Cornell University
ILR School

Labor Research Review

Volume 1 | Number 14
Participating in Management: Union Organizing on a New Terrain
Article 5

1989

Goodbye to the Management Rights Clause

Barry Bluestone

Goodbye to the Management Rights Clause

Abstract
[Excerpt] After the organization of the UAW, it could plausibly be argued that the union turned the game around. Indeed, by the late 1950s, the UAW could play one corporation off against another, setting as a strike target a single company while permitting the others to encroach on the market share and profits of the struck company. The strategy worked, and wages and benefits improved steadily.

What changed in the 1970s was the global context. With the unrestricted flow of foreign imports into the country and the ability of domestic manufacturers to move production or parts supply offshore, the number of blue-card corporations in the auto game increased to include European and Japanese producers. But, more importantly, the number of white-card workers exploded by several million. European and Japanese autoworkers—and later South Korean and Mexican—entered the game but not as members of the UAW. The balance of power between blue and white cardholders shifted back toward the blues.

Keywords
UAW, management rights clause, globalism

Goodbye to the Management Rights Clause

■ *Barry Bluestone*

Labor's predicament in the 1990s is graphically illustrated in a simple exercise that I have incorporated in the Boston week of the UAW-GM Paid Education Leave (PEL) program. The 30 or so participants in the seminar are given six chances to win the state's million-dollar lottery. Each participant is given a blank index card; six of these are blue, the remaining 25 or so are white.

To get one of the six lottery tickets requires that a participant find a partner who has a card of the other color, negotiate an agreement on how the million-dollar prize will be divided, and present the pair of white and blue cards to the seminar leader. A white card without a blue is worthless, as is a blue card without a white.

The question I ask the seminar participants is: "What is a white card worth in this game? One half of the million-dollar jackpot? One twenty-fifth?" It turns out that if the game is played in a purely competitive manner, the answer is one cent! Since white cards and blue cards by themselves get no reward, it is in no one's interest to be left without a partner. But with more white cards than blue, blue cardholders are free to auction off their cards to the six highest bidders. Not to be frozen out of the game, two or more white cardholders will often bid frenetically against each other until one concedes everything but one cent in order to make a deal.

What makes this particular game so intriguing is that its outcome can be turned on its head. If the white cardholders organize themselves into a union so that all of the white cards are played as one, the "price" of the now more numerous blue cards plummets and the white cards gain complete control of the game. A mere six white-card defectors, however, can nullify the collective effort of the "union."

For the auto industry, this eloquent little exercise reflects more than 50 years of labor-management history. Before 1937 and the organizing successes in the industry, there were millions of white-card workers and a handful of blue-card corporations. The results were predictable.

After the organization of the UAW, it could plausibly be argued that the union turned the game around. Indeed, by the late 1950s, the UAW could play one corporation off against another, setting as a strike target a single company while permitting the others to encroach on the market share and profits of the struck company. The strategy worked, and wages and benefits improved steadily.

What changed in the 1970s was the global context. With the unrestricted flow of foreign imports into the country and the ability of domestic manufacturers to move production or parts supply offshore, the number of blue-card corporations in the auto game increased to include European and Japanese producers. But, more importantly, the number of white-card workers exploded by several million. European and Japanese autoworkers—and later South Korean and Mexican—entered the game but *not* as members of the UAW. The balance of power between blue and white cardholders shifted back toward the blues.

Meeting the Challenge of Global Competition

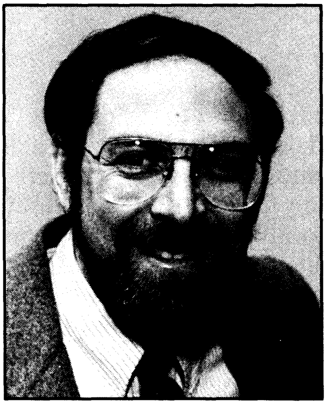
In response to the worldwide proliferation of white cards, it is no great revelation that organized labor must develop a new strategy to ensure the job security and the wages and benefits of their members. Indeed, we can count four strategic possibilities.

