb, ed., *The Case for Factory Acts* (London: Grant Richards, 1901), 8–9.

THE PERFORMANCE OF COLLECTIVE BARGAINING

The performance of collective bargaining can be assessed by looking at how well it serves the goals of the parties involved and the public.

Labor's Goals

To see if collective bargaining is meeting labor's goals, we can examine wages, benefits, safety conditions, and employee job satisfaction. A number of union-management efforts now seek to improve the quality of working life and employment security. Because many of these joint processes have expanded beyond the traditional agenda of collective bargaining, their success or failure in serving workers' interests must also be assessed.

Management's Goals

Management is concerned with the effects of collective bargaining on labor costs, productivity, profits, product quality, and the degree of managerial control. Management also has goals related to various personnel issues, such as employee turnover, motivation, and performance. All of these economic performance and personnel goals can be used to evaluate the extent to which collective bargaining aids or hinders employers' quests for competitiveness in the **product market**.

Management, particularly in the United States, historically has not been very sympathetic to collective bargaining. The vast majority of U.S. employers have resisted unionization of their employees and have often been only reluctant participants in collective bargaining. Managers tend to evaluate the performance of collective bargaining by comparing it with the nonunion alternatives.

The growing sophistication of human resource management strategies and the increasing competitive pressures from nonunion firms have led more and more corporate managers to scrutinize the performance of their labor relations functions. Most top executives are trying to make sure their labor relations strategies are

consistent with their business strategies. For example, firms in the steel, auto, aerospace, and apparel industries have worked with unions to modify labor relations practices in order to make new investments in plant and equipment pay off.

The Public's Goals

Identifying the goals of collective bargaining for the public and the government is a more difficult task. Government labor policy should promote both industrial peace and union democracy. In addition, government officials are concerned about the effects of collective bargaining on inflation and unemployment and on working conditions such as safety and health, **equal employment opportunity**, and **income security**.

The freedom to participate in a labor movement is important to any political democracy. Thus, it is also necessary to assess whether public policies and private actions are producing a bargaining system that strengthens democracy at the workplace and in the society at large.

Since less than one-fifth of the U.S. labor force is now represented by trade unions, the regulation of employment conditions involves more than just collective bargaining. In some instances, public policies preempt collective bargaining by creating alternative ways to address labor-management issues, for example through government regulation of pensions.

THE PLAN OF THE BOOK

The chapters that follow analyze labor relations by simultaneously moving across and downward through Figure 1.1. The framework in Figure 1.1 is broader and more dynamic than most models of collective bargaining. In particular, it emphasizes the range of choices management, labor, and government policy makers have when they respond to changes in the economic environment (such as increased competition or changes in technology) instead of treating technology or competitive pressures solely as overriding constraints.

The following discussion provides a more elaborate description of the terms used in Figure 1.1. This material also sketches out in more detail the topics included in each chapter and their connections as the book moves across and downward through Figure 1.1. The reader may wish to return to this material from time to time as a review strategy to put the individual topics and chapters in perspective.

The External Environment

The external environment sets the context for collective bargaining and strongly influences the bargaining process and bargaining outcomes. The **external environment** includes five key elements: the economic environment (micro and macro), law and public policy, the demographic context, social attitudes, and the technological context. The laws and public policies that regulate collective bargaining are a key aspect of the environment and are outlined in Chapter 3. Chapter 4 describes how each component of the environment influences the process and the outcomes of bargaining.

The external environment effects the **bargaining power** of labor and management. For example, a law that grants employees the right to strike is important because it facilitates the emergence of collective bargaining and thereby alters the balance of power between labor and management. The ensuing shift in the balance of power is particularly noteworthy to the extent that it leads to different employment conditions (such as higher wages) than would otherwise exist. In this way, something in the external environment (a law) affects the frequency of bargaining (the bargaining process) and wage levels (a bargaining outcome).

Similarly, the economic features of product and labor markets affect the behavior of labor and management and the outcomes of collective bargaining. Workers and unions, for example, have more bargaining leverage and are able to win higher wages during contract negotiations when it is easier for striking workers to find temporary or alternative employment. Thus, an aspect of the macroeconomy (the unemployment rate) influences workers' bargaining power and bargaining outcomes (the wage settlement).

