Labor-Management Relations, Collective Bargaining, and the Public Sector: Collaborative Solutions in Alameda, California

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Abstract

This article describes current developments taking place in the collective bargaining process between public labor unions and public agencies in the United States. In order to create a more effective working relationship with each other, labor and management have shown a willingness to engage in participative decision-making as a method for greater collaboration. A case study of the City of Alameda, California will serve as a framework for this development between labor and management. In order to better understand this development, two policy models will be presented -- Peters' "flexible government" and Milward's "hollow state" -- as a conceptual frameworks for better understanding how labor and management have become more cooperative in their negotiation strategies.

Introduction

The future of public sector labor unions and management is one of increased collaboration. In order to make government "work better and cost less" (Osborne and Gaebler, 1992; see also Schmidt and Finnigan, 1992; E. Ostrom, 1986), labor and management have sought to become more efficient in the utilization of public funds and resources. In doing so, democratic institutions in the United States have become revitalized through public labor and management efforts to provide greater "customer service" (Sulzer, 1997; Sulzer, 1985).
Background

In 1962 John F. Kennedy's Executive Order 10988 made collective bargaining a lawful practice in public sector negotiations. For the first time, it allowed federal employees to engage in union organizing and collective bargaining. Later, this order was expanded upon by Richard Nixon's Executive Orders 11491 (1969) and 11616 (1971), and Gerald Ford's Executive Order 11838 (1975), which formalized the bargaining process for federal employees. Finally, in 1978 under Jimmy Carter, the Civil Service Reform Act stipulated that the president no longer had the authority to regulate the collective bargaining process on his own behalf (Kearney, 1998; Martin, 1979; Brooks, 1971; Chamberlain, 1965). As a result, clearly established procedures had been established for regulating public sector collective bargaining (Robertson and Seneviratne, 1995).

However, during the past two decades public sector labor and management have continually been at odds over issues relating to compensation, benefits, overtime, etc. Mutually agreeable accommodations for both parties have been difficult to achieve. Cognizant of this problem, public labor unions and government agencies have begun to implement Quality of Work Life (QWL) programs in order to help mitigate negotiation issues (Prasnikar, 1991; Krim and Arthur, 1989). While highly successful in Western Europe, QWL methods have been utilized in Japan and the United States. The important tactic in QWL methods is to promote participative negotiations and team-oriented approaches in problem-solving. In utilizing QWL methods, public labor and management negotiations have resulted in creating an atmosphere of collaboration and respect which has helped in resolving disputes (Kearney and Hays, 1994; Hoerr, 1989; Krim, and Arthur, 1989; Sirianni, 1987). QWL methods have also extended to managerial levels, joint and ad hoc committees, and advisory committees as a means to resolve issues at lower levels where labor and management at times conflict over issues. To some degree, QWL methods reduce the need for outside arbitration (Guzda, 1993; Tsiganou, 1991).

In the 1990s, advocates of improved employer-employee relations discovered that participative decision making (PDM) and employee involvement (EI) were also a viable options as methods for dispute resolution. These methods were adopted by the U.S. Department of Labor, Employee Involvement and Quality Improvement Project (Armshaw, Carnevale, and Bruce, 1993). In this situation, cooperation between labor and management through PDM and EI methods became significant factors in helping to facilitate more amicable
negotiations in collective bargaining. The implicit strategy of PDM in particular is to reduce the "we-they" mindset that pervades negotiations. One such government entity to successfully utilize PDM methods has been the City of Alameda, California.

The City of Alameda

In 1995, the City of Alameda, California and non-management union representation entered into negotiations on a "meet and confer" basis. This was based on a memorandum of understanding (MOU) regarding a new wage-and-benefit package. During a three-year period of protracted and unsuccessful negotiations, an impasse had finally been reached in which arbitration was needed between the fire department's union representation and the City of Alameda. For over a year arbitration continued. During the four years that transpired, labor-management relations deteriorated to the point of conflict and antagonism. Invariably tensions mounted between the two negotiating parties because of the lengthy process of the negotiations, the high cost in resources and funds to negotiate, and the acerbic work environment that resulted from the former unresolved issues between labor and management (Flint, 2002).

