

Communications

Managing Trade Unions at the Firm Level & the Dynamics of Collective Bargaining

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Trade Unions

Employees represent the human side of an organisation and trade unions serve to give them a collective voice to protect and further their interests. Of late, there has been a decline in the proportion of unionised workplaces and in the collective representation of employees on many issues predominantly due to a reassertion of managerial power in the workplace and government support to management in the face of globalisation (Sen 1997). The decline could also be attributed to the shift of jobs from the manufacturing to the service industries, and unaggressive union leadership (St. Antoine 2001). At the firm level, it is the interaction between the attitudes of management to employees and unions, the attitudes of employees to management, and the attitudes of employees to unions that determines the quality of industrial relations (Aswathappa 2001).

A variety of reasons, such as, unemployment, public goods, destructive competition, and the greater ease that firms have in replacing employees than employees have in replacing jobs, are responsible for market biases against employees (Voos 2001). In view of these markets, the collective bargaining that trade unions facilitate becomes relevant and perhaps a necessary means to achieve the societal objectives of redistributing income, rights, political voice, and power to employees.

At the firm level, trade unions exercise joint control with the management over certain aspects of work and the related terms and conditions of employment, and thus, redress the bargaining advantage of the individual employee with respect to the employer by providing collective action instead of individual action (Aswathappa 2001). The predominant union tactics to achieve this are organising, collaboration, political pressures, strikes, and blackmail.

In a study of 80 managers working in a variety of industries, Das and

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Manimala (1997) found that a large proportion of managers felt that unions interfere with an employer's ability to run business efficiently, and the feeling was stronger as one went up the managerial hierarchy. They also found that the prevailing climate of trust and cooperation between management and union in a firm affected the managerial attitudes toward worker autonomy and security. The managers were more likely to be flexible in accommodating union and the employees and providing autonomy and a sense of security to workers in firms, which had a cooperative work atmosphere between management and the union. Sometimes, employers dislike unionism because of an expected increase in costs due to higher remunerations and benefits, fear of loss of control over operations and freedom to reward performance, and an anticipated lack of ability to adapt quickly to changing demands (Aswathappa 2001). To obviate the need for unionisation of their organisations, managers, therefore, employ effective supervision, open communication, effective personnel research, healthy and safe working environment, effective employer-employee relations, effective remuneration, effective training and development programmes, effective personnel planning, recruitment and selection (Aswathappa 2001); strategic human resource management system (Das & Manimala 1997); and strategies leading to reduction of support for unions (Wright 1996), contracting of work (Kumar & Murray 2002).

In a study carried out in five large manufacturing establishments, Ganj (1996) found that workers joined unions because they thought unions could protect them against victimization, secure the wage increases, and ensure job security and improved conditions of work. On the other hand, those who did not join unions cited dissatisfaction with the general functioning of unions, pursuance of personal goals by union leaders, fear of victimization, fear of being branded disloyal to the organisation, and fear of reprisals by the management as the underlying reasons. Aswathappa (2001) contends that employees join unions predominantly because of dissatisfaction, lack of power and union instrumentality. Management, at times, contributes to the sense of dissatisfaction among employees by giving unrealistic job previews that create unachievable expectations; designing jobs that do not use the skills, knowledge and abilities of employees while failing to satisfy their interests, personality, and preferences; practising unfair treatment and one-way downward communication policies; and failing to convince the employees that the organisation is committed to treating the employees with respect. Besides the employee's perception of power in terms of significance of his job and the ease of replacing him also determines his decision to join a union. The decision to join a union comes about only when the employee feels that benefits of joining the union would outweigh the costs of joining it. St. Antoine (2001) contends that disenchantment with aging, complacent, and unaggressive leadership,

and a growing feeling among employees that unionisation is no longer necessary in a time of economic prosperity and enlightened management, are also significant causes leading to employees not wanting to join the unions.

