



Transcript: Welcome

Suppose your employer assigns you to work in human resources or employee relations in a workplace where the workers are represented by a union or some other entity like a works council. You're going to be confronted with a series of labor relations challenges. It could be an organizing campaign, there might be bargaining going on. Perhaps even a strike. There'll certainly be lots of day to day grievances and conflicts in the workplace that you're going to have to deal with if you're going to be effectively working and representing your organization in this workplace. I'm Alex Colvin.

>> And I'm Harry Katz. In this course there'll be video sessions in which key concepts will be conveyed. But then you'll take those concepts and you'll apply them through an assignment and other exercises to the realities that you face in your own workplace. And then you'll hear from some leading experts, experts that have been bargaining at the table, organizing, involved in campaigns where unions are trying to represent workers or managers are trying to resist that organizing. And then you'll also hear from experts who've been involved in settling complaints, grievances, and other disputes. So let's get started.

Transcript: How Are Unions Organized?

How are unions formed? Well, one of the first things to understand is that union formation occurs differently in the US and Canada from how it occurs in the rest of the world. So let's start thinking about the US and Canada, what happens in those countries. Well, unions usually gain representation rights by winning a majority vote of the workers in the workplace. To get that vote though, in the US the union first of all has to gain authorization card signatures where the workers say that they want the union to represent them. They have to get 30% of the workers to sign those authorization cards. Once that happens, the National Labor Relations Board then conducts a





representation election where the workers vote by secret ballot and if a majority of them support the union, the union has the right to represent all the workers in that workplace. The law also does allow what we call "voluntary recognition" where the employer chooses to recognize the union usually based on the results of checking the cards and seeing if a majority of the workers are supporting the unions. Now, you might wonder, why would management voluntarily recognize the union rather than going through an election that might defeat the union organizing drive. Well, in partially unionized firms it's often the case that management wants to keep a good relationship with the union or even get something in support, in return for recognizing the union. Giving that voluntary recognition to a union that already has the support is often a good way to do that. Another thing that's important to understand is that in the US and Canada there's what we call "exclusive representation". That means one union represents all the workers in a particular unit. And that can be either organized by craft or by industry. A craft unit would be where we have one union for the electricians, say, and another union for the carpenters. We often find these in construction work sites. We also have industrial units where all the workers who work in one factory or facility or the workplace are part of the same union. Next thing to understand about unions is that they can be organized at different levels. So in the US and Canada we tend to have local unions, these play a key role in things like processing grievances in the workplace. We also have national unions that include the local unions from across the whole country, and then we have what we call "national union federations" that group together all the unions in the country. Another thing that's important to understand is that generally the supervisors are not part of the bargain unit. The reason is, they're not protected by labor law in the US and Canada and as a result they rarely unionize. Now once the workers do organize the employees will pay dues to their local union which helps support that key role in grievance processing. Meanwhile, up at the national union level they are busy dealing with issues like major strikes, they'll often be where there's a union strike fund to help prepare the union in case there is a strike, and then finally up at that national union federation level they're mainly focused on things like political lobbying. Now, what I've told you about so far is what goes on in the US and Canada. When we move elsewhere to Europe and Asia, other countries, union organizing works differently. We don't usually find representation elections like we do in North America. Instead, unions form when the employees declare an interest in supporting a union. In fact, there can even be workers interested in supporting several different unions in the same workplace and we see those several different unions all representing employees of that same firm. These





different unions may be organized based on different ideologies or political or religious affiliations and there's a more complex structure which we call "multiple unionism" that the employer has to deal with. Another difference that we find when we go over to Europe is that unions often have sectoral bodies representing workers at different firms across an industry or industrial sector and these unions at the sectoral level will bargain with employer federations which are organizations representing a lot of different employers in the same industry. We even find something called "legal extension" where the collective bargaining agreement that's been negotiated between the employer federation and the union is then extended and applied to firms in that industry that may not have any union members. So we might see a non-union company in Europe, no union members in the workplace, but still subject to the collective bargaining agreement that's been negotiated between the union and the employer federation. Meanwhile, we see different types of union organization in other parts of the world. For example, in Asia, for example, in Japan, we often see what we call "enterprise unions" where a union will be associated with a particular company. So, there might be a Honda union in Japan, or a Toyota union, representing workers at that particular company rather than a union that reaches across the whole industry. So around the world, we see various different structures for union representation and formation.

Transcript: Forms of Collective Representation

What forms of collective representation of employees do we find? The most obvious one is unions. What we think of as traditional employee representatives. In the United States, that might be unions like the United Auto Workers or the Teamsters. In Germany, they're Metalworkers' Union E.D. Mittal or Unite, the union in the United Kingdom. These organizations label themselves as unions, they bargain on behalf of members, they act like traditional unions. But what is a union? It's essentially a collection of workers who organize together in some kind of association to represent their interests. So we get organizations that don't call themselves unions in the label in their name, but really are unions.

Professional associations often overlap with unions in many ways. Indeed, some professional associations, over time, have become unions in and of themselves. Best example in the United States is the National Education Association. Currently the largest union in the United States that represents teachers both in their professional interests, but also bargains on behalf of teachers as well.

We see other types of collective representation of workers, particularly around the world in different countries. One of the best known examples in Europe are Works Councils.





Works Councils are groups of representatives elected by workers. These Works Councils generally are sized, based on the number of employees in the organization. So, the larger the organization, the larger the Works Councils. These Works Councils have rights, co-determination rights, to jointly make decisions about work and employment matters along with management. They were set up to be separate from unions, and in theory that's still how they work. But in practice, unions often run candidates to be members of the Works Councils. In fact, a lot of research shows that Works Councils are some of the key structures through which unions are represented in the work place in Germany and many other European countries.

Nowadays, there are also other kinds of representation at a broader level, at the European level. The European Union has setup a system of European Works Councils in multinational corporations that operate in two or more European countries. Now, they don't have all the same co-determination rights that a German Works Council might have, but they do have rights to information, consultation in dealing with the company.

We also see in some countries elected employee representatives. Indeed, in countries like France, we find unions competing to elect their representatives to be the employee representatives in workplaces.

We go around the world, we see a range of different types of collective representation of employees. And depending on what type of organization, what country you're based in, you may find yourself dealing with a range of different employee representatives.

Transcript: What is a Collective Bargaining Agreement?

Collective bargaining agreements are legally enforceable contracts that set the terms of wages and other employment conditions. Often you have linkages between a plant level collective bargaining agreement and a company agreement, and in some cases, a multi-company or industry-wide agreement.

So let me give you an example. In United States, in the auto industry, the main agreement is the company agreement. General Motors agreement covering all of General Motors plants, negotiated with the UAW representing all the auto workers in those General Motor's plants. But in addition to that company agreement, there are plant agreements at each one of the plants. At each of the assembly plants or the part manufacturing plants within GM. There's a plant agreement that supplements, or compliments, that company level agreement. Now, in the agreements in the United States and Canada. You'll see common stipulation for wages and fringe benefits. The fringe benefits will include pensions, or healthcare benefits. There often are procedures set out regarding the grievance procedure that guides the resolution of complaints. And there often are rules in those contracts stipulating how seniority layoffs will occur. And





then down at the plant level, the local agreement will have lots of detailed rules, regarding work rules and management rights.

Now I've read company agreements in auto or telecommunications that are often 100 pages or more. And local agreements that aren't quite as long as that, but are pretty detailed, with let's say more than a 100 different classifications for a particular plan.

Now the grievance procedure that's found in most collective bargaining agreements in Canada and the US, that's used to settle disputes that arise during the life, during the term of the contract. So, for example, if an employee is disciplined, they may disagree and think they didn't do anything wrong, and they don't deserve any discipline and file a grievance, a complaint, over that discipline. Or they may agree that they did something wrong, but they disagree with the penalty, and they file a complaint in order to get a lesser penalty. And often there are different steps to the grievance procedure and the final step is binding arbitration. A third party comes in and settles the dispute. Now in exchange, for the grievance procedure, you could be asking yourself, why would you ever agree to a grievance procedure that restricts your rights as managers. Well what management gets from the grievance procedure is that it often comes typically with a pledge and a strict clause saying there can't be a wildcat strike. There can't be a strike during the term of the agreement. So management gets stability in exchange for the grievance procedure.

Now in Europe and other countries, collective negotiations typically occur at the sectoral or industry level. At the banking sector or chemical sector, as they do in Germany, or in a public sector. And that sectoral agreement will set the terms regarding wage increases and a framework for working hours. At the same time, those sectoral agreements are supplemented or complemented by establishment or plant level works agreements. Now keep in mind there's an important distinction between what goes on in Europe, and the kind of plant level bargaining that occurs in the US and Canada. In Europe, those works agreements are negotiated between management and Work Councils, not by the union. The Works Councils are elected employee representatives. They're the ones who negotiate the works agreements in Europe. Very different from the US. Those works agreements in Europe and in other parts of the world, they'll provide weighed supplements, or they'll address pay administration, or they'll address a host of other human resource issues. And there'll be legal requirements regarding the human resource issues that have to be addressed in those works agreement.

