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Lasting Victories: Successful Union Strategies for Winning First Contracts

Abstract

[Excerpt] These studies leave no doubt that employers have at their disposal a myriad of legal and illegal tactics which they can use to effectively block union efforts at winning a first agreement. The critical question to be answered is whether the same kind of grassroots, rank-and-file intensive union-building strategies that have been found to be so effective in certification and decertification elections are equally effective in overcoming employer opposition in first contract campaigns.

Keywords

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Comments

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Lasting Victories: Successful Union Strategies for Winning First Contracts

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All too often stunning union election victories turn into devastating first contract defeats through decertification, broken strikes, plant shutdowns, or the outright refusal of the employer to bargain. With a certification election win rate below 50% and a first contract rate of less than 75%, less than a third of workers who vote in NLRB certification elections end up being covered under a union agreement. Despite these dramatic numbers, there has been very little research on factors contributing to union success or failure in first contract campaigns.

We know from recent research on public and private sector certification election campaigns that union organizing strategies play an extremely important role in determining union success in winning certification elections. Studies such as Bronfenbrenner (1993) found that in an increasingly hostile organizing climate, union success in NLRB campaigns depends on the use of a grassroots, rank-and-file intensive organizing strategy, building the union and acting like a union from the beginning of the campaign. Union campaigns which incorporate tactics such as representative rank-and-file committees; personal contact through housecalls and small group meetings; escalating internal pressure tactics such as solidarity days; the use of rank-and-file volunteers from already organized units; a focus on dignity, fairness, and service quality as the primary issues; and building for the first contract during the organizing campaign were found to be associated with win rates 10% to 30% higher than traditional campaigns that focused on mass mailings and gate leafleting. The use of these rank-and-file intensive tactics significantly increased the percentage of the vote received by the union and the probability of the union winning the election, no matter how intense the employer opposition to the campaign.

Similarly, in the public sector Bronfenbrenner and Juravich (1995a) found that even in the context of little employer opposition, the use of grassroots, rank-and-file intensive strategies not only led to higher win rates in the certification election campaigns but also contributed to significantly

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higher post-first contract membership rates. Bronfenbrenner and Juravich also found that the same rank-and-file intensive organizing strategies, along with the quality and degree of union representation before the decertification petition was filed, played an extremely important role in determining the outcome of decertification campaigns (1995b).

We know from research by Cooke (1985) and Bronfenbrenner (1994) that employer opposition to unionization does not stop with the certification election campaign. These studies found that through a combination of surface bargaining, captive audience meetings, unilateral changes, discharges for union activity, threats of full or partial plant closings, and concessionary initial proposals, employers were able to reduce union first contract rates by as much as 10 to 50 percentage points.

These studies leave no doubt that employers have at their disposal a myriad of legal and illegal tactics which they can use to effectively block union efforts at winning a first agreement. The critical question to be answered is whether the same kind of grassroots, rank-and-file intensive union-building strategies that have been found to be so effective in certification and decertification elections are equally effective in overcoming employer opposition in first contract campaigns.

Theoretical Framework and Hypothesis

Bargaining outcomes are determined by the relative power of union and management. However, as Bacharach and Lawler (1981:40) contend, "Tactical action is the most critical component of the bargaining process." Contextual factors such as economic and political climate, employer and union characteristics, and bargaining unit demographics, along with the bargaining process and the nature and outcome of the union organizing campaign all influence relative bargaining power, and therefore, all matter in determining first contract outcomes. But the strategic choices unions and employers make during contract campaigns matter most of all.

There are many different ways in which union and employer strategies and tactics can affect first contract outcomes. First, there are strategies which are directed at moderating the effects of contextual factors, such as media campaigns, political action, and changes in union or employer structure and practice. Second, there are strategies that the union and employer direct at each other. These include both direct pressure tactics, such as strikes and boycotts, and more indirect tactics designed to manipulate the opponent's view of each side's bargaining power, such as solidarity days, rallies, and negative publicity campaigns.

The third category includes those strategies directed at worker support for the union campaign. For the union this includes both one-on-one organizing

and active membership involvement in the bargaining process and the internal and external pressure campaign. Last, there are those union and employer strategies directed at the negotiation process itself, including decisions about ground rules, proposals, the use of experts, sidebars, and the use of fact finding, mediation, or interest arbitration.

The first contract model used in this study is therefore framed as a complex interaction of employer and union tactics, contextual influences, organizing campaign and election outcome variables, union negotiator and management consultant background, worker support for the contract campaign, and the actual negotiation process itself.¹

The underlying hypothesis of the first contract study is that unions will have more success in the first contract process when they utilize a multifaceted, rank-and-file intensive campaign strategy involving internal and external organizing and pressure tactics. This campaign strategy includes the following: the continuation of the one-on-one organizing tactics utilized during the certification election campaign, active membership participation in issue selection and proposal development, an emphasis on union democracy and representative participation, an active role for the rank-and-file bargaining committee at the table and in caucuses, a continued focus in union proposals and during the bargaining campaign on broader justice and nonworkplace issues rather than simply wages and benefits, an emphasis on building community and labor coalitions united in mutual support of both workplace and broader community concerns, the use of escalating internal pressure and external pressure tactics ranging from solidarity days to stockholder actions, and an emphasis on open negotiations with regular reporting to the members in newsletters and membership meetings.