The preferred solution to this problem is a time-honored one—organize the unorganized. Collecting all of the white cardholders into one coordinated international global union could redress the balance between management and labor. Unfortunately, there are enormous hurdles preventing achievement of this objective. If anything, in the auto industry the opposite is occurring. When the Canadian autoworkers seceded from the UAW, North American solidarity was compromised. Nationalist sentiment will make it difficult for the European trade unions to form strong alliances following economic unification in 1992. The thought that

American unions could form a strong working confederation with European, Japanese, South Korean, and Mexican unions for the purpose of collective bargaining is perhaps even more far-fetched at the moment. Global unionization is a fine idea as was the I.W.W. of the late 19th Century. But it is an idea whose time is still to come.

A second strategy is to return to the militant adversarial position of an earlier era. It could be argued that the new "lean and mean" tactics of the corporation aimed at restoring profits to the extraordinary levels that existed before the onslaught of global competition have not been met by organized resistance. According to those who support a staunch defense of existing work rules and job classifications, any concession to management's attempt at bolstering "flexibility" in the production process can only result in the wholesale abandonment of workers' rights and the ultimate plundering of the union. In the extreme, management's ability to manipulate "cooperative" programs aimed at enhancing productivity or product quality is said by some to be so great that unions must oppose them.

While there is some nostalgic appeal to "old style" adversarial unionism, the lesson of the cards seems compelling. The union, no matter how militant its stance, has little power to tame the global marketplace or for that matter reign in the multinational firm that moves its operations abroad or outsources its production to avoid the union. While there has always been some motivation



Barry Bluestone teaches political economy at the University of Massachusetts at Boston. He is coauthor, with Bennett Harrison, of The Great U-Turn: Corporate Restructuring and the Polarizing of America *(1988) and* The Deindustrialization of America *(1982). He also is a founding member of the Economic Policy Institute, a Washington-based organization devoted to progressive economic and social research.*

for firms to attempt to avoid organized labor, the fiscal exigencies of modern global competition generate stronger incentives than ever to pursue union-avoidance tactics. Wage and benefit differentials that are not offset by higher productivity or better product quality become the prime target of managers who see themselves as constantly battling lower unit-cost, higher-quality producers in order to maintain their profit margins, satisfy their stockholders, and fend off unfriendly corporate raiders. Confronting management with an immutable stance on past union-management practices forces the stakes higher and higher. If this is the only game in town, it may be necessary to play. But it is a high risk strategy with increasingly remote chances of success. In any case, the role of good union leadership is to protect the rights and welfare of workers and make certain that management cannot take undue advantage of the employee within the participation process.

There is a hidden and powerful assumption in the old style adversarial union strategy: management is responsible for success in the marketplace while organized labor is responsible for obtaining as much of the fruits of that success for its members as possible. As long as management faced minimal competition and market success was assured, the strategy was reasonable enough. In the current era, however, one thing is certain. While the fruit may or may not be as plentiful as it once was, management does not control anywhere near all the expertise necessary to harvest it. Labor has been on the defensive not so much because it has been less militant than because management has been less successful in its pursuit of markets. That GM's share of U.S. auto sales has plummeted from nearly 60% in the 1950s to no more than 35% in the late 1980s is more responsible for the present plight of autoworkers than anything the UAW may or may not have done.

The weakness of American industry in global competition suggests a third strategy for labor. Following Banks and Metzgar in this volume, we might call this "Maggie's Strategy." Labor has a role to play in boosting shopfloor productivity and product quality, but it is incumbent that it do everything to keep its own expertise out of the hands of management. This strategy recognizes the limits of management to run their enterprises effectively and acknowledges the role that organized labor can play in assuring job security by boosting productivity and product quality. But in order to protect labor from having its skill coopted by management and used against the workforce and the union, Maggie's strategy attempts to bar management from learning the "tricks" of the trade.

There are, however, two problems with Maggie's strategy. The first is the practical side of keeping production secrets from shopfloor managers. Maggie may have been able to hide her "trick" from her line supervisor and she may even have been able to limit knowledge of the trick to the most loyal workers in the union hall. Yet most "tricks" of the trade cannot be kept secret because they are obvious. Few can be hidden by fancy handwork; the number of Harry Houdinis in the workplace is limited.