Do the provisions of typical collective bargaining contracts adequately address the needs of women in the work force, youths, and the elderly? Is the government enforcing the existing labor laws? These questions concern additional interactions between the external environment (in the first case, the demographic context; in the second case, the public policy context) and collective bargaining.

As the book traces how the various components of the external environment affect the bargaining process and bargaining outcomes, the discussion moves across the middle tier of the framework outlined in Figure 1.1. At the same time, it is important to be aware of how the strategies and structures of labor and management both shape the middle tier of labor relations activity and have impacts on the workplace. Thus, as the text moves across the framework, the analysis also simultaneously moves downward through our three-tiered framework. The framework starts at the top by first considering the roles labor and management strategies and structures play.

The Strategic (Top) Tier

At the top tier of labor relations activity are the strategies and structures that guide the long-term direction of U.S. labor relations.

Management's Strategies and Structures

The strategies and structures of management are critically important in shaping the evolution of labor relations. For instance, is a given company's top management content to work with its union(s) over the long run or is it fundamentally committed to devoting its resources to nonunion pursuits and operations?

Chapter 5 analyzes the various strategic options available to managers, including the growing availability and sophistication of nonunion alternatives to collective bargaining. What leads management to aggressively seek to avoid unions in one case and negotiate with the unions that represent its employees in another situation and focus on improving the existing collective bargaining relationship? To help us understand what motivates management, Chapter 5 contrasts the key features

of some of the nonunion employment systems with the features of both traditional union practices (the **New Deal system**) and the participatory practices that have emerged in a number of unionized settings.

While management strategies are important, so are the various structures that management uses to organize itself for labor relations. The second part of Chapter 5 considers how management organizes its labor relations staffs.

Labor's Strategies and Structures

Labor's strategies and structures also exert a critical influence on the course of labor relations. Chapter 6 addresses the various aspects of labor's strategic issues. For example, is a given union leadership committed to maintaining a distanced and adversarial posture in negotiations or is it interested in exchanging new forms of flexible work organization for greater control over the design of the production process? Should the labor movement focus on political action or seek to improve employment conditions through collective bargaining? These are just two of the strategic issues the labor movement faces.

The labor movement, like management, structures itself in its efforts to shape labor relations. Chapter 6 describes the organizational structure of the American labor movement and delineates the division in the responsibilities of the American Federation of Labor–Congress of Industrial Organizations (AFL–CIO), national unions, and local unions.

A key strategic issue for the labor movement today (perhaps the single most important issue) is the proportion of the work force that belongs to a union. Concerns about union organizing have led to changes in the leadership and strategic direction of the AFL–CIO and the emergence of a rival Change to Win labor federation. To understand the context for these changes in the strategic approach of the labor movement, Chapter 6 traces current union membership figures and some of the trends. This chapter also explains why union membership has declined so substantially in the United States.

The emphasis in this book on the strategic level of labor relations activity contrasts with most traditional treatments of unions and employers. The traditional approach focuses on a narrow concept of the internal management structure for labor relations or on the wage objectives and internal politics of unions. Today, an understanding of the links between business and union strategies and collective bargaining is needed to interpret or to participate in the bargaining process.

The Functional (Middle) Tier

The middle tier of activity in a bargaining relationship is the heart and soul of the bargaining process. This tier is the arena where the process of contract negotiations takes place. It is here also that the terms and conditions of the labor agreement (the outcomes of bargaining) are established and periodically modified.

Union Organizing and Bargaining Structure

The formation of unions and workers' expression of interest in union representation precedes negotiations and the determination of bargaining outcomes. In the

United States, unions establish their right to represent workers in defined **bargaining units** through the votes of prospective members in a **representation election**. Thus, the first stage in our discussion of the process of bargaining (in Chapter 7) is a consideration of how representation elections are held and the laws that regulate the conduct of those elections.

Unions have not fared very well in the representation elections held in the United States, particularly since the early 1970s. Thus, an analysis of union organizing must consider some of the tactics management has been using with great success and some of the recent steps unions have taken to increase their membership.

A critical factor that shapes the form and often the outcomes of organizing is the structure of the bargaining unit, the second major topic addressed in Chapter 7. **Bargaining structure** refers to the scope of employees and employers who are covered or are in some way affected by the terms of a labor agreement. For example, are a number of different employers covered by a single **collective bargaining agreement**? Does a given company bargain with one union or with many? Does a given union represent workers with diverse or with homogeneous skills?

