

Union and Management Decision-Making in the Grievance Process

La prise de décision et la procédure de réclamation

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Article abstract

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This paper is based on a study done during 1967 and 1968 in five U.S. Steel companies. The research, conducted under a grant by the American Iron and Steel Institute, was designed to develop an explanation for differing grievance rates between departments in the same plant and from that, a model differentiating high – and low-grievance – rate departments in general. The research involved the examination of grievance records, interviews and observations over a span of about six weeks in two departments at five locations.

While the focus of this research was not on decision-making, *per se*, the two decision-making processes – union and management – were influential in determining relative grievance rates and as a result, were a focus for observation and analysis. At the outset, however, note should be taken that the following comments are based on observations in a single industry (steel) and a single international union (United Steelworkers). While I believe that the conclusions are generally applicable, at least to manufacturing, slight modifications might well have to be made to accommodate industry and union differences.

One way of looking at Union-Management relationships is as a series of challenge – response interactions ; union challenge and management

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response. Two types of union challenges may be differentiated ; the negotiation challenge and the grievance challenge. Looking only at the grievance-challenge aspects of union-management interactions, two basic union decisions and two management decisions can be identified. First, the union must decide whether to challenge a particular management action (or failure to act) and then, if a challenge is decided on, must decide on the nature of the challenge. The nature of the challenge can be either formal, i.e. a written grievance, or informal, essentially oral in character. A third union decision may need to be made, concerning the person to whom the challenge should be directed, but in many cases, the nature of the challenge determines its direction.

The nature of the union challenge conditions management's response. An informal challenge may be ignored ; a formal, written grievance must, under the agreement be answered. The 'how to respond' part of management's set of decisions may be viewed as requiring a decision as to the substantive issue raised by the union challenge.

These two sets of decisions exist at every step of the grievance procedure. Of course, some procedures provide for an oral first step, but even where such a procedure is outlined, an informal union challenge is still possible, informal in the sense that it is not directed at the management level indicated by the contractually outlined procedure.

In general, the rate of union challenge is dependent, at least in part, on the state of the union-management relationship and the length of the time-span over which that relationship has existed. Clearly, a union-management relationship rooted in conflict is likely to increase the number of challenges to management decisions, either in the form of grievances or in the use of pressure tactics. The following analysis will not wholly apply to these situations, nor to situations where the relationship is relatively young, nor, perhaps, to situations where union-management relationship is one of active co-operation, as where Scanlon-type places are operative.

Also by way of introduction, it may be said that grievances can be divided into five groups :

- 1) Cases arising out of plain violations of the agreement by the employer.
- 2) Cases arising out of disagreements over facts.
- 3) Cases in which the essential issue is the meaning of the agreement between the union and the company.

- 4) Cases involving the method of applying the agreement.
- 5) Cases involving differences of opinion as to the reasonableness or fairness of various actions ¹.

Aside from plain and simple violations of the agreement, unions have a great deal of latitude in deciding whether to challenge a particular management action. The factors which influence these decisions are the focus of this paper.

I propose to examine the variables impinging upon the decision sets outlined above, the variables which help determine which decision will be made. Particular emphasis will be placed on the factors influencing union decisions, since these decisions, in turn, have a strong influence on the set of management decisions.

THE UNION DECISION SET

To Challenge

The first decision in the Union Set, whether to challenge, is seen as being influenced by three variables : Union policies, Union politics, and Union leadership.

Union Policies — Some union challenges to management decisions are almost automatic in that the local union or a particular work group pursues a policy of filing a written grievance on every instance of a particular management decision. For example, one local union followed a policy of grieving every change in method of technology that had an impact on the workforce either in the form of reduction in skill (and pay) requirements or reductions in force. Further, union policy dictated that such grievances be carried to arbitration. This policy was pursued in the face of a management policy which provided very careful documentation of each technical or method change with pre-change and post-change studies by industrial engineering staff. Management's decisions had never been modified by an arbitrator, but the union nevertheless continued to follow its policy of grieving every change in work place conditions.

Another local union followed a policy of grieving every new job classification or job re-classification and pushing the grievance to the

¹ Summer H. SLICHTER, James J. HEALY and E. Robert LIVERNASH, *The Impact of Collective Bargaining on Management*, Washington, D. C., The Brookings Institution, 1960, pp. 694-95.

fourth step of a five-step procedure, where the issue was handled by a representative of the International Union and representatives of the corporation's industrial relations and industrial engineering staffs. If the issue was not resolved at the fourth step, it was taken to arbitration, but most cases were resolved prior to arbitration. The union followed this policy in every instance, even where there was no disagreement at the local level as to the proper job classification.