But there is a much more important reason why Maggie's effort cannot be generalized as the basis for a new relationship between labor and management. Most of the corporate inability to compete does not flow from plant floor practices, but from the myriad of decisions that management makes unilaterally concerning the design, the engineering, and the pricing of the product, the type of technology used in production, and the reinvestment strategies of the enterprise. As Banks and Metzgar acknowledge, labor must begin to participate in all of these areas once reserved to management, because it is precisely here where job security and wage standards and benefits are won or lost. The most militant union in the world cannot win job rights or wages from a company which is being run into the ground by inept or myopic management.

This leads to a fourth strategy, one which is revolutionary in content but evolutionary in practice. Workers, *through elected union representatives*, must fully participate in virtually all of the decisions that are currently the contractual prerogative of management. Essentially, the management prerogatives clause in the standard union agreement must be abolished.

In one sense, this is not revolutionary at all. Labor's historic struggle has been to limit managerial discretion over more and more of the decisions that affect the lives of union members. Progressively, union recognition, wage setting, work rules, job classifications, health and safety regulations, and disciplinary procedures have all become matters of joint union-management agreement. New forms of joint participation call for extending this list to a whole range of issues traditionally reserved to those who wear white collars and three-piece suits.

The pattern for this type of new social contract between labor and management may be evolving at Saturn, the joint UAW-GM attempt to build a brand new automobile in a newly constructed facility in Tennessee. Union representatives have been intimately involved in the design of the vehicle, in decisions over the technology used to produce it, and even in choosing the advertising agency that will hawk it to the public. This experiment bears close scrutiny.

Toward a Revolutionary Union-Management Contract

Toward the end of my seminar in the UAW-GM PEL program, I have taken to proposing a radical set of contract demands, some variant of which I hope the UAW might consider presenting to GM in the 1990 negotiations. When I first put them forward, I did so with some trepidation. The response has been so enthusiastic—from both local union leaders and local plant management personnel—that I now think of this as one of the high points of the PEL experience. Here are the six "demands" I propose:

1) The UAW agrees to target as a mutual goal with the corporation a 6% productivity improvement in each of the three years of the contract.

2) The UAW demands annual 3% wage boosts plus standard cost-of-living protection in line with the wage settlements in the 1984 and 1987 contracts.

3) The UAW demands that GM reduce the prices of its new cars by approximately 1-3% each year, after appropriately accounting for the difference between labor productivity increases and overall increases in total labor plus non-labor costs.

4) The UAW demands that quality of the product be a strikable issue. If the quality coming off the assembly line does not meet joint union-management standards, the union has the right to close down the line.

5) The UAW demands an ironclad no layoff clause. Any necessary reductions in force must be accomplished through normal attrition and jointly negotiated incentives for early retirement.

6) Finally, and most critically, the UAW demands that all corporate decisions regarding matters such as those including product pricing, marketing and advertising, methods of production, the introduction of new technology, investments in new capital and products, and the subcontracting of production be the subject of joint action by the union and the company. This requires a drastic overhaul of the management rights clause.

Why is there a need for these particular provisions? One reason is simply dignity. As stakeholders in the corporation, workers should have a right to help make those decisions that most affect their well-being. This is the essence of the struggle for economic democracy.

Beyond this moral requirement, however, are the exigencies of good business practice. To regain some of its lost market share, GM must stabilize its prices in order to simply get customers into dealer showrooms. Hence the call for productivity increases and price cuts. To get those new shoppers to actually buy the GM product, they must be convinced of its quality. Hence the demand for quality as a strikable issue. And to make sure that the productivity and quality are there in the first place, workers must be assured a meaningful role in corporate decision-making and must be warranted against losing their jobs in the process.

To be sure, such a significant increase in union influence over corporate decision-making will require a tremendous expansion in the skills and expertise of union representatives. But this is as it should be. The critical decisions that affected workers' well-being in the first two-and-a-half decades of the post-World War II period were made in the negotiation of the contract and the processing of grievances. In today's global economy, the critical decisions go far beyond this set of issues to the very areas that too often remain solely in the domain of management prerogatives. The ultimate goal of the modern union in a global economy is not simply to limit the management rights clause, but eventually to relegate it to the history books. ■