The structure of bargaining in the United States is highly decentralized: the U.S. Bureau of Labor Statistics estimates (no exact census has ever been attempted) that somewhere between 170,000 and 190,000 separate collective bargaining agreements currently exist in this country. This figure may overstate the degree of decentralization of bargaining, however. An informal process known as **pattern bargaining** often operates to tie separate agreements together, so that a change in one agreement leads to similar changes in other agreements within the same firm, region, or industry. For instance, the United Auto Workers union, which represents workers in both the auto parts and the auto assembly sectors, regularly has tried to extend the contract improvements it has won in the assembly plants of the major manufacturers to the parts-producing plants owned by other companies.

Chapter 7 explores how the strength of pattern bargaining and other aspects of bargaining structures change over time. This analysis demonstrates the important links between bargaining structure and other concepts in the framework.

The Negotiations Process

At the heart of union-management relations is the negotiation of collective bargaining agreements, the focus of Chapter 8. When a union wins the right to represent a group of workers, the next phase in the bargaining process involves the union's (and workers') efforts to negotiate a favorable collective bargaining agreement. The **negotiations process** is a complicated affair, involving tactics, strategies, and counterstrategies on the part of both labor and management. Given the mixed-motive nature of collective bargaining, the parties are often torn in negotiations between their conflicting and common interests. In this chapter, we examine the strategies some parties have adopted in recent years to maximize the joint

gains in bargaining through a so-called **interest-based bargaining** approach. What makes the subject of negotiations particularly challenging is its dynamic nature.

Analysis of the process of negotiations considers the following types of questions:

1. How can the dynamics of the negotiations process be described and explained?
2. What causes strikes to occur in some negotiations and not in others and to vary in frequency and intensity over time and across industries?
3. What roles do union and business strategies play in shaping the negotiations process?
4. How can the parties increase the joint gains that could benefit both labor and management?

Chapter 8 examines the complete cycle of negotiations, starting with the presentation of opening offers and demands and continuing through the signing of the final agreement.

Impasse Resolution

When labor and management reach an **impasse** in contract negotiations, a variety of techniques can be (and have been) used to settle the dispute. Chapter 9 assesses various **impasse resolution** techniques. This chapter examines the frequency of their use and some of the strengths and weaknesses of each.

Bargaining Outcomes

The bargaining process is important in its own right, but it is particularly relevant for its effects on workers' employment conditions, as analyzed in Chapter 10. Employment conditions are the most important **bargaining outcomes** that are shaped by collective bargaining.

Most, but not all, of the outcomes of the negotiations process are codified in the collective bargaining agreement. Box 1.2 shows the range of the terms and conditions of employment that are covered in many labor contracts. This list illustrates that most of the agreements address, at the very least, the following sets of issues: (1) the levels, payment systems and administration of wages and **fringe benefits**; (2) job and income security; (3) physical working conditions; (4) select personnel management and plant operation practices; and (5) the rights and responsibilities of unions and management.

While the scope and content of bargaining agreements in the United States vary widely, because contract provisions define the rights and obligations of each of the parties, they furnish a starting point for assessing how well the interests of workers, employers, unions, and society are faring at the workplace.

In the last twenty-five years, some companies and unions have moved to simplify the rules contained in their agreements as part of their efforts to lower costs and to increase flexibility in managing human resources. The chapter addresses both the historical growth in the complexity of bargaining agreements and the more recent efforts to streamline some of the work rule provisions.

BOX 1.2**Typical Provisions in Collective Bargaining Agreements***A. Establishment and Administration of the Agreement*

Bargaining-unit and plant-level agreements
Contract duration and reopening and renegotiation provisions
Union security and automatic dues collection procedures
Special bargaining committees
Grievance procedures
Arbitration and mediation
Strikes and lockouts
Contract enforcement

B. Wage Determination and Administration

Rate structure and wage differentials
Incentive and bonus plans
Production standards and time studies
Job classification and job evaluation
Individual wage adjustments
General wage adjustments during the contract period

