

Union Bargaining from the Streets: Why Coordinated Campaigns Are Popular

Robert Bruno

When union officials and employer representatives reach the same conclusion over the most effective way to pressure an employer into a collective bargaining agreement, it is certainly worth noting. Compare then the following comments about *coordinated campaigns* from two individuals representing contrary constituencies. Ron Blackwell, Director of Corporate Affairs at the AFL-CIO, stated that “coordinated campaigns have emerged as the most potent weapon in a union’s arsenal to solve major labor disputes.” Similarly, Bradley Cameron, CEO of Situation Management (a coordinated campaign avoidance consultant) noted that “campaigns work because employers don’t understand them.”

What these counter-posed representatives were referring to is a ubiquitous set of pressure tactics used increasingly by unionized workforces in order to resolve major labor disputes. Alternatively called “alternatives to the strike,” “corporate campaigns,” or “strategic campaigns,” these actions represent a daring, imaginative and sometimes dangerous approach to resolving serious labor-management disputes. Labor and corporate leaders alike acknowledge the potency of coordinated campaigns because unlike typical picket line-duty, elite bargaining and administrative procedures, they raise the number and intensity of the stakeholders involved in labor relations.

Sharing principally the common characteristic that they occur away from the bargaining table, campaign tactics have the capability of redefining the entire bargaining process. Instead of a frustrating reiteration of dead-end bargaining, campaigns may transform the balance of power sufficiently to allow unions to negotiate the contract

under unspecified rules and within a strikingly unfamiliar context. As one industrial relations expert has noted, “If workers play by the rules, they lose.” What is meant by the “rules” in this case is not narrowly the drawn out quasi-legal process characterized by NLRB rulings and formal bargaining, but instead a broader rejection of the norms that support obvious trends in the contemporary anti-union climate. It is organized labor’s search for an alternative normative foundation for responding to corporate hostility that employers fail at their peril to understand. While the unconventional quality of coordinated campaigns projects shared risks, many unions have already determined that there is more to lose by playing by the old rules than by rejecting them.

Before the late 1960s incremental improvements to labor agreements were common. Under the labor relations system and economy that matured after W.W.II it made sense for unions to bargain at the table and to shut production down if the boss said no. Orthodoxy made sense in a static environment. But by the mid-70s a vicious cycle of layoffs and plant closings followed by concessionary bargaining and further de-industrialization had ushered in a radically meaner bargaining environment. Along with sizable job loss came a annually falling rate of unionization and a seriously compromised strike threat. The wave of mass job dislocations seemed to reconceptualize collective bargaining and labor’s typical response in the mid-1980s - with minor exceptions - was to offer concessions or to die a noble death.

In addition to their reduced frequency, few large strikes were successful and most were undermined by an employers’ mad dash to hire permanent replacement workers. Disastrous private sector strikes in the early 1980s, like the steelworkers walk-out against the Phelps-Dodge Company, became blueprints for how a company should respond to a

strike. While striker replacements have been an employer option since 1938 (from 1938-96 there were 518 strikes where permanent replacement workers were used and 20 percent included union decertifications), the practice accelerated in 1981 with President Reagan's firing of the professional air traffic controllers (PATCO).

Unfortunately for the institution of collective bargaining, the trend that began with PATCO's dismemberment has apparently not abated. According to a 1998 survey by the Bureau of National Affairs, a majority of employers are willing to use replacement workers as a tool to advance their bargaining position. One major consequence of this change is a dramatically reduced ability of workers to put economic pressure on their employers to bargain a fair contract. The reduced threat of strikes is partially revealed by the fact that in 1996 there were only 37 major work stoppages in the private sector and six in the public sector. Contemporary strike figures represent the lowest totals in 36 years.

The growing vulnerability of striking workers was also exacerbated by the seeming irrelevance of political-legal machinery to protect worker rights. Through out the Reagan-Bush years unions regularly complained of an ineffective and hostile National Labor Relations Board. From 1980 to 1995 the number of labor board union elections declined from 7,296 to 2,911. Union win rates had fallen to 48% and less than 50% of election victories resulted in a negotiated contract. In addition, according to a Federal Mediation and Conciliation Service study about one-fourth of private sector unions certified in 1996 were able to reach agreement within a 12 month period.

Organizing drives were routinely and with impunity thwarted by employer defiance of labor law. Academic studies revealed that employer willingness to break the

law to oppose unionization was the key factor in determining the outcome of a union election. In a four year period (1992-1995) the NLRB ordered employers to reinstate 18,716 workers who had been illegally discharged during organizing drives. One study even noted that one in ten workers was fired for organizing activities. By the mid-1990s it appeared to organized labor that the political system had joined the marketplace in turning against worker rights. Forced to rummage for forms of resistance that did not run a foul of the law or the employer's indifference, unionized workers adopted coordinated campaigns to bring economic, social and moral pressure to bear upon an uncooperative employer in support of collective bargaining objectives and worker rights.

Unions in industries as diverse as transportation, construction and medical care have developed strategies targeting the employer both "inside" and "outside" the workplace. Recent notable campaigns have been waged against American and United Airlines, Bell Atlantic, Food Lion, Washington Gas & Light Company, Consolidated Edison and Power of New York, Colorado Fuel and Iron, Trailmobile Company, Bridgestone/Firestone, and UPS among many others. Accompanying each strategy has been a well planned out and directed series of escalating pressure tactics, including the following:

- media campaigns
- community coalition building
- stockholder resolutions
- political actions
- regulatory complaints
- inter-union solidarity committees

- retail forms of shopfloor resistance

How should employers react to the threat of a coordinated campaign? The answer is simple; bargain in good-faith. While no one has definitively defined what the term means, it is rare when parties to a negotiation are confused as to whether it is occurring. Perhaps the best way to identify a productive bargaining relationship is to focus on those actions which unions believe to be indicative of a bad one. Employers who respect the mutual gains that unionism provides usually do not do the following:

Let grievances pile up

Force grievances to arbitration

Unilaterally impose work changes

Ignore union officers and communicate directly with employees

Hire union busting legal/consulting firm to prepare for negotiations

Demand concessions

Fail to share in productivity gains

Refuse contractual language on labor-management committees

Threaten job loss or workplace relocation

Oppose unionization efforts at nonunion facilities

Drag bargaining out with the intention of requesting a decertification election

Lock workers out with the intention of requesting a decertification election

Threaten to use permanent replacement workers during a strike with the intention of requesting a decertification election

The above list is a short sample of actions that employers have taken to destroy the faith that unions have in collective bargaining. Once one or more of these hostile

measures are taken, bargaining as a means to reach constructive solutions has been handicapped. A nasty cycle then develops. Each managerial step generates an opposite and equal union action. These actions combine to increase tensions and decrease trust. The next series of actions will likely be more punishing and so to the degree of anger internalized. With every new round of confrontation the cost of settlement grows dramatically. In the end, employers invite campaigns by deligitimizing the one legal process available to workers to influence their own working lives. If not bargaining, what is a legitimate union to do?

Employers who believe in collective bargaining are aware that every corporate decision that is made has an impact on the bargaining relationship. Bargaining neither begins nor ends at the table. The point is that the seeds of a future campaign are nestled in the many business decisions that influence the fortunes of all employees. Therefore, for bargaining to be productive at the termination of a three or four year period the employer should not ignore the union's constant role and obligation in protecting worker interests.