In another instance, a work group, in this case a millwright group in a maintenance department filed a grievance over every management decision to contract out work normally done by the millwrights. At the time, the group was working a 48-hour week and the management subcontracting decisions were based on the fact that work could not be done by the millwrights in question. The grievances were taken to the third step of a four-step procedure, where the workers received assurances from management, in writing, that the work had been contracted out only because the department's present work load required it, that the decision was no reflection on the millwright's ability to do the work, and that in the future, such work would be done in the plant if the workload permitted it.

While the rationale behind the policy-based actions of the three local unions in question varied, the results were the same. On particular issues, union policy dictated an affirmative answer to the question of whether to challenge, and the policy could be seen to be influenced in turn by the nature of the problem. The decision to challenge was automatic, and the form of the challenge, i.e., a formal, written grievance, was also dictated by the policy.

At the risk of appearing cynical, a further ramification of the nature of the issue can be noted here. Issues related to lost earnings opportunities had a tendency to be challenged through the grievance procedure. A mis-schedule, or the loss of an overtime opportunity, or the mis-assignment of work to another individual or work group all could be protested, and payment could be sought for time not worked. Such challenges had the potential of providing monetary rewards to individuals at no real cost to them, and thus were a likely source of grievances. These challenges could be seen to be a function of past success in this area, and, as will be seen shortly, union leadership.

Union Politics — In all of the locations studied, the grievance rate increased during union election years. Because of the political nature of union, departmental stewards, committeemen, or grievance representatives

were much less inclined to refuse to pursue a problem through the grievance procedure when an election was imminent. An increase in militancy, and a demonstration that a particular union representative was able to « do the job » were apparently necessary if the representative was to receive a fresh mandate from his work group, forestall a challenge, or actually defeat a challenge. Thus, the prospect of an election could be seen to push a steward toward an affirmative answer to the question, « Should I challenge ? »

Apart from election pressures, certain management decisions were challenged because of individual or work-group pressures even though the contract may not have been violated by the decision. Disciplinary actions were a prime example of this type of situation. On several occasions, stewards were seen to file grievances protesting disciplinary actions even though they privately acknowledged that the discipline was deserved. The action taken was rationalized by statements like, « Even if a guy is wrong, he still deserves his day in court, » or « Nothing makes a person madder than discipline he doesn't think he deserves ; it's better to file a grievance than to try to argue with him. »

In the instances observed, a device was available which allowed the steward to dispose of the problem without incurring any political liabilities. The device was a union screening committee which usually operated at the third step of a five-step procedure, the point at which jurisdiction over a case passed from the departmental grievance representative to the plant grievance representative. In short, the screening committee could decide not (with or without pressure from an individual grievance representative) to pursue a grievance any further, and the onus of the failure to continue to prosecute the case would fall on the committee as a whole and not on the individual department representative.

Union Leadership — The most conspicuous variable affecting the union decision to challenge a particular management action is the nature of union leadership. In the course of the study five distinct types or patterns of union leadership were observed. These types, and their impact on the challenge decision were as follows :

Inactive leadership was seen at only one location, and, only in the presence of an aggressive, policy-oriented management, which took pains to follow the collective agreement to the letter. Also, the technical environment was quite stable. In this instance, the grievance rate was very low — few management decisions were challenged, formally or informally. Individual foremen did not know who the department grievance repre-

sentatives were, indicating a lack of contact between these two groups. While there were probably fewer-than-average opportunities to challenge management decisions in this department, the department had a very high grievance rate in prior years, indicating that the low rate found at the time of the study was at least partially a function of a union reluctance to challenge management decisions.

The second type of union leadership found was called *problem-solving*. This pattern of behaviour was found in grievance representatives in several low-grievance rate departments. One outstanding characteristic of this type of leadership was a willingness to tell potential grievants that they did not have a case, i.e. to refuse to process a grievance or to challenge a management decision. A second characteristic was a preference for informal resolution, and these individuals resorted to formal-written grievances only as a last resort.