Trade unions face declining membership, poor finances, influence of politics, dominance of outside leadership, multiple subscriptions of union membership, and inter and intra union rivalries arising out of multiplicity of unionism (Das 1999), both at the macro and firm level. Moreover, product market competition and volatility of labour market has made the job of unions all the more difficult (Wright 1996). Adding to their traditional armoury of organising, political pressures, strikes, and blackmail, unions are now coming up with innovative strategies like collaboration (Gani 1996), mobilising (Bacon & Blyton 2002), playing the role of internal auditors of the organisation, challenging management action in court, consolidation at an international level, and introducing internal reforms (Sen 1997).

Research suggests that unions will have to be less confrontational, more flexible and realistic, and more accommodating to local conditions to retain a relevant role at workplace. Gani (1996) suggests that intervening variables like quality of work life, quality of community life, the presence of socially relevant work, and an expanded committee structure to provide membership advice and leadership

guidance would help create sustained interest in unions among workers. This would involve orientation programmes for new members, explaining the functioning of the union and its accomplishments and goals. On the other hand, if management encourages social integration among workers, adopts a helpful approach towards them, provides conditions to improve their economic, social, physical and psychological conditions, the unions hold on its members will get diluted. Aswathappa (2001) contends that there is a change in the attitude of unions towards management, industry and government. Unions are increasingly becoming matured, responsive and realistic in their thinking and action and have started endorsing issues like productivity, total quality management, technology and competition. There is also a mixed evidence of their support for voluntary retirement programmes and economic reforms. It is likely that unions will now seek to promote new employment opportunities, promote worker participation in decision-making, organise new members, and build coalitions with other unions and social groups (Kumar & Murray 2002).

Collective Bargaining

Collective bargaining can be the most central activity of trade unions wherein they represent the voice of their members for furthering their causes. The ILO Convention No. 154, adopted in 1981, defines collective bargaining in Article 2 as follows:

The term “collective bargaining” extends to all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more workers’ organisations on the other, for: (a) determining working conditions and terms of employment; and/or (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organisations and a workers’ organisation or workers’ organisations (ILO 1996d, 93, as given in Gernigon et al. 2000 : 36).

Adams (1999) contends that there is a strong international consensus, supported by a large range of organisations cutting across political paradigms, which holds that collective bargaining should be recognised as a human right at par with fundamental rights like the right to vote and the right to free expression. Aswathappa (2001) suggests that collective bargaining can be viewed through three perspectives, viz. as a process of social change, as a peace treaty between the conflicting parties, and as a system of industrial jurisprudence. The author lays down the steps in the process of collective bargaining as preparing for negotiations, identification of bargaining issues, negotiation, reaching the agreement, ratifying the agreement, and administration of the agreement. However, Stepp and Sweeney (1998) contend that traditional bargaining works well only when the parties control their markets with little competition,

when changes are taking place at a slow pace, and when bargaining structures are centralised permitting pattern or coordinated bargaining. Even with centralised bargaining structures, Baccaro (2000) suggests that for the bargaining to succeed, government has to be supportive of centralisation and organized employers have to be willing to engage in centralised wage regulation. Unfortunately, with globalisation taking place across the globe, the situation is quite different. Adams (1999) points out that, today, the wilful violation of the right to bargain by employers and tolerance of its wilful violation by governments is a common occurrence. This is despite the fact that consensus over prevailing bargaining levels among employers, trade unions, and the government emerged several decades ago in the advanced nations (Jeong 2001). A study based on an individual-level employee survey with 1720 respondents by Scheuer (1997) shows that collective bargaining coverage is much lower than union density.

Stepp and Sweeney (1998) suggest interest-based negotiations as an alternative to traditional bargaining systems. This system begins with the bargainers describing and defining the issue after which an opportunity is provided for each party to identify its interests in regard to the issue and to explore the interests of the other party. With a shared understanding of interests, the parties then create options or potential solutions to satisfy as many interests as possible and finalise criteria

with which they would evaluate those options. Following this, the parties select the best options and integrate them to form a comprehensive solution. Posthuma et al. (2002) found that mismatches between the tactics used by mediators and causes of the disputes reduced the likelihood of achieving a settlement. The shared understanding of interests obviates this contingency.