C. Job or Income Security

Hiring and transfer arrangements
Employment and income guarantees
Supplemental unemployment benefit plans
Allocation of overtime, shift work, etc.
Reduction of hours to forestall layoffs
Layoff procedures, seniority, recall
Work sharing instead of layoffs
Attrition arrangements
Promotion practices
Training and retraining
Relocation allowances
Severance pay and layoff benefit plans
Special funds and study committees

D. Functions, Rights, and Responsibilities

Management rights clauses
Plant removal
Subcontracting
Union activities on company time and premises

- Union-management cooperation
- Procedures for adjusting to technological change
- Work and shop rules
- Rest periods and other in-plant time allowances
- Safety and health
- Plant committees
- Hours of work and premium pay practices
- Shift operations
- Hazardous work
- Discipline and discharge

F. Paid and Unpaid Leave

- Vacations and holidays
- Sick leave
- Funeral and personal leave
- Military leave and jury duty

G. Employee Benefit Plans

- Health and other types of insurance
- Pension plans
- Profit-sharing, stock purchase, and thrift plans
- Bonus plans

H. Special Groups

- Apprentices and learners
- Handicapped and older workers
- Women
- Veterans
- Union representatives
- Nondiscrimination clauses

Source: Adapted from Joseph W. Bloch, "Union Contracts—A New Series of Studies," *Monthly Labor Review* 87 (October 1964): 1184–1185.

The Workplace (Bottom) Tier

The management of conflict and the delivery of **due process** are only two of several key activities that occur on a continuous basis at the workplace level of labor relations activity. Other activities involve motivating and supervising individual workers and structuring work into jobs, groups, or teams and other activities of lower-level management. Should work be organized into highly fragmented jobs or organized by team systems? What does a shift to a team system imply for union leaders and the operation of the grievance system? These questions illustrate the

issues that have been raised by the recent changes that have been occurring at the workplace level.

Administration of the Bargaining Agreement

Much of the workplace interaction between labor and management in unionized settings in the United States focuses on administration of the collective bargaining agreement. At the centerpiece of contract administration are the **grievance** and **arbitration** procedures analyzed in Chapter 11. Some analysts view **grievance arbitration** as the most significant innovation of the U.S. labor relations system.

Grievance and arbitration procedures have been affected by the growth of external laws governing health and safety, equal employment opportunity, and other matters that influence the rights of individuals and add to the responsibilities of both unions and employers. Chapter 11 considers how these external laws also influence the workplace.

Participatory Processes

The negotiation and administration of a collective bargaining agreement have traditionally given employees a way to participate in decisions that shape their work lives and employment conditions. Some employees have made great efforts to go beyond these procedures and become directly involved in business decisions that include quality control measures. Chapter 12 analyzes the variety of participatory processes that have emerged. The text also assesses forms of work organization, including team systems and quality circles, that have become part of labor and management's efforts to improve productivity and product quality.

Participatory processes have sprung up at both the strategic level and the workplace level. The options include forms of employee ownership, **labor-management committees**, union representation on corporate boards, and the workplace processes discussed above.

SPECIAL TOPICS

Chapters 13, 14, and 15 address selected topics that complete our understanding of collective bargaining in the modern economy.

Public Sector Collective Bargaining

The rules and procedures in public sector collective bargaining, examined in Chapter 13, differ from those used in the **private sector** in the United States. The **public sector** employs a wide diversity of employees, including public school teachers, municipal police and firefighters, and the office staffs of city, state, and federal governments. Public employees are not covered by the National Labor Relations Act (NLRA). This chapter considers the extent to which the theories presented in earlier parts of the book carry over to the public sector.

Global Pressures

These days, the labor relations developments that are occurring around the world warrant the special attention they are given in Chapter 14. The labor movement

has been at the forefront of the sweeping political changes that occurred in the former Communist bloc and in newly industrialized countries such as Korea. In these countries, the labor movement is as much concerned with political change as it is with determining work conditions on the factory floor.

International trade and competitiveness have moved to the forefront of economic policy in the United States. There is much discussion about whether globalization has fundamentally increased management's power and advantage. Concern about globalization, for example, has spurred various international workers' rights initiatives. Chapter 14 reviews the effects of globalization and offers examples of recent international workers' rights disputes and campaigns including the increasingly important role **nongovernmental organizations** (NGOs) play.