A third type of union leader was called the *advocate*. This type of leader tended to take almost a lawyer's point of view regarding challenges to management : if an employee had a grievance, this type of leader would file the charge and carry it as far as he could, without regard for the merits of the case. In sum, « My client, right or wrong. » In an extreme manifestation, an individual following this leadership pattern continued to take virtually identical cases to arbitration in the face of the refusal of permanent umpire to accept the union's point of view.

Yet another leadership style was found in the individual called the *politician*. Only one example of this style was observed, and there is some question as to whether it was a distinct style. The individual in question was seeking a higher union elected office and was in general attempting to make himself look good at the company's expense. At the time of the study he was pursuing the tactic of filing many grievances, again without regard to the merits of individual cases, and then refused to meet with management in an attempt to discuss and resolve the issues. He then, to the work group, placed the blame for the delays on management. The chief difference between the politician and the advocate did not appear to be in the nature of the challenge, but in differing desires for resolution of challenges.

The final leadership pattern observed was that of the *radical* or *man-with-a-cause*. Two examples were observed here ; one individual was a civil rights militant and the other a political radical. Both individuals tended to exhibit a high frequency of challenge to management decisions, perhaps abnormally high, because of a personal frame of reference that

perceived management actions in terms of discrimination or exploitation. Thus management action was scrutinized in terms of both contractual rights and individual rights, both usually unfavourably and in a highly critical manner, with the union leader holding strong convictions of management bias.

The latter two types of union leadership also tended to challenge management actions in ways outside the grievance procedure. Appeals were made to the labour board, for employment commissions, state and municipal agencies. Resort was also made to the news media when possible.

In sum, inactive types of union leaders tended not to challenge management decisions. The problem-solver tended to challenge less than the advocate, the politician or the radical. Radical leadership evidenced a higher propensity to challenge than either the advocate or the politician.

How To Challenge

In examining the role of union leadership in the decision to challenge, we have also seen that it affects the decision how to challenge as well. The inactive type of union leadership tended not to challenge. Problem-solver types of leaders tended to challenge informally, while advocates, politicians, and radicals all tended to challenge formally. Three other factors were observed to relate to the union decision on whether to challenge formally or informally. They are the technology of the task, the nature of the community environment, and the nature of the management decision-making process.

Task Technology — The nature of jobs in a particular department can be seen to affect the degree to which challenges can be made informally. Informal resolution was difficult or impossible under some task structures observed in the research and promoted by others. As an example of the latter, a batch process, like open hearth operations in the steel industry, provided built-in breaks during which problems could be discussed. In some other operations, such as a blooming mill, spell-men were used which provided opportunities for some challenge or discussion.

In other situations, such as a wire fabricating operation, in which machines were run by individuals on a piece-rate incentive, an informal challenge meant a loss of production and a loss of income. In this situation, challenges tended to be formal and the grievance-rate high. Similarly, a maintenance department doing work all over a large steel mill provided

little opportunity for worker-management interaction in general and little opportunity for informal challenge.

Community Environment — In addition to the work place environment described above, the community environment affects the union decision on how to challenge. In general, the smaller the community the greater is the propensity to informal challenge.

The reasons behind this phenomena are simple. In a smaller community union and management generally had increased off the job contacts, more knowledge of each other's personal background and present situation, and may have, as was observed in one instance, even lived next door to each other².

The Management Decision-Making Process — The third and most important variable influencing the second decision in the union set is found in the management decision-making process. In all of the companies studied the expertise and real decision-making power rested with labour relations staff and not line management. Labour relations staff was responsible for the final step of the grievance procedure at the plant level, for the fourth step (if there was one) at the corporate level, and for handling the case in arbitration. In order for a union representative to have the final authoritative management view of a case, he would have to bring it to the attention of the labour relations department.

In some instances the line-staff relationship was such that line management could submit even informal challenges or complaints to labour relations staff for consideration; in others such submission was deferred. In either of these instances, informal challenges could receive labour relations attention, a fact which encouraged informal challenge and informal resolution.

In other situations, labour relations staff did not or would not consider an issue until it had been reduced to writing. In still others, the issue was not considered by labour relations until it had reached the third step of the grievance procedure where labour relations staff is responsible for hearings. Both of these types of decision-making processes encouraged formal challenge, i.e., written grievances, but also their pursuit to a relatively high level of the grievance procedure.

² For an interesting and further illustrative study of a plant in a small community see — Alvin W. GOULDNER, *Patterns of Industrial Bureaucracy*, New York, The Free Press, 1954.

