COLLECTIVE BARGAINING IN THE PUBLIC SECTOR:

ADVERSARIAL TO COOPERATIVE BARGAINING

by

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Two Biblical thoughts come to mind when I consider this paper: the first is Christ's when He states that the second greatest commandment is to "Love thy neighbor as thyself"; it is appropriate since this paper seeks to encourage cooperation in resolving problems rather than conflict; second, the writing of this paper is best summed up by Ecclesiastes 12:12.

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ABSTRACT

The public sector faced with collective bargaining legislation must come to terms with employees who are seeking to influence the decision-making process. Whether this process increases alienation between employee and employer will be determined by the style each party utilizes when they meet at the negotiating table. Alienation can be decreased by developing a cooperative problem solving atmosphere at the table or it can be increased by a competitive struggle.

The private sector within the last fifty years has developed procedures for conflict bargaining more so than cooperative bargaining. However, the public sector can learn from the private sector's years of experience.

This analysis utilizes as resources those studies which have examined the historical, political, legal, economic, social and psychological characteristics associated with the negotiating process. A diagramatic model has been developed from these sources to illustrate the variables which make up the collective bargaining process. Collective bargaining is a set of complex interrelated variables where a change in one factor will have an effect in another thus setting off a chain reaction which can be traced through the system and which ultimately affects the negotiation process.

Cooperation has great potential for resolving problems without increasing alienation. However, it is riskier since it requires a great deal of trust and openness whereas competition does not. The ability to influence the external environment is limited but the possibility of encouraging cooperation at the level of the individual negotiator is very promising. Changing perceptions of bargainers from a competitive orientation to a cooperative orientation through increased educational opportunities and more active roles of State Personnel Boards are necessary. Third party participants, such as fact finders and mediators throughout the bargaining process could be used to encourage cooperation by maintaining open communication channels, utilizing human relation skills and encouraging the practice of active listening.

CHAPTER I

INTRODUCTION

The term, collective bargaining, was penned by Beatrice Potter, (Mrs. Sidney Webb), in 1891 when she described the cooperative movement in Great Britain.[1] Collective bargaining is the practice where employers and employees sit down together and discuss terms and conditions under which work will be done. This practice, in the private sector has been developed and refined over the years through trial and error with management and unions engaging in moves and counter moves to arrive at an outcome.

Collective bargaining has gained acceptance and momentum in the public sector during the last twenty years, with states and localities adopting and developing guidelines and procedures for collective bargaining. The public sector has limited experience in this realm, though the opportunity to learn from the experiences of the private sector is widely available. Therefore a review of the literature can provide insights into the dynamics of the bargaining process as well as present

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[1]Neil W. Chamberlain, Collective Bargaining (New York: McGraw-Hill Book Company, Inc., 1951), p. 1.

options which avoid the negative characteristics and consequences associated with the collective bargaining process. In addition, this review will present available means of achieving cooperation within the public sector.

Public Sector Bargaining

The struggle for recognition of unions and the processes of collective bargaining within the private sector was long and arduous. But when this is compared to the public employee in the pursuit of those same rights, the public employee was faced with even more formidable obstacles.

One argument against collective bargaining for the public employee was that of the "sovereignty doctrine". This doctrine arose out of British Law which states, "The King can do no wrong, indeed the King is incapable of thinking wrong."[2] Thus government (Federal and State) represents the sovereign power of the people, and decisions were to be made unilaterally when it concerned determining terms of employment for its employees. If unions pursued collective bargaining rights the courts would hold that the unions were illegally seeking to encroach upon authority granted to the governing body, which could not be shared.

However, some unions did exist in government, such

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[2]Derek C. Bok and John T. Dunlop, Labor and the American Community (New York: Simon and Schuster, 1970), p. 322.

as the National Association of Letter Carriers which played an important role in establishing the eight-hour work day law for federal employees in 1888. Public unions were also instrumental in the passage of the Lloyd-La Follette Act of 1912, which protected the rights of Federal Unions.[3]

The second major force against recognizing collective bargaining in the public sector was the establishment of a Civil Service System in 1883 (Pendleton Act) which was created to counter the effects of the "spoils-system."[4] The Civil Service System was to be the protector of the public service against political influence, an advocate of efficiency as well as a provider of security in the management of public personnel. In order to fulfill this mandate the Civil Service established formal procedures and practices; one of which is examinations to determine merit for the purpose of placement and advancement.

Civil Service Systems have also taken on various roles such as management representative, advocate for employee benefits, provider of judgement in cases of grievances and as a neutral mediator. The U.S. Civil

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[3]Frederick C. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), p. 179.

[4]Spoils-system is a practice of regarding public offices and their emoluments as plunder to be distributed to members of the victorious party.

Service Commission is an example of an agency which attempts to balance these conflicting roles. Marvin J. Levine and Eugene C. Hagburg believe that the Civil Service System has expanded its original mandate beyond the role of determining criteria for job selections to those personnel activities such as:

> . . . wages, hours, working conditions, grievances, . . . and similar matters. This is a policy that conflicts with public employee unions, which claim that employment conditions must be determined through collective negotiation.[5]

Many unions have taken the position that Civil Service Commissions are "arms of management" and do not represent the employees. The different ideologies expressed under the Civil Service System and that extolled by unions are often seen as incompatible.

The third, major influence against recognizing collective bargaining in the public sector was the fear that democratic processes would be subverted if public employees had the right to bargain and strike. Prior to the 1960's government lawmakers had taken either a hostile or a neutral position toward collective bargaining in the public sector. Theodore Roosevelt invoked in 1902 and 1906 "Gag" rules which limited employees and employee associations from attempting "to influence in

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[5]Marvin J. Levine and Eugene C. Hagburg, Public Sector Labor Relations (St. Paul, Minnesota: West Publishing Co., 1979), p. 77.

their own interest any [pay or] other legislation . . . either before Congress or its committees . . . ."[6] While the government was recognizing the legitimacy of collective bargaining in the private sector with the signing of the Wagner Act of 1935, Franklin Roosevelt two years later stated that collective bargaining:

> . . . has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible to represent fully or to bind the employer in mutual discussions with government employee organizations.[7]

Even today this fear has not been totally dispelled.[8] H.H. Wellington and R.K. Winter Jr. state:

> If public employee unions are free to strike as well as to employ the usual methods of political pressure, interest groups with competing claims and different priorities will be put at a competitive disadvantage and the political process will be distorted.[9]

However, the position of the Federal Government did change and along with that change many states have enacted various

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[6]Mosher, Democracy and the Public Service, p. 177.

[7]Ibid., p. 177.

[8]H.H. Wellington and R.K. Winter Jr. "Structuring Collective Bargaining in Public Employment." Yale Law Journal, LXXIX (April, 1970), 807-808: and Myron Lieberman, Public Sector Bargaining. Lexington, Mass.: D.C. Heath and Company, 1980. As advocates, these authors believe public employee unions wield disproportionate power within the negotiation process.

[9]H.H. Wellington and R.K. Winter Jr. "Structuring Collective Bargaining in Public Employment," Yale Law Journal, LXXIX (April, 1970), 808.

statutes governing collective bargaining with often varying rules.

Forces for Change

At the end of World War II there were five million people on the government's payroll. Approximately eight per cent of these public employees, or 540,000 belonged to unions.[10] By 1964 this figure increased to roughly one and one-half million, and by 1970 labor organizations of public employees had approximately four and one-half million members.[11] The increased membership within public labor organizations as well as the accompanied cry for active participation, parallels the social mood of the 1960's. During this growth period our society was enveloped with the civil rights movement, the anti-war movement, and an anti-establishment movement which was often espoused by the youth of our nation as they sought to challenge the tenets of the system.

Government has often been the innovator in establishing new conditions for its employees. Frederick C. Mosher states:

> It [government] led most employers in the competitive principle, "equal pay for equal work", a retirement system, a decent minimum wage, and

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[10]Selwyn H. Torff, Collective Bargaining Negotiations and Agreements (New York: McGraw-Hill Book Company Inc., 1953), p. 142.

[11]Edwin Fletcher Beal, Edward D. Wickersham, and Phillip K. Kienage, The Practice of Collective Bargaining (5th ed.; Homewood Ill.: R.D. Irwin Co., 1976), p. 454.

> more recently non-discrimination, employment of the physically handicapped and equal employment opportunities for women.[12]

However, during this period of growth, benefits in the private sector, (because of collective bargaining) equaled or in some cases surpassed those of the public sector. Jack Blackburn and Gloria Busman note, "By the 1960's nationally public employees were earning from ten to thirty per cent less than their counterparts in the private sector."[13] This discrepancy between the public and private sector was also a contributing factor to the establishment of collective bargaining in the public arena.

Federal Government

With the various pressures for change President John F. Kennedy responded in 1962 with the issuance of Executive Order 10988, directing government agencies to deal with employees through unions of their own choosing. This action represented the first uniform federal effort to establish meaningful public labor-management relationships. The Federal Government in the ensuing years expanded the role of collective bargaining by establishing third-party procedures to resolve disputes (Executive

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[12]Mosher, Democracy and the Public Service, p. 178.

[13]Jack Blackburn and Gloria Busman, Understanding Unions in the Public Sector: A Policy and Practice Publication ed. Rosalind Merl Schwarts, (Los Angeles, Calif.: Institute of Industrial Relations, University of California, 1978), p. 48.

Order 11491, signed by President Nixon), and in 1975, President Ford issued Executive Order 11838 which increased the range of negotiable issues.

The courts also played an important role in defining the role of collective bargaining. In 1968, the United States Court of Appeals for the Seventh Circuit held in McLauglin v. Tilendis that "an individual's right to form and join a union is protected by the First Amendment."[14] Though constitutionally employees have the right to join a union, there is no constitutional mandate which states that any employer must bargain collectively. Thus the Court ruled that the duty to bargain collectively can only be required by statute, (Indianapolis Education Association v. Lewallen).[15] Thus federal agencies are required to bargain collectively with recognized unions due to the issuance of Executive Order 10988 but the States would have to pass their own statutes governing their public employees.

Public Sector Bargaining in the Fifty States

The same forces which were effecting a change toward collective bargaining in the Federal sector were also being felt at the State and Local levels of government.

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[14]Lee C. Shaw, "The Development of State and Federal Laws," in Public Workers and Public Unions, ed. by Sam Zagoria (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1972), p. 21.

[15]Ibid., p. 22.

Between 1947 and 1967 the number of public employees increased 110 per cent, with the largest growth occurring in the State and Local sectors.[16] The growth of government exhibited a corresponding growth in labor organization membership. In 1970, four and one-half million full time public servants were associated with labor organizations, three million were in the State and Local sectors.[17] Thus more than twenty-five per cent of all state and local employees were members of employee organizations. David L. Perlman (assistant editor of the AFL-CIO News) credits the growth of public unionism to the increased activism of the public employee.[18] Ronald G. Ehrenberg and Gerald Goldstein noted in their study of Public Wage Determinants that:

> . . . in 1967 average monthly earnings of noneducational employees who were represented by a union or employee association, exceeded those for non-organized employees by between two and sixteen per cent.[19]

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[16]Richard B. Peterson and Robert T. Woodworth, Collective Negotiation for Public and Professional Employees (Glenview, Illinois: Scott, Foreman and Company, 1969), p. 20.

[17]Bean, Wickersham, and Kienagy, The Practice of Collective Bargaining, p. 454.

[18]David L. Perlman, "Public Employees: An Emerging Force," in Sorry . . . No Government Today: Unions vs. City Hall, ed. by Robert E. Walsh, (Boston: Beacon Press, 1969), p. 22.

[19]Ronald G. Ehrenberg and Gerald Goldstein, "A Model of Public Sector Wage Determination," Journal of Urban Economics, II (July, 1975), 243.

The increased benefit of being associated with a union or employee association could also have been a contributing factor in union growth.

Prior to 1960 only one state, Wisconsin, had enacted comprehensive legislation that gave the right to collectively bargain to its public employees. Due to the growth of unions, increasing social pressure, and the Federal Government granting federal employees collective bargaining rights, states started developing their own statutes:

> By the end of 1967, twelve state laws mandated either a collective bargaining or a meet-and-confer type relationship . . . . Twenty-six states had laws either permitting or authorizing some form of collective bargaining for certain employee groups, while five state laws prohibited any form of collective dealing with government employee groups. Twelve state laws denied various governmental units the authority to negotiate with unions representing particular classes of employees.[20]

When the states addressed the issue of collective bargaining, many saw it as an opportunity to place restraints on bargaining and thus control the employees. Many other states took a comprehensive approach while others addressed bargaining only to specific groups, such as police, firemen and teachers. Legislation often included statutes restricting unions in the use of the strike. Each state has the option of addressing collective bargaining as it deems appropriate. Virginia, for example, does not

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[20]Michael L. Brookshire and Michael D. Rogers, Collective Bargaining in Public Employment: The TVA Experience (Lexington, Mass.: Lexington Books, 1977), p. 7.

allow collective bargaining in its public domain. However, there is a trend toward comprehensive forms of collective bargaining legislation. Comprehensive legislation is usually concerned with defining the rights of groups to bargain collectively, determining the formula for representation, developing the criteria for bargaining, devising methods of reducing impasse, developing provisions to combat strikes, and designing provisions which define union security. Statutes enacted in 1973 by Massachusetts and Montana, and by Iowa in 1974, raised the total to twenty-eight states with reasonably comprehensive legislation.[21]

Once collective bargaining legislation has been enacted, the interactive process then begins. This has the potential for conflict or cooperation. Conflict can be defined as a competitive struggle between opposing parties resulting from perceptions which view issues and interests as being incompatible. This results in a winner and loser and is defined as a zero sum game. Cooperation can be defined as a dynamic social process in which participants seek mutually beneficial solutions to problems and issues and where the belief that the benefits derived from problem-solving are superior to those derived from the interactive processes of

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[21]Joan Weitzman, The Scope of Bargaining in Public Employment (New York: Praeger Publishing Co., 1975), p. 41.

competition. This results in both sides winning and is often defined as a shared sum game.

The private sector within the last fifty years has developed procedures for conflict bargaining more so than cooperative bargaining. However, the public sector can learn from the private sector's many years of experience by not only gaining a more indepth understanding of the process, but also by incorporating those factors which encourage cooperation into their bargaining strategy.

Research Strategy

The approach that I have taken is based on the premise that in order to make accurate judgements and recommendations about public labor relations phenomena, there must first be an understanding of the variables which shape the interactive process. This analysis will utilize as resources those studies which have examined the historical, political, legal, economic, social, and psychological characteristics associated with the negotiating process. Results derived from research studies from the field of industrial relations and current opinions on the art of collective bargaining will also be utilized.