Labor Relations in Other Countries

Chapter 15 reviews in detail the labor relations practices in other countries (comparative labor relations). It focuses on advanced countries, such as Germany and Japan, and on several transitioning countries, including China, India, Brazil, and South Africa. Labor relations developments in countries outside the United States influence the global economy and help put the U.S. system into perspective. Comparisons with the United States are instructive because U.S. labor relations practices are so distinctive. Recent developments in transitioning countries raise important labor rights questions for actors in both developed and transitioning economies.

The Future of Labor Policy in the United States

Chapter 16 returns to a focus on issues in the United States. This concluding chapter assesses broad public and social policies and their effects on labor relations. In the context of the many changes that are emerging in U.S. collective bargaining, this chapter also considers the various policy options and the merits and implications of the alternative policies.

Summary

Over the last twenty-five years, substantial variation has appeared in labor relations in the United States. Some organizations have made wide use of participatory processes and team forms of work organization, while in other organizations, traditional or even conflict-ridden relationships prevail. The U.S. labor movement is trying a variety of strategies to expand membership and revitalize, including in some cases linking with emerging worker rights groups and community organizations. Global pressures have led management to pursue **outsourcing** options aggressively in many firms and unions are struggling to adapt their representation and organizing strategies to the changes in the nature and location of work that are resulting from those pressures.

In the face of the wide-ranging changes that have come to labor relations, many of the earlier textbooks that have addressed those subjects are now out of date. For some analysts, the collective bargaining of recent years is noteworthy because they have been characterized by modest wage increases or heightened

concern for employment security. For others, it is the decline in private sector union representation that is so unusual. Others see the heightened pressures of globalization or new union organizing strategies as most important. To us, while each of these and other events are noteworthy, it is even more important to understand how the various changes and events fit together as a change in the nature and form of labor relations.

We believe there has been a fundamental transformation in American labor relations that includes changes in the focus of activity from the middle level to both the strategic and the workplace levels. Concern over employment security, union decline, and union and employee engagement in business decisions and other events in the United States can all be understood as parts of this transformation.

We developed the model of labor relations presented in Figure 1.1 in our efforts to comprehend the scope of the changes that are under way. We believe these changes in collective bargaining should be viewed as neither a fluke nor a special case but rather as an illustration of the dynamics of labor relations.

One cannot gain an understanding of recent developments or the workings of labor relations without a sense of history. Chapter 2 offers a historical perspective on the evolution of labor relations in the United States and the wide-ranging changes that have been occurring in collective bargaining in the United States.

Discussion Questions

1. Name the actors, generally and specifically, who are involved in the collective bargaining process.
2. Figure 1.1 provides a guide for understanding how this book is arranged and proceeds in its analysis of collective bargaining. It makes use of a three-tiered framework to analyze labor relations. What are these three tiers?
3. One of the fundamental aims of collective bargaining is reducing conflict between employees and employers. What are some basic assumptions about labor and conflict in this book?
4. What are some of the ways that we judge the effectiveness of collective bargaining for the different actors involved in the process?

Related Web Sites

LabourStart (global labor news source):

<http://www.labourstart.org/2013/>

LaborNet 2000 Directory of Labor Unions on the Internet:

<http://www.labornet.org/links/directory.html>

Cornell University's School of Industrial and Labor Relations:

<http://www.ilr.cornell.edu/>

Suggested Supplemental Readings

- Dunlop, John T. *Industrial Relations Systems*. New York: Holt, 1958.
- Kaufman, Bruce. *The Origins and Evolution of the Field of Industrial Relations*. Ithaca, N.Y.: ILR Press, 1993.
- Kochan, Thomas A., Harry C. Katz, and Robert B. McKersie. *The Transformation of American Industrial Relations*. 2nd ed. Ithaca, N.Y.: ILR Press, 1994.
- Webb, Sidney, and Beatrice Webb. *Industrial Democracy*. London: Longmans, Green and Co., 1920.