Air-India Vs IPG Case

The following case of the confrontation between Air-India and the Indian Pilots' Guild (IPG) will further highlight the issues discussed before.

Air-India has seven recognized unions, associations and guilds of which the IPG, Air India Aircraft Engineers' Association (AIAEA) and the Indian Flights Engineers Association (IFEA) represented the pilots, aircraft and flight engineers respectively. Agitations by various unions had cost the airline huge financial losses estimated to the tune of about Rs. 150 crores. Between January 1991 and March 1996, the maximum loss suffered by the airline was due to a 56-day agitation that led to the cancellation of 464 flights and resulted in a financial loss of Rs 109.58 crores. In the year 1993, the various unions, associations and guilds were on agitation for close to 80 days leading to disruption of more than 515 flights and a financial loss of close to Rs 9 crores to the airline. However, since March 1996, the relations between the

AI management and its staff had been quite smooth until the breaking of SARS in March 2003.

The Pilots' Strike: April/May, 2003

SARS had broken out in South East Asia region in March 2003 and within a month had claimed over 250 lives while affecting at least 4,000 more. In early April, the Indian Pilots' Guild (IPG) issued directives to its members asking them not to operate flights to Hong Kong and Singapore, due to SARS, and to Kuwait, due to war in Iraq. This led to a series of actions and counteractions by the Air-India management and the IPG, which ultimately saw IPG being derecognised. According to a pilot belonging to the IPG, Captain Y, one of the key factors that led to the imbroglio was the historical sense of mistrust that had always prevailed between the Operations Department on one side and the Indian Pilots Guild (IPG) on the other. He quotes, "In fact one of the mandatory activities that each newly elected IPG committee indulged in was the passing of a resolution expressing 'No Confidence' in the management of airlines (read Operations). The normal sense of harmony which is a precondition to any healthy organisation was always missing". He further added that another factor that was brimming under was the discontent among pilots regarding wage revision issues. "The previous wage revision had taken place sometime in 1998-99 and that

pertained to the settlement that was due in 1993. Hence, for all practical purpose, no wage revision was carried

out for about a decade”, he exhorts. A chronology of the events starting early April 2003 has been tabulated below.

Date	IPG	AIR-INDIA MANAGEMENT
Early April	Issues directives to its members asking them not to operate flights to Hong Kong and Singapore, due to SARS, and to Kuwait, due to war in Iraq.	Reduces the number of flights to Hong Kong and operates them through Executive Operating and Cabin Crew ensuring that they did not need an overnight stay at Hong Kong
4/4/2003		Air-India curtails flights to Gulf and SE Asia
9/4/2003		Air-India curtails flights to Hong Kong
12/4/2003		Air-India Board takes stock of the impact of SARS on Air-India operations and authorizes the management to decide on frequency of operations as per demand.
19/4/2003		Air-India curtails flights to Singapore
21/4/2003	Dispute being assessed in conciliation by the Regional Labour Commissioner (Central)	
22/4/2003	Issues a further directive asking its members not to operate any flight with any crew (cockpit or cabin) who have returned from Hong Kong/Singapore in the preceding 10 days.	
25/4/2003	Alleges that two of Air-India pilots showing SARS symptoms, were asked by the company's doctor to proceed for SARS confirmatory test	Denies these charges
26/4/2003	A meeting between Mr. K. Roy Paul, Secretary-Ministry of Civil Aviation (MOCA) and Chairman, Air-India, assisted by Mr. V. Subramanian, Addl. Secretary, MOCA and Mr. Anurag Goel, Joint Secretary-MOCA held with the Indian Pilots' Guild (IPG) in Mumbai. IPG asked to withdraw all directives forthwith.	
26/4/2003	IPG refuses to withdraw directives	Suspends 12 pilots. Initiates disciplinary action against 50 more
27/4/2003		Government suspends 15 more
28/4/2003	Alleges AI management not adhering to certain procedures relating to the Aircraft Rules of 1954	

(Contd.)