A diagramatic model has been developed from these sources to illustrate the variables which make up the collective bargaining process. Thus one will be able to envision this complex system made-up of interrelated parts where a change in one factor will have an effect

in another thus setting off a chain reaction which can be traced through the system and which ultimately effects the negotiation process. The model will also be used to identify points of intervention where attempts may be made to affect the system to support friendly adjustment rather than conflict.

Summary

The collective bargaining process provides an arena where employers and employees can interact face to face and resolve mutual problems. Public sector employees have achieved, in many sectors, the right to bargain collectively. However, the challenge is still at hand. The process can be one of conflict or cooperation. Cooperation not only has greater potential in resolving disputes but at the same time reduces the levels of alienation. This paper will present recommendations for changing the public sector bargaining process from that of an adversarial orientation to a more cooperative orientation.

CHAPTER II

ENVIRONMENTAL, ORGANIZATIONAL AND ATTITUDINAL FACTORS

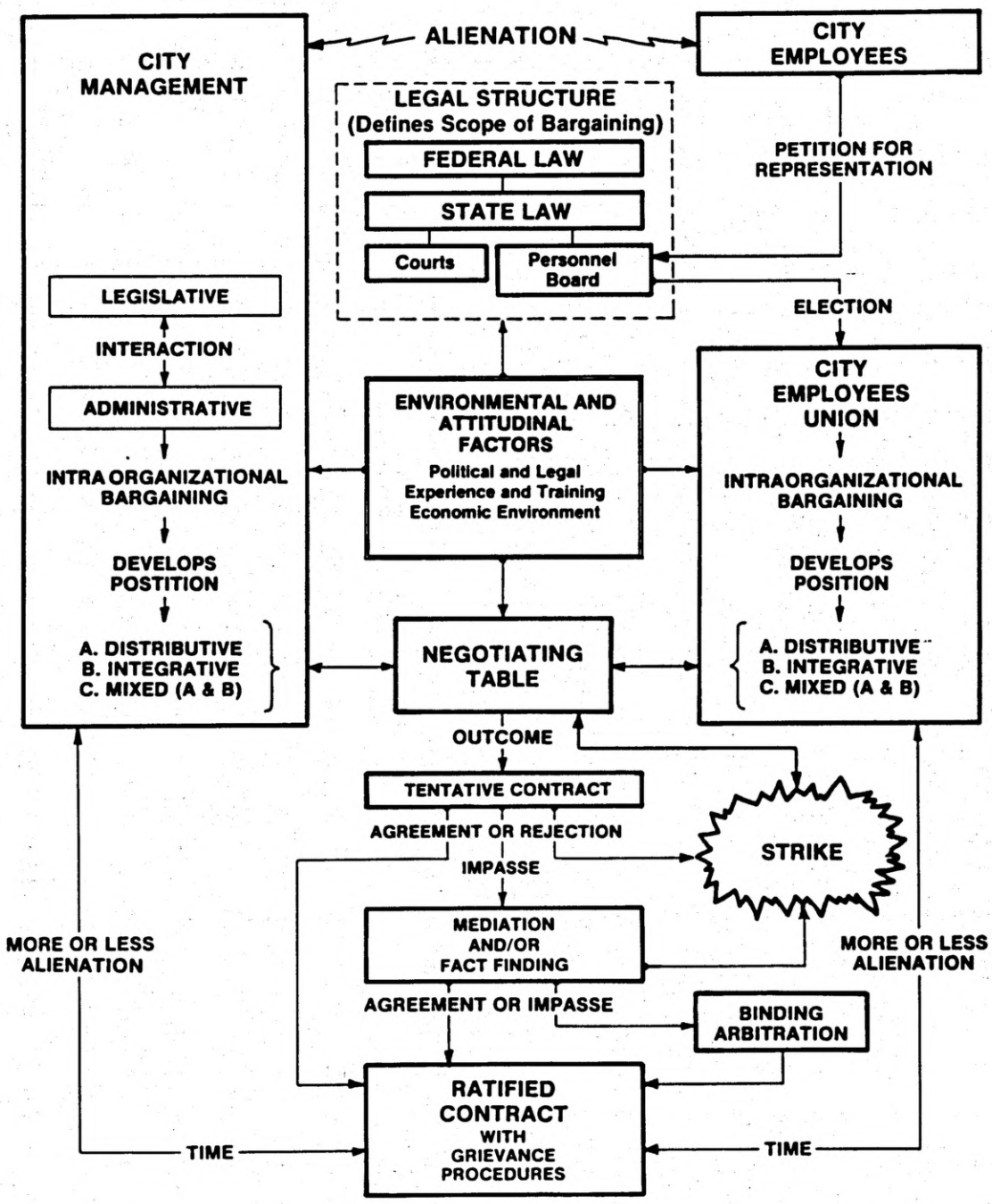
This chapter seeks to provide a framework for understanding the complex variables associated with the collective bargaining process. To assist in this understanding I have developed a diagramatic model (Figure I) to illustrate the interrelationships, activities and influences which are present in public sector bargaining.[1]

The model in (Figure 1) depicts the following orientation: comprehensive in form, promotion of "good faith" bargaining, an active third party role for state government and established impasse procedures. As indicated in Chapter One, collective bargaining statutes are varied according to each state's perception of collective bargaining; but the most prevalent and continuing trend has those elements which have been noted above.

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[1]Terminology utilized in this paper and in the diagrams such as: intraorganizational bargaining, distributive, integrative and mixed bargaining, are terms that were coined by (Richard E. Walton and Robert B. McKersie in A Behavioral Theory of Labor Negotiation. (New York: McGraw-Hill Book Company, 1965), and have since become a part of the collective bargaining jargon.

MODEL OF PUBLIC SECTOR BARGAINING
Figure 1



Alienation

One arena, among many, which has the potential for reducing or increasing alienation is that of the collective bargaining process. This process places the participants in a more direct, face to face exchange environment.

Within the field of collective bargaining there are advocates supporting the view that employess need to contribute to the decision making process to help reduce feelings of alienation.[2] W.D. Heisel states: "It [employees participation in decision making] is not necessarily a rejection of the quality of management's decisions; it is a rejection of the unilateral process."[3] However, alienation is not necessarily reduced or eliminated once employees have access to the decision making process.

Collective bargaining has been viewed as an arena for competition as well as cooperation. The literature

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[2]The literature abounds with examples, here are just a few: Harvey A. Juris and Peter Feuille, Police Unionism: Power and Impact in Public Sector Bargaining. Lexington, Mass.: D.C. Heath and Company, 1973; W.D. Heisel, New Questions and Answers on Public Employee Negotiation. Chicago: International Personnel Management Association, 1973; and Yearn H. Choi, "Collective Bargaining in the Public Sector: Where are We?" State Government, LI (Autumn, 1978), 225-227.

[3]W.D. Heisel, New Questions and Answers on Public Employee Negitation (Chicago: International Personnel Management Association, 1973), p. 8.

advocates two methods of conflict resolution, one of which is competitive the other cooperative. The competitive school of thought has the underlying assumption that collective bargaining is inherently conflictural.[4] Frank P. Zeidler states the case for competition:

> The new condition of public administration is therefore one of contention and struggle with organized employees about the conditions and terms of work, and there is now no avoiding it because employees can legally challenge the decisions of administrative officials under new labor relations legislation. The power of top public administrative or elected officials to make unilateral decisions on the conditions of employment has been severely curtailed . . . . The rules of the game, to change the figure of speech, are much more complex; and whoever will win is he who best masters the new rules.[5]

The cooperative approach, as expressed by S.J. Makielski Jr. States:

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[4]Listed below are several authors which support the statement that collective bargaining is inherently conflictual: Kenneth O. Warner ed. Collective Bargaining in the Public Service: Theory and Practice, Chicago, Ill.: Public Personnel Association. 1967; David T. Stanley and Carole L. Cooper-assisting, Managing Local Government Under Union Pressure. Washington, D.C.: The Brookings Institute, 1972; Thomas A. Kochan, "Determinants of the Power of Boundary Units in an Interorganizational Bargaining Relation." Administrative Science Quarterly, XX (September, 1975), 434; Michael L. Brookshire and Michael D. Rogers, Collective Bargaining in Public Employment: The TVA Experience. Lexington, Mass.: Lexington Books, 1977; and Noel Arnold Levine, Successful Labor Relations. New York: Law Journal Press, 1978.

[5]Frank P. Zeidler, "Impact of Collective Bargaining on Public Administration," in Collective Bargaining in the Public Service: Theory and Practice, ed. by Kenneth O. Warner (Chicago: Public Personnel Association, 1967), p. 152.

> In general, it is felt that the organization will function more effectively if all the members of the organization have an equal opportunity to participate and contribute to basic organizational policies, ... The contemporary emphasis is on even greater participation . . . .[6]

The cooperative school of thought does not deny that there will be disagreements but these disagreements are channelled through the problem solving process, thus reducing the dysfunctional aspects of conflict.[7] Whether alienation is to be reduced depends upon the inter-relationships established throughout the collective bargaining process itself. Thus an understanding of the collective bargaining process is necessary.

Once collective bargaining is legitimized by State statutes, those employees that feel alienated from the decision making process may attempt to form a bargaining

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[6]S.J. Makielski Jr. Employee Relations in State and Local Government (Charlottesville, Virginia: University of Virginia, Government and Administrative Research Division, 1971), p. 41.

[7]Listed below are some of the authors who support this view: Paul R. Lawrence and Jay W. Lorsch. Developing Organizations: Diagnosis and Action. Reading, Mass.: Addison-Wesley Publishing Co., 1969; Robert R. Blake and Jane S. Mouton. The Fifth Achievement." Journal of Applied Behavioral Science, VI (October-December, 1970), 413-426; Alan C. Filley. Interpersonal Conflict Resolution. Glenview, Ill.: Scott, Foresman and Co., 1975; Jeffrey W. Eiseman. "A Third Party Consultation Model for Resolving Conflicts Collaboratively." Journal of Applied Behavioral Science, XIII (July-September, 1977), 303; and Brooklyn C. Derr. "Managing Organizational Conflict: Collaboration, Bargaining and Power Approaches." California Management Review, XXI (Winter, 1978), 76.

unit. This can be initiated and encouraged by public union representatives. When enough employees sign union cards (usually thirty per cent), an election is then held to determine whether the employees want a union to act as their bargaining representative.

The relationship between employees and the employer can be enhanced or crippled during this stage. Often misrepresentation of facts, forcing tactics, and other devices are used by both parties to win the employee to their point of view. Such tactics can have the effect of establishing or reinforcing mistrust and this negative impression taken to the next stage of the collective bargaining process (intraorganizational bargaining, as the model indicates), where positions are developed and styles are determined, may effect the rest of the bargaining relationship in a negative way. Other factors of the environment also must be taken into consideration as to their impact on the collective bargaining process.

Environmental Factors

Both parties bring to the bargaining table various perceptions and expectations relating to the collective bargaining process. Their attitudes and expectations are shaped by the political, legal, economic, and social environment in which the bargainers reside. Understanding how these variables effect bargainers will help explain

the motivation, tactics and reasons bargainers act the way they do.

Political Environment

The political environment is generally supportive of collective bargaining with management accepting and often encouraging this process. The literature advocates recognizing and encouraging employee organizations, as well as developing working relationships with them. As Felix A. Nigro states: "In most jurisdictions public employers recognize that the employee organizations are here to stay."[8] Also the acceptance of collective bargaining by legislators and management is being encouraged through our educational system.

A public policy environment which supports collective bargaining exists in those communities which are, "pro labor," have an active central labor organization, have interest groups which have expressed support, and where legislators support the practice.[9]

Nationally, each region must be evaluated on its own political environment. In regions with "right to work laws" and those regions which have been historically

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[8]Felix A. Nigro, Management-Employee Relations in the Public Service (Chicago, Ill.: Public Personnel Association, 1969), p. 71.

[9]This is supported by authors and studies such as: Alan Louis Saltzstein, "Organized Public Employees and the Roles of City Managers." Unpublished Ph.D. dissertation, University of California, 1972; Paul F.

hostile to collective bargaining such as the south, attitudes of managers reflect the political environment regardless of education or even professional acceptance of the practice.[10] Thus the political environment can affect the negotiators' attitudes as they develop their positions and styles of bargaining through intra-organizational bargaining which in turn affects the process at the negotiating table as illustrated by (Figure 1).

Legal Environment

Formerly, public management was not required to grant recognition to unions, and in some instances was prohibited from having contact with unions. Currently management finds itself in a situation, which if recognition is not granted and bargaining does not occur in good faith legal sanctions take effect which increase the cost of not cooperating.

Gerhart. "Determinants of Bargaining Outcomes in Local Government Labor Negotiations." Industrial and Labor Relations Review, XXIX (October, 1975), 331; Thomas A. Kochan and Hoyt N. Wheeler. "Municipal Collective Bargaining: A Model and Analysis of Bargaining Outcomes." Industrial and Labor Relations Review, XXIX (October, 1975), 46; and Thomas A. Kochan. Collective Bargaining and Industrial Relations: From Theory to Policy and Practice. Homewood, Ill.: Richard D. Irwin-Dorsey, 1980.

[10]Alan Louis Saltzstein, "Organized Public Employees and the Roles of City Managers." (unpublished Ph.D. dissertation, University of California, 1972), p. 158.

Scope of bargaining

The National Labor Relations Act defines the scope of bargaining to be "wages, hours and other terms and conditions of employment." Joan Weitzman states that this law. ". . . has been broadly interpreted to include most matters that affect employee working conditions and employer-employee relations.[11] The public utilizes a great deal of the private sector's language, but with significant differences and additions which have an effect on the scope of bargaining. In 1975, fifteen jursidictions had a "Managements' Rights Clause."[12] There is no counterpart in the private sector. The existence of this type of statute has the effect of reducing the scope of bargaining. Thus the decisions, rulings, and opinions of courts, personnel boards, and attorney generals, will have a direct effect on the negotiation process by defining the scope of negotiations.

In the cases of Michigan and New York, the Courts have held that bargaining laws must be interpreted liberally to "achieve their public benefit purpose."[13] How the ruling bodies reconcile the dilemma associated with the increased demand for broadening of the bargaining relationship as well as the countervailing force of

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[11]Joan Weitzman, The Scope of Bargaining in Public Employment (New York: Praeger Pub. Co., 1975), p. 41.

[12]Ibid., p. 42. [13]Ibid., p. 194.

maintaining "management rights," will determine the scope of negotiation. This directly affects the position development and the boundaries of negotiations at the table, as indicated by the model.