THE MANAGEMENT DECISION SET

To Respond

As was noted earlier, management's options in deciding whether to respond to a union grievance challenge are somewhat circumscribed by contractual obligations. Management *must* respond to a written grievance. The decision on whether to respond to an informal challenge seems to be primarily a function of management leadership style. A smaller range of leadership styles was observed in managers than in union leaders. Basically, three types of management styles were seen : Inactive, Problem-solving and Autocratic.

Inactive managers tended to avoid dealing with challenges, deferring to labour relations staff in this regard. Informal challenges were discouraged or ignored, and the union resorted to written challenges to bring the issue before labour relations staff.

Problem-solving managers were similar to their union counterparts. Management errors were admitted, and informal challenge and resolution were encouraged. Problem-solving types of managers were observed in situations where they relied heavily on labour relations staff advice and where they acted with a high degree of independence.

Autocratic managers resisted and resented challenges of any type. By definition, management decisions were considered to be « right » and unchallengeable. Certainly, informal attempts were usually dismissed with an expression of the thought that if the steward or employee were dissatisfied he could file a written grievance.

Of course, these behaviour patterns on the part of managers tended to be repetitive and thus conditioned the nature of the union challenge, and only problem-solving types of managers and union representatives tended to evolve a consistently informal challenge-response interaction.

One further management decision point of note involves a union challenge directly to labour relations staff. All of the contractually-outlined grievance procedures examined provided that the initial union challenge had to be directed toward the lower levels of line management. Because labour relations staff had the real expertise and authority in regard to grievance challenges, union representatives were tempted to present informal challenges directly to labour relations staff personnel. Labour relations personnel usually decided not to handle these complaints directly, preferring instead to involve line management, and directed the

union representative to the manager responsible for the question. As such, this represented a policy decision to follow the contractually-outlined procedure.

How To Respond

Because of contractual obligations, management really only has an option of responding or not responding to an informal union challenge, with a negative response producing a formal challenge. A positive response that insists on a reduction of the challenge to writing is essentially the same decision as a negative response. Thus a positive response to an informal union challenge must be similarly informal — an attempt to solve the problem without recourse to the formal, written grievance procedure. The « how-to-respond ? » question in the management set, in the sense that this question or decision exists in the union set, is inseparable from the decision on whether to respond.

In a real sense, the « how-to-respond ? » part of the management set calls for a decision on the substantive issues raised by the union challenge. In brief, three alternatives are available : yes, no and a compromise of some sort.

Generalizing about the factors which influence this particular decision is difficult. Clearly, the exact nature of the issue raised would be of primary importance. As observed in the study, in the early stages of a grievance challenge, management tended to a much greater extent than the union did to be concerned with how the issue might be viewed by an arbitrator, and the probability of winning a case in arbitration. This was based on their own past experiences with arbitrators as well as arbitration rulings in the industry and was a prime factor in deciding how to respond to a union grievance challenge. This was particularly true in the U.S. Steel industry with a highly centralized negotiating process and an arbitration process based heavily on industry precedent, and might not apply as much in other situations.

In a situation where the parties did not rely heavily on arbitration (and no such situation was observed in the research discussed here) factors other than the likely decision resulting from arbitral review would become important. The costs associated with a particular challenge, both in terms of monetary outlay and operating efficiency plus the applicability of the situation to other parts of the operation would probably tend to look larger in the decision-making process.

Management response might also be more conditioned by the type of union leadership. In the situation observed, challenges by moderate union leadership — that defined as the problem-solving type — usually received more favourable attention from management than challenges by other types of union leadership. Because problem-solving leadership was selective in its challenges to management, these challenges made usually indicated an area of real concern to the workforce and, if nothing else, issues that were politically difficult for the union leadership to refuse to handle. Thus, in determining its response, management knew that the issue was of some importance to the workforce, and efforts to mitigate the impact of the original management decision could produce real dividends in terms of the general union-management relationship.

LA PRISE DE DÉCISION DANS LA PROCÉDURE DE RÈGLEMENT DES RÉCLAMATIONS

La prise de décision en matière de règlement des griefs suscite toute une série d'interactions entre le syndicat et la direction. Le présent article est fondé sur une étude qui s'est faite dans cinq entreprises de sidérurgie aux États-Unis au cours des années 1967 et 1968. Le travail a consisté dans l'analyse des dossiers, dans des entrevues et des observations diverses. Évidemment, les constatations ne portent que sur une seule industrie, celle de l'acier mais, à quelques nuances près, elles sont susceptibles de valoir d'une façon générale, du moins dans l'industrie manufacturière.