Such a strategy may not be required in those units where the employer is ready and willing to reach a good first agreement with the union within a reasonable time frame. Yet absent such employer acquiescence, unions will need this kind of consistent multifaceted union strategy to be able to sustain membership support; counteract the negative impact of a hostile economic, legal, and political climate; and convince the employer that it is in his or her interest to settle the first contract as soon as possible.

As described in Table 1, in the empirical model testing this hypothesis, the rank-and-file intensive strategy is operationalized as an additive variable ranging from 0, for campaigns where no rank-and-file intensive tactics were used, to approximately 16, where all of the tactics were used. It is hypothesized that the more of these tactics the union uses in the campaign and therefore the greater the additive value of the variable, then the greater the likelihood that the union will achieve a first contract.

TABLE 1
Determinants of First Contract Outcome

Logit Estimation of First Contract Model with Dependent Variable: Contract/No Contract

Independent Variables	Sign	Sample Mean or Proportion	% Contract Rate*	Coefficient	Standard Error	Partial Derivative
Contextual Factors						
Bargaining Climate						
% Unemployment	-	7.20	NA	-0.103	0.376	-0.005
% Union density	+	20.63	NA	0.378**	0.174	0.019
Company in right to work state	+	0.25	.80(.80)	5.839*	3.756	0.291
Company Characteristics						
Unit in manufacturing sector	-	0.63	.78(.84)	2.010	1.408	0.100
Company profitable	+	0.78	.79(.79)	2.613	2.048	0.130
Other units under contract	+	0.51	.84(.76)	4.298**	1.928	0.214
Unit Demographics						
Average wage \$5.00 or less/hour	+	0.53	.79(.81)	2.079	1.762	0.104
60%+ Women and/or Blacks in unit	+	0.53	.87(.72)	3.376**	1.819	0.168
Organizing Campaign						
nlog(size*percent yes)	+	4.08	NA	1.552	1.486	0.077
Unit targeted	+	0.30	.90(.75)	3.577*	2.212	0.178
Negotiator Background						
Negotiator from international	+	0.41	.83(.79)	2.298	1.839	0.114
Negotiator female or minority	+	0.11	.91(.79)	2.357	3.383	0.117
Negotiator has college degree	+	0.31	.84(.78)	2.782	2.317	0.139
1-25 yrs rank&file experience	+	0.72	.88(.61)	5.647***	2.300	0.281
Management Tactics						
Captive audience meetings	-	0.21	.67(.84)	-1.616	2.202	-0.080
Employer used media &/or ads	-	0.06	.50(.82)	-6.767**	3.402	-0.337
Unilateral changes	-	0.37	.70(.86)	-2.669*	1.904	-0.133
Used outside consultant/lawyer	-	0.61	.75(.87)	-2.610**	1.514	-0.130
Initial proposals concessionary	-	0.18	.67(.83)	-4.158**	2.414	-0.207
Discharges after election	-	0.30	.73(.83)	1.698	1.621	0.085
Surface bargaining	-	0.37	.59(.92)	-4.780**	2.097	-0.238
Bargaining Process						
2 months+ between elec. & barg.	-	0.36	.83(.79)	-0.981	1.344	-0.049
Mediator used	+	0.50	.76(.84)	2.402*	1.874	0.120
Union Tactics						
Rank & file intensive campaign (additive variable including the following)	+	5.30	NA	0.692**	0.391	0.034
% Housecalled during negotiations (+%)		0.03	NA			
Focus on community issues (+1)		0.13	.85(.79)			
Inside strategies used (+1)		0.11	.72(.81)			
Sidebars reported to committee (+1)		0.38	.92(.73)			
Report on neg. to membership mtgs (+1)		0.85	.81(.73)			
Committee active at table (+1)		0.45	.80(.80)			
Committee active in caucuses (+1)		0.77	.84(.65)			
Newsletter distributed (+1)		0.38	.84(.70)			
Solidarity days used (+1)		0.30	.77(.81)			
Editorial visits used (+1)		0.06	.83(.80)			
Members vote/revise proposals (+1)		0.75	.79(.84)			
Contract survey done 1-on-1 (+1)		0.55	.78(.82)			
% Unit on negotiating committee (+%)		0.06	NA			
Leafleting used (+1)		0.26	.81(.80)			
Corporate pressure tactics used (+1)		0.15	.93(.77)			
Intercept		0.15	.93(.77)	-23.457***	9.817	-1.168
Total # of observations				100.000		
McFadden's Rho-squared				0.675		
2(Log-likelihood)				67.530		
Significance levels: *=.10, **=.05, ***=.01 (one-tailed tests)						