Civil service boards

Civil service boards have the ability to limit the scope of bargaining, as the legislators have given them the power to establish conditions by which work will be done, compensation rates, hiring practices, allocation of jobs, adjudication in discipline cases and determination of fringe benefits. This leaves little for the management negotiator to bargain with. Paul F. Gerhart found that the existence of such a board did have a direct affect in reducing the influence of a union, by limiting the scope of bargaining.[14] However, not all civil service boards have such broad powers. As collective bargaining is gaining more influence, some states are removing areas from under civil service boards jursidiction, and placing these areas into the collective bargaining realm.

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[14]Paul F. Gerhart, "Determinants of Bargaining Outcomes in Local Government Labor Relations," Industrial and Labor Relations Review, XXIX (October, 1975), 346.

Impasse procedures

Primarily due to their perceived impact, many states have outlawed strikes.[15] As an alternative, most states have instituted third party intervention for resolving disputes.

The presence of "fact-finding" and "arbitration" has had an effect on the negotiation process. It was noted in a study of fifty fact-finding reports in Wisconsin that ninety percent resulted in a settlement.[16] Fact-finding and/or arbitration as part of the legal structure have become important to the bargaining strategy of each party. However, these mechanisms may become pitfalls. John C. Anderson and Thomas A. Kochan noted that within the Canadian Federal Service negotiators resorted to third-party help more often after the impasse procedure had been used at least once.[17] Thus the

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[15]There is strong evidence that the presence of anti-strike legislation has had little or no effect on whether a strike occurs. Supportive studies include but are not limited to the following: Paul F. Gerhart. "Determinants of Bargaining Outcomes in Local Government Labor Negotiations." Industrial and Labor Relations Review, XXIX (October, 1975), 331; Thomas A. Kochan, and Hoyt N. Wheeler. "Municipal Collective Bargaining: A Model and Analysis of Bargaining Outcomes." Industrial Labor Relations Review, XXIX (October, 1975), 46; Richard J. Carlson, and Thomas Sedwick. State Employee Labor Relations, Lexington, Ky.: Council of State Governments, 1977.

[16]State-Local Employee Labor Relations (Lexington, Ky.: Council of State Government, 1970), p. 38.

[17]John C. Anderson and Thomas A. Kochan, "Determinants

dynamic process of face-to-face problem solving associated with collective bargaining may lose its potential as parties seek the easier route and seek third-party solutions.[18]

Therefore the establishment of a conducive political environment and a supportive legal structure enhances the collective bargaining process. However, the impact of the economic environment has an effect on the process to an even greater extent, as it not only affects the general support of collective bargaining, but has a direct effect on the goals and expectations of bargainers when meeting at the negotiating table.

Economic Environment

A premise that is frequently presented is that the public sector is not as responsive to the external economic environment as is the private sector. This is associated with the public sector's taxing powers, as well as the unique services it provides. Services such as fire and police protection as well as water and sewage treatment, are not usually provided by the private

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of Bargaining Outcomes in the Federal Government of Canada," Industrial and Labor Relations Review, XXXII (January, 1970), 297.

[18]This tendency was also discovered in a case study of New York State: Thomas A. Kochan and Jean Bader Schneider, "Dependence on Impasse Procedures: Police and Fire Fighters in New York State." Industrial Labor Relations Review, XXXI (July, 1978), 431-449.

sector. As Alan Edward Bent and Zane T. Reeves state: "One premise is that Government is in the business to provide necessary essential services on a continuing basis. Government must remain in business no matter what."[19] Thus these services are demanded and required by the public and therefore are immune to the economic fluctuations of our society.

One indicator of the effect of the economic environment on the collective bargaining process is the level of strikes. For an example, in 1981, the country was in a recession and the level of public sector strikes was down and according to Roger Dahl, Director of the Labor-Management Relations Service for the U.S. Conference of Mayors, "The prime reason for the declining rate [of public sector strikes] is the recession and the harsh realities of local and state government finance."[20] Thus one of the most widely accepted hypotheses concerning bargaining continues to be born out: that is, as the business cycle moves toward full employment, wages, and benefits are more likely to increase. Just as in the private sector, a union's ability to influence the

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[19]Alan Edward Bent and Zane T. Reeves, Collective Bargaining in the Public Sector: Labor-Management Relations and Public Policy (Menlo Park, Calif.: Benjamin/Cummings Pub. Co., 1978), p. 81.

[20]"Public Sector Strikes Decline to 13-Year Low," Public Administration Times, (March 15, 1982), p. 3.

bargaining process is enhanced if the employer is having difficulty hiring qualified personnel at the going wage, if there are strong inflationary pressures, if other highly visible groups of employees have been winning generous settlements, and if the employer can afford to pay more. These conditions would also increase the effectiveness of a strike.

Conversely, a union's bargaining position is weakened, if there are minimal inflationary pressures, no viable group comparisons, if the local government is facing bankruptcy, and if the public, through voter resistance, rejects budgetary increases. As the business cycle worsens, wages and benefits are more likely to remain at the status quo or even decline. These factors would also decrease the effectiveness of a strike or the rationale for engaging in this activity.

The literature stresses the importance of the economic environment, especially those factors which affect available revenues which would have a corresponding effect on expectations and outcomes of the collective bargaining process. Listed below are seven economic indicators which affect bargaining:

1. Demand for public sector services with a corresponding willingness to fund those demands with taxes.
2. Employment in the community.
3. Credit rating of the employer.
4. Amount of Federal and State aid.
5. Rate of inflation.

6. Ability of the governmental unit to tax as defined by state laws.
7. Comparative wages relative to the private sector.[21]

Other external environmental factors such as city size, public workforce size, union affiliation, governmental function, and bargaining structure may also have an influence on the bargaining process and outcomes. Data shows a possible correlation, though not as significant.[22]

Organizational Factors

Lines of authority in the public sector between the legislative and executive branches are often blurred. Chief negotiators may be either from the executive or legislative branches, or may even be an outside consultant reporting to one or both parties. For example, a legislative committee of the City Council in Milwaukee

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[21]This list is a composite drawn from the following studies: Harvey A. Juris and Peter Feuille, Police Unionism: Power and Impact in Public Sector Bargaining. Lexington, Mass.: D.C. Heath and Company, 1973; Ralph J. Flynn, Public Work, Public Workers. Intro. Arnold Weber, foreward by Jerry Wurf, Washington: New Republic Book Co.: 1975; Alan Edward Bent and Zane T. Reeves, Collective Bargaining in the Public Sector: Labor-Management Relations and Public Policy. Menlo Park, Calif.: Benjamin-Cummings Pub. Co.: 1978, and Thomas A. Kochan, Collective Bargaining and Industrial Relations: From Theory to Policy and Practice. Homewood, Ill.: Richard D. Irwin-Dorsey, 1980.

[22]This is supported by Thomas A. Kochan and Hoyt N. Wheeler in their October 1975 study: "Municipal Collective Bargaining: A Model and Analysis of Bargaining Outcomes." and by Paul F. Gerhart's 1975 study, "Determinants of Bargaining Outcomes in Local Government Labor Negotiations."

has the responsibility for representing the public employer in bargaining while in New York City a labor policy committee has been created to advise and guide the Director of the Mayor's Office of Labor Relations.[23] Since there are two distinct authorities (legislative and executive) and if they are not working together then uncertainty exists. When the goals and desires of the two branches are not in accord then the unions can attempt an "end run" around the chief negotiator to lobby for measures that were unattainable through the negotiating process. There are those who believe this distinctive feature of the public sector, allows a union more power than its private sector counterpart. If this is not recognized and countered, it may be destructive to the bargaining process. Therefore, one of the chief negotiator's main concerns is to maintain a close relationship between the administrative and legislative parties.

The chief negotiator is not only concerned with the collective bargaining process but as a representative of management he must be aware of the impact, choices will have on the budget. There is the possibility of a conflict occurring between the time allocated for the

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[23]Arvid Anderson, "The structure of Public Sector Bargaining," in Public Workers and Public Unions, ed. by Sam Zagoria (Englewood Cliffs, NJ.: Prentice-Hall Inc., 1972), p. 43.

budgetary process and that of the collective bargaining process. Some states by statute have solved this problem by requiring integration between the collective bargaining process and the budgetary process. Richard Carlson and Thomas Sedwick note:

> Bargaining must begin at least 100 days before budgeting in New Hampshire. Hawaii ties the process to the fiscal year, requiring that reasonable efforts be made to conclude negotiations to coincide with a June 30 contract expiration date.[24]

There is no doubt that the political, legal, economic and organizational factors play a role in shaping the boundaries of collective bargaining at the table. However, another variable must be taken into consideration which is the bargainers themselves. When bargainers with their various backgrounds, develop their bargaining positions, determine their strategy or style and then meet at the table; the interaction process is then shaped by each bargainers own social experiences and training as they relate to the external environment around them.

Attitudinal Factors

Social Perceptions from Experience and Training

The perspective from which each party views collective bargaining will contribute to the extent of alienation between employers and employees. Many of the

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[24]Richard J. Carlson and Thomas Sedwick, State Employee Labor Relations (Lexington, Ky.: Council of State Governments, 1977), p. 26.

negotiators view collective bargaining similar to that expressed by Thomas A. Kochan:

> The underlying assumption of industrial relations is that there is an inherent conflict of interest between employees and their employing organizations and this conflict is institutionalized and legitimized in the process of collective bargaining.[25]

Other bargainers take the perspective of collective bargaining as Alan C. Filley:

> The problem solver believes that his goals and goals of others are not mutually exclusive, and seeks to maintain the relationship and meet his own goals by searching for solutions which are mutually acceptable.[28]

Behavioral studies have indicated that individuals are often either predisposed to a cooperative or a competitive orientation.[27] Otomar J. Bartos confirms this orientation noting that negotiation is a:

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[25]Thomas A. Kochan, "Determinants of the Power of Boundary Units in an Interorganizational Bargaining Relationship," Administrative Science Quarterly, XX (September, 1975), 435.

[26]Alan C. Filley, Interpersonal Conflict Resolution (Glenview, Ill.: Scott Foresman and Company, 1975), p. 54.

[27]Listed below are studies which support this view: Morton Deutsch, "The Effect of Motivational Orientation Upon Trust and Suspicion," Human Relations, XIII (May, 1960), 123-139; Harold H. Kelley and Anthony Stahelski, "Social Interaction: Basis of Cooperators and Competitors Beliefs About Others," Journal of Personality and Social Psychology, (September, 1970), 66-91; James E. Alcock and Diana Mansell, " Predisposition and Behavior in a Collective Dilemma," Journal of Conflict Resolution, XXI (September, 1977), 443-457; Brooklyn C. Derr, "Managing Organizational Conflict: Collaboration, Bargaining and Power Approaches," California Management Review, XXI, (Winter, 1978), 76; Barry R. Schlenker and Howard J. Goldman,

> . . . process involving dual and mostly conflicting motivations: the individualistic [competitive] desire to maximize one's own utility and the collectivistic [cooperative] desire to reach a fair solution.[28]

A competitive individual, as Brooklyn Derr states:

> Perceives that they can win more by competing than by collaborating or they do not feel comfortable or skilled at problem solving, while they may feel particularly good, given their social experience at powerplay.[29]

Bartos, believes that negotiations proceed smoothly only as long as they are guided by the collectivistic desire for fairness and that problems arise wherever the individualistic motivations take over.

Need Gratification

Herbert Maslow's "Hierarchy of Needs," which underlies much of the thinking about organizational behavior, can also be applied to the collective bargaining process. Maslow lists five levels of needs: physiological, security, social, ego and self-fulfillment, each of which remains dormant until the one beneath it

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"Cooperators and Competitors in Conflict: A Test of the Triangle Model," Journal of Conflict Resolution, XXII (September, 1978), 393; and Alan C. Filley, "Some Normative Issues in Conflict Management," California Management Review, XXI (Winter, 1978), 61.

[28]Otomar J. Bartos, "Simple Model of Negotiation: A Sociological Point of View," Journal of Conflict Resolution, XXI (December, 1977), 565.

[29]Brooklyn C. Derr, "Managing Organizational Conflict: Collaboration, Bargaining and Power Approaches," California Management Review, XXI (Winter, 1978), 79.

is met. At each level the needs motivate behavior, but once a need has been satisfied it loses influence. In Joan Weitzman's study, she found that collective bargaining in New York City changed from demands centered initially on "bread and butter" issues such as wages, working conditions, safety and fringe benefits to those issues directly involved with the policy making process. The satisfaction of initial demands prompted higher concerns of "self-fulfillment." Jay F. Atwood states:

> It is imperative that public management recognize the rising employee expectations for participation and work toward a suitable means of providing for it.[30]

Therefore, negotiators are confronted by three sets of demands. They have their own needs of ego, self-fulfillment and survival to satisfy; the needs of the group which they represent, and the needs of the other party. Intraorganizational bargaining attempts to resolve differing demands of one's constituency with that of the opposite party through interaction among themselves.

Intraorganizational Bargaining

As Richard Walton and Robert Mckersie state:

> The chief negotiator is the recipient of two sets of demands--one from across the table and one from his own organization. His dilemma stems from

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[30]Jay F.Atwood, "Collective Bargaining Challenge: Five Imperatives for Public Managers," Public Personnel Management, V (Jan-Feb, 1976), 28.

> conflict at two levels: differring aspirations about issues and differing expectations about behavior.[31]

Initially, a chief negotiator has to meld the demands and expected behavior placed on him by his constituency with his own evaluation of the bargaining situation. Success within the bargaining arena will depend upon how well the negotiator can handle his constituency's demands with those of the other party. If the demands are too extreme, he will have to attempt to modify those demands, which requires a good understanding of the bargaining process as well as knowing what power he has to utilize in the situation. As Fred Hunter, Hjalmer Rosen, R.A.H. Rosen and Monroe Berkowitz, state:

> The ideal management negotiator must exhibit integrity, have an even temper, pleasant manner, be authoritative, firm but not inflexible, perceptive, logical and have a good sense of humour.[32]

It is clear that chief negotiators play an important role. However, Bernard L. Hinton and Joseph Reitz state:

> It is quite clear that the interaction between members and the group is a two-way interdependency. It is not equally clear that the interdependency is necessarily a balanced one. The group usually (but

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[31]Richard E. Walton and Robert B. McKersie, A Behavioral Theory of Labor Negotiations (New York: McGraw-Hill Book Company, 1965), p. 6.

[32]Fred D. Hunter, Hjalmer Rosen, R.A.H. Rosen, and Monroe Berkowitz, "The Negotiating Teams," in Understanding Collective Bargaining: The Executive Guide, ed. by Elizabeth Marting, (New York: American Management Association, 1958), p. 83.