Notes

1. See John T. Dunlop, *Industrial Relations Systems* (New York: Holt, 1958).
2. See Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Declines in Firms, Organizations, and States* (Cambridge, Mass.: Harvard University Press, 1970).
3. For a summary of the theoretical and empirical research on which this model is based, see Thomas A. Kochan, Harry C. Katz, and Robert B. McKersie, *The Transformation of American Industrial Relations*, 2nd ed. (Ithaca, N.Y.: ILR Press, 1994).
4. John R. Commons, *Institutional Economics: Its Place in the Political Economy* (New York: Macmillan, 1934), 162.
5. Sidney and Beatrice Webb, *Industrial Democracy* (London: Longmans, Green and Co., 1920).
6. Commons, *Institutional Economics*, 559.
7. For a discussion of the policies by the early institutionalists advocated that were ultimately passed in the wave of New Deal legislation, see Joseph P. Goldberg, Eileen Ahern, William Haber, and Rudolph A. Oswald, *Federal Policies and Worker Status since the Thirties* (Madison, Wis.: Industrial Relations Research Association, 1977).

2 The Historical Evolution of the U.S. Labor Relations System

THE ROLE OF COLLECTIVE BARGAINING

Collective bargaining is one way for organized groups of workers and their employers to resolve their conflicting interests. It is by no means, however, the only way to conduct labor relations. Indeed, in the long history of industrial society, collective bargaining is only a recent arrival. Moreover, collective bargaining has had to adapt to changing times and changing values.

This chapter examines the evolution of labor relations in the United States. The history of the labor movement in the United States has included much violence and substantial hardships for the participants. At the same time, there was much ingenuity as economic expansion transformed a nation of immigrants into the world's leading industrial power. The history we recount in this chapter highlights the individuals who played key roles in that transformation.

In this chapter, we begin our discussion of the nature and consequences of these events.

THE COLONIAL AND PRE-INDUSTRIAL ERA

From the beginning of colonial times to the Revolutionary War, employment relationships were dominated by the master-servant principles inherited from British common law. Some early settlers gained their passage to the United States through **indentured servitude**.¹ Under this arrangement, impoverished workers exchanged their labor for passage to a British colony. The ship's captain provided transportation and food during the journey. When the ship arrived at a colonial port, the captain sold the servant to an employer for a certain number of years (not to exceed seven). Others travelled to the United States in hopes of escaping poverty and food shortages.

The Dominance of Agriculture

Colonial employers were eager for the arrival of these workers, given the general shortage of labor for their farms and plantations. From 1609, when the first slaves

were imported into Virginia, until 1808, when the slave trade was outlawed, indentured servants were supplemented by slaves brought from Africa and the East Indies. In this period, agriculture was dominant and featured large plantations in the South, farms in Quaker Pennsylvania, and family plots in Puritan New England.

Although rural farms formed that backbone of the colonial economy, in urban centers, a growing number of workers provided artisan services—shopkeepers, toolmakers, and blacksmiths. One historian described the origins of the small business entrepreneurs as follows:

A large proportion of the most successful manufacturers in the United States consists of persons who were journeymen, and in a few instances were foreman, in the work-shops and manufactories of Europe; who having been skillful, sober, frugal, and having thus saved a little money, have set up for themselves with great advantage in the United States.²

A Shortage of Skilled Labor

When a shortage of skilled labor appeared in the thirteen colonies, colonial leaders lobbied to have more skilled workers delivered to their shores to help them take advantage of the opportunities for development. Captain John Smith of Jamestown put it this way:

When you send again, I entreat you rather send but thirty carpenters, husbandmen, gardeners, fishermen, blacksmiths, masons, and digger up of trees' roots, well provided, than a thousand such as we have.³

Colonial employers complained that the shortage of skilled labor forced them to pay “excessive rates.” One historian estimated that wages for skilled laborers were 30 to 100 percent higher than those paid to comparable workers in England.⁴ Because of this, employers were often able to lure skilled workers away from their competitors and from other communities. This practice led the Massachusetts Bay Colony and other colonial government authorities to try to regulate competition by putting an upper limit on wages. These early efforts at government regulation of the labor market generally failed in the face of the strong and growing demand for skilled labor.

Labor Force Diversity

From the beginning, the labor force in the colonies was highly diverse, including indentured servants, slaves, immigrants, well-paid skilled artisans, small shopkeepers and farmers, and both males and females of all skin colors. This diversity became a hallmark of the American labor force and held back the development of a class consciousness that helped unions develop in Europe. The diversity of the work force and expanding opportunities are several reasons why there was little interest in collective organization in the preindustrial days of the eighteenth century.