It was not until June of 1997 that leadership of both labor and management arranged for a number of informal meetings as an external arbitration process. The central issue for these meetings was to discuss the possibility for constructing a partnership that might resolve the problems that exist between labor and management. Their goal was to resolve the wage-and-benefit dispute that had kept negotiations at loggerheads. Though the discussions on how to resolve these differences could not formally take place until arbitration was finalized, both labor and management were eager to maintain dialogue on searching for an agreed alternative to their collective bargaining problems. As a continuation of these informal dialogues, labor and management both agreed that they would conduct their discussions by utilizing “interest-based negotiations” (IBN) as a tool for attempting to repair their already damaged relationship. Consequently, the City of Alameda decided to fund a number of training seminars in IBN methods.

Significant attempts had been made to establish realistic expectations about which goals could be accomplished given the available resources of time and money. Regardless of the objective expectations of what might be achieved, labor and management attempted to make an asserted effort to distribute the
inherent risks in the reconstruction of negotiations. The training was thus completed and the task of identifying a solution commenced. Even though a final decision during this time was made by an arbitrator, both parties concurred with respect to postponing any action on the arbitrator's recommendations. Both parties approved a remedy that was the outcome of another year of IBN negotiation strategies. Consequently, the differences between labor and management were mitigated as the result of collective bargaining methods since the signing of the MOU three years prior. Thus the new labor-management relations resulted in the following:

1. An extension of MOUs from three to eight years.
2. Improved labor-management negotiations using collaborative IBN methods.
3. Reduced grievances from multiple complaints each year to none in the past three.
4. Savings in overtime expenses in excess of one million dollars.
5. Continued union cooperation with the City of Alameda in cost-saving measures related to fire service delivery.
6. Continued cooperation with union and management in joint searches for new fire department recruits.
7. Continued cooperation with union representation in assisting the City of Alameda with job descriptions for captains and chiefs.
8. Union participation and selection in job related interviews of all candidates.

As optimistic as this scenario appears, disagreements still resulted from time-to-time between labor and management (Flint, 2002). Nevertheless, an infrastructure had been established in which labor and management effectively resolved conflict and moved ahead in a collaborative manner to provide public service. This new template for labor management negotiations became the preeminent model for conflict resolution within city departments in Alameda. In fact, James Flint, city manager of Alameda has argued that "enmity in the workplace has been replaced with an open environment of effective communication between labor and management. Accusations resulting from distrust of one party by the other have given way to an atmosphere in which the benefit of the doubt is genuinely given to each other when disagreements occur" (p. 21). While this example in labor-management relations demonstrates one significant example of success, it nevertheless stands as a model for practitioners.
Changing Public Sector Negotiations

Because it is difficult to limit the scope of bargaining, the human resources dimension is significantly affected by the bargaining process. Virtually all elements of the employment situation -- which involves personnel and human resources -- can be negotiated precisely because many states permit bargaining on all aspects (Bachrach and Lawler, 1981). This may very well mean that seniority and the merit system, and the numerous regulations associated with this policy, will be reevaluated in some way. Consequently, change in the collective bargaining process is a reality that will be addressed in some capacity (Cayer, 1996; Reeves, 1997).

The collective-bargaining process can be successful if both management and unions see themselves in a team effort and not in a zero-sum contest. This realization has come about through a shared understanding by labor and management that flexibility and cooperation are advantageous for labor, management, and the public at large (Cozzetto and Pediliski, 1999). By focusing on those areas of needed improvement and negotiating accordingly, management and labor can proceed in a relatively cooperative manner to promote a win-win situation for all parties involved. This is especially relevant given the current local, state, and government crises with budgets and finance (Flint, 2002; Kettl, 1997).

Opponents of union activity claim that unions in general only add to the divisive climate within public agencies, thus making it more difficult for managers to administer in a productive and efficient manner. Anti-union propaganda generally focuses on how unions sow discord among workers thus making it increasingly difficult to manage in a climate of labor hostility. Administrators argue that it is cumbersome to manage through quasi-legal mechanisms instead of utilizing less formal (and implicitly more effective) methods such as dialogue and discussion. Thus the question of organizational effectiveness is one that plagues union activity. This is especially the case now that capital has become increasingly global. (DiNome, Yaklin, and Rosenbloom, 1999).