> not always) has more influence over the behavior of any given member than that member has over the behavior of the group. In this sense, the group is more powerful than the individual.[33]

There are strong cultural pressures on individuals in the Unites States to present an image of strength, competency, and effectiveness to others no matter what the situation.[34] Thus, at times, the bargaining situation could be resolved without conflict, but may still end up in a strike because of these pressures which are placed on a negotiator. Frits Bekker's study using three simulation experiments and a field study of twenty-nine Dutch Labor unions indicated:

> All studies of those leaders who are threatened in the maintenance of their positions are more likely to start a conflict with another group in order to have better chances for re-election, whereas non-threatened leaders tend to opt for intergroup cooperation.[35]

Thus the function of forcing conflict with the other group will have the effect of focusing attention away from one's own weak position by uniting against an outside group.

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[33]Bernard L. Hinton and Joseph H. Reitz, Group and Organizations: Integrated Readings in the Analysis of Social Behavior, (Belmont, California: Wadsworth Pub. Co., 1971), 199.

[34]These cultural pressures were observed by W. Kogan, H. Lamm and G. Tromsdorf in their study: "Negotiations Constraints in the Risk-Taking Domain: Effects of being Observed by Partners of Higher or Lower Status." Journal of Personality and Social Psychology, XXIII, (August, 1972), 143.

[35]Frits Bekkers, "Threatened Leadership and Intergroup Conflicts," Journal of Peace Research, XIV (1977), 223.

The negotiators are aware of group pressure and they also have tactics which can help alleviate the pressure as well as modify demands and still maintain their image. Some of the tactics available to the parties are listed in Table I.

Intraorganizational bargaining seeks to counter the pressure of the group and bring members into line with the realities of the bargaining which will occur or is occurring at the negotiating table. When entering a negotiation the chief negotiator must evaluate the other party's strengths and weaknesses, his own constituencies expectations and power, his own personal support and abilities and the external environmental factors which confront him. Then after taking all these variables into account a strategy for bargaining is developed which will provide satisfaction to his constituency without jeopardizing his own image as a negotiator. This strategy is dynamic in that when facing the other side and discovering the other viewpoint, his strategy must be able to accomodate that viewpoint, and thus there is a form of reassessment and restructuring. This interactive process occurs throughout the negotiating process.

Summary

Once both parties have gathered the pertinent information from their constituencies, then both parties

Table I

INTRAORGANIZATIONAL BARGAINING TACTICS[36]

I. Avoid incompatible expectations from the beginning of the negotiation process

   a. Keep expectations of members tentative
   b. Structure expectations to be compatible with items which are more likely to be achieved
   c. Limit participation of outspoken members

II. Revise expectations through logic and power

   a. Invoke rational arguments
   b. Invoke personal or political power

III. Revise expectations through experience

   a. Structure the situation so that people convince themselves
   b. Directly confront the opposition with the reality of the bargaining situation
      1. have delegates (opposition) go it alone
      2. bring the membership face to face with a strike situation
      3. force recalcitrant members to face personal costs (discomforting to the individual) thus motivating them to compromise their position
   c. Ensure cooperation of opponent

IV. Rationalize discrepancy between what is asked for and what is given

   a. Let the lower levels know that you have done the best that was possible given the present circumstances (dramatics is often helpful)
   b. Shift the blame

V. Obscure and misrepresent the discrepancy

   a. Limit opportunities for surveillance
   b. Keep issues complicated

VI. Tacit Communication - Passive

   The negotiator exhibits behavior which the group expects, but in reality it is being done for show (the basic assumption is that the opponent is aware that it is a show and does not become affronted), in some cases an opponent will go so far as to play the same game thus giving credence to the performance

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[36] Richard E. Walton and Robert B. McKersie, A BEHAVIORAL THEORY OF LABOR NEGOTIATIONS New York: McGraw-Hill Book Company, (1965), Passim, Chapter IX.

are ready to meet at the negotiating table. They will bring to the table the styles of bargaining which reflect their orientation and understanding of the collective bargaining process, and therefore will influence whether the negotiation process will be primarily cooperative or competitive. The result of this interaction will consequently affect the degree of alienation between employer and employees.

CHAPTER III

THE NEGOTIATING TABLE AND OUTCOMES

In a bargaining situation there are always two factors present. First, there are at least two parties involved, and second, these parties have differing expectations concerning one or more issues. When the bargainers meet to discuss an issue, the different expectations held by each party are unknwon to the other. Thus the interaction process consists of gathering information about the other's expectations and comparing that information to one's own expectations.

The first meeting usually is characterized by the parties establishing an agenda of issues to be discussed. Characteristically, the union is the party which initiates the bargaining process by presenting a list of demands. Management may present proposals in this initial meeting or they may wait until the next meeting to react to the union's proposals, thus setting the stage for the next negotiating session. As Thomas A. Kochan and Hoyt N. Wheeler state:

> Once presented with union proposals for change management's goal is often the preservation of the

> status quo, which in turn often means management's goal is the resistance of union goal attainment.[1]

Since the outcome of the bargaining relationship depends upon the sharing of information it is necessary for each party to understand the other's view, and to determine how far the other side is willing to bargain on an issue. By exchanging information the bargainers can structure their own preferences and bargaining positions. H.H. Kelly and J.W. Thibault have referred to this bargaining characteristic as "information dependence."

Since each party is dependent on the other for information the parties are faced with two dilemmas. H.H. Kelly defines these two dilemmas as one of "trust" and the other as "honesty and openness." Kelly writes:

> To believe everything the other person says is to place one's fate in his hands and to jeopardize full satisfaction of one's own interests . . . On the other hand, to believe nothing the other says is to eliminate the possibility of accepting any arrangement with him.[2]

Often one party has information which it does not want to reveal because it might be used against them. H.H. Kelly writes:

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[1]Thomas A. Kochan and Hoyt N. Wheeler, "Municipal Collective Bargaining: A Model and Analysis of Bargaining Outcomes," Industrial Labor Relations Review, XXIX (October, 1975), 49.

[2]H.H. Kelly, "A Classroom Study of the Dilemmas in Interpersonal Negotiations," in Strategic Interaction and Conflict: Original Papers and Discussion, ed. by K. Archibald (Berkely, California: Institute of International Studies, 1966), p. 60.

> Playing things close to one's vest permits later flexibility and allows a delay in deciding whether to attempt deceit or not.[3]

Thus Kelly indicates that there is a definite risk involved with being honest as well as trusting. In resolving these two dilemmas in their search for information the bargainers engage in identifiable behavior.

Styles of Bargaining

Richard E. Walton and Robert B. McKersie define three types of collective bargaining behavior: "distributive bargaining," "integrative bargaining," and "mixed bargaining." The first form of bargaining assumes that there is only a limited amount of resources, and in the distribution of those resources one party will gain and the other party will lose. Game theorists have labeled distributive bargaining as a fixed-sum game which involves issues which are pure conflict. Marvin J. Levine and Eugene Hagburg classify this form as "confrontation" which is characterized by attack and resistance techniques. Alan C. Filley states that distributive bargaining is represented by "behavior designed to defeat, reduce or suppress the opponent . . .

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[3]Ibid., p. 60.

the parties face each other with mutually opposing actions and counter actions."[4]

The second form of bargaining assumes that through negotiation the amount of resources can be enlarged, and thus the gain of both parties is increased. Game theorists define integrative bargaining as a shared-sum game. Marvin J. Levine and Eugene Hagburg have defined this type as "collaboration" where both parties, "view conflict as dysfunctional for all, and there is a genuine desire to work together to attempt to eliminate conflict and enhance the health of an effective organization."[5]

The third form, "mixed bargaining," seeks to combine the two previous types of negotiation. Game theorists characterize this type of negotiation as a variable-sum, variable share payoff game. One assumption of mixed bargaining is that bargainers could engage in both integrative and distributive bargaining. Bargainers could initially choose to increase their total amount of shares by engaging in integrative behavior and once a determination of the available resources was completed then the bargainers would have a choice of whether to remain in the integrative mode or switch to the

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[4]Alan C. Filley, Interpersonal Conflict Resolution, p. 4.

[5]Marvin J. Levine and Eugene C. Hagburg, Public Sector Labor Relations (St. Paul, Minnesota: West Pub. Co., 1979), p. 6.

the distributive mode in determining the final distribution of those shares.

Distributive Bargaining

Distributive bargaining is characterized by behavior designed to defeat, reduce, or suppress the other party in order to gain a decisive victory. The parties face each other with opposing actions and counter actions. Each party tries to create an imbalance or relatively favored position vis-a-vis the other.[6] Alan C. Filley lists seven common characteristics of win-lose and lose-lose methods:

1. There is a clear we-they distinction between the parties, rather than a we-versus-the-problem orientation.
2. Energies are directed toward the other party in an atmosphere of total victory or total defeat.
3. Each party sees the issue only from its own point of view rather than defining the problem in terms of mutual needs.
4. The emphasis in the process is upon attainment of a solution, rather than upon a definition of goals, values or motives to be attained with the solution.
5. Conflicts are personalized rather than depersonalized via an objective focus on facts and issues.
6. There is no differentiation of conflict resolving activities from other group processes, nor is there a planned sequence of those activities.
7. The parties are conflict-oriented, emphasizing the immediate disagreement, rather than relationship-oriented, emphasizing the long-term effect of their differences, and how they are resolved.[6]

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[6]Alan C. Filley, Interpersonal Conflict Resolution, p. 25.

General Electric for example, has adopted a strategy of "factual bargaining" in which they make their final offer first; while other companies engage in "blue-sky," bargaining which takes an unrealistic position at the outset and through periodic meetings the party modifies their original demands through subsequent bargaining moves, while at the same time increasing their resolve to resist any further concessions.[7] Both of the above practices focus on the solution and not on the problem solving process.

Within the distributive framework a bargainer must evaluate the costs and resistance points of the opposing parties. Since distributive bargaining seeks to withhold information and control what is presented to the other side the process at the table is to give out as little information concerning one's own costs, while at the same time trying to determine the costs of the other side by gathering information from the dialogue at the table, and from any other sources possible. However, as Otomar J. Bartos found in his studies of negotiation:

> The less information the negotiators have about their opponent's payoffs, the less they tend to communicate with their opponent and the more rivalistic their behavior tends to be.[8]

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[7]Richard E. Walton and Robert B. McKersie, Labor Negotiations, pp. 122-123.

[8]Otomar J. Bartos, Process and Outcomes of

As one's own costs are determined and as one gains a clearer understanding of the costs of the other party, the parties engage in action which attempts to change each other's perceptions of the costs. Walton and McKersie define this as "manipulating utility parameters." This consists of continually assessing one's own costs as more information is discovered through the interaction at the table, while at the same time the interaction is designed to influence the other party's perceptions of the costs of taking certain actions. To be successful, a party should be able to develop a more favorable position in the negotiating process and thus obtain even greater concessions than initial bargaining stances would have indicated. An example of this process would be to point out to the other party that his view of the cost of a strike is faulty and that he ignored certain variables that affect the costs, such as a union's national headquarters providing a substantial amount of financial support to the local union strike fund (which may just be a ploy), but may have the effect of indicating to management that the workers could remain on strike much longer than anticipated thus increasing the costs of not settling. This type of information could force management to reassess their position.

Negotiations (New York and London: Columbia University Press, 1974), p. 48.

John Dunlop and James Healy state:

> Neither side is anxious to improve its offer of settlement; i.e. make further concessions if its present offer will ultimately be accepted by the other side.[9]

One can say that the tactics associated with the distributive framework are developed to move the future agreement as much as possible in one's own favor giving up only the minimal amount necessary for settlement without incurring a default situation.

Tactics of personal abuse, such as exhibiting exaggerated impatience, are often used to wear down an opponent's patience. These tactics try to force inexperienced people to give away their positions. Often testing techniques are used, such as calling in a mediator; if the opponent accepts this offer it can be taken as an indication that there is still some room for bargaining. Another tactic which is similar when used by a union is that of bringing the parties up to a strike deadline, arranging a last-minute postponement, and then continuing the bargaining process up to a new deadline in order to test and retest.[10]

Attitudes are often expressed through verbal and nonverbal behavior. G.C. Homans explanation of social

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[9]John Thomas Dunlop and James J. Healy, Collective Bargaining: Principles and Cases (Homewood, Illinois: Richard D. Irwin, Inc., 1955), p. 57.

[10]Richard E. Walton and Robert E. McKersie, Labor Negotiations, p. 65.

behavior is that most, if not all, social behavior can be viewed as "an exchange of activity, tangible or intangible, and more or less rewarding or costly, between at least two persons."[11]

In order to develop an agreement, negotiators have the ability to influence the process as has been illustrated by manipulating the cost perceptions; but they also have options of structuring attitudes to develop areas of agreement. Thus the chief negotiators may also engage in "attitudinal structuring."

Richard Walton and Robert McKersie define attitudinal structuring as, "those activities instrumental to the attainment of desired relationship patterns between the parties."[12] Two forms of this attitudinal structuring are "balance theory" and "reinforcement theory." Richard Walton and Robert McKersie state:

> Tactics suggested by balance theory aim at changing an opponent's attitudes directly and his behavior indirectly . . . In reinforcement theory, attention is focused on the opponent's behavior, assuming the attitudes will change accordingly.[13]

The different tactics associated with balance and reinforcement theory are listed in Table II. Balance

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[11]G.C. Homans, Social Behavior: Its Elementary Forms (London: Routledge and Kegan Paul, 1961), p. 13.

[12]Richard E. Walton and Robert B. McKersie, Labor Negotiations, p. 5.

[13]Ibid., p. 223.

Table II[14]

Balance Theory	Reinforcement Theory
1. Discovering points of Interest Likes-Dislikes a. locating points in common b. use of similar language c. defining common problems d. focuses on mutual success e. de-emphasis of differences	1. Rewarding opponent's behavior a. extending compliments b. expressing appreciation c. returning the favor
2. Cultivating Common Associations a. increase interaction-joint problem solving b. emphasis on common fate c. emphasize common background	2. Punishing opponent's behavior a. reminding opponent of role obligations b. threatening opponent's self-concept c. use of direct and tangible sanctions
3. Party becomes supportive with an item an opponent supports a. concentration on a substantive problem of opponent b. strengthen an opponent's support within his own organization	
4. Opponent becomes associated with objects the party likes party expresses appreciation of opponents help	
5. Party disassociates itself from item opponent dislikes a. disassociation of self from others b. disassociation of present from past c. disassociation of self from circumstances	
6. Opponent disassociated from objects which the party dislikes a. avoidance of direct accusations b. fighting antagonism not antagonist c. invoking institutional sanctions rather than personal aggression	

[14]Richard E. Walton and Robert B. McKersie, A BEHAVIORAL THEORY OF LABOR NEGOTIATIONS New York: McGraw-Hill Book Company, (1965), Passim, pp. 209-222.

theory attempts to create a positive response by an opponent. By doing this, attitudes are adjusted positively. When this occurs, behavior will then be adjusted to correspond with the attitudes. All of the balance theory tactics attempt to develop positive feelings, and at the same time reduce those influences which could cause possible conflicts. Reinforcement theory seeks to reward positive behavior on the part of an opponent. It also tends to be corrective when the other party fails to follow the norm.