Now in Europe there's not commonly a grievance procedure, or even in Asia or Latin America as well, because the governments in those countries, in those regions, they provide labor courts to settle individual disputes. So if you as an employee get disciplined or get asked to change your work or you're affected by technological change, and you think you've been treated unfairly in Europe, Asia, or Africa, or Latin America. You make your case at a labor court. A government appointed labor court. You don't write a written grievance as you would in the US or Canada, and also in Europe, another distinction that exists in contrast to what occurs in the U.S. and Canada, this is





also true in Asia, Latin America, and other parts of the world. It is in those countries, the fringe benefits that would normally appear in a collective bargaining agreement in the U.S. and Canada. Those are provided by the government. So, governments provide pensions, and they provide healthcare. And those items don't appear in collective bargaining agreements in Europe, Asia, and Africa.

Transcript: How is Management Organized for Labor Relations?

How's management organized for dealing with labor relations? On the management side there isn't just one group of people dealing with labor relations, but a series of different components of management, all of which have their own roles of dealing with labor relations. I'll talk about three different groups.

We'll start with senior corporate management. The upper levels of the organization. The people whose responsibility it is to set the overall strategy for the company. Now that can often be in the business strategy area, what we're going to sell, how we're going to produce, but also where we're located, where the facilities are, and overall, what's going to be our relationship with employees? What's our relationship with unions, going to be like? Nowadays that senior corporate management level can often be international in scope. Many organizations are multi-national. Even here in Ithaca, New York, where Cornell is located, our local power company is actually owned by a Spanish multinational corporation that's in the power of business. Those Spanish multi-national corporate managers have to deal with local American managers and personnel in dealing with labor relations here in the United States. And that's an increasingly common thing we've found in organizations.

Now the second group of management we want to think about are line management. Lower level management in the organization, directly manages the workforce, at the plant or factory level and has the responsibility for production, making things go in the organization. They're going to work closely with our third group on the management side, the industrial relations or human resources professionals. They have various names, depending on the organization. Non-union organization, often called human resource or personnel, and unionized work places, sometimes called labor relation staff or industrialization staff. Their job is to deal with administering the personnel policies of the organization, administering the contract that's being negotiated with the union, and sometimes negotiating that contract with the union.

Now on the management side, there's also other actors outside of the organization who are important to understand. Outside of the US, particularly in Europe, there are many employers' associations that have very important roles. Many European countries, it's actually the employer association, which represents a group of employers which engages in bargaining with the union, often at the industry or national level. These





employer's associations also provide research and legal representation services to the companies that are members of the association. In the US these are less important. There are employers' associations, but they're mostly concerning themselves with things law being, public policy, issues at a higher level, but not actually with bargaining. The one real exception is, there are a few associations and particularly industries, such as construction, where they do the direct bargaining with the construction unions. Now, as well, employment associations, there are also other actors outside the organization like labor lawyers. Professional labor lawyers are important actors who often do bargaining, dealing with arbitration cases in the United States. And so are important allies of management, allies of the company, in dealing with labor relations. And then lastly on the management side we also have many consultants. Management consultants with specialized expertise in different aspects of labor relations, or personnel management who come and help the organization with specific, complex tasks. All of these are important actors on the management side, and one of the challenges is often to work together with different actors, both within and outside the company to produce an effective outcome for the organization.

Transcript: Dan McCray Compares Public and Private Sectors

How does the political environment affect labor relations in the public sector compared with the private sector?

It's very different, because local government, state government, doesn't really affect the private sector that much. The National Labor Relations Act governs private sector labor relations. But in state governments and state laws you have Civil Service rules. You have layoff rules. You have rules on pensions, even on healthcare. Stuff that would normally be negotiated in the private sector is governed by statute. And if you want to change it, you've got to go there and depending upon what the political environment is, you might have a very pro-union legislature government. Which they're going to pass things or keep things that the union wants, and in other situations you have less friendly union, less friendly to union government that's going to legislate some of these things. In my experience, for example, the D.C. government. The congress can legislate directly in the District of Columbia and pass lots of laws that I was very surprised to see, that was very favorable to management. In New York State Mayor Bloomberg at one time wanted to change the layoff rules. So instead of negotiating with the union you had to go to Albany, was not successful. That wouldn't happen in the private sector, you would have negotiations.

How does the role of a supervisor differ in relation to unions in the public sector and the private sector?





So in the private sector, supervisors can't be part of unions. In public sector, they can, and are. You have unionized police captains and sergeants and lieutenants, unionized school principals, you have, even in some places, director level positions within government that are unionized. Now, you can think of reasons why management would want to exclude supervisors, and they were excluded in the National Labor Relations Act in the private sector because they wanted them to be aligned with management. One of the positive things that I've seen in unionized supervisors is, particularly in this day and age with tight budgets and the tight economy, there's more stability. In the private sector, I've seen supervisors complain about how they could make more money if they had just stayed as a line worker. They have the management pension, they have the management healthcare, and they have management benefits which aren't as favorable. It can promote resentment. In the private sector, in the public sector you usually have pattern bargaining and so the supervisors and wages go up with the line workers' wages and you don't have that conflict and that tension.

How does the sharing of managerial authority among multiple parties in the public sector affect collective bargaining?

Yes, so for example, if you want a contract at work to non-unionize people. In a private sector you might have to negotiate it, you might have a contract clause. Once you get the union's agreement or maybe you already have a nice contractual clause that allows you to do it. You're done. In the public sector, sometimes you've got to get the legislature to approve the contract. So if the union has unfavorable language it can go and say, look, we could do this work, it's too expensive why don't we do it? And they can get the legislature to stop it. The example I gave before about layoffs. The mayor wanted to change the layoff rules. The governor and legislature didn't want to. End of discussion. So it's a very different dynamic. It's much more, obviously, political than in the private sector.

What differences have you seen in the relationship between management and union leaders in the public sector?

So in the private sector, it's more common although it's not always true, that senior leadership isn't really that involved in the union. There a few unionized facilities, maybe some people came up in non-unionized facilities. I deal with HR people in my work at Cornell University, who are learning labor relations for the first time, having worked their whole career in a non-unionized environment. They don't know any union people. In the public sector, you tend to have more stable relationships over several decades. You don't have unionization drives that you beat. Like, everyone's unionized. You're not really thinking that much about organizing and preventing them from organizing. These are relationships that have been going on for a long time. It's unusual that the county executive wouldn't know who the head of the PBA is. Or if there was an issue, wouldn't pick up the phone and call them. There might be bad relationships. There might be acrimonious relationships. Or they might be positive, but they have them. Whereas, in the private sector, it's more common that you would have senior level management





people that hadn't ever really dealt with unions or even have a relationship with the unions that work somewhere in their organization.

Transcript: Analyzing the Workplace Labor Relations System

When we look at work place labor relations, it's important to understand that things happen as a system in the work place. This interconnection between the different elements that are going on in the workplace. I want to talk about three different elements that connect together in the work place to affect how well the work place labor relations system is working.

First of these is the work organization and participatory processes in that workplace. So think about the questions of how do you organize the work here? Is it a traditional assembly line type of operation? Are the workers working very autonomously? How do workers participate in decision making in the workplace? Do you have self - managed teams in this workplace? Do you have participation circles to focus on quality or other issues? How does this workplace organize doing the work and participation by employees? That's the first part of the system.

Then secondly, we want to think about conflict management in this workplace. When problems arise, how were they solved? As the manager in this workplace, how do you respond to employee concerns? Dealing with conflict and providing employees with fair treatment is the second crucial part of workplace labor relations that we want to worry about in this system.

Then the third part is the attitudes and behaviors of employees in the workplace. How do they feel about the state of labor relations in this workplace? Are they highly motivated? Are they discouraged? Are they discontented? All of these things are tied together in the workplace labor relations system. Depending on how much participation there is, how the work is organized, you'll find different types of conflict arising in the workplace. And that, in turn, will affect the attitudes and behavior of the employees you're managing. Depending on the attitudes and behavior of the employees, that will then influence back into how effectively they're participating and contributing to the success of the organization. What are the key outcomes here that we're going to see this workplace labor relations system affecting? One is organizational performance. We know from research that if you have an effective workplace labor relations system where there's good work organization and participation, that's going to have a positive effect on conflict in the workplace. Effective management of any conflict that does arise, and it's going to produce positive attitudes and good behavior from the employees. That's going to produce good organizational performance, high productivity, and high quality matrix. At the same time, this can also effect employee realization of their own goals. It's important to always remember that employee outcomes are something you





need to be aware of as well, if you're going to maintain positive attitudes and behavior in the workplace. Employees have goals of an enjoyable, satisfying work experience that's fulfilling in being able to be effective employees, contributing to the success of the organization. All of this is part of the outcomes of a well - functioning workplace labor relation system.

Transcript: Indicators of Good and Bad Labor Relations

What indicators can we use to figure out how well we're doing in the labor relations world? Some of the indicators that are important to understand in the workplace are things that indicate what the employee attitudes are about their work experience. Couple of the basic ones that are applicable in a lot of work places are quick rates and absenteeism rates. How many workers quit each year. And it's important here to focus particularly on voluntary quits. Workers who aren't fired, or laid off, or retired, but voluntarily choose to leave the organization. Because that represents a voluntary decision by the employee. So a judgment they're making on the relative attractiveness of this work, with this company, compared to alternatives. Absenteeism can also be a really important indicator of employee satisfaction or attitudes about their employment experience. If we see absenteeism going up that may suggest worker discontent, unhappiness with the work experience. So quit rates and absenteeism rates are important indicators in many work places.