The proponents of public labor unions, on the other hand, argue that union solidarity is relevant precisely because organized labor offers support to workers who might otherwise be undermined by management (Parsons, Belcher, and Jackson, 1998; Fisher and Ury, 1981). Labor leaders argue that unions provide greater productivity as a result of organizing efforts. In fact, the evidence of improved public sector labor-management cooperation has resulted in
improved communication between labor and management, expediting and reducing grievances, and a "positive impact on morale reflected in less absenteeism and turnover and increased productivity" (The Bureau of National Affairs, 1992: 2). According to N. Joseph Cayer, this process can produce decisions that tend to mirror a "general perspective rather than the particular concerns of the moment or situation. In other words, it helps establish a general policy within which decisions can be made" (Cayer, 1996: 162).

During the 1990s, pressure from numerous sources was placed on government to consider "privatizing" its functions (Rainey, Pandey, and Bozeman, 1995; Bendor, 1990). This was intended to make government more cost-effective, yet in many situations translated into downsizing and lay-offs (Nee, Kennedy, and Langham, 1999; Walters, 1994). Aware of this trend, public labor has been willing to find cooperative solutions rather than face gridlock and job losses. What has developed, according to Cayer, is a "new cooperative approach which permits labor to have some say in how plans are implemented and helps protect some of the interests of unionized employees" (Cayer, 1996: 162-163). Thus a new form of cooperative labor and public management has developed at various levels of government and in several states such as California, Illinois, Ohio, and New Jersey (Reshef, Kizilos, Ledford, and Cohen, 1999; Fretz and Walsh, 1998; Walters, 1994). In other locations, such as Vermont and Pennsylvania, the rigid positions held by both labor and management have tended to promote losses for stakeholders in both public labor and management.

Other creative efforts to bridge the gap between public labor and government is evidenced with the Internal Revenue Service (IRS). The IRS has developed, according to Cayer, a partnership council which "oversees initiatives such as the attendance of union representatives at meetings of directors and division staff and meetings on budgets, joint instructorship at training sessions for all employees, and creation of conflict resolution council to attempt to resolve complaints about unfair labor practices in an informal process" (Cayer, 1996: 163). Consequently, this inclusion of previously divergent interests has established an atmosphere of mutual respect between public labor unions and public management. As a result, public labor unions are less willing to support union members, even with seniority under the civil service merit system, who are unwilling to cooperate in professional development. On the other hand, organized labor has also been more willing to send its leadership to Total Quality Management (TQM) training seminars as required by management of public employees (Cozzetto and Pedelinski, 1999; Brock, 1998; Milinski, 1998;

Linking Theory and Practice

The theoretical foundations for this new partnership between public labor unions and government can be noted in the writings of B. Guy Peters. In order to make government more responsive to both public labor unions and management, Peters argues for a more "flexible government" model. In the past, working at a government agency brought with it the common perception that employment was virtually guaranteed for life. People comprising these organizations tended to focus more exclusively on maintaining the well-being of the institution and longevity of individual careers more than the mission of the agency itself. In fact, government agencies have tended to view themselves as permanent entities. This fixation on survival, according to Peters, tends to ossify institutional effectiveness regarding policy and planning.

This perception of permanence, argues Peters, brought with it a certain level of dysfunction. "Permanence," argues Peters, "has come to be considered as the source of excessive conservatism of policies and as the source of commitments to an organization more than to the policies being administered by the organization" (Peters, 1996: 30). Thus Peters argues, if an organization, whether management and/or labor, is focused on simply trying to survive, then the mission of civil service -- essentially a commitment to the common good -- is being jeopardized. What Peters argues for, in the flexible government approach, is an alternative structural arrangement that provides for a type of middle ground between those who argue for the status quo of "big government" and scholars such as Niskanen and Tullock who argue that permanence and bureaucratic monopolies create excessive costs and policy rigidities (Niskanen, 1971; Tullock, 1965). Peters argues that the flexible government approach "stresses the ability of managers to adjust their workforce requirements to match demands . . . this can be used as a means of saving a good deal of money for government, as well as mitigating some of the public perceptions of waste and empire-building by government organizations" (Peters, 1996: 32).