However, within the negotiating process the two people primarily involved (two chief negotiators) need to recognize constraints which may limit their interaction to just a distributive approach. If one's constituency expects a hard line approach and one has the power, there is little motivation to attempt to restructure attitudes towards cooperation. In this case the chief negotiator will seek to win. Attitudinal structuring attempts to minimize differences whereas distributive bargaining focuses on the differences, in order to rally constituent support.

Engaging in attitudinal structuring also has its risks. An opponent may misread the signals from the other party as indicating weakness or insincerity. If a bargainer uses the reinforcement approach and attempts to correct the other party and this punishment is viewed

as excessive or unwarranted, there is a definite possibility that the other party will take offense and the bargaining situation may deteriorate. All of these possibilities may arise and negotiators must be aware of the consequences of taking certain actions and therefore at the bargaining table continual assessment of strategies is imperative.

There is a continual assessment process throughout the negotiating period in order to clearly define the boundaries within which one is willing to bargain. At some point in the bargaining relationship, each party is confronted with the critical problem of having to infer the other's true intentions, interests and preferences from his behavior. In the distributive relationship, which is ruled by mutual suspicion, the parties must each develop a translation scheme which permits them to interpret what the other really means (e.g., when a opponent demands X, he expects Y, "When he asks for Y, he will settle for Z," etc.). Carl M. Stevens states that:

> Sign language is a protective device. You want to offer a concession, but you want to protect your strength even as you indicate a concession . . . Sign language enables you to offer concessions without having your actions interpreted as weakness. It gives you the flexibility to move in the direction of peace -- or to move back to a position of strength.[15]

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[15]Carl M. Stevens, Strategy and Collective Bargaining

Utilization of distributive tactics have been shown to be effective in a bargaining relationship, that is, in achieving a contract. But as the model indicates, bargaining is not just limited to the table. Actions and attitudes of both sides are communicated back to each constituency which can directly affect the level of alienation between employees and employers. As has been noted the distributive tactic limits information exchange, utilizes force and often utilizes misinformation to reach a favorable position. Even though a contract is reached, this short-term accomplishment does not help contribute to the long-term goal of reduced alienation and is more likely to increase it.

Integrative Bargaining

The integrative style of bargaining eliminates the dilemma of translation since the other's behavior can be taken as a true indicator of his underlying disposition. However, there is an element of risk in the use of the integrative method. The risk occurs if one party does not wish to cooperate fully. To be conflictual requires little cooperation on the part of the parties, while to be integrative requires full cooperation on the part of both parties. As Morton Deutsch stated:

Negotiation (New York: McGraw-Hill Book Co., 1963), p. 105.

> If you choose to cooperate with someone, the other person must also choose you, for cooperation to be consummate.[16]

Thus a great deal of trust is involved and in order for integration to occur, the maintenance of this trust is required. Alan C. Filley outlines the processes which help facilitate problem solving:

1. Focus upon defeating the problem rather than each other.
2. Avoid voting, trading or averaging.
3. Seek facts to resolve dilemmas.
4. Accept conflict as helpful, providing it does not elicit threats or defensiveness.
5. Avoid self-oriented behavior when it portends the exclusion of other's needs or position.[17]

When engaged in problem solving activities, parties attempt to structure their environment so that bargaining conditions are conducive to the integrative process. First they identify the problem, second, they search for alternate solutions and then by mutual agreement they choose the best solution. Richard Walton and Robert McKersie defined four tactics involved in the integrative process, note Table III. Paul R. Lawrence and J.W. Lorsch found in their studies that:

> Effective conflict management occurs when the individual deals openly with conflict and works with the problem until they reach a resolution which

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[16]Morton Deutsch, "The Effect of Motivational Orientation Upon Trust and Suspicion," Human Relations, XIII (May, 1960), 123.

[17]Alan C. Filley, Interpersonal Conflict Resolution, p. 26.

Table III[18]

Distributive Tactics	Integrative Tactics
1. Control Information a. do not divulge resistance point b. elicit clues about opponents resistance point without giving away your own	1. Maximize Exchange of Information a. convene negotiations whenever a problem occurs (open) b. all information concerning the problem is laid out c. resistance points and attitudes are openly expressed d. everyone listens
2. Continual Testing of Opponent a. exaggerated impatience b. threats	2. Review all alternative solutions (brainstorm)
3. Minimize Clues a. low rate of interaction b. low rate of activity	3. Advance notice is given to other party to facilitate the needed time for research
4. Communicate Deliberate Impressions a. communicate misinformation b. selective withholding of information	4. Freedom to advance an idea without committing oneself to accept it, thus allowing the ability to be flexible and the ability to change a position
5. Use of Commitment Tactics standing firm, real or fake	
6. Use of Delaying Tactics use of force and intimidation	

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[18] Richard E. Walton and Robert B. McKersie, A BEHAVIORAL THEORY OF LABOR NEGOTIATIONS New York: McGraw-Hill Book Company, (1965), Passim, Chapters III and IV.

> is best in terms of organizational goals. In essence, effective organizations confront internal conflict, rather than smoothing them over or exercising raw power or influence to force one party to accept a solution.[19]

Robert Blake and Jane Mouton in their "Grid System" noted that a 9.9 approach to problem solving recognizes that:

> Disagreement is valued as an inevitable result of the fact that strong-minded people have convictions about what is right . . . It permits men to disagree, to work out their disagreements in the light of facts, and ultimately to understand one another.[20]

The evidence indicates that problem solving methods which encourage openness and trust are more effective than those problems which are solved by using power vis-a-vis each other. The language of problem solving is nonthreatening, descriptive and factual. Processes used to facilitate the integrative method are to be descriptive rather than general, and utilize feedback to correct behavior.

The greatest problem facing the integrative bargainer is "uncertainty" about the trustworthiness of the other party. Byron Mathews and Eliot Shimoff found in their study that:

> Higher levels of trust were increasingly risky because they resulted in proportionately greater

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[19]Paul R. Lawrence and Jay W. Lorsch, Developing Organizations: Diagnosis and Action (Reading, Mass.: Addison-Wesley Publishing Company, 1969), p. 14.

[20]Robert R. Blake and Jane S. Mouton, "The Fifth Achievement," Journal of Applied Behavioral Science, VI (October-December, 1970), 420-421.

> earnings reductions when the other person was untrustworthy [failed to reciprocate].[21]

Therefore in the bargaining relationship, in order to build trust, one engages in piecemeal bargaining to cultivate the necessary mutual expectations. This is supported by Byron Mathews and Eliot Shimoff's study that found: "In most pairs trust increased gradually."[22] This supports Peter M. Blau who posited that typically:

> . . . exchange relations evolve in a slow process, starting with minor transactions in which little trust is required because little risk is involved.[23]

This finding implies the necessity of establishing a relationship over a great length of time and maintaining it to develop a relationship of trust. Thus bargaining for a short period, once a year, or every two or three years, would probably be less effective than maintaining an open atmosphere for continual access. Since trust is risky and a great deal of uncertainty exists, the participants must commit themselves to the process in order for integration to work.

Once committed to the process of maintenance of

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[21]Bryon A. Mathews and Eliot Shimoff, "Expansion of Exchange: Monitoring Trust Levels in Ongoing Exchange Relations," Journal of Conflict Resolution, V (Spring, 1979), 538.

[22]Ibid., pp. 555-556.

[23]Peter M. Blau, Exchange and Power in Social Life (New York: John Wiley and Sons, Inc., 1964), p. 94.

a reciprocal relationship depends upon the parties responding positively to each other when the occasion arises. If individuals in the relationship do not reciprocate when afforded trust by another party, then the relationship may deteriorate quickly. However, if the other party is a "high truster" Julian B. Rotter found that they, ". . . will permit a mistake or two and still trust providing the mistake is admitted and an apology made."[24] Morton Deutsch found that, "mutual trust is most likely to occur when people are positively oriented to each other's welfare."[25]

Integrative bargaining has the ability to bridge the gap between employers and employees by developing a cooperative atmosphere and thus contribute to a reduction in alienation. Not only has it been shown that problem solving is more effective in reaching superior solutions but also the long-term relationship between employer and employee may be improved. However, in order to utilize the integrative style, bargainers must seek to establish conditions which encourage and maintain a trusting relationship.

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[24]Julian B. Rotter, "Generalized Expectations for Interpersonal Trust," American Psychologist, XXVI (May, 1971), 448.

[25]Morton Deutsch, "Trust and Suspicion," Journal of Conflict Resolution, II (December, 1958), 278.

Mixed Bargaining

Mixed bargaining occurs when the parties attempt to gain the best of both worlds. Richard Walton and Robert McKersie state:

> In the mixed situation each side has a broad choice between (1) attempting to discover outcomes with larger total values and (2) working toward an outcome which has a smaller total value but which does provide him relatively high individual payoff.[26]

Noting Table III, which lists those activities of a distributive and integrative framework it is difficult to reconcile both strategies because trust would suffer once a party moved from an integrative mode which increased the total amount of resources to that of a distributive mode in the distribution of those resources. Thus trust and credibility which takes time to establish would be severely damaged. The differences between integrative and distributive styles of bargaining are evident since one seeks to be open with information while the other seeks to limit information to the other party. One requires a great deal of trust, the other little. One style exhibits uncertainty about information, the other does not. One style has risk concerning trustworthiness, the other requires only a minimal amount. One has higher

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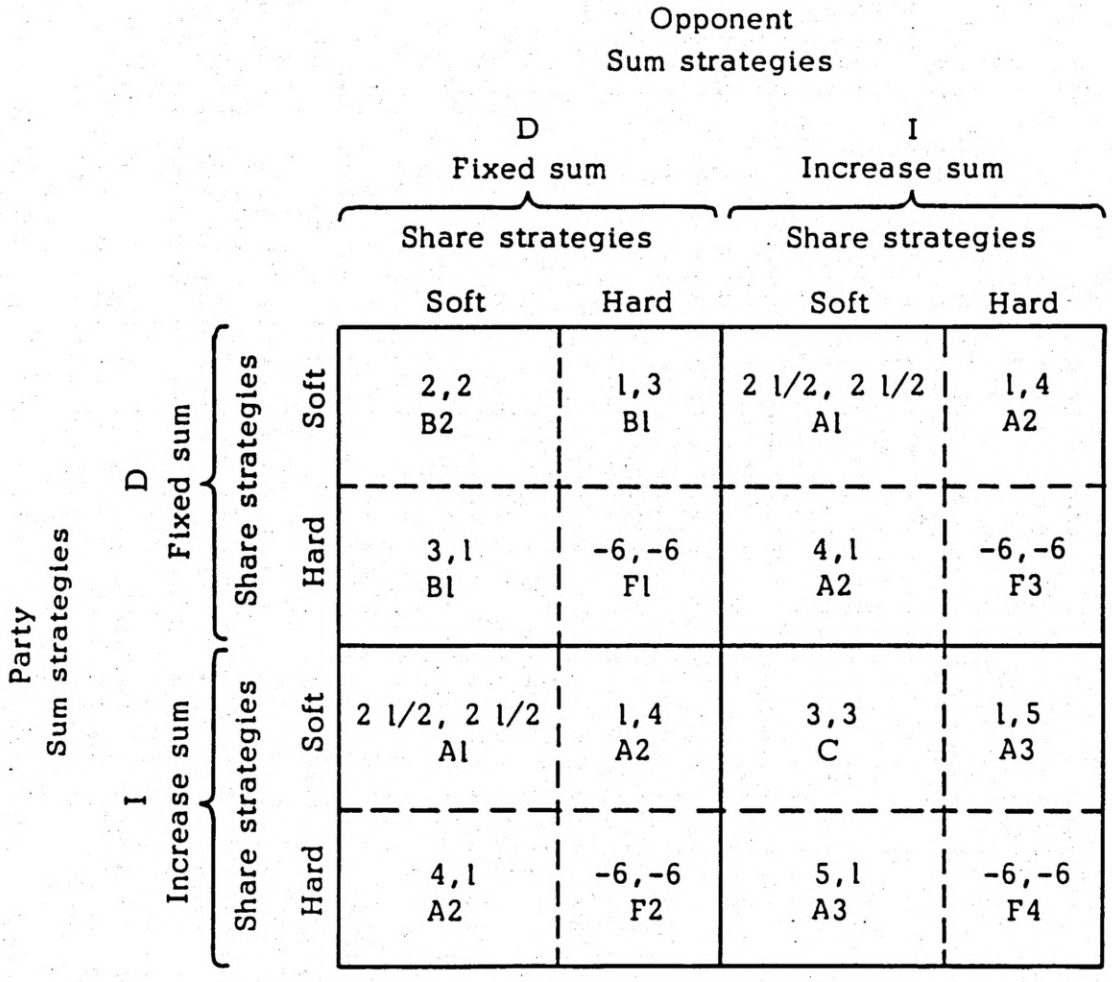
[26]Richard E. Walton and Robert B. McKersie, Labor Negotiations, p. 162.

short-term payoffs; the other results in short-term as well as primarily long-term benefits.

Mixed bargaining has higher short-term payoffs than distributive and both parties gain more since they do engage in integrative activities for part of the negotiation period. However, since there is always the possibility of switching to the distributive mode there is a great deal of uncertainty. Once a party engages in distributive activities, trust is destroyed and thus the long-term goal is difficult to achieve and alienation continues.

In order to visualize the benefits of each type of bargaining, Richard Walton and Robert McKersie developed a payoff matrix which illustrates the various combinations of bargaining and the resulting consequences, see Figure II. This matrix is included for its encompassing nature. The model assumes both parties have together a maximum satisfaction point of six, where an opponent would then be given a zero. However, the other party also has a maximum satisfaction point of six and bargaining occurs between the two parties to determine the distribution. The total available resources are determined by the styles of bargaining each side chooses; i.e., if both sides choose the distributive orientation the amount of resources available would be four. However, if one side chooses the integrative style,

PAYOFF MATRIX[27]
Figure II



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27 Adapted from Richard E. Walton and Robert B. McKersie, A BEHAVIORAL THEORY OF LABOR NEGOTIATIONS. New York: McGraw-Hill Book Company, (1965), p. 163.

the amount available would be five since at least one party is operating on the assumption that there are more resources available, and is seeking to increase the total available resources to allow more equitable distribution. Within each set of bargaining choices there is still the possibility of default occurring. Walton and McKersie have labeled the default by using -6,-6. These numbers were arbitrarily chosen as they represent what happens when either, singly or together, both sides demand seven or more thus neither side receives any satisfaction. The following Figure II will be described in greater detail in order to clarify what alternatives are available to the negotiators. There are sixteen possible outcomes associated with the choices available to the negotiating parties, we will look at these choices as they are viewed in relation to the three types of bargaining styles.