A particularly important indicator in unionized workplaces is the grievance rate. How many grievances are being filed in this organization? Common way to calculate this is to count up how many grievances you have each year from your workers, who are represented by the union. Calculate an annual rate per hundred employees. So if you had 1,000 grievances in a year and you have 500 employees well that's two grievances per employee or 200 per 100 employees over the course of a year. That would be a pretty high grievance rate if you had something like that. If you had a grievance rate of maybe ten, five or ten grievances per 100 employees. That'd be pretty typical in an American unionized workplace. Lower grievance rates suggest relatively positive labor relations. But if you start to see grievance rates going up, that's a really good indicator that you may have a lot of discontent in your workplace. The extreme version of this, an organization I once looked at, had about 60 thousand employees, a public organization. And they had, each year, around 600 thousand grievances. So each employee filing about ten grievances per year. You can well imagine, that's a pretty discontented organization. If you see a lot of grievances you want to be concerned about what's going on in labor relations in your workplace.

Another good indicator of how well labor relations have been going in the workplace is whether you've had a history of strikes in the organization. A lot of strikes can be a strong indicator of pretty conflictual labor relations, really deep seated problems in the organization, in the relationship with the union. You see some major companies that





have historically had quite high strike rates, regular strike rates every few years. You see an organization even as successful as Boeing, one of the two major commercial airline manufacturers in the world. Those had a pretty strong history of regular strikes involving its work force. That can be a real signal to management, that there's some major problems in labor relations. So think about that question. When was the most recent strike in this organization? How many strikes has this organization had over the last ten years, over the last 20 years? Are you finding it a regular part of labor relations in this work place?

The more ongoing day to day indicator of how labor relations is doing can be obtained by using employee engagement or climate surveys. Surveying employees to find out what their attitudes are about the workplace. That can be an effective targeted tool to ask questions about how the employees feel about what's going on in the organization. You do have to be careful though because employees may not always be as forthcoming as you like, about how they are feeling. And we certainly know that if you ask people how they feel about their jobs, there is a tendency of people to say, oh good, even if they don't really feel that it's actually that good. Because they want to feel positive about their own life and their own job. That's why it's important to include objective measures as well. Somebody who says their job is good, but they're absent from work a lot, may not actually feel so positive about what's going on in their workplaces.

Lastly, it's important to also remember that our measures of how the organization is doing, productivity, quality of production, and those things are important for labor relations as well. We want good labor relations because that's going to improve productivity and quality for the organization. So if productivity's down, quality is down, that can often indicate problems in labor relations. You want to focus on those measures as well.

Transcript: Different Management Approaches to Union Organizing

Management's approach to the potential unionization of a previously unorganized work force is going to vary depending on a number of a criteria. In particular in the United States, management's approach is going to vary across a spectrum. On the one side of that spectrum is hostile union avoidance. But on the other extreme of that spectrum, is acceptance of unionization. Whereas in the middle of that spectrum is neutrality. As management thinking though whether they should be engaged in hostile avoidance or neutrality or acceptance. They think about the benefits and costs of unionization.

Now the costs of unionization include wages, and fringe benefits. They have to worry about the possibility of strikes and the costs associated with those. There's costs to negotiating and administering a contract. And also management worries about the





potential restrictive nature of work rules. That's another cost that they have to think about. If they think those costs are really high (wage costs or work rule costs or strike costs), then they're more likely to be on that aggressive union avoidance spectrum. If they think those costs are low, they're more likely to shift toward neutrality or even potentially towards acceptance. Now there also are potential benefits that may lead management to move more towards the acceptance side or at least neutrality.

Unionization can bring stability and predictability. There can be a reduction in conflicts. Another benefit might be that the firm may get community support if they accept the union. Especially if that community happens to be in a pro union, a union town. The opposite could also exist though. The community, other businesses in that community, may be adamantly anti - union, and that's going to drive the firm more towards the avoidance spectrum rather than towards acceptance.

But also a potential benefit unions may bring is that they may help lobby governments, for favorable tax or trade benefits, and that could help the firm. It may again convince the firm to shift more towards neutrality or acceptance. Unions may also be supportive these days. Commonly an issue that arises is flexibility at the workplace, flexible work rules, and team oriented work practices. Management may also be thinking about the influence of the campaign, a potential campaign regarding unionization on the morale of the workforce. If the union is going to win the election anyway, let's say, or is very likely to win almost no matter what management does just because the workers are really strongly in favor of it, then management may say look they don't want to oppose unionization because they worry that'll generate, kind of, ill will and a lack of morale. On the other hand, if the firm looks out there and thinks that the union's likely to lose the election, they may decide they don't have to aggressively oppose the union. They don't have to spend the money and time because they're going to win anyway.

The firm is also going to be influenced by the union status of its competitors. If those competitors face higher union cost, than the firm may say, look they're less interested in spending all the efforts to oppose the union. But if they are going to be the only firm in their sector or industry that gets unionized, that's going to drive them again more towards the avoidance side. Ideology may also matter. Managers may have an ideology in which they're just personally, adamantly opposed to unionization. That will also drive them towards avoidance, but the opposite could be the case. Some managers either because they come from union families or for other reasons are more sympathetic to unionization and that'll move them more towards neutrality or acceptance.

Outside the United States, in Europe for example and Latin America, management generally doesn't get involved in union formation and doesn't resist unionization. Or at least that's the case in medium and larger firms. In smaller firms In Europe and Latin America, and even Asia these days, you will see the kind of spectrum of strategies that we talked about with regard to the United States. And as well, in other parts of the world, we've begun to seen in recent years more union opposition as union strength has declined and international competition has intensified. Firms then are worrying more in





recent years about the costs of unionization. And also they're more likely to feel that they can win and avoid unions, and that's led them to more opposition.

Transcript: How Labor Relations Affect Performance

One could ask whether unions are good or bad for companies. And to evaluate that question, you have to consider the cost of unionization as well as the potential benefits that unionization could bring to a firm. So what are some of those costs?

Well, the costs could be the wage and fringe benefit increases that collective bargaining brings. That the unionization, through the strike threat and other pressures that unions bring, force the firm to agree to higher wages than they would otherwise pay. The research evidence shows that wages are generally 20% higher in union firms than they are in unorganized firms. And fringe benefits are even greater in union firms, more than that 20% figure, compared to the benefits that exist where unions are absent.

In addition, another cost that unionization can bring is a result of all the job classifications that commonly exist in collective bargaining agreements. I've analyzed agreements in the auto industry and other manufacturing settings and I've seen cases where there's over 120 separate job classifications in a collective bargaining agreement for a single plan. Well that number of classifications has cost because it reduces the flexibility the firm has. It makes it harder to replace people, to train people, to fill in for absent employees. Collective bargaining agreements in the United States and Canada also commonly require that there are layoff and promotion procedures that are guided by seniority rights. There are seniority rules so the least senior worker is the first worker that has to get laid off, or to have a promotion. It goes to the more senior worker unless there is really extreme demonstration of greater ability by the more junior employee. That's a common seniority clause I've seen. But the firm would prefer to have more flexibility to be able to directly decide whether one worker has more ability than another and make either lay off, promotion and other personnel decisions based on ability and not by seniority.

And also another cost that unionization can bring involves the costly strikes that might arise in negotiations. Or the direct cause of time and effort it takes to negotiate, or because of other problems and delays that the grievance procedure may involve great delay in settling a discipline or some other action that the firms take.

At the same time, in addition to those costs, there is potential positive benefits that unionization can bring. Unionization can bring stability and predictability over the life of the collective bargaining agreement. The firms going to know exactly what's going to happen to wage and other benefit cost. Unionization can also bring a better smoothing of conflict, an improvement in employee morale. Now, management often kind of assumes that in the absence of a union, if they didn't have unions, there wouldn't be any





conflict. But that's a naive view. I've been into many non-union workplaces, and so have you, and you know there's lots of conflict, even where there aren't unions.

In addition, unionization can enhance communication. Unions can help facilitate change. We've seen a number of examples in recent years where unions have become the promoters of new teams systems of work or more performance based pay. And that can have positive effects on the firm.

The net effect of all these different costs and benefits is it really depends on the state of the labor-management relationship. Where labor and management are getting along, where they can solve problems, where they can respond together to changes, where they can communicate more with the workforce about what's happening inside the enterprise, then the labor-management relationship can bring positive gains to productivity and firm performance. But the opposite can also occur, where there's constant conflict, where there's adversarial-ism, where there's rigidities and inflexibility. Then unionization can be part of a labor management relationship that really damages firm performance.

Transcript: What Do Employees Want?

So what do employees want, and how do their wants influence their view towards unions and management? There's four key factors that influence employees. They care about pay, fair pay. They care about due process. They care about job security and they care about involvement in workplace decisions. Those four factors all influence employee wants and their attitudes towards unions. Let's talk a little bit more about each of those factors.

So pay. What matters to employees? Just think about yourself. What do you care about with regard to your pay? You care about how your peers are paid, about how peers in other firms in your industry or in your community. You care about the cost of living and how that's influencing pay. You also care about pensions and healthcare and other benefits. Keeping in mind in Europe and other countries outside the US and Canada, those benefits are often provided by governments.

Now with regard to due process and your treatment on the job, you care a lot about how your supervisor treats you. Just think about your own experience. I am sure you have had sometimes in your work life, really good supervisors that explain what they are doing and why. Whereas you have also probably experienced supervisors that do not tell you why they are telling you to do something or why they are complaining about your work performance. And as part of your treatment, you also care about due process, how any complaints are handled, and how they're resolved.





You also care about job security, especially given the turbulence and uncertainty that's now surfacing in the economy. Job security really matters. Workers typically feel that they've earned some protection from layoffs due to their seniority. And that shows itself in the kind of agreements that are negotiated in the United States and Canada, where there often are explicit seniority rules about who's going to get laid off first.