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29/4/2003		Derecognizes IPG. Suspends 18 more pilots. Files a Caveat with the Mumbai and Delhi High Courts on the suspension issue
1/5/2003	Air-India denies IPG claims on not operating flights to SARS countries. 35 pilots join duty.	
2/5/2003	Pilots call off strike	Refuses to revoke suspensions and charge sheets. Asks pilots to sign an undertaking requiring them to operate all flights assigned by them and adhere to the flight and duty time limitations (FDTL) framed by the Directorate General of Civil Aviation: and go for training when deputed with no extra compensation
14/6/2003	Pilots form a new body, Air India Line Pilots Association. Majority of the members of the IPG switch over to the new association	

The chronology of events brings several interesting and significant issues to the fore. When the IPG issued its first directive, responding quickly to the situation the management of Air-India reduced the number of flights to Hong Kong and operated them through Executive Operating and Cabin Crew ensuring that they did not need an overnight stay at Hong Kong. These executive pilots are in the management cadre. Whereas in the mid 1980s, barring a dozen or so pilots, all others belonged to the IPG. Air-India now had 149 executive pilots compared to 200 members of the IPG. The management also necessitated the filling up of Health Cards, which sought basic information viz. countries visited/transited in the previous 10 days and if they had any symptoms like shortage of breath, difficulty in breathing, besides contact address etc., from all its passengers.

According to sources in IPG, the nature of qualifications of pilots was

largely contingent on the kind of license that they held. This in turn was a factor of the number of hours of flying that a pilot has notched up. Consequently, there had always existed an implicit sense of differentiation within the pilot community regarding seniority levels. Captain Y remarks, "It would not be off the mark to say that the management has always been aware of this divided and in more ways than one had played a tacit role in encouraging the same". Another source of resentment within the pilot community was the monetary benefits that were attached to flights to certain routes. Since some routes were more lucrative, the flying allowances also were higher. As a result a pilot flying for a fleet that operated to lucrative sectors would tend to earn more than a pilot flying for a fleet that operated to lesser lucrative sectors, irrespective of seniority.

The issue warmed up when IPG issued a further directive on April 22,

2003 directing its members not to operate any flight with any crew (cockpit or cabin) who have returned from Hong Kong/Singapore in the preceding 10 days, despite the matter being assessed in conciliation by the Regional Labour Commissioner (Central) on April 21, 2003. Further, the IPG alleged that two of Air-India pilots showing SARS symptoms, were asked by the company's doctor to proceed for SARS confirmatory test. This was vehemently denied by Air-India management, who thereby asked IPG to withdraw all its directives forthwith to restore normalcy in Air-India's operations. Soon thereafter, the management of air-India suspended 45 of its 200 striking pilots while issuing show-cause notices to a 100 more. Simultaneously, the Air-India management de-recognised IPG with effect from April 29, 2003 and withdrew the privileges extended to it and its office bearers. The management defended its decision by claiming that it was compelled to do so because IPG had violated an agreement with the management for "observing constitutional means and not to resort to agitational steps and/or concerted action or any other means which may have the effect of interrupting or disrupting the work of the company, and/or other normal functioning of various sections and departments, and/or operation of services of the company which may have the effect of causing delays to the company's services or inconvenience its passengers or public". Arguing that their concerted action amounted to illegal strike and that it had caused revenue loss

and inconvenience to the traveling passengers while damaging the reputation of the national carrier, the management adopted a tough stand against IPG. Air-India's stand was strengthened by the fact that most international airlines had continued to operate flights to Hong Kong and Singapore and WHO had reassured the industry that the screening procedure for passengers being at airports was effective.

Inherent Conflicts & Contradictions

Another pilot said that it was a known fact that for a lot of pilots, elevation to a responsible post in the IPG was sought purely to enhance their importance in the larger scheme of things and thus a precondition to a final move to the management in an Executive capacity. Owing to the inherent conflicts and contradictions within the pilot fraternity, there thus always existed a sizable group of fence sitters who, though a part of the IPG, would not be averse to switching loyalties if things got too hot to handle. "This fact was known to the management", he added ruefully. The presence of immature leadership of the IPG on one end and the presence of certain vindictive and egoistic individuals at the helm of affairs in the Operations Department finally added up to a situation ripe for conflict. When the agitation first broke, the IPG was expecting that large-scale disruption of flights would lead to their grievances being heard and that the operations management would come to the

negotiating table. However this turned out to be a miscalculation as the management decided to take a tough stance and started suspending pilots. This was based on the correct reading of the situation by the management that the internal strife between pilots and the presence of fence sitters would render the agitation unsustainable in the long run. And this is exactly what happened.