The pure distributive approach to bargaining (when both sides take this approach) is illustrated in the B quadrant. Since there is an assumption of a fixed amount of available resources (on the part of both parties), there is no motivation to seek other alternative sources, thus the available shares to be distributed are four. The strategy consistent with the distributive model is to follow the hard share strategy. If the opponent does not have enough power, the distribution of the shares would be (B1). This would allow the Party

(which has the greatest amount of power) and thus takes the hard line a greater proportion of the available shares. When it is assumed that collective bargaining is a win-lose proposition under the distributive approach, there is little inclination on the part of the bargainers to take a softer approach. A softer line may be taken within the distributive framework when one does not have adequate power to force the issues. Concessions may also occur when the process is moving to a default situation. However, default in some cases is socially acceptable, i.e. pride which forces a "get tough" attitude and as I have previously indicated this constituent pressure for a tough stance may force a default situation. In other circumstances cooperation to avoid mutual calamity "default" may move the bargainers to a softer position (B2).

If both sides decided to take the integrative approach the total amount of shares available is six, which is a 50% increase over the distributive approach. The C quadrant illustrates the pure integrative approach where both parties mutually cooperate. Since the integrative approach assumes cooperation, the use of the hard share strategies would be inconsistent. However, the soft share approach is congruent with the integrative view. Thus if both sides take the soft share approach there will be equity in the distribution of the resources.

The total value available is larger, utilizing the soft share approach, in comparison to the other two styles of bargaining. The risk which has been described previously in the integrative approach which is the uncertainty of the trustworthiness of the other party is illustrated by the outcome in quadrant (A3). The possibility of being taken advantage of is evident throughout the bargaining process if at some point in the bargaining relationship the other party begins to take a hard line.

The mixed approach to bargaining appears to be the most advantageous, since one is able to utilize the best of both strategies and provide for a higher payoff to one's constituency (A3,A4). The total value is increased and there is the possibility of providing high individual payoff. The matrix does not have the capability of taking into consideration the long-term effects of negotiation. Thus the mixed approach though advantageous may be detrimental to the bargaining process as a whole especially since the tactics change from searching out a greater return utilizing the soft approach to utilizing the hard approach in distributing those resources. This may have the possibility of sending differing signals to the other side.

Outcomes

The goal of bargainers is to reach an agreement. The tactics and choices available to bargainers utilizing the distributive, the integrative or a combination of these strategies results in an agreement (contract) or default (strike).

Agreement

The first stage of an agreement is a tentative contract. This contract is presented to the union members for their ratification and to the legislative branch for its approval. In some cases the agreement on management's side is considered ratified when the chief executive approves it. A tentative contract when submitted may not be approved and therefore the parties must continue the process of negotiation.

Once the contract is ratified by both sides it will be placed into effect for the contract term. The level of alienation may be determined by the feelings of the parties in relationship to the bargaining process. Effective implementation of the contract with its accompanying grievance procedures will also be an important factor.

Default

At the bargaining table default may occur prior to the submission of a tentative contract or even after being submitted, resulting in a strike. Despite the

fact that strikes are prohibited in the vast majority of states with collective bargaining statutues, the number of strikes in state government has increased. Richard Carlson and Thomas Sedwick and others have found that the presence of a strike prohibition has little effect on whether or not strikes occur.[28] One of the purposes of prohibiting strikes is to prevent the union from gaining excessive power. Yearn H. Choi states:

> The ultimate weapon wielded by any employee organization is the strike. It is the effect of strikes that causes the polity to fear that unions will gain so much power that the sovereignty or ultimate authority of the American people or the government will be compromised.[29]

There is the belief that a union which uses militant activities and political end runs will be able to subvert the collective bargaining process and thus have a competitive advantage.[30] As unions have sought and gained power and influence, management has advocated that a firmer stand be taken within the bargaining process.

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[28]Richard J. Carlson and Thomas Sedwick, State Employee Labor Relations, p. 30.

[29]Yearn H. Choi, "Collective Bargaining in the Public Sector: Where are We?" State Government, LI (Autumn, 1978), 226.

[30]Listed below are two who advocate this position: H.H. Wellington and R.K. Winter, Jr. "Structuring Collective Bargaining in Public Employment," Yale Law Journal, LXXIX (April, 1970), 807; and Frank H. Cassell and Jean J. Baron. Collective Bargaining in the Public Sector: Cases in Public Policy. Columbus, Ohio: Grid. Pub., 1975.

Once the stage is set for a strike both parties must evaluate their relative strength. One indication of strength is the ability to use force and withstand the use of force. One factor which must be taken into consideration is the cost associated with a strike. When determining the costs one must consider the time period over which a strike can be endured. Richard Walton and Robert McKersie use the example of workers who receive strike benefits instead of a weekly wage. Initially they are not hurt by a short strike, but the costs will increase as they reach a point where their resources are depleted and they face bankruptcy. The worker must also contend with other costs such as forced leisure which can be psychologically costly to himself and to his family. A similar relationship affects an organization which begins with a high inventory and can withstand a strike for a short time but eventually reaches a point where maintenance of services and equipment becomes difficult, through lack of manpower. When its resources are depleted and it reaches a point when it lacks the ability to produce or provide a service then it faces a breakdown.

Innumerable patterns exist; within the public sector the activities such as police and fire protection, sewage treatment and garbage collection, highway and recreation services, are labor intensive. The private sector does

not engage in some of these activities such as police and fire protection. This combination of factors seems to provide an apparent advantage to the public sector employee. However, there are other economic variables and political variables which affect this relationship. The political and economic variables of a community seem to have the greatest influence in determining whether a strike will occur. Alan Bent and Zane Reeves found in their research:

> . . . that the evidence suggests that the incidence of strikes has been more dependent on increasing socio-economic variables among the various states, i.e. wealth, industrialization, public expenditures, ect.[31]

Thomas Kochan found that:

> As economic conditions tighten and public-interest groups become more agressive, the political base of support for public-employee unions and collective bargaining begins to erode. In those communities where unions have historically been unwelcome, these economic and social changes create a political environment extremely unfavorable for unions of public-sector workers.[32]

One can see how these trends occur as one views the news sources of various periods in time. For example, in 1970, it was shown that voters tended to choose political leaders who avoid (inconveniencing) strikes

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[31]Alan Edward Bend and Zane T. Reeves, Collective Bargaining in the Public Sector, p. 225.

[32]Thomas A. Kochan, Collective Bargaining and Industrial Relations: From Theory to Policy and Practice, (Homewood, Ill.: Richard D. Irwin-Dorsey, 1980), p. 451.

over those leaders who worked to minimize the costs of settlement at the price of a strike.[33] By 1977, this trend was changing as illustrated by an article in Business Week stating:

> Some years ago many elected officials seemed to think taxpayers wanted settlements at any price rather than strikes that inconvenienced them. But the anger over tax boosts has now convinced government managers otherwise, . . .[34]

Marvin Levine and Eugene Hagburg echo this by stating:

> It seems apparent that many cities and counties with costs problems will have no alternative but to take a hard line in bargaining and insist upon some reductions in fringe compensation. The other alternative, that of raising taxes, is politically unpalatable, for it may stir a taxpayers revolt . . . .[35]

The research of Thomas Kochan and Hoyt N. Wheeler, Paul Gerhart and Harvey Juris, and Peter Feuille indicates that having the ability to strike does not necessarily give public employees an overwhelming advantage in the collective bargaining process, as previously writers have indicated.[36] Management's ability and willingness

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[34]"Public Employee Unions Push to Catch Up," Business Week, August, 1977, p. 49.

[35]Marvin J. Levine and Eugene C. Hagburg, Public Sector Labor Relations, p. 83.

[36]The following studies support this view: Thomas A. Kochan and Hoyt N. Wheeler, "Municipal Collective Bargaining: A Model and Analysis of Bargaining Outcomes." Industrial Labor Relations Review, XXIX (October, 1975), 46; Paul F. Gerhart, "Determinants of Bargaining Outcomes in Local Government Labor Negotiations." Industrial Labor Relations Review,

to resist union demands seems to be the most important variable. Thomas A. Kochan states:

> The experience to date has not supported the hypothesis that strikes uniformly tip the balance of power in favor of public employees. Even the short-run successes of some of the early public sector strikes have led to political backlashes that have strengthened the public will to resist future strikes.[37]

Even the fear of losing police protection, by a strike action, which assumes that crime will increase and thus gives greater bargaining leverage by police, has not been borne out by the facts. Though disruption does occur, it is not crippling and Harvey Juris and Peter Feuille's study of Police Unionism found that when police went on strikes, "The large majority (of the strikes) . . . did not cause increased disruption."[38] Another method which public employees have of obtaining their demands is to use the option of a political end-run.

XXIX (October, 1975), 331; and Harvey A. Juris and Peter Feuille, Police Unionism: Power and Impact in Public Sector Bargaining Lexington, Mass.: D.C. Heath and Company, 1973.

[37]Thomas A. Kochan, "Dynamics and Dispute Resolution in the Public Sector," in Public Sector Bargaining, ed. by Benjamin Aaron, Josepn P. Grodin and James L. Stern, (Washington, D.C.: Bureau of National Affairs, 1979), p. 169.

[38]Harvey A. Juris and Peter Feuille, Police Unionism: Power and Impact in Public Sector Bargaining Lexington, Mass.: D.C. Heath and Company, 1973), p. 80.

Double-decking or end-run

Unions will often seek to increase their gains by engaging in political activity independent of collective bargaining at the table in order to achieve goals denied them at the bargaining table. This is often called an "End-Run" or "Double-deck" bargaining. The effectiveness of these strategies are questionable. Paul Gerhart's data suggests:

> . . . political activity by a local union does not enhance its bargaining power, and furthermore, that such activity can be harmful if the supported candidate loses.[39]

This type of activity also has the potential of alienating management which is seeking to bargain in good faith. Harvey Juris and Peter Feuille note:

> Much of the negative impact of unions has occurred because of union exploitation of the multilateral bargaining opportunities in the public sector and the failure of management to rationalize the process by limiting the arena for gains to the bargaining table.[40]

Thus a union faced with an incohesive administration has the option of playing off each side one against the other. However, if management maintains a cohesive front, there is less chance of an end-run occurring. Thomas Kochan and Hoyt N. Wheeler state:

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[39]Paul F. Gerhart, "Determinants of Bargaining," 141.

[40]Harvey A. Juris and Peter Feuille, Police Unionism, p. 147.

> It appears that the less cohesive the city officials are and the more they disagree on appropriate goals to pursue in bargaining, the more favorable outcomes the union obtains.[41]

This was also supported by the Harvey Juris and Peter Feuille study of Police Unionism where they found numerous examples in which management was not cohesive and thus the unions were able to ". . . whipsaw management by moving from the bargaining table to the city council, to the state legislature and back again."[42]

In order to maintain the collective bargaining process in times of default the public sector has established corrective mechanisms. The mechanisms encourage both parties to continue their discussion when an impasse occurs.

Impasse Resolution Mechanisms

The public sector has additional means of resolving disputes between two parties. These mechanisms are defined by statute and implemented when an impasse occurs. The three forms of impasse mechanisms are mediation, fact-finding, and arbitration.

A mediator or fact finder acts as a neutral party who attempts to reach a voluntary agreement between the

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[41]Thomas A. Kochan and Hoyt N. Wheeler, "Municipal Collective Bargaining," pp. 56-57.

[42]Harvey A. Juris and Peter Feuille, Police Unionism, p. 147.

participants (union and employer). The fact finder has the power of persuasion, the ability to gather facts and the additional authority to publish his findings and recommendations. An arbitrator is a neutral third party who is presented the facts and based on that presentation renders a decision. Arbitration can take two forms, "final offer" or "conventional" arbitration. The arbitrator in "final offer" arbitration must choose either the final offer of the employer or the final offer of the union, he may not fashion a compromise solution of his own. In "conventional" arbitration the arbitrator may accept either of the parties' proposals or choose any other outcome he deems appropriate.

The primary objective of mediation is to reach an agreement between parties. As John Keltner states: "The main concern of the mediator is to prevent the loss that comes from strikes and the failure of agreement."[43]

Thomas Kochan and Todd Jick state that, "A mediator's first tactic in any dispute is to gain the trust and confidence of the parties."[44] Thus a mediator must

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[43]John W. Keltner, "Communication and the Labor Management Mediation Process: Some Aspects and Hypotheses," Journal of Communciation, XV (June, 1965), 68.

[44]Thomas A. Kochan and Todd Jick, "The Public Sector Mediation Process: A Theory and Empirical Examination," Journal of Conflict Resolution, XXII (June, 1978), 216.

utilize his professional expertise while maintaining an attitude of impartiality to both parties. John Keltner found that an effective mediator, "depends upon his human relations skills and his ability to handle the communication factors in the bargaining situation."[45] A mediator must be able to open the lines of communication, determine the facts and be honest in his relationship with both parties in order to maintain his credibility and effectivenss.

A mediator engages in various activities to structure the process in order to reach an agreement. He seeks out the facts which require going beyond the rhetoric to determine the truth of statements made by both parties. This includes determining attitudes which parties have toward each other. Richard Walton found that, "sensitivity training strengthened the normative support for openness and helped structure the setting for dialogue."[46] John Keltner found:

> Considerable judgment and understanding is necessary to separate the avowed preferences from the actual preferences. Thus interrogation, trial balloons, "side-bar" conferences, ... and a host of tactics

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[45]John W. Keltner, "Communication," p. 72.

[46]Richard E. Walton, Interpersonal Peace Making: Confrontations and Third-Party Consultation, (Reading, Mass.: Addison-Wesley Publishing Company, 1969), pp. 116-130.

are used to bring responses which will reveal the true position.[47]

William Simkin notes that a mediator performs various functions such as:

I. Procedural Functions
   a. schedule meetings
   b. recessing meetings
   c. arranging joint and separate meetings
   d. influencing duration of meetings
   e. changing location i.e. (neutral location)
   f. chairing meetings
II. Communication Functions
   a. keeping communication channels open
   b. trying alternatives on for size
   c. assessment of rigid positions
   d. assessment on whether agreement will pass when presented to constituents
III. Substantive Functions
   a. smoking out priorities
   b. deflating extreme positions
   c. offering creative suggestions on specific issues
   d. assessment of a cost of a strike against the value of remaining issues
   3. recommending a package settlement[48]

Richard Walton indicates that the mediator as well as having the above characteristics must have:

I. Diagnostic skills
II. Behavioral skills in breaking impasses
III. Ability to express attitudes of acceptance
IV. Ability to provide emotional support.[49]

As has been stated previously, negotiators are seeking to maintain their credibility and not have a loss

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[47]John W. Keltner, "Communication," p. 68.