And employees often then also care about decision making. They want a say in the decisions that affect their lives. Although the experiences, and you've probably seen this, some employees care a lot about broad decisions, whereas other employees are narrower. Some of the times they just want to go to work and do their thing and they don't necessarily want to think about broader issues facing the firm.

Now, during a union organizing drive. What often happens is that leaders will emerge from within the ranks of employees. Some leaders are just particularly charismatic. Or they have work that leads them to walk around the plant, and be exposed to many employees, so they understand what employees want. And as well during campaigns you'll often see some employee groups that are opposed to unions to form. And they'll become central players during an organizing drive. Now in addition what also matters to employees during those organizing drives is peer pressure will matter. The personal ideology. Some people just hate unions. Some people come from a family experience where unions were really important in their family. And that'll lead them to favor unions.

So those three factors will also matter. Now keep in mind in Europe and many other parts of the world. Multiple unions can represent employees of a particular skill type. And those unions can be based either on politics, or on religious views. So, you can have multiple unions competing for the loyalty and support of employees. Whereas in the United States and Canada, they have the principle of exclusive jurisdiction. Only a single union can represent employees of a particular skill type.

Transcript: Ask the Expert: Paul Wagner Talks about Management and Unions

What issues do unions typically focus on during organizing campaigns, and how can management respond effectively?

Unions successfully address really three issues in campaigns here in the United States. By far the most important or the most effective issue is a lack of respect or dignity, or perceived lack of leadership in management. And so the unions will find that weak point or that soft spot of an issue of unfairness, like a termination, or an issue of sexual harassment by a manager. Something that shows that management has acted arbitrarily or capriciously or unfairly, and exploit that. Rarely will a union successfully organize just on the basis of either wages or benefits or even a combination of the two.





Those things come into play, but they rarely are enough to stimulate an internal organizing campaign. It's really the perceived lack of leadership and some lack of respect or dignity by management. Secondly they focus on the at will employment rule in the United States. They focus on the fact that employers may fire an employee for a good reason, a bad reason, or no reason at all. And so anything management can do either formally, such as doing away with the at-will rule and entering into specific contracts with his employees or at least showing that in practice, the employer does not act arbitrary, capriciously firing people at-will. That would counteract that. But it's a very effective tool by the union to say, we're going to negotiate for just cause termination. It's a significant card on the table. And then third, I think today in America, the big conversation in most work force meeting rooms or organizing rooms or lunchrooms is health insurance. It's a very costly item. Here in the United States, we've struggled nationally and even on a state-wide basis in getting effective affordable healthcare to our employees. And unions have done a really good job of being the champion of better benefits, or comprehensive health benefits, and most importantly, cheaper benefits for their employees.

What are some mistakes that management may make during an organizing campaign?

Two things come immediately to mind. One is that they under estimate the extent of union support within the bargaining unit or the voting unit that will vote in the eventual election. And secondly they focus on tangible things like wages and benefits. And less on intangible things like the manner in which employees are treated and the style of management. In the 25 years I've practiced law in this area, I would say at least 40% of the campaigns I've handled. I have advised my client to terminate the employment of a senior manager, either the general manager of a hotel, a department head, or somebody who is the symbol of management. And the reason is I determine during the triage process that that individual is really the problem. I had a campaign recently in New England where we determined that, we proposed that the GM be fired. The president of the company disagreed and said what can we do short of termination to turn this thing around. And what we ended up doing is getting authority to require the general manager to get Rosetta Stone and learn at least enough of a different language that many of the employee spoke. That he could have conversations with them in their native language. That he learned the names they wanted to be called. That he started to interact with them on a human level and we won that campaign 85 to 15% with not a change to wages, not a change to benefits, not a change to any policy. It was just the mere fact that this general manager had a makeover. And fortunately, it was a genuine makeover. To this day, he's a very popular general manager within this company.

What can supervisors and HR people do to prevent an organizing campaign, or to respond effectively if one occurs?

I would say they're the most essential pieces to the puzzle on management side. The front line supervisors have to be effective communicators and effective leaders for them





to do that in this context. They need training. They need information. They need to have the tools to engage in credible, truthful, genuine conversations with the employees. And be the source of information, truthful information. Even if that truthful information may not help management. For example, if an employee says, is it true that while I pay \$300 a month out of my paycheck for family coverage, if we were union, or organized by this particular union, I would pay nothing? The answer to that question may be yes, but there's more to the story. And we need to empower our frontline supervisors and HR people to understand how to have those conversations, to understand the whole picture. The other thing about HR that's very important is, in the old days, HR was an administrative position. It was more ministerial. Today, many HR departments have a dotted line above the general manager's head to a president, or a COO of a company, or a regional operations person. Because they're the watch dog, not only of EEO compliance, wage and hour compliance, but the treatment of employees with respect and dignity, which is what this is all about. And so the HR and the front line supervisors need to be trained. They need to be empowered and they need to communicate with each other to make sure that we have a much more productive and for a lack of a better term, a kind and gentle workforce.

Transcript: The Role of Relative Power in Bargaining

Relative power is the power you have to get your opponent to agree to something they wouldn't otherwise do. It involves how much of a given pie your side gets, or how much of a given amount of corporate profits you get to keep as management or labor. Relative power is determined primarily by strike leverage, because a good negotiator wouldn't agree to anything in negotiations that's very different from what they could get if there was a strike. The strike essentially becomes the best alternative to a negotiated agreement, or what's referred to as a BATNA. And what determines the strike outcome? Well the strike outcomes influenced by the willingness and then the ability of either labor or management to suffer income losses, because both sides lose income during a strike. The firm loses profit, the employees' loose wages. What a firm faces in a strike is it first has to worry about whether production is going to continue. Can they find other workers to cross a picket line or can supervisors do the work.

Then they have to worry about whether sales are restricted. So even if production stops, a firm might be able to continue operating during a strike by selling out of inventory or by using product that it's produced in another work site, or from another location. What the workers face in a strike, is they're worried a lot about replacing the income that they lose. They look for replacement income from the income that other members of their family can earn, or they may find an alternative job and that's going to be influenced by how well the economies doing. When the economies doing well, it's more likely a worker who's out on strike, can find another job, or other family members can do so. That's a key reason why workers do better in negotiations that occur when the economy is doing well, because that's enhanced their strike leverage.



Psychological and social factors also come into play during strikes. If workers are particularly angry at management, they're more willing to stay out on strike. And vice versa. If management is particularly angrier at the work force, or faces pressure from the community that can influence their emotional and psychological fuse. Keep in mind as well that in addition to an actual strike, workers leaving a work site and no longer carrying out production, strike-like activities can occur. Workers can work to rule. They can have mass absenteeism where all of them go out at the same time. Or there can be sabotage. That also influences a strike leverage and strike power. And last but not least, another key factor that influences relative power is the wage employment tradeoff. Workers may have strike leverage, but they choose not to exercise that strike leverage because they're worried about the loss of employment that may follow from a higher wage. That's another key factor that influences relative power.

Transcript: The Role of Total Power and Political Power

In addition to relative power, total power and political power also matter in labor relations. Total power has to do with the profits or revenues that the company has. The greater are those profits and revenues, the more resources there are for labor and management to divide up. In a sense, the greater are the profits or revenues, the larger is the pie that labor and management can divide up. Those profits or revenues will be larger if the economy is doing better. So when the unemployment rate is low, and gross national product is growing, and sales are growing, the firm will have more to divide up. It'll have more profits and more revenue.

Another set of factors that influences total power are firm specific. So if a firm has more monopoly power, then they're going to have more profits versus a firm that exists in a more competitive sector or industry. They're not going to have as much revenue or profits to share with labor. And management and labor can take steps to increase their total power. What's interesting there is they have a common interest. They can both lobby together, lobby governments to stimulate the economy. Or more relevant these days is the labor and management can lobby governments to restrict competition to put up trade barriers or in other ways, enhance the profits and revenues that the firm has.

Political power also matters in that it can affect the bargaining leverage that labor or management has. And here we are referring to the ways that government action can directly intervene in labor action. So for example, government can intervene in strikes. They can stop a strike, or lock-up the union leaders or they can stop union organizing. That's another way government action can directly affect. Or sometimes, governments can order the parties to appear before an arbitrator, or a tribunal as it's referred to, for binding resolution of their dispute. Political involvement by governments in labor relations is especially high in the public sector because the government there is the employer and is naturally drawn into the labor relations scene.



And then as well in emerging countries. We've seen governments also choose to be more directly involved in labor relations than they are in more advanced economies. Now labor and management will try and influence government action. They'll lobby governments trying to get the government to support their side. But keep in mind, in addition to these direct ways that governments can act, they also can indirectly affect labor relations by changing the labor law. Making the law show that it's more difficult for employers to carry out a strike or the law could make it easier for a union to organize. So there's both direct and indirect ways that political activity can affect labor relations.

Transcript: Preparing for a Possible Strike

One of the most challenging things for an organization to have to deal with is the impact of a strike. An organization has to prepare itself for the likely major impact the strike will have on its operations. If you're working in HR, you're going to have to help the organization in achieving its goal of minimizing the impact of a strike on production, on sales, and ultimately on the profits that the organization's hoping to earn. Each of these aspects involves important steps, preparation, for the organization.