*Percent win rate is listed for all dummy variables when the variable=1 (the win rate for when the variable=0 is in parentheses)

Data and Methods

Building on a random sample of 261 NLRB certification elections in units with 50 or more eligible voters that took place between July 1986 and June 1987, the first contract study surveyed the union representative in charge of first contract negotiations for all units in the sample where the union won the election. These lead negotiators were asked to complete an in-depth survey about the first contract process, including questions regarding lead negotiator background, bargaining climate, the negotiations process, employer and union tactics during the contract campaign, and the actual bargaining outcome. This information was supplemented by data on employer and union characteristics, bargaining unit demographics, and election background collected as part of the certification elections study. Completed first contract surveys were received for 100 out of the 119 units in the sample where the union won the election, a response rate of 84%.

In the model being tested, first contract outcome is estimated to be a function of contextual control variables, such as bargaining climate, company characteristics, and bargaining unit demographics, election background and election outcome, employer tactics, negotiation process, negotiator background, and union tactics. The first contract equation is estimated by a log-likelihood function where the dichotomous dependent variable of contract=1 and no contract=0 is a function of $1/1(1+\exp(x_i\beta))$, where x_i is the vector of independent variables and β is a vector of logit coefficients. Because logit analysis only functions successfully with a sample size of 100 if the model is limited to a relatively small number of independent variables, the empirical model used only those variables that best capture the most important elements of the first contract process. The independent variables along with their hypothesized signs are specified in Table 1.

Results

Unions were able to obtain a first agreement in 80 out of the 100 units in the first contract sample. This 80% first contract rate is slightly higher than the rate found by other researchers. In part this is explained by the fact that this sample included only units with more than 50 eligible voters, which have been found by other studies to have higher first contract rates than smaller units (Pavy 1994). However, even with an 80% first contract rate, the low election win rate, especially in larger units, means that only 27% of the workers who voted for the union in the original certification election ended up being covered by a union agreement.

As we can see from Table 1, the use of a rank-and-file intensive campaign strategy was found to have a statistically significant positive effect on first contract outcome when we controlled for the influence of contextual

variables and employer behavior. The partial derivative for the union tactic variable suggests that for every one-unit increase in the "rank-and-file intensive campaign variable," the probability of the union winning a first contract increases by 3%.

When we look at the individual union tactics which constitute the rank-and-file intensive campaign variable, what is most striking is the great variance in tactics used and the extremely small number of unions in the sample that used aggressive and creative rank-and-file intensive strategies during the first contract campaign. Less than 20% of those surveyed focused on community issues, used either inside strategies or corporate pressure tactics, or continued organizing one-on-one after the election. Less than half reported on sidebars to the committee, had the committee play an active role in caucuses, and used solidarity days or leafleting.

The negative or weak positive results for these union tactic variables when examined individually seem to show that utilizing some of these tactics but not others can backfire on the union or, at best, render the tactics ineffective. When unions use a majority of the rank-and-file intensive tactics, the first contract rate averages 88%. In contrast, when unions utilize only one or two of these tactics, the first contract rate averages as low as 50%. Thus if the union has an active representative committee that never reports back to the unit, bargaining unit members may be much less likely to trust and fight for the union. It is the cumulative effect of these tactics that keeps the membership mobilized and committed, builds public support, and puts the employer on notice that the workers are committed to winning a good agreement and staying unionized.

Conclusion

The results from this study confirm that unions can diffuse the negative impact of an adverse bargaining climate and/or an aggressive employer campaign when they use a multifaceted, rank-and-file intensive campaign that focuses on mobilizing the membership to pressure the employer both inside and outside the workplace. The results also show that what happens at the bargaining table is just one piece of the first contract process. What the union does to pressure the employer in the workplace and in the broader community matters just as much, if not more, in determining the final outcome of the first contract campaign.

Despite this evidence, only a small number of unions are running rank-and-file intensive first contract campaigns, even when faced with intense employer opposition. What these results make clear is that, when faced with aggressive employer opposition at the bargaining table, unions have nothing to lose and a great deal to gain by running more aggressive and

more membership-intensive first contract campaigns. The benefits of utilizing these tactics may go far beyond the first contract in terms of building membership and leadership commitment to the union, developing a sense of ownership and real knowledge of the contract, developing community contacts and support, and making the employer take the union seriously. In contrast, if unions do not follow up certification elections with aggressive, rank-and-file intensive first contract campaigns, more and more employers will be able to turn union election victories into devastating first contract defeats.

Endnotes

¹ For a more detailed review of the literature, as well as a complete explanation of the theoretical model and hypotheses, please refer to Bronfenbrenner (1993).

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