Les cas, qui ont été analysés, peuvent se diviser en cinq groupes distincts : la violation de la convention collective par l'employeur, le désaccord sur des faits, l'interprétation de la convention collective, la façon dont la convention est appliquée, les divergences d'opinion au sujet des méthodes d'action.

D'une part, on s'est intéressé d'abord au comportement du syndicat qui peut différer selon sa conception de l'action syndicale, selon son état en tant qu'institution de nature politique. Certains syndiqués s'attaquent automatiquement aux décisions patronales et présentent des griefs formels à chaque fois que l'occasion s'en présente. D'autres syndicats s'attaquent principalement aux nouvelles classifications d'emploi et les griefs de ce genre se règlent généralement en présence du représentant international ou sont soumis à l'arbitrage. D'autres, par exemple, combattent vigoureusement la sous-traitance. Enfin, des griefs formels sont soumis et portés à l'arbitrage chaque fois qu'un salarié ou un groupe de salariés a quelque raison d'espérer de l'arbitrage un avantage matériel quelconque.

La situation politique au sein du syndicat exerce aussi une influence certaine sur la façon de traiter les griefs. Le nombre des griefs a tendance à augmenter lorsqu'il y a lutte entre différents clans à l'intérieur du syndicat et l'attitude à l'endroit des réclamations revêt alors une saveur électorale. On observe aussi un phénomène identique lorsque des groupes de pression se forment pour combattre une décision patronale dans un département.

Toutefois, du côté syndical, le principal facteur qui influe sur le traitement des griefs est sans conteste l'attitude des dirigeants. On peut, à ce propos, classer les dirigeants syndicaux en cinq catégories : il y a les inactifs, les chefs soucieux de régler les problèmes, les avocats et, finalement, les radicaux et les politiciens.

Selon ces différents types de dirigeants syndicaux, on procédera différemment dans le traitement des griefs. L'inactif ne bouge pas : le véritable négociateur a tendance à éviter la présentation de griefs écrits et à discuter au mérite chaque cas soumis ; l'avocat est enclin à défendre la cause jusqu'au bout, qu'elle soit bonne ou non ; quant aux politiciens, ils amassent du capital et, avec les radicaux, ils contestent systématiquement les décisions patronales.

La nature du travail, l'organisation de l'entreprise et le milieu ambiant jouent aussi un rôle sur le nombre des griefs et la façon de les traiter. Ainsi, dans une localité dont la population est peu nombreuse sera-t-on plus enclin à discuter les griefs d'une façon informelle. Enfin, il faut noter que la façon dont procède la direction dans la prise de décision et l'organisation même du service de relations du travail comptent pour beaucoup dans la façon dont les syndicats agissent en matière de traitement des réclamations. Il arrive que le service des relations du travail ne bouge pas tant qu'il n'est pas en présence d'un grief présenté par écrit en bonne et due forme.

Du côté patronal, l'attitude des dirigeants peut se comparer dans une certaine mesure à celle des chefs syndicaux. L'enquête a permis de déceler qu'il y a des employeurs inactifs qui cherchent à éluder les problèmes ou se contentent de référer les cas soumis au service des relations du travail, les dirigeants soucieux de régler les problèmes d'une façon informelle tout comme leurs collègues syndicaux et, enfin, les employeurs autocratiques, qui, au nom du principe de l'autorité, ont pour politique de défendre jusqu'au bout ce qu'ils considèrent être de leurs prérogatives qu'elles soient justes ou non, et qui sont fermés à toute forme de compromis. Ces attitudes de base se reflètent naturellement dans la façon de traiter les griefs aux différentes étapes de la procédure.

Dans l'ensemble, on peut dire que, en règle générale, l'attitude des employeurs dépend beaucoup de celle des chefs syndicaux, et il y a là une interaction certaine. Il faut aussi noter que, aux étapes préliminaires de la discussion, les employeurs sont sensibles à ce que serait la décision d'un arbitre ou d'un tribunal d'arbitrage. Ils tiennent généralement compte du coût financier du litige et aussi des avantages que peuvent apporter à longue échéance des compromis acceptables.

En bref, le syndicat, devant un grief, doit décider s'il doit le défendre et comment il lui faut le défendre : d'autre part, sujet aux stipulations du contrat, l'employeur se place dans une situation à peu près identique de défense.