Start with production. When the union goes out on strike, the non-union employees have to be able to take over the strikers' duties, assuming that in your country, that's legally allowed. Most countries it is, but not all. If it is allowed, then you as the HR person has to be prepared to help with the other non-union employees and management, in keeping the business running while the strike is going on. That can involve long hours, taking over responsibilities that may not be your normal duties in the organization. So it's a challenging task to deal with. In some countries it's legal to hire replacement workers. Workers who will come in and fill in for the strikers while they're out. That can be an important tool for the organization, but also requires that people working in HR do a lot of work to lay the ground work for those replacement workers to come in. Let's take an example of a hospital that's gone on strike. Let's say the nurses have walked off the job. There are organizations out there that will supply replacement nurses to come in and fill in for the existing nurses. But there's important groundwork that has to be laid when that happens. For example, if the nurses who are replacement workers are flying in, people have to meet them at the airport, get them to the place they're going to be working at, introduce them to the jobs that they're going to be doing. There's an enormous amount of work in making sure that that actually happens.

Production's one aspect, but sales are important to maintain as well during a strike, if the organization wants to reduce its impact. How does it maintain sales when a strike's been able to shut down production? One way is to build up inventories. If you have stuff to sell, you'll be able to keep your sales going even if your production has been shut down. What do organizations do when a strike is coming up? Well, they build up inventories that often involves working more overtime hours putting in longer production





shifts. It's also often a strategy organizations use to attempt to shift production to other sites that it operates in, that aren't being struck. So that can involve a lot of preparation in the workplace that's going to be struck, so that production can be moved elsewhere effectively.

Lastly, ultimately the organizations Hoping to maintain profits. That can require that at senior level in the organization, preparations being made for the strike. Such as reducing ongoing capital or interests costs that can really undermine the ability to make profits during a strike. Now strikes will vary in their impact across the world. In the United States, strikes are often focused on one individual company or even one individual factory workplace. In other countries, strikes may operate differently. In some countries, strikes are more typically industry wide. Now, that'll mean a bigger impact of the strike on that industry in that country. On the other hand, for an individual organization, sometimes it means that they're not going to lose as much business, because there isn't anybody else in the industry who's stealing away the business while the strike is going on. Strikes can have a lot of impact. They're very intense for the organization and preparation by the organization is a key thing to get ready to endure a strike.

Transcript: Union Sources of Power

There are two sides to any strike determining its outcome. There's the factors that increase management's leverage in a strike and there's the factors that increase the union's leverage in a strike. If you want to understand what's going on in a strike, who is coming out ahead or behind in the strike, you need to understand both sides' perspectives. The union gets strike leverage from a series of different sources, but the most important source of all is the solidarity of the workers. The willingness of the workers to go out on strike, to hold up the picket signs, and to express their solidarity in support of their demands. This is something you going to encounter in a workplace where the workers have gone out on strike. It can often be very dramatic. You arrive at the workplace early in the morning, the day of the strike, and there's going to be a line of strikers out there with the picket lines chanting, cheering on the union, showing their support for their position. It can be very intimidating if you're working in that workplace and you're not part of the strike. That's an essential thing that the workers will do to try enhance their strike leverage. You will find that over time strikes may succeed or fail, based on whether workers maintain that solidarity or not. If it's been a couple of weeks, and you arrive at the workplace and there's fewer and fewer workers out there with those signs, that probably means that you can know that the strike is getting weaker and maybe coming to an end soon. If the workers are still there with a lot of solidarity, prepare yourself for a long strike.

Other things do effect the success of the strike on the union side, determining whether or not they're going to have the economic resources to continue the strike. One of the





things that affects the workers a lot in a strike is are they going to have alternative sources of income to pay the bills that will allow them to continue on during a strike when they're not getting paid their normal paycheck? Unions with big strike funds can often manage a long strike. In the United States, the United Auto Workers often have some of the most effective strike threats against its management because it has a very big strike fund. Often a billion dollars or more is built up in their strike fund that they can use to support their members during a strike. Prepare yourself for a long strike if you see a union that has a big strike fund. Some of those unions even help other unions out by loaning some of their strike funds out to another union that's on strike. So if you see in the newspaper that there's been a loan from another union to the one at the work place you're at, prepare yourself for a longer strike because that's going to strengthen the union hand. Union members though are also going to be going into their personal savings, their families' ability to support them during the strike. That can be an important thing in your community if you've got a group of your workers out on strike. You'll really hear in the community that effect of people drawing down their savings, family members having to contribute, it creates a lot of tension in the community when there's a strike.

Lastly, employees are generally allowed to work at other jobs during a strike. It gives them an alternative source of income. Now, you might think, "Well, that seems a little unfair that the employees are on strike and so they're getting to make money elsewhere." But the reality is that this is actually a pretty dangerous thing for the union. The reality is if strikers are out there earning money at another job, eventually they may give up on the strike and decide to stick with this other work that they've been able to take during the strike. Some strikes go on for a long time but eventually fade away when the workers give up on the possibility of going back to their original employment. Some strikes last a long time but other ones don't last so long because the union doesn't have the sources of income to keep themselves going and to keep the strike rolling along.

Transcript: Ask the Expert: Bruce Raynor Speaks about Union Organizing

What must management do to work effectively with a union in negotiations?

You know I think most of it is sort of logical and obvious. It's transparency, it's being not making a partisan case, but being transparent. If management has reasons for what they want to put on the table, they need to explain those reasons. The second thing is, not trying to talk above the level of our bargaining committees. Because we've got workers sitting there who know a lot about the business, but may not know a lot of technical terms and all that. So I've seen lots of management negotiators try to show how smart they are and how educated they are. And then they lose the committee or you offend the committee. So I find that a trait that is important. And the other thing is to be respectful. A management negotiator has got to be respectful when committee people speak up, when the union spokesman is talking. Be very respectful, and you can





expect respect from the union side in return. But when you make expressions that you think something is stupid or, you know, shaking your head like someone doesn't know what they're talking about. Even if they don't know what they're talking about, I think it's important, to be respectful for the point of view that you're hearing, and then answer it at a high level with respect. So I think that's an important trait. And finally, what I like to see a management negotiator do is to not play games. Not be so strategic that you've got to, I'm going to start low and I'm going to do this, but be very forthcoming that we're going to give a wage increase. We recognize there should be a wage increase. We may differ as to the amount and here's what our thinking is and this is our first proposal. You don't pretend it's your last and make it clear that you're treating people as adults and treating them respectfully. And I think if management negotiators followed those rules and you got a decent partner in the union side, you can have some very constructive talks.

What management behavior have you seen that damages the atmosphere at the bargaining table?

In 35 years of bargaining, unfortunately I have a lot of examples of bad management behavior. And the typical things that I see are management talking down to the committee and particularly dismissing the committee's point of view. And, I'll give you an example. One of the last negotiations that I did, involved a food service group of workers and we had a very vocal cook on the committee who had an opinion about a lot of things. And some of which were very intelligent, well thought out and some of it was just his point of view about how everything should be run. And the management negotiator, in this particular company, the guy got to the point where he lost his patience and became dismissive of the guy's comments. Well not only did that offend the guy, but it offended the rest of the committee. It was like you don't want to hear what the workers have to say. Now, the fact is this guy was wrong about some of the stuff, but that's not the point. It was much more. So think being dismissive of the committee's behavior I think is a common thing. Another thing that I found fairly typical and this was a different set of negotiations, this was a big hotel, and I had a committee of about 40 people. But the management negotiator was a very suave, smart guy. Talked only to me. Looked at me, engaged with me. And it was as if the others weren't in the room. Now when I talked to him. I looked at the rest of his committee which was 5 or 6 executives. I had 40 people. He was talking to 40 but he acted like he was addressing me. And it's again, a sign of you don't care about what we think, you don't respect us. I think that's another example of bad management behavior. Then, the other thing I find is when management plays like they think they're in a movie about collective bargaining. Pounding the table, or yelling "oh, that's ridiculous," and we're going to get up, and closes his book as if, I think that's sort of, they've seen too many movies, or they've watched a couple of training films, and they got bad advice on how to do it. You know, you treat people like this is a professional exchange and I think that's some bad behavior. And then I guess the final thing is I don't like, and I've seen it all too often and it used to happen particularly in the textile plants where, which I negotiated Southern





textile mills for much of my career. And you'd have the management negotiator talk down to workers. Particularly when they would make a comment or ask a question. Well let me see how I can explain this to you as if you're an idiot. And as opposed to, these are people that work in your factories, they know what you're doing, but these textile guys thought they were on a plantation, and so they talked down to the workers. And I think those are common mistakes management negotiators make. And then the other thing is, being afraid to go around and shake hands with people before and after the sessions. Particularly not just even the lead negotiator, but the members of the committee. It's like, you know, act like this is something you're not, you're not at the dentist, you're at, bargaining with your employees to figure out what the wages and benefits are going to be. That kind of thing.



What arguments have you typically used to convince workers to join the union?