[48]William E. Simkin, Mediation and the Dynamics of Collective Bargaining, (Washington, D.C.: The Bureau of National Affairs, Inc., 1971), pp. 77-103.

[49]Richard E. Walton, Interpersonal Peace Making, pp. 116-130.

of image. This is especially true of negotiators engaging in distributive bargaining. D.G. Pruit and D.F. Johnson found that:

> Mediation provides the negotiator with a face-saving device whereby he can retreat without feeling that he has capitulated. Presumably, this face-saving results from throwing the blame for one's own concessions onto the mediator.[50]

The mere knowledge that a mediator will be available at the sign of impasse may push negotiators to an impasse, so that there is an opportunity to make concessions without appearing weak to one's constituency.

Fact finders have additional influence since they can make their findings and recommendations known to the public. Thus the fear of publishing the results may cause adverse public opinion. In order to prevent this backlash from occurring, agreement may more readily be forthcoming. In a study by the Council of State Governments it was found that "of fifty fact-finding reports in Wisconsin, ninety per cent were accepted in whole or in part. Connecticut had similar results."[51] Bryan Yaffe and Howard Goldblatt found in their study of fact-finding in New York State a similar result and they state: "Fact-finding offers more promise than

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[50] D.G. Pruit and D.F. Johnson, "Mediation as an Aid to Face-Saving in Negotiation," Journal of Personality and Social Psychology, XIV (March, 1970), 246.

[51] State-Local Employee Labor Relations, (Lexington, Ky.: Council of State Government, 1970), p. 38.

illusion as a mechanism to facilitate the resolution of interest disputes."[52]

Arbitration differs from the other two impasse resolution mechanisms in that while mediation and fact-finding are advisory, only arbitration has the force of law. Some jurisdictions require arbitration, while others encourage the use voluntarily. However, one of the pitfalls with arbitration, as well as other mediation techniques, is the overuse of these mechanisms which has the effect of eliminating the true purpose of collective bargaining. John Anderson and Thomas Kochan's study found that in the Canadian Federal Service:

> Over four rounds of bargaining, a definite trend toward making increased use of arbitration was apparent, and this trend was coupled with a low probability of settling without resorting to third-party help after the impasse procedure had been used at least once.[53]

When the parties seek a solution to their problems by resorting to arbitration, at this point both parties have mutually divested themselves of reaching an acceptable solution through the process of mutual discussion. It is at this point that collective bargaining has failed.

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[52]Byran Yaffe and Howard Goldblatt, Fact-finding in Public Employment Disputes in New York State: More Promise Than Illusion (Ithaca, New York: New York State School of Industrial and Labor Relations, Cornell University, 1971), p. 62.

[53]John C. Anderson and Thomas A. Kochan, "Determinants of Bargaining Outcomes," p. 297.

In order to facilitate discussion and prevent this last alternative from becoming established it was found by John Anderson and Thomas Kochan that, "Mediation and conciliation processes were much more effective in obtaining settlements when followed by the right to strike than by arbitration."[54]

Summary

When bargainers meet at the table, they have determined what their constituency desires and have prepared themselves for the other party. They then place themselves in a face-to-face encounter with the other side to negotiate the conditions by which work will be done. They will continually find themselves reassessing their position, continuing to bargain with the other side as well as continuing intraorganizational bargaining until all parties can agree or negotiation breaks down, resulting in default.

There are various styles of bargaining and individual negotiators may be predisposed to one style or another depending upon their own social training and perceptions. Each style has tactics to achieve an agreement. Distributive bargaining utilizes power, integrative bargaining seeks cooperation and mixed bargaining attempts to utilize both.

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[54]Ibid., p. 298.

Outcomes within this bargaining relationship center around an agreement. In reaching an agreement, the parties may reach an impasse situation resulting in the use of impasse resolution mechanisms such as mediation, fact-finding or arbitration. If these fail to resolve the problem, then a strike may occur.

Bargaining, however, is not done in a vacuum and the process which bargainers utilize in their relationship with each other can also affect the level of alienation between employer and employee. Engaging in distributive bargaining utilizing force vis-a-vis each other has a negative connotation, while the mixed style sends differing signals and maintains uncertainty. Therefore, integration, though definitely risky has the potential for decreasing alienation.

Thus the outcome of bargaining must not only take in the short-term strategy of a ratified contract, but must consider the long-term advantage of reduced alienation between employer and employees. Since integrative bargaining has the potential of achieving both goals, then mechanisms to develop an atmosphere conducive to integration should be established. Friendly adjustment requires this atmosphere which is conducive to cooperation and trust.

CHAPTER IV

ACHIEVING FRIENDLY COOPERATION

Socializing Influences

Historically, collective bargaining relationships have been conflictual. Therefore, with this perception, the collective bargaining relationship has often taken a competitive rather than cooperative route. Hidden motives, utilization of force and misinformation have been the norm from the beginning. This is noted by Neil W. Chamberlain:

> When negotiation supplanted imposition of terms . . . the bargaining, or "horse-trading" approach arose. Unions asked for more than they expected to win so that in negotiations compromise would be possible without conceding what was actually sought. Employers did the same . . . they served simply to disguise the true "demands" and one function of the bargaining process became the probing of one party for the actual expectations of the other . . . the resistance point beyond which concessions would not be made without a strike.[1]

This learned activity has reached the status of an art as Neil W. Chamberlain and Donald E. Cullen state:

> The art of distributive bargaining is to probe for (and possibly alter) the true position of

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[1]Neil W. Chamberlain, Collective Bargaining (New York: McGraw Hill Book Company, Inc., 1951), p. 37.

> your opponent while concealing your own for as long as possible.[2]

The opportunity for participants to meet at the table with preconceived ideas is very high especially those views that assume collective bargaining is conflictual and competitive rather than an arena for cooperation. The interactive process at the table, i.e. use of distributive bargaining, has a built in self-reinforcement. This is supported by A.C. Filley who states:

> Practiced behaviors are self-reinforcing. Behavior is a function of its consequences and behaving in a familiar way is generally more confortable than behaving in an unfamiliar way. Given a choice between new behavior which has the possibility of high payoff and practiced behavior that has a guaranteed payoff, people will often choose the latter.[3]

A.C. Filley also notes:

> Power-oriented methods of dominance, submission, and bargaining are learned and practiced in a variety of socializing processes, while problem-solving methods appear to be underlearned as they apply to social interactions.[4]

Brooklyn Derr has made the same assumption and he states:

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[2]Neil W. Chamberlain and Donald E. Cullen, The Labor Sector (2nd ed. New York: McGraw-Hill Book Co., 1971), p. 208.

[3]A.C. Filley, "Some Normative Issues in Conflict Management," California Management Review, XXI (Winter, 1978), 63.

[4]Ibid., p. 63.

> Many people perceive that they can win more by competing than by collaborating, or they do not feel comfortable or skilled at problem solving, while they may feel particularly good, given their social experience at power-play.[5]

However, this contradicts the evidence which supports cooperation. The evidence indicates that cooperative choices provide more satisfaction, are superior and provide both parties with higher payoff. The long term consequences are also better when using a cooperative mode, with an accompanying decrease in alienation. Whereas with a competitive orientation, as G.C. Homans states:

> People who compete with one another are in a position to deprive one another of rewards, and the withdrawal of a reward stimulates the emotional reactions of hostility and aggression.[6]

Thus instead of bringing employer and employees closer together, the result of competition is to increase the gap between employer and employees. This is supported by A.C. Filley in his study in which he notes:

> Competition led to decreased perceived similarity between the positions and an emphasis upon those ways in which the positions differed the most. Cooperation had opposite effects.[7]

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[5]Brooklyn C. Derr, "Managing Organizational Conflict Collaboration, Bargaining and Power Approaches," California Management Review, XXI (Winter, 1978), 79.

[6]G.C. Homans, Social Behavior: Its Elementary Forms, p. 144.

[7]A.C. Filley, "Some Normative Issues," p. 63.

However, social experience is learned and learning can take various forms either through trial and error, patterning after models, or individuals exerting their will in making conscious choices regarding behavior. Thus, in order to develop friendly adjustment within the bargaining arena, education must be encouraged as well as structuring the process towards cooperation. G.C. Homan in his study of human behavior noted that:

> If in the past the occurrence of a particular stimulus-situation has been the occasion on which a man's activity has been rewarded, then the more similar the present stimulus-stituation is to the past one the more likely he is to emit the activity, or some similar activity.[8]

Since competition in the collective bargaining process has been more rewarding and less uncertain than cooperation, then one must minimize the rewards for competition and develop new rewards which support cooperation. Behavior also has the tendency to become fixed and resistant to change. Familiarity provides a comfortable relationship and in order to overcome familiar patterns individuals are faced with costs. In the case of an individual moving from a competitive orientation to a mutual level of cooperation, he is faced with costs of uncertainty and risk. Other costs such as maintaining his viability within his own group,

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[8]G.C. Homans, Social Behavior: Its Elementary Forms (London: Routledge and Kegan Paul, 1961), p. 53.

especially if the membership desires a hard line rather than cooperative, also affects his choices and thus behavior. There is a need for more understanding of the process, especially since the processes of competition are learned to a greater extent than those of cooperation. Thus to overcome the competitive or power oriented methods, one must establish a relationship with the other party which develops trust and is non-threatening to their current power base.

Paul Diesing states:

> A move toward cooperation is particularly risky and difficult to take, because there involves the setting of limits over one's own power, making concessions in hopes of vague future returns, accepting alien ideological principles and consorting with the enemy. Negotiators need considerable internal political security to take these risks.[9]

In order to develop trust, which is a key ingredient of cooperative behavior, one often must begin with small exchanges which can develop trust. D.E. Zand's study suggests that, "Mutual trust or mistrust, among members of a group, are likely to be reinforced, unless there is a marked or disconfirming behavior."[10] An individual who seeks a trusting relationship, exhibits behavior which allows mutuality of influence, encourages

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[9]Paul Diesing, "Bargaining Strategy and Union Management Relationship," Journal of Conflict Resolution, V (December, 1961), 378.

[10]D.E. Zand, "Trust and Managerial Problem Solving," Administrative Science Quarterly, XVII (June, 1972), 238.

self-control, and avoids the abuse of the vulnerability of others. He restrains his own actions in order to resolve problems while reinforcing trust in the other party. This action is not only time consuming but costly. As Peter Blau indicates:

> The most distinctive direct cost in social transactions is the subordination involved in expressing respect or manifesting compliance, that is, in rewarding another with prestige or with power. The most general cost incurred in supplying any social reward is the time required to do so in social associations.[11]

Political and union leaders as well as administrators must be educated to the benefits of cooperation and thus be committed to reestablishing trust with new participants on a continual basis. Paul Diesing indicated that in order to have a good collective bargaining relationship, there must be some minimum level of trust and respect, some shared understanding, and some possibilities of communication. This working relationship requires that management, "signal it's acceptance of the union by refraining from attacking its central power, the loyalty of the union members and the jobs of the union leaders."[12] This is supported by D.E. Zand's study where he found:

> In low-trust groups, interpersonal relationships interfere with and distort perceptions of the problem . . . in contrast, in high-trust groups

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[11]Peter M. Blau, Exchange and Power in Social Life (New York: John Wiley and Sons, Inc., 1964), p. 101.

[12]Paul Diesing, "Bargaining Strategy," p. 371.

> there is less socially generated uncertainty and problems are solved more effectively.[13]

Structural Changes

In order to encourage a relationship based on trust and friendly adjustment, structural changes may be applied to the bargaining process. As S.J. Makielski, Jr. states:

> In general it is felt that the organization will function more effectively if all the members of the organization have an equal opportunity to participate in and contribute to basic organizational policies . . . the contemporary emphasis is on even greater participation in round-table discussions, joint planning between management and workers, constant communication. In addition, the modern management school stresses the creation of a work environment in which all the members of the organization feel they are co-equal workers and members of the organization.[14]

Ronald J. Burke's study found that only confronting or problem solving activities were always positively related to resolving disputes.[15] Efforts should be made to train participants in problem solving methods. Elmore R. Alexander III, found that conflict was reduced when training in the use of Rapoport's "Region of Validity

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[13] D.E. Zand, "Trust and Managerial," p. 238.

[14] S.J. Makielski, Jr., Employee Relations in State and Local Government (Charlottesville, Virginia: University of Virginia, Government and Administrative Research Division, 1971), p. 41.

[15] Ronald J. Burke, "Methods of Resolving Superior-Subordinate Conflict: The Constructive Use of Subordinate Differences and Disagreements," Organizational Behavior and Human Performance, V (July, 1970), p. 41.

Technique (1960)," as well as Gibbs' "Supportive Types of Communication (1961)."

Rapoport's "Region of Validity Technique" has three steps:

1. Conveying to the other party that he had been heard and understood.
2. Delineating the region of validity of the opponent's position.
3. Inviting the other to accompany him through the first two steps.[16]

Gibbs defines communication as either being supportive or defensive, which causes an individual to feel threatened. The following list presents those types of communication which can cause an individual to be defensive or elicit an individual's support.

I. Defensive Communication

1. evaluative
2. controlling
3. strategic
4. neutral
5. superior
6. certainty

II. Supportive Communication

1. descriptive
2. problem oriented
3. spontaneous
4. empathetic
5. equality
6. provisionalism[17]

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[16]Elmore R. Alexander III, "The Reduction of Cognitive Conflict Effects of Various Types of Communication," Journal of Conflict Resolution, XXIII (March, 1979), 123.

[17]Ibid., p. 123.

In Alexander's study he found:

> The main effect of training indicates that dyads which were trained to use the "region of validity technique" and "supportive types of communication" resolved conflict more effectively than untrained dyads.[18]

Attempts to educate leaders and participants of the benefits of cooperation becomes a priority and this can be carried out through various forms. Educational institutions could play a partial role in educating the leaders and the public as well as active State Personnel Boards. State Personnel Boards could take an effective role in this educational realm. They have direct contact with those individuals and agencies engaging in collective bargaining so they could present seminars and workshops to critical leaders representing key areas of interest and encourage them and inform them of the benefits of cooperation. Thus State Personnel Boards can be a positive influence on the bargaining process.