Following this, about 35 members of the 200-strong pilots' union broke away and resumed duty while Air-India further toughened its stance and suspended IPG President Kenneth Khan for deserting an aircraft in London and refusing to operate it back to Mumbai citing SARS scare. Even after the suspension of pilots started, the IPG was still confident that the management would soften its stance. But that never happened. The key factor was that the aviation ministry stood firmly by the management and showed no sign of relenting, the disgruntled elements within the IPG started reporting for duty. In the face of lack of unity, the agitation thus fizzled out and the suspended pilots also indicated their willingness to toe the management line. This broke the resolve of the IPG and on May 2, 2003, the pilots called off their strike. This was a far cry from the 1980s and 1990s when disruptions were more common. The availability of executive pilots, support from the Government and Indian Airlines, and timely formulation and execution of contingency plans helped Air-India management to dig its heels in and refuse to negotiate with IPG. Buoyed by its success, Air-India

management refused to revoke the suspensions and charge sheets it had doled out in the preceding days and further asked the pilots to sign an undertaking requiring them to operate all flights assigned by them and adhere to the flight and duty time limitations (FDTL) framed by the Directorate General of Civil Aviation; and go for training when deputed with no extra compensations. This was in response to the demands of the IPG, who had asked for an incentive payment of Rs. 75,000 per month for undergoing training related to the category-3 instrument landing system. Even the judgment of the court, where the de-recognised IPG had filed a petition supported the Air-India management while providing just about a breather for the beleaguered IPG. The judgment read, "We quite appreciate the submissions of Mr. Naphade (Air-India's solicitor) that this act of defiance should not be permitted. Even so it is in the interest of the respondents (Air-India) that if the petitioners (IPG's membrs) are ready to report for duty in the present situation, they should be permitted to join. All the persons concerned will put in however their written representations individually explaining as to why they did not report for duty in the meanwhile and the management will permit them to join depending upon the exigencies of the work". The court further noted that this was "an interm arrangement until the matter is considered by the regular court. This order does not in any way mean that this court is approving any conduct on the part of the first petitioner (IPG) or its members one way or the other. First

respondent (Air-India) will be at liberty to proceed with the departmental enquiry which they have initiated or they may initiate based on the conduct on the part of the employees concerned.” Even the media slammed the IPG for taking off from work without notice instead of engaging the management in discussion to devise a plan that would suit them. In a scathing editorial, a Delhi based newspaper commented: “Before illegally striking work, the IPG did not pause to think that their action could lead to cancellation of important business meetings for passengers that could lead to losses of millions, never mind upset urgent travel plans that may have to do with illness or death. It seems almost as if that the real reasons for the strike lay elsewhere, quite possibly in demands for more money, and that SARS was only a handy excuse, no matter how lame it might seem to others. In any case, Air-India is in a mess, and frequently striking pilots, who see themselves as indispensable, are a good part of the reason.” The IPG tried to save its face by claiming that individual compulsions and lack of mental toughness among the pilots were the main reasons for this sudden reversal, yet, it is clear that this episode signals a new era for Air-India and is also a pointer towards the future of trade unions.

A New Association

On June 14, 2003, the pilots banded together to form a new body-Air India Line Pilots Association and a majority of the members of the IPG switched over

to the new association. The management is still looking at various legal angles before taking a decision about recognizing the new union. However, not many are convinced about the standing of the new association. “The new Air India Line Pilots Association that has been formed is merely a front that is believed to be following the diktats of the management”, a pilot suggests.