I've always believed that the average American, and it's actually I find it true, in other countries as well, already believes that a union will get you higher wages and benefits. I think people think that. So that's an argument you make, but it's not the central argument. The central argument I find that has always worked for me to stay on point, is that the union gives you a voice, something to say. Instead of management announcing decisions, we're going to vote on decisions. People like that. Actually you know, this sounds trite, people like democracy. You know? And just ask, you know the people in North Korea. People like democracy. And so when you make the case that you're going to have a say, you're going to sit down and you're going to have an opinion that matters. About what the benefits are going to be, or how the job is done, or who gets to work overtime, or who has to work on weekends? So I find that, that's always been a powerful argument for the union. The second thing is that management can't change things with the union without your agreement. That is something that people don't trust management. When I first, I graduated college in 1972 and I started organizing in 1972. And there was a much more sense then than there is now, that corporations had some loyalty to workers. Workers don't believe corporations are loyal to them. They don't think they're loyal to management. And they're not loyal to management. So I think one of the things that is very powerful today is you need a union, to protect you against corporate decisions. Tomorrow you get notified that such and such is the new CEO of the company or the company's been sold. Or this happened and that happened, and you are a passive, you and your family watch as your life changes. A union gives you a seat at the table and that's a powerful voice in this economy.

Transcript: Collective Bargaining Preparation and Methods

There is a lot at stake when a collective bargaining agreement is being negotiated. And so, Labor and Management will do a number of things to help their side prepare for that negotiations. Management commonly will start preparing nine or 12 months in advance. They'll create study teams that will look at previous negotiations. They'll try and identify key problems that the plant's facing. They'll try and look at what their competitors are doing. And also the bargainers for management will have to get the approval of higher management, the CEO or the chief operating officer, or from financial managers. And as management develops its plan for bargaining, it'll try and develop a resistance point, the maximum amount they'd be willing to go in negotiations. The union on the other hand, also will be preparing. They'll be surveying members, looking at patterns, what other agreements have settled on. They'll try and get data on the cost of living to influence their wage demand. There'll commonly be a negotiating committee that is in charge of the negotiations. Those individuals are sometimes appointed, sometimes they're elected. But the real power on the union side is held by a chief negotiator, and not by the committee. And that's because the president of the bargaining unit, the president of the union doesn't want to turn over this critical power of determining the contract to committee members. They want to be the ones shaping it.





It also serves the interests of the union to have that power concentrated, so there's a clear explanation and clear control in the hand of one individual. Nonetheless, the union will often appear at the bargaining table with a long list of demands. At the same time, only a few of those demands are likely to be really critical on issues that the union would be willing to go out on strike on. There'll be preliminary meetings where the union will present its demands and even now, more frequently, we find management presenting demands. They sometimes now will go and ask to move from defined benefit to defined contribution pensions or they'll ask for copayments as part of health insurance or ask for changes in work rules and all.

During the serious bargaining sessions, there'll often be a leader, a spokesperson, on each side, that really is the one driving the negotiations. Management will often have a note taker who will record what's been offered, what's been agreed to. At the same time as there's kind of a central bargaining table, you'll often find on the side that there are study groups. They'll often be working on problem solving, or what we call integrative issues, where the two sides can brainstorm and develop creative solutions. The parties want to keep that, those integrative discussions, the problem solving away from all the anger and animosity that may appear over those difficult wage issues that may surface at the central table.

And keep in mind in bargaining, there's a lot of theater. Union leaders will sometimes act really angry. They'll be banging the table, or screaming. Sometimes management will reciprocate by screaming. But, often that kind of anger is as much for trying to say something to one's own side. For the union leader, they have to convince the union members and other members of the bargaining committee that they're really bargaining hard. In reality the leaders for labor and management will often be meeting separately in side bars. There's nothing nefarious about those meetings, that's just how they often work things out and develop creative solutions. The wage and tough distributive issues will be delayed until the end of negotiations, so the conflict that's associated with those tough issues doesn't spoil any problem solving that the parties can pursue over integrative issues.

Now, for management they'll often have to consult back with top officials of the company, or financial managers to prepare their final offer, or revise their resistance point. And then often it's the case that those sidebar discussions between labor and management top negotiators are the place where the final settlement is worked out. But again, theater comes into play. They'll present the final settlement at the bargaining table. The union will commonly take a vote of its membership if there is a settlement before the settlements approved. And sometimes, the members of the union all turn down a negotiated settlement, and they'll have to start negotiations again.

The final settlement will be truly finalized when lawyers on both the labor and management side will develop the exact contract language. And then on the management side, and nowadays even sometimes on the union side, after a settlement,





management will regroup its team, and start evaluating the outcome, and start preparing for future negotiations. Again, because there's so much at stake in a particular negotiations and so much at stake in a collective bargaining agreement.

Transcript: Win-Win and Win-Lose Negotiating

The most significant components of bargaining are what are called distributive and integrated bargaining.

Distributive bargaining, on the one hand, has to do with win lose issues. Issues where management gains is labor's loss. A wage and pay are distributive. Management wants to pay less, the union wants pay to be higher. Integrative issues, in contrast, are where both sides can achieve gains. Where the pie can be expanded. Technological change and improvements in work rules and work practices are potentially integrative.

Now distributive and integrative bargaining involve very different kind of tactics. Distributive tactics are hard. You have to make threats and be forceful, and you have to bluff. And you also want, in distributed bargaining, control to be in the hands of the leaders to enhance your toughness.

Integrative bargaining, in contrast, is about problem solving. You want there to be new ideas, you want to first identify the problems and create solutions. And to do that you rely on experts and more open discussion. I've often seen the parties change the layout of a room where in distributive bargaining, there's a table with the two sides opposite of one another. In integrated bargaining, they sit around a round table, or just sit openly in a room and have pleasant music going.

A good leader has to know how and when to engage in either distributive or integrative bargaining. If distributive bargaining becomes so intense, it can eliminate the possibility of integrative gains. And so, one technique the parties do is often to have integrative bargaining occur away from the main table, and to involve study teams who work on particular problems. And to have that integrative bargaining go sooner so they can bring solutions to the table, and then leave the tough, distributive issues to later, so it doesn't block any kind of healthy communication that's needed for integrative bargaining.

Transcript: Potential Intra-organizational Bargaining

Intra-organizational bargaining deals with differences that appear within either side, within management or labor. And those differences may deal with difference views regarding goals or tactics. For example, some managers may prefer in particular negotiations to take a really hard line. They think the company in that situation has a lot of bargaining power. Other managers may assess the situation and conclude that the





company is vulnerable and doesn't have a lot of strike leverage and the strike would have really damaging effects. Or within a company the finance managers may disagree with the labor relations managers.

Several years ago I was providing advice to bargainers at a large telecommunications company here in the United States. And what I observe was just real differences of opinion between the finance managers and labor relations managers. The finance managers just really wanted to smash the union, they didn't understand why they had to make these kind of agreements that constrained the company. Whereas the labor relations manager said, "Look, they'd like to not have those constraints." It just wasn't realistic in their view to think that the company could gain a relaxation of all the restrictions that the finance managers were angry about.

The union can also have and face intra-organizational differences. On the one hand, there are older workers within the union that may be really concerned about their pension, they want to get to retirement. Whereas the younger workers are worried about job security. Especially if there are seniority rules that those younger workers are going to likely to face the consequences if there's a reduction of employment. The least senior are the first out in a seniority-based system. So those two types, the older and younger, may value pensions really differently.

In addition, there will be ideological differences. Some workers are really militant and angry at management and eager for a strike and other workers are more understanding of the pressures management faces or just personally less militant or more cautious. Management will also often hold internal meetings trying to iron out intra-organizational differences on their side. They can make use of facilitators to try and gain a consensus. The key on either side for labor and management is not to let any differences that exist on your side to appear at the bargaining table. If those differences appear that really weakens your cause and shows your vulnerability. It is well confusion that may be aired by those differences, surfacing at the table can lead to miscalculation. The other side may become too aggressive. And the reason the miscalculation is worrisome is it can lead to a costly and unnecessary strike.

Transcript: Building Trust

Because trust matters so much in labor negotiations, both management and labor take a variety of steps to try to enhance the trust that exists between them. So trust is important in particular, because it can increase the likelihood of integrated joined gains. It can increase the likelihood that the parties can solve problems. Remember that a strike is costly to both sides. They both loose income if there's a strike. Workers loose wages, management loses profits. So one joint gain, one integrated solution the parties are seeking in negotiations, is they are trying to avoid unnecessary strikes. So, there's two aspects to trust building.





One has to do with the trust that exists between negotiators, a sort of personal trust. The personal trust between the management bargainer on one side, and the labor bargainer on the other. And the other aspect of trust that's really important, is the broader trust that exists between management and the workforce within the firm or the enterprise. Now the personal trust that exists between negotiators involves the negotiators just getting to know one another. Now that may seem incidental but it's really important. They have to really understand one another, to understand where each side is coming from. They have to understand their style, and they learn about each other's personal history, and that develops over time. One way they try and enhance that personal trust is negotiators often meet away from the bargaining table, away from others. They'll go off and get coffee together, get a meal, they'll talk on the phone. Now, at times the other parties involved in negotiations think there's something deceptive or collusive going on when the chief bargainers on labor and management are getting together separately. But in fact, it's really a healthy part of the process, because in those separate or sidebar discussions as they're called, that's often where the final settlement gets resolved. That's where the new ideas emerge, is when the two bargainers sort of talk things through. Now when they get to the table, again, they may be banging the table and screaming at one another. But a lot of that is just theater, because, in fact, they often have developed deep personal trust.

Now, the broader trust that exists between labor and management also matters. It matters because employees commonly have to vote and approve any settlements. So, how they feel about management is going to influence their vote as well as the terms of that settlement. As well keep in mind, that the trust building involves really complicated communications. Often far in advance of negotiations between management and the work force. Management is often trying to convince the workforce that there are competitive challenges and pressures that management isn't just asking for changes just to punish the workforce, or just to enhance their own personal gain. That there are real pressures facing the firm, facing the enterprise, that are requiring changes in the collective bargaining agreement or changes in the labor management relationship. And supervisors can often play a really critical role in conveying the need for change. They do so either talking to employees individually or in team and other group meetings.