Structural changes to vary bargaining settings may also be beneficial in developing a problem solving orientation. As was presented in Chapter II, the union presents demands and management responds to those demands. This initial contact establishes the agenda and tone of the forthcoming meetings and continues in an act and react manner until an agreement is reached. Thus at

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[18]Ibid., p. 131.

the outset of negotiations, the collective bargaining arena is structured for conflict by focusing on solutions rather than problems. Alan C. Filley has advocated organizing to avoid conflict. He suggests, "that groups should meet together to develop a joint agenda of problems to be discussed rather than meeting separately to prepare separate agendas."[19] By developing a common list of items to be discussed, participants are looking at problems versus solutions and thus when they meet at the table they are in agreement on the problems and thus have established the first step in solving those problems in a cooperative framework. This one small structural change can have tremendous effect on the atmosphere of the rest of the negotiation process, since it sets the tone for the rest of the bargaining sessions.

A data base is essential for competent bargaining: it should consist of basic information on salaries, salary ranges, budgeted positions, unfilled positions, job classifications, comparative statistics to determine the prevailing wage rates for categories from major surrounding communities of comparable size, revenue projections, as well as a list of grievances from the past year. Grievances act as a barometer for assessing the previous contract and give an indication where revision may be

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[19]A.C. Filley, "Some Normative," p. 77.

necessary. A data base may be established and placed into a computer and used as an information system. The system can then be manipulated to take into consideration changes in such areas as wages, fringe benefit increases, etc. Thus one can determine the effect changes may have on an upcoming budget as well as maintain an overall cost projection.

However, Harvey Juris and Peter Feuille found, "little evidence of management seeking innovative solutions to mutual problems, . . ."[20] In order for friendly adjustment to occur, management and labor must develop the skills which will facilitate problem solving which in many cases is contrary to their present methods.

Various innovative methods can be used to bridge the gap between employer and employee. Jean Baron and Frank Cassell advocate the use of ongoing human relations committees:

> Composed of union and company people whose object it is to learn from the parties experiences with the agreement and to jointly develop solutions to be laid on the bargaining table at the termination of the agreement. Also joint technical committees could be utilized in areas of job evaluation and wage incentive administration. The "living document," a contract which can be changed by mutual consent

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[20]Harvey A. Juris and Peter Feuille, Police Unionism: Power and Impact in Public Sector Bargaining (Lexington, Mass.: D.C. Heath and Company, 1973), p. 147.

> at any time during the term of the agreement and as the parties feel the need could be utilized.[21]

These structural mechanisms could allow for a more open cooperative atmosphere and thus there is the possibility of reducing conflict and encouraging mutual problem solving.

In order to help bring behavior of individuals in line with a more cooperative form of bargaining, Alan C. Filley has encouraged the use of laboratory learning techniques known as T-groups or sensitivity training. Within these groups, parties experience the consequences of win-lose and win-win behavior and thus gain the theoretical perspective surrounding their behavior.[22] These groups allow individuals an opportunity to review stereotypes and thus broaden their awareness of themselves and others. Often simulations are useful in determining behavior which individuals may use in a bargaining situation. Thus by determining behavior prior to negotiation one has an opportunity to change one's behavior.

Norm-setting conferences allow group members to consolidate their ideas about future action by discussing

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[21]Frank Hyde Cassell and Jean J. Baron, Collective Bargaining in the Public Sector (Columbus, Ohio: Grid., 1975), p. 22.

[22]A.C. Filley, "Some Normative" p. 77.

their attitudes, reservations, doubts and hopes concerning cooperation with a former adversary. These conferences are useful in establishing rules for groups behavior. Group members commit themselves to standards of behavior, by establishing rules, which will lead to win-win solutions.[23]

Educational institutions can provide expertise in conducting human relation activities and State Personnel Boards could act as information conduits to interested parties. The active involvement by Boards could also help establish and maintain their credibility among the participants. In addition, by exhibiting expertise and an unbiased approach to all parties, it would support their role as an advocate for change.

Third-parties, in some cases, may be involved in changing behavior by observing behavior of both parties and intervening in the process in order to head off damaging consequences of conflictive behavior. This process is called "behavioral science intervention." In such cases a process controller will freeze a situation long enough to focus attention on behavior and to indicate the likely consequences of such behavior.[24] Robert Blake and Jane Mouton advocate the use of "leveling conferences,"

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[23] Ibid.

[24] Ibid.

where members of "warring" groups meet together to explore their attitudes, feelings and previous behavior.[25] Again we have the active participation of a third party encouraging mutual cooperation by focusing on the behavior, which does not support cooperation.

The concept of using a third party as a process facilitator who is concerned mainly with maintaining a cooperative atmosphere and who is involved in the negotiation process from the outset of negotiation and who attempts to point out deviance which seeks to limit cooperation, has never been utilized as far as this author can determine. Usually a third party is brought in at an impasse situation. When this occurs, bilateral collective bargaining has broken down and the third party's main task is to reopen negotiation. The goals and activities of the mediators and fact finders parallel the integrative bargaining process. The critical difference between them and a process facilitator is the time when integrative activities are introduced. Mediators could possibly be transformed so that they could become process facilitators and be used throughout the process not just at the point when an impasse exists. However, one pitfall may occur with the use of third parties. The potentials of problem solving occurring

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[25] Ibid.

in the collective bargaining situation may become subverted due to the expedient use of third parties in order to relieve participants of the responsibility of making decisions. Walter Maggiolo states that this results in "preferring an imposed or endorsed settlement so that the responsibility and onus of decision making is shifted away from themselves."[26] By taking this course of action, negotiators may escape the ire of their superiors or constituency. Thus the negotiation process may become ritualistic and third party intervention, habit forming.

Another mechanism which may encourage cooperation would be the access of interested third parties to the negotiating process. In Richard Schick's and Jean Couturier's study, they found public interest groups seeking access to the bargaining process. These third parties, "were more concerned with the accountability of decision makers rather than becoming decision makers themselves."[27] Thus having outside observers which would disclose the process to the public may have the effect of modifying extreme demands by both parties in order to appeal to public opinion and to present themselves in a more moderate light. Throughout the literature it

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[26]Walter A. Maggiolo, Techniques of Mediation, p. 113.

[27]Richard P. Schick and Jean J. Couturier, The Public Interest in Government Labor Relations (Cambridge, Mass.: Ballinger Pub. Co., 1977), p. 203.

has frequently been advocated that bargaining in a "gold fish bowl" is unacceptable. John Dunlop and James Healy state: "The agreement making process does not thrive with constant publicity at each step."[28] This may be true especially when the mass media becomes involved as was noted in the Philadelphia teacher strike. However, in Richard Schick and Jean Couturier's case study of the Berkeley Teacher's Negotiation, they state:

> The argument sometimes made, that disclosure results in "posturing" was not sustained by the Berkeley negotiations. Posturing is usually done to impress one's own constituency. In public sector bargaining attempts to influence public opinion requires the appearance of "moderation," because the public involved is so much larger that the constituencies of either the public employee unions or of the key legislators or management officials who may be involved in bargaining. Only where the constituency is both jurisdiction wide and has made its preferences known, can elected officials afford to take an extreme position.[29]

Thus in California which has a disclosure law, interest groups may collect and disseminate information. This law at least provides access to the initial positions of the parties, to any subsequent subjects raised, and to the final policy positions, including the contract.[30] If the negotiation process is only open to advisory or

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[28]John Thomas Dunlop and James J. Healy, Collective Bargaining: Principles and Cases (Homewood, Ill.: Richard D. Irwin, Inc., 1955), p. 65.

[29]Schick and Couturier, The Public Interest, p. 211.

[30]Ibid., p. 204

information committees one may escape the "posturing" with the resulting effect of limiting extreme positions. Therefore allowing interest groups access to the bargaining table may encourage more cooperation, openness and moderation on the part of negotiators.

The final intervention point to help establish a cooperative atmosphere and thus help limit alienation rests with the ratified contract and its implementation. The day-to-day implementation of the contract has a bearing on future negotiations. This is the level where cooperation developed between leaders at the table must be transferred to the relationship between workers and front line supervisors. Therefore training is not only advocated for top management and top union officials but it is also necessary for first line supervisors to understand the process and goals since as Richard Carlson and Thomas Sedwick state:

> The first line supervisor is management's number one representative in labor-management relations. The constant problems that arise on the job must be solved on the spot and be corrected according to the contract . . . Because of this, an extensive training program is necessary to ensure that supervisors and other management representatives apply the collective bargaining agreement in a consistent and effective manner.[31]

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[31]Richard J. Carlson and Thomas Sedwick, State Employee Labor Relations (Lexington, Ky.: Council of State Governments, 1977), p. 34.

At this level credibility and trust can be developed. David T. Stanley also supports this training. He indicates that supervisors interact with union members at three points, "where assignments are made and revised, where on-the-job training is given, where promotions may be recommended, discipline enforced, and grievances begun."[32] However, his studies indicated there was no organized training in most organizations.[33]

Summary

The opportunity to impact the external environment, to encourage cooperation within the current structure of public sector bargaining law is limited and risky. However, the ability to encourage "friendly adjustment," at the level of individual negotiators is great. Opportunities exist prior to sitting down at the table through educational opportunities, to establishing an environment at the table supportive of friendly adjustment and after the negotiations at the table have been concluded continuing the process of cooperation throughout the life of the contract. Utilization of integrative bargaining, enhanced by active third party participation through

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[32]David T. Stanley and Carole L. Cooper-assisting, Managing Local Government Under Union Pressure (Washington, D.C.: The Brookings Institute, 1972), p. 29.

[33]Ibid.

process facilitators to human relation activities all have the same goal: cooperation vs. conflict.

CHAPTER V

SUMMARY AND CONCLUSIONS

The external factors of the legal, political and economic environments are often complex, difficult, and risky to adjust. Recommendations to directly attempt to change the structure in order to facilitate friendly adjustment such as eliminating a "Managements Rights Clause" and/or placing limits on bargaining to coincide with budgetary preparations was deemed only appropriate if both parties have agreed beforehand and jointly attempt these changes. It was noted that the cost of attempting these type of actions unilaterally could increase the current levels of alienation whereas the goal is to reduce these levels. Thus attempts to change the external environments in order to stimulate friendly adjustment did not have as much potential as attempting to change the internal factors.

Internal changes that have been recommended focus primarily on changing perceptions of participants through educational institutions and an even more active role of State Personnel Boards. Traditionally State Personnel Boards have provided an active role mainly through the use of mediators and fact finders.

The ability of these fact finders and mediators to develop cooperation among parties rests mainly with developing trust and confidence in their abilities as well as maintaining a role of impartiality and justice. Their ability to structure the negotiation process in a manner in which neither party loses face is also necessary. The development of communication as well as human relation skills is imperative for effective mediators and fact finders. Also important is the ability to use judicious timing if necessary, when it comes to applying pressure, such as has been granted fact finders in the publication of their findings.

Third parties, especially fact finders were found to be effective in resolving impasses. However, a pitfall was noted that overuse of these third parties could eliminate the true intent of collective bargaining between the two primary participants. Thus the third party takes on the role of a convenient excuse as negotiators consign the outcome of the collective bargaining process to the efforts of the third party. This reduces the impact of having to take the responsibility for the outcomes of a negotiation.

Whether or not feelings of alienation or friendly adjustment occur when third parties intervene is another issue altogether. There was no evidence in the literature regarding whether their intervention had reduced feelings

of alienation. This would definitely be an area for further research.

The participants themselves have the choice of friendly adjustment or conflict. However, friendly adjustment is "riskier" since it requires openness and trust. As has been stated previously, the risk occurs if both parties are not committed to friendly adjustment. If for example, one party commits itself to sharing information in order to increase their total resources and the other party does like wise in a friendly manner there occurs a point in the negotiation where the parties must distribute the resources. At this point, either of the parties may attempt to capitalize by switching to a competitive orientation in order to increase its share of the resources and thus taking a greater share of the resources and taking away the advantages the other party gained by being open.

The literature leans toward the view that negotiation is conflictual. Factors such as peer pressure, sòcial orientation, individual ego, historical precedents, risk and uncertainty of the process tend to move negotiations to a more competitive or adversarial relationship. In contrast to this, evidence also indicates that people may effectively cooperate if trained in the techniques. Therefore those who believe the behaviors associated with collective bargaining are

inherently conflictual are probably perpetuating a self-fulfilling prophecy.

Activities associated with distributive bargaining and those associated with integrative bargaining are at odds with each other and the perceptions that each style generates are difficult to reconcile. Bargaining is not easily divided into neat packages and the effects in one area are not easily ignored in other situations. Therefore it is much easier to maintain one type of orientation. The switching back and forth would cause the other party to be very wary of any actions of the other. It seems that a mood of hypocrisy would arise out of the mixed situation. Thus the mixed or distributive choices can not adequately address the feelings of alienation between the employer and employees. By engaging in integrative activities, not only should alienation be reduced but interorganizational studies indicate that cooperators are more effective at finding superior solutions to problems.

Integration as has been stated previously is risky, but the rewards for both parties are incalculable; greater productivity on the part of the organization as well as greater fulfillment on the part of employees. The self-fulfilling prophecy that supports a competitive and detrimental atmosphere can be overcome through active understanding of the process, with intensive training

which develops methods and attitudes supportive of friendly adjustment within the collective bargaining arena. This process is not immediate, it takes time for trust to be built up and for old perceptions to change. In order to facilitate this process, a process facilitator may be utilized as well as simulations, norm conferences, T-groups, etc.

Opening up the table to outside observers could also contribute to developing a more cooperative atmosphere. Their presence would engender a leveling influence.

At last, this training must not stop at the top or in the middle but must reach through all levels of public sector bargaining even down to first line supervisors in order to establish a total atmosphere of "friendly adjustment."

Future Studies

The establishment of criteria, based on the activities of bargainers, whether integrative or distributive, in function should be developed. Through observation, bargaining activity could be categorized as either integrative or distributive. Direct observation of the collective bargaining participants to determine whether their conduct supports friendly adjustment or detracts from it would be helpful in deciding what activities may be engaged in to develop cooperation. In

addition, a correlation between bargaining activity and feelings of alienation between workers and employers would be an interesting area to pursue. If the studies show that friendly adjustment is not occurring and that the levels of alienation are high, then those activities which can encourage friendly adjustment may be instituted and their effectiveness monitored. This effectiveness can be correlated to the decrease or increase in the levels of alienation between workers and employers as well as the decrease or increase in productivity.

Further research may be conducted on the effectiveness of third party intervention to determine their effect on the levels of alienation between worker and employer.

As Jeffrey W. Eiseman states:

> Not only is it possible to resolve deeply entrenched recurring conflict collaboratively, but I believe, the more that such conflicts restrict productivity and satisfaction, the benefits of resolving them collaboratively justify the cost.[1]

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[1]Jeffrey W. Eiseman, "A Third Party Consultation Model for Resolving Conflicts Collaboratively," Journal of Applied Behavioral Science, XIII (July-September, 1977), 303.

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