EARLY UNIONISM

The development of unionism in the colonies was closely intertwined with the development of industry and the industrial revolution. Not all workers were able to easily adjust their work habits to fit the stringent time and discipline requirements of industrial work. Managers in the early mills and factories of New England had to impose strong discipline on immigrants and other first-generation factory workers to make them adapt to the new work system.⁵ Box 2.1 is an excerpt from a disciplinary code a New England employer imposed in the early 1800s. It illustrates the lengths to which some employers went in their effort to maintain work discipline.

One reason employers had to go to such great lengths to maintain work discipline was that working conditions were harsh. Box 2.2 describes the working conditions in a southern cotton mill at the turn of the nineteenth century.

BOX 2.1**GENERAL REGULATIONS****To Be Observed by Persons Employed by The
LAWRENCE MANUFACTURING COMPANY**

1st. All persons in the employ of the Company, are required to attend assiduously to their various duties, or labor, during working hours; are expected to be fully competent, or to aspire to the utmost efficiency in the work or business they may engage to perform, and to evince on all occasions, in their deportment and conversation, a laudable regard for temperance, virtue, and their moral and social obligations; and in which the Agent will endeavor to set a proper example. No person can be employed by the Company, whose known habits are or shall be dissolute, indolent, dishonest, or intemperate, or who habitually absent themselves from public worship, and violate the Sabbath, or who may be addicted to gambling of any kind.

2d. All kinds of ardent spirit will be excluded from the Company's ground, except it be prescribed for medicine, or for washes, and external applications. Every kind of gambling and card playing, is totally prohibited within the limits of the Company's ground and Board house.

3d. Smoking cannot be permitted in the Mills, or other buildings, or yards, and should not be carelessly indulged in the Board Houses and streets. . . .

Lowell, Massachusetts, 21 May 1833.

Source: Quote in William Cahn, *A Pictorial History of American Labor* (New York: Crown Publisher, 1972), 49.

BOX 2.2

Southern Cotton Mill Towns of the 1800s

The cotton mill village was like one big white family closed off to the external world. Rows and rows of white clapboard houses lined dirt roads leading to the mill, while the mill owner lived some distance away in a mansion.

Workers, mostly women and children, labored sixteen hours a day for wages that were just enough to pay rent on their mill houses and their bills at the general store. Mill workers survived primarily on food grown in their own gardens. Mill owners not only encouraged child labor, they insisted upon it. Some mill villages provided schools, but most did not, and the majority of this first generation of mill workers grew up illiterate. The church was usually built on land owned by the mill which also provided its financial support. Thus sermons frequently followed the theme of hard work, deprivation, and suffering as the path to salvation.

Source: Excerpt from Victoria Byerly, *Hard Times Cotton Mill Girls: Personal Histories of Womanhood and Poverty in the South* (Ithaca, N.Y.: ILR Press, 1986), 12.

The First Trade Unions

Skilled craftsmen were the first groups of workers to challenge employers by joining together and demanding improved wages. Most historians cite the Federal Society of Journeymen Cordwainers, the union of Philadelphia shoemakers organized in 1794, as the first modern trade union in the United States.⁶ The shoemakers were joined by printers, carpenters, and other artisans in New York and a few other large cities.

Generally, these unions started when workers jointly agreed on a new wage for their work and laid down their tools if employers resisted the new rate. In other cases, workers formed unions after employers posted wage cuts. Collective bargaining as we know it today did not exist in the colonial period. Either the unilateral demands of one side were met and work continued or employers replaced the strikers with workers who were willing to do the job for the wages they offered. In response to this dynamic, local unions began to coordinate their efforts.

Why Workers Formed Unions

What led workers during the process of industrialization to turn to unions to press their interests? John Commons (see Chapter 1) studied the formation of the earliest American unions in the shoe industry. He argued that unionism was a response to the competition (he labeled them **competitive menaces**) workers faced as a result of the expansion of the market. The sources of these competitors included prison labor, slave labor, indentured servants, apprentices, and child

labor. The competitive menaces led to competition for lower costs (from “bad wares”), lower wages, and worsening employment conditions.

The increased competitive pressures were products of the expansion of markets under way in the economy caused by innovations in transportation. As markets expanded, the unity of production that had existed in the position of the master shoemaker gave way to a division in work responsibilities as first journeymen and then assembly workers were used to make shoes. On the technological side, there was a shift from hand tools to power machinery and the assembly line.