Now, a common mistake that manager makes, I've seen it in lots of bargaining that I've observed. I've been involved in auto bargaining, in bargaining in telecommunications and in those situations where there's enormous change occurring in the industry. The mistake that the management has made that I've observed is they wait too late. They try and convince the workforce and the union that there's a need for change, right when bargaining is started or in the middle of negotiations. Well, that's just too late. That the workforce, think about how you would feel. Management in the middle of negotiations says, "Oh we need these really big changes and there's all these pressures facing the firm. The workforce is actually dubious of those kinds of claims. The case for change has to be made far in advance of the actual negotiations. So building trust takes a lot of





time. It has to be repeated and communicated through a variety of means. Again, far in advance of the actual contract negotiations.

Transcript: Achieving Mutual Gains

One of the trickiest things to achieve in bargaining is coming up with a way to achieve mutual gains, gains for both management of the organization and the employees. How can parties go about doing that in the bargaining process? Here's a series of steps to think about.

Suppose we've got a situation where you as the HR person are trying to get some employees to agree to do extra overtime. The organization needs some more work being done and you've got the responsibility of negotiating with the employees and their representatives how this is going to be done. What are the steps you can take?

First step, focus on the underlying interests. Why do you need the overtime done? Perhaps the organization needs to increase production for a while, produce more, and so therefore the assumption is we're going to need some more overtime. Your underlying interested there is really about getting the production you need. The extra overtime is really how you are getting that interest satisfied. Conversely though in mutual gains bargaining, you also want to think about what is going to be the underlying interest on the other side. Now obviously you can just tell the workers what they are going to have to do. But, if you're going to negotiate effectively with them, get their agreement and their support for the decision that's going to be made, you're going to want to think about what are their underlying interests. Some workers may have a strong interest in putting in more hours to earn extra income. Right? That extra money in their pocket. Is their underlying interest. If you can structure the overtime in such a way that that satisfies their interest, too, you're going to be on the path towards mutual gains.

The next step. You want to generate some options for satisfying these interests. Are you going to have everybody in the workgroup work the overtime? Or are you going to have some employees work it and some not work it? Who's going to be the ones who are doing the overtime? Are they going to sign up for the overtime? Shall we have a different way of allocating it? Think about different options. Once you've got some options on the table, think about how you're going to evaluate those options. Work together with the other side to gather some data. Talk to the employees about who's been working overtime. Look at their histories over the last few weeks, how much overtime are the working? That may reveal a lot about who feels they have too much overtime right now, or maybe who feels they don't have enough overtime. Share that information and use that to help evaluate the options. Then evaluate the options against criteria that reflect each site's interest. You need a certain amount of overtime from the employees to get the production that the organization needs. Some of the employees





are looking for that extra hours of overtime to get extra pay in their pocket so that will satisfy their interests. But maybe some other employees in the work group feel that they're working to many hours and would really prefer not to do the overtime, right. Evaluate the options for all the parties to try and achieve the mutual gains.

And finally, choose the options that maximize your mutual interests. Make sure that you're choosing an option that gets you what you need for the organization in terms of employees producing the work that output, that you need to see for the organization. Get the overtime that you need. At the same time also chose an option that's going to maximize the interest for the employees. Figure out who wants to do the extra work hours, make sure the way overtime is being set up, those are the employees who are doing that work and the employees who may not prefer as much overtime aren't the ones who are doing the overtime. If you do that successfully, achieve that mutual gain, it's going to be in your long-term interest. The employees are going to be working better on this particular project, but longer-term, you're going to earn greater trust, because you've satisfied the mutual interest. That's the great promise of mutual gains bargaining. It satisfies both sides' interests.

Transcript: A Typical Union Grievance Procedure in the US

What does a typical grievance procedure look like in a unionized workplace in the United States? We tend to find that grievance procedures in American unionized workplaces look a lot alike. Whether it's an auto plant, an airline, or even the NFL Players Association grievance procedure, they all have certain basic features. They tend to start with an informal meeting at the workplace level involving the employee, usually accompanied by a union shop steward, low level union representative, meeting with one of their line managers and perhaps with an HR representative as well to try and negotiate a resolution to the grievance.

If they're unable to resolve it then the grievance proceeds along to a second step. A meeting involving some high level people in the organization, the employee at gain, perhaps a higher level steward from the union, and then on the company side perhaps some other higher level line managers, some HR people, are often involved in the second step. Again, they're trying to negotiate a resolution at this step.

A third step in a common grievance procedure, involves meetings of much higher level management and union people. In a factory, it might be the plant manager becoming involved in that stage. On the union side, the union negotiating committee, or perhaps even a representative of the national union coming into the workplace to help resolve the grievance. This is a more senior level negotiation involving more senior people from both the union management side.





If it can't produce a negotiated resolution the final step in the grievance procedure will be arbitration. A mutual arbitrator will come in and decide the grievance. This is the final step in union grievance procedures and this labor arbitration decision is going to be binding on union and management resolving the grievance.

There are a number of features of union grievance procedures that are important to understand. Grievances that the union presents have to be based on the contract, the collective bargaining agreement negotiated between labor and management.

So union representatives will know that contract backwards and they'll come in to the HR person saying, "We're filing a grievance based on section ten, subsection one, subsubsection A of the contract." That's because they know they have to base the grievance on what's in the contract. Secondly, the union has carriage of grievances. That means that the union's the one that represents the employee. It's also the union that's deciding whether or not to settle the grievance or go on to the next step in the grievance procedure. If you're in a grievance procedure on the employer's side, you're going to be negotiating with that union representative and trying to reach a deal with the union representative, more than with the individual employee. Now, the union does of what's called a Duty of Fair representation. The union has to do its best to represent the employee and achieve the best outcome it can in the grievance procedure. Lastly, an important feature of union grievance procedures is that the employee has to work now, grief later. What that means is, the employee is not allowed to stop work because they disagree with management's decision. They have to keep doing the work, and later at the end of the workday, they can file the grievance complaining about the order that management gave it. The one exception to that to be aware of is what we call health and safety grievances. If there's a real health and safety danger, then the employee does have the right to make the complaint now instead of doing the work that they believe is dangerous. But, any other kind of grievance, they can't just refuse to follow management's instructions. It's important to understand that limitation on union rights under the grievance procedure.

Transcript: Non-Union Grievance Procedures in the US

What's a typical grievance procedure like in a non-union workplace in the United States? Well, the first thing to know is that there is no typical grievance procedure in the non-union workplace in the United States. Each organization gets to decide what its own grievance procedure will look like, and they vary a lot.

Some start with something very simple, like an open door policy. That's simply a management policy saying. Our doors are open for anyone who's an employee to come in and raise concerns with us. Relatively unstructured. Maybe more or less effective depending on the organization.





Some adopt a more structured process where there's a series of steps of different managers you can bring your grievance to. That's relatively simple still. It can get more complex, though.

Some organizations introduce into these kind of grievance procedures what we call management appeals committees, where a committee of managers, often quite highlevel, will sit to decide as a panel how they are going to respond to employee grievances. So it's almost like a jury that you are listening to. However, it's a jury of managers. Some organizations have decided that they want to do a more innovative employee participation approach to dealing with employee grievances in a non-union setting. We see something that we call peer review panels. Peer review panels are procedures where a group of employees, maybe five in number, most of whom are peers of the employee complaining, the grievant. They will sit like a little workplace jury, and decide the employee's grievance. And this could be quite serious grievances. So, discipline, even dismissal decisions could be decided by this peer view panel. This is a very aggressive way of bringing employee participation into the conflict management process in the workplace. But, many organizations have found it's a very effective way of getting employee trust of the decisions that are being made, by the grievance process.

Some organizations even in non-union workplaces introduce specialized personnel dealing with conflicts and grievances in the workplace. People we call ombudsmen. And ombudsman is sort of a designated roving neutral who uses all kinds of different techniques to resolve employee grievances and concerns in the workplace.

Now it's important to understand that there's generally some common differences between these non-union grievance procedures and union grievance procedures in the United States. Most obviously, there isn't a union there representing the employee. Most of the time in non-union workplace, it will be an employee by themselves whose in the grievance procedure. There won't be a representative like the union. It's also the case that these non-union grievance procedures are really based on company policies, not some kind of contract negotiated like the union does with management. It's ultimately the organization making sure that its own policies and procedures are being implemented fairly. In all these ways, non-union grievance procedures are different and show greater variety than we see in union grievance procedures.

Transcript: How Dispute Resolution Varies Around the World

Dispute resolution procedures vary widely between countries. There are particular American kind of grievance procedures, and there are ones that are characteristics of other parts of the world, Europe, East Asia, Latin America. So, let's talk about some of the different kinds of dispute resolution procedures, you'll see in different countries.





European countries often involve both works councils and labor courts in resolving disputes. So imagine that we're in a German workplace. We've got a workplace dispute where the employees feel that a new job has opened up in the workplace that's quite attractive and management's hired somebody from outside, rather than giving that employee already working for the company a shot at that new job. How would they go about resolving that dispute? Well, the employee might raise that grievance initially with their Works Council Representative, the Works Counselors. The Works Counselors would then listen to the employee and then they would take that concern and present it to management to discuss that grievance. The Works Counselors have rights of codetermination and so they're the ones who have got a right to go to management and say we need to be consulted on this decision. We'd like you to abide by what our concerns are here. Hopefully they can negotiate a resolution to the dispute. If they're not able to, they can take this dispute to a labor court or sometimes to arbitration and get an adjudicated determination of whether the Works Council's being correct. That their rights to co-determination have been violated and the employees' interests have not been respected. We see a range of different approaches around the world.