Captain Y sums up the situation succinctly, “Recently a senior pilot of Air-India has had his contract terminated as he apparently did not follow the company’s directive to divert a flight to Mumbai and proceeded to Ahmedabad instead. The pilot in question had already exceeded his FDTL (Flight Duty Time Limitation), which incidentally is stringently enforced by the DGCA (Directorate General of Civil Aviation). The reasons for choice of alternate station for diversion could be many and would be based on the sound judgment of the pilot in command. Unfortunately, in the absence of a proper forum of pilots who can challenge this decision of the management, it is unlikely that this unprecedented action will be contested”.

Discussion

The Air-India case provides an interesting case study for analysing the dynamics of labour relations at the enterprise level and collective bargaining. While the airlines industry is going through a lean phase, the ability

of unions to coerce their employers into accepting their demands irrespective of their inherent merit or the lack of it has severely declined.

Several lessons can be drawn from the case. First, the case shows that unions will have to be less confrontational, more flexible and realistic, and more accommodating if they wish to maintain their relevance in the bargaining processes, given the changing business and political environments. They should try to achieve a degree of equilibrium with the employers on issues of mutual interest (Timur & Ponak 2002). Mishra and Dhar (2000) suggest that the emerging competitive realities of the new economic order have made it imperative for organisations to build collaborative relationships between workers and managers, if they want to succeed. The IPG, instead, relied on its history of success in adopting a confrontational attitude, but failed, and then eventually got sidelined because of lack of support from other quarters and its unrealistic demands.

Second, the IPG failed to mobilize its own members on a sustained basis. Frost (2001) suggests that the internal capabilities of a local union to mobilize its members to respond proactively to management initiated change would play a role in determining the local union's likely response. However, in this case, IPG either over estimated or simply did not consider its internal capabilities to mobilize its own members and as a result lost its relevance and efficacy.

Third, the IPG could not garner support for itself either with the government or with judiciary. Warner and Ng (1999) suggest that collective bargaining is becoming decisively shaped by politically driven macroeconomic policy and legislative regulation of employment relations. IPG turned a blind eye to these ground realities and relied on its outdated conventional wisdom, thereby, failing to obtain any desired results.

Fourth, IPG could not justify that SARS was a genuine concern of its members. Voos (2001) contend that from an Industrial Relations perspective, unions have to be able to represent the genuine interest of employees and voice their concerns even if it means challenging the management. However, in this case, IPG could not substantiate its concerns, while on the other hand, the Air-India management presented sufficient facts and figures to dispel the validity of their claims.

Fifth, IPG damaged its own cause by disrupting a public service and also antagonising the Government with its belligerent persistence. Kucera (2002) points out that the effects of worker rights may be transmitted through the enhancement of political and social stability, particularly through freedom of association and collective bargaining. However, by disrupting its conducting channels, the IPG lost its collective advantages.

Sixth, the IPG had no strategy to conduct the negotiations with the Air-India management and relied only on its past experiences. Hancock and Rawson (1993)

point out that lack of consensual skills and attitudes that go with negotiation and bargaining retard the Industrial Relations system. Goering (1997) found that during negotiations between two bargaining teams, communication strategies are different at various phases of negotiations, with earlier stages being more distributive and later phases being more integrative. A distributive bargaining situation is a competitive where goals of one party and the attainment of those goals are in fundamental and direct conflict with the goals of the other party. On the other hand integrative bargaining situation is a cooperative bargaining situation where the goals of parties are not mutually exclusive. However, IPG maintained a distributive strategy throughout its negotiations with Air-India management and eventually lost out.

Thus, it is evident, that unions need to change their outlooks if they wish to maintain their relevance in today's changing environment. Both employers and workers need to recognise each other's rights and obligations (Aswathappa 2001). While the unions need to enhance the quality of participation of rank and file in union activities to regain their influence (Srivastava 2001), the management needs to look at employee empowerment, through getting the workers to take responsibility for shop-floor decisions over quality, safety, productivity and material use as a strategic option to develop strong industrial relations (Ramaswamy & Schiphorst 2000). Both employers and unions need to secure settlement of disputes through negotiations conducted with integrative strategies while unions

avoid work stoppage and maintain business discipline.

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