Although a social transformation was occurring simultaneously with the increased competitive pressures, Commons argued that workers and early unions did not react against the work relations or the technology *per se*. He concluded that unions were a reaction to the ensuing deterioration in wages and working conditions. Thus, in Commons’s view, workers turned to unions as a device to improve their lot and not as a mechanism to alter the social relations of production or to gain “control” of the production process.⁷

Early Court Reaction to Unionism

Employment relationships during the early years of industrialization in this country were governed solely by the common-law traditions carried over from Great Britain. Neither any constitutional provision nor any state or federal statutes explicitly addressed the rights of workers or the obligations of employers. It was left to the courts to develop their own interpretations of the rights and responsibilities of the parties to employment contracts.⁸

Common-law rule generally translated into few enforceable contractual or implied rights for individual employees. Most courts, in fact, were outright hostile toward collective action on the part of labor organizations.

The Conspiracy Doctrine

The actions of the shoemakers’ union led to a famous trial in 1806 and a court decision that dominated rulings until the 1840s. A group of journeymen cordwainers (shoemakers) in Philadelphia joined together in 1804 and refused to work with people who were not members of their association. The shoemakers also won an increase in their wage rate. The employer of the shoemakers went to court to counteract the workers’ and the union’s actions. A jury convicted and fined the shoemakers on the grounds that they had formed an illegal **criminal conspiracy** when they created their union. The jury argued that the shoemakers’ union was illegal and had unjustly injured shoemakers who were not part of the union. Box 2.3 describes the Philadelphia shoemakers’ case in more detail.

State and local courts in many jurisdictions followed the lead this case provided. The courts found unions to be criminal conspiracies that impinged on industrial workers’ “freedom” to contract with an employer. The courts issued decisions that limited the ability of workers to unionize or, once unionized, to use strikes, boycotts, or other forms of economic pressure.

The courts reflected the conservative, *laissez-faire* economic and political culture of the country. Private property was to be protected; combinations of economic

BOX 2.3**The Shoemakers' Case and the Criminal Conspiracy Doctrine**

In 1798, the Federal Society of Journeymen Cordwainers managed to boost the wages for making shoes to nearly \$1 a pair. The journeymen shoemakers struck again in the fall of 1804, and gained an increase in wages to \$2.75 for making a pair of cossack boots, regardless of how they were sold. But after Christmas, when retail orders dropped off, the employers paid a quarter less for "order work" boots (wholesale) and a quarter more for "bespoke" (retail) boots. This wage reduction led to a strike in 1805 when the journeymen demanded a flat price of \$3 on both wholesale and retail work. The employers won the strike, and then turned to the courts.

A trial took place [in 1806] in the Philadelphia mayor's court [*Commonwealth v. Pullis*]. The jury was made up of merchants and craftsmen: two innkeepers, a merchant, three grocers, a hatter, a tobacconist, a watchmaker, a tailor, a tavernkeeper, and a bottler. A shoemaker called as one of the jurors was disqualified because of his occupation.

The prosecution (the employers) charged that the shoemakers (the defendants), "not being content to work and labour . . . at the usual prices and" had attempted "unjustly and oppressively to increase and augment the prices . . . and unjustly to exact and procure great sums of money for their work and labour." The shoemakers were said to have "unlawfully, perniciously, and deceitfully" formed an organization that governed members and other journeymen through "unlawful and arbitrary bye laws, rules and orders."

Said the prosecutors, "Our position is that no man is at liberty to combine, conspire, confederate, and unlawfully agree to regulate the whole body of workmen in the city." These charges were brought under the rubric of English common law concerning criminal conspiracy.

The defense argued that any assembly could be judged unlawful under the prosecution's interpretation of conspiracy law. Said one defense lawyer, "A country dance would be criminal, a cotillion unlawful, even a minuet a conspiracy; and nothing but a horn pipe or a solo would be stepped with impunity!"

When the arguments were all in, the jury deliberated for one evening and returned a verdict of guilty. Each of the defendants was ordered to pay \$8—about a week's pay—plus the costs of trial, and to "stand committed until the fines were paid."

Source: Excerpt from Gloria Stevenson, "Cordwainers Put Their Soles into Bargaining," in *200 Years of American Worklife* (Washington, D.C.: U.S. Department of Labor, 1977), 29–31.