China has introduced new labor dispute resolution procedures in recent years that use a range of techniques to attempt to resolve disputes. The Chinese labor dispute resolution system starts with mediation at the workplace level, internal to the organization. Where there's an attempt to resolve things at the low level of the organization. If that's not successful, the second level in the system is arbitration. So, if an employee has been fired and they fear it was unfair, initially they might try to resolve the dispute through mediation in their workplace. But if not, that wasn't successful, they can go to arbitration and the arbitrator will decide whether or not they are fired unfairly. Then they have the opportunity to try and appeal to the courts and argue to the courts that they've been fired unfairly. Now, we call these mediation, arbitration and litigation, and court-type dispute resolution, but they work differently in each country. For example, the mediation in China at the workplace level isn't generally done by independent, neutral mediators. It's done by parties within the workplace level. The arbitration that happens, the second step in China is done by arbitrators who are public employees. Compared too many other countries like the United States where the arbitrators would be third party private neutrals who would be arbitrating the case.

So, similar procedures but they work quite differently in many ways in other countries. And finally we go to some other countries where there's a very strong role of government in directly resolving problems by intervening in work places. For example, many Latin American countries use systems of labor inspectors who can inspect work places to identify violations of labor laws in those workplaces. So, depending on the country you're in, you've got to be aware there can be a range of different ways in which labor disputes are resolved and different procedures and different actors such as government inspectors who may come in to help resolve disputes.





Transcript: Employee Responses to Conflict

How do employees respond to conflicts in the workplace? I want to introduce a simple model we use for understanding the different types of employee responses to conflict that you'll encounter. What we call the Exit, Voice, Loyalty, Neglect or EVLN model. The EVLN suggests there's a range of different ways that employees can respond to workplace conflict.

Imagine I'm an employee who feels like I'm being treated unfairly in the workplace. What might I do? The first response might be what we call exit, quitting. Leaving the job because I don't want to deal with the negative situation in the workplace anymore. This can obviously be a response that can introduce significant costs for the organization. You lose an employee. You may have the cost of hiring a new employee. Exit via quitting can be an expensive response for the organization.

A second response, voice. I may express my lack of satisfaction with a situation, complain to somebody. Now obviously it's going to be a lot easier to express voice if there's some kind of structure in place. If there is, for example, a grievance procedure in place. Did I feel like I was unfairly denied a job, I thought I should have had an opportunity to apply for within the organization. Can I file a complaint somewhere about that problem? That will be exercising my voice. Interestingly though, many employees don't take these active steps of exit or voice.

Particularly loyal employees engage often in what we call a loyalty response of silence in response to conflict. They don't do anything, they just continue on working. Now that may sound fine for the organization, but it's a very dangerous thing to happen because often, some of your best employees may lose commitment and satisfaction because they feel like they've been treated unfairly. And so, we want to be concerned about loyalty as a response as well.

Lastly, the fourth response, neglect. Now what does neglect mean? Well, simply, it just means poor job performance. We start to see the employees not performing as well because they feel unfairly treated. This can escalate, though. Some employees may also include sabotage, employees engaging in behavior that's more directly damaging to the organization, more destructive and you want to be very concerned about those responses.

Now there's a series of dynamics in this model that we can use to understand how one option is going to affect another option. For example, the more voice options that are going to be available to employees, the more they feel they can complain and have their concerns addressed, the less likely they're going to use the other options. We've got good research showing that you're going to see less exit, less quitting by employees if they have more chance to voice. But you'll also see less of the other responses. Particularly those dangerous damaging neglect responses. The reduced performance,





the negative behaviors in the workplace that you want to be very concerned about. You want to be very concerned about the loyal employees, because they're least likely to respond. We sometimes refer to them as suffering in silence. Right? They're the ones who are suffering. They're not happy, but you don't hear about it.

What this says to you as a person working in HR is the need to be proactive. To encourage the employees to express their concerns. If they feel like they've been treated unfairly, you need hear about it if you're going to be able to do something. You also though need to guard against one of the biggest dangers we see in this area and that's the danger of retaliation against employees who do use voice to let you know about their problems. We've got lots of evidence that in many organizations some people retaliate against the employees who complain. And it's important for the organization to guard against that. Don't retaliate against people who are expressing voice, because voice is something that may help you learn about the problems that exist in the workplace and head off the bad consequences of neglect and the suffering in silence that you don't want to see happening.

Transcript: Ask the Expert: Martin Scheinman Discusses Grievances and Arbitration

What mistakes do managers tend to make that lead to employee grievances?

I think the biggest mistake is being so strict with rules that they don't take into account that even rules that are written are intended to give discretion to be able to decide that this particular fact pattern requires deviating from it. We teach our managers that follow the rules and make sure that you don't discriminate and you act even-handedly. But that doesn't mean that you don't have to take into account the fact that you know something about the people who work with you or for you. And you ought to give yourself the chance to be able to say, "Yes, the rule says you have to call in a half an hour before the shift starts, but you happen to know that that's not plausible for this employee. Why? Because this employee lives a long distance away, and will be in the car, and perhaps there's a reason why they didn't call in." And so then, when you come later on, and you automatically say, "Well, look you didn't call in a half an hour before," as opposed to finding what it's about. That starts a spiral that can't stop. The supervisor doesn't want to back down. The employee feels not understood and suddenly, my goodness we now have the beginning of a grievance or at least a feeling that I'm not being heard by my supervisor. Good supervisors are open to having the confidence to realize they can be a little bit different in each fact pattern because they understand that each human being is different. I think that would be the biggest reason that I would suggest why grievances start and why supervisors sometimes could have nipped this in the bud, had they not actually made it worse in the first place.



In grievance hearings, what are the key attributes of a good, effective witness?

A good or effective witness provides that which he or she knows. What they saw, what they heard, what they smelled, what they tasted, what they touched. They are honest about what they know and they're honest about what they don't know. They don't try to outthink the question. They don't try to believe that they know better what the questioner really wanted them to answer, and that somehow the questioner has forgotten it. So they want to volunteer and the like. Everybody understands that in a hearing you're nervous. You're anxious about it. There's nothing wrong with being anxious when you're being cross examined. Nothing is worse for example when a witness who is charming and lovely on direct and then as soon as it is time to be cross examined, they decide they ought to put on a different face and be brutal and angry and sarcastic and the like. A good witness is credible because they come off as being credible. Don't volunteer things they don't know. I mean I was thinking of an example. A person for example, is telling a story about what happened and they say. And then the reason I know this happened that way is because it was Monday. Well it turns out it wasn't Monday. But once you made this comment that was inaccurate now it puts in to guestion whether everything you're saying is truthful or not. So the best witness answers the question. Doesn't try to be smarter, doesn't think that they are going to, by their demeanor, intimidate their questioner and acknowledges that which they don't know because they accept the fact that they're not supposed to know everything.

Why are some managers and union officers effective at coming up with creative solutions, while others are not?

I think the single reason why some people resolve problems is because they're committed to resolving problems. They are committed to it because they feel that kind of outcome is really better for the organization and for the problem. And part of this is what kind of behaviors are rewarded. If a manager or a union thinks that having an argument with the other side is really what the people they report to want they're going to behave that way. I always advise people to remember your bosses are going to change. And then later on the fact that you were the one that who was intransigent or argumentative as opposed to trying to resolve the problem. It's no longer going to be rewarded behavior. To the contrary, they're going to say you're not the kind of person who really has the kind of skill set to move up in the organization, be it on labor side or management side. I think that's the reason. Also, there's a sense that, again, I need to be exactly in a certain way because that's the stereotype of how a manager acts, or that's the stereo type about how a union official reacts. Those are the kinds of people who are never successful. They argue, they occasionally win a little point, they might even win a lot of little points, but they have sowed the seeds for relationship that's not going to solve problems. And ultimately, that kind of behavior is going to be perceived by the people who are observing them from afar, as counterproductive and an indication of limited ability.





What does it really take to reach agreement with the union in a difficult labor relations situation?

Whether it's from the union side or the management side, I would say, that look, by the idea that, where I'll meet you halfway, means that you have to meet someone halfway. It doesn't mean it actually has to be 50-50. But you have to be willing to reach out and help find a resolution. Look, nobody is supposed to be silly and get punched in the nose every time and say I'm going to keep on turning the other cheek. But, it requires persistence and the willingness to take a chance and say to someone who's been incredibly unpleasant to deal with or intransigent, I'm willing to move. And I'm willing to do this and I'm willing to do that. Someone has to make the first overture, and at the end, often it's management that has to make the first overture. Because you're in a unique position. You're running the place. The employee, or the union in this case is the one trying to challenge it. So if you want to reassert that I'm in charge, everybody knows that you're in charge. It's much more effective to say, I know I could say too bad, but it's much more effective to say, "Look, we haven't been getting along. I want to get along. I think it's in both of our interests to get along. I'm willing to reach out to you." Now, if that kind of behavior is constantly, rebuffed, at some point you say enough, you're not silly. But the best managers are the ones that take one chance, two chances, five chances. until they're absolutely persuaded there's no reasonable way to come to accommodation with a person on the other side.