Another theoretical model for this new relationship between public labor unions and government can be analyzed in terms of H. Brinton Milward's "hollow state" model. This model-metaphor was constructed by Milward as a result of the public sector trends in contracting with profit and nonprofit organizations for taxpayer funded services (Milward, 1996). For Milward, the hollow state
signifies a separation between a governing body and the services it provides. The hollow state relies on private organizations, non governmental organizations (NGOs), and non profits to deliver services on a contractual basis. As a matter of policy and planning, the hollow state contracts out services to third parties while retaining an agency function responsible for "negotiating, monitoring, and evaluating contracts" (Milward, 1996: 194). While the obvious administrative distance between these two extremes presents problems of accountability, the basic function of the hollow state remains constant in "arranging networks, whereas the traditional task of government is to manage hierarchies" (Milward, 1996: 194). Consequently, government is relieved from the burdensome duty of providing multiple services. The hollow state thus empowers governments, in the words of Milward, to "steer rather than row" (Milward, 1994: 73).

The flexible government and hollow state models can best be understood by recognizing that these two approaches offer alternative structural arrangements for government to operate. They allow for more flexibility with respect to how public sector collective bargaining is conducted. In fact, it has resulted in more flexible negotiations in which public labor unions have more decision-making power, not only in labor negotiations, but also in policy formulation. On the other hand, unions have been more flexible in agreeing to concessions made by public managers (Cozzetto and Pedeliski, 1999; Beil and Litscher, 1998; Brainerd, 1998). Thus Peters and Milward's models facilitate a cooperative spirit in labor-management relations and governing capacity in general (Carnevale, 2003; Fretz and Walsh, 1998).

**Implications of the Alameda Case**

In the case of Alameda, labor and management eventually came to realize that they needed to work more carefully with each other in order to avoid future conflicts. The continued efforts on behalf of each party to maintain open dialogue became a priority for labor relations and management. Thus the implications of this example of labor-management relations resulted in positive outcomes for labor, management, and the City of Alameda. Consequently, the City of Alameda established the following priorities in their labor-management relations:

1. An attempt to prevent relationships from deteriorating.
2. Proactive leadership in building trust and mending fences to minimize or eliminate conflict.
3. Train employees through labor-management teams in problem-solving
and conflict-resolution skills.
4. Promote risk-management strategies that actually share decision-making power with labor.
5. Seek consensus from all relevant parties.
6. Joint accountability in arriving at collaborative solutions.

As a number of case studies have shown, collaborative efforts between labor and management in collective bargaining promotes a more congenial relationship between public labor unions and government (Beers, 2000; Blank, 1999; Leigh and Gifford, 1999; Perline, 1999; Levine, 1997). These studies have revealed that when workers have a voice in their working conditions, then a more cohesive, effective, and productive working situation results. "Because employees participate in the decision-making process, according to Cayer, "they are likely to be more committed to the organization than is the case when management unilaterally dictates policy. In fact, management often has an ally in the employee representative in getting its policies across. Employees are much more receptive to decisions that are explained by one of their own" (Cayer, 1996: 162).

Thomas Barth argues that a more collaborative and democratic environment in public sector labor management negotiations promotes a more efficient and effective public workforce. Barth argues that public administration should continue to focus on "developing the capacity of managers to act as coaches and facilitators rather than as supervisors and controllers" (Barth, 1996: 183). This same philosophy has spread to the state level where public labor unions in Illinois, Ohio, New Jersey, Arizona, and Wisconsin have adapted collaborative labor-management relations and experienced significant improvements in the overall facilitation of negotiations with public labor unions (Aronowitz, 1998; Peightal, Souza, Bray, Roque, Pritchard, and Thomas, 1998; Lyons and Vivenzio, 1998).

Conclusion

Collective bargaining in the public sector can be understood as a tool by which public agency managers and public union representation negotiate terms and conditions of employment (Hickman and Lee, 2001; Kochan and Katz, 1988). Negotiations serve as an alternative personnel system based upon the perceived value of employee rights negotiated through a collective voice. This constitutes a sanction function, precisely because collective bargaining conditions
and terms, determine and maintain the employment relationship between employees and the employer (Cayer, 1996; 1989). As a result of collaborative efforts between labor and management in the City of Alameda, labor and management appear to optimizing their relationship by promoting a win-win situation for both parties.

References


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