

Public Sector Collective Bargaining and the Imperative for Service Delivery: An Overview

JONATHAN BROCK
University of Washington

DAVID B. LIPSKY
Cornell University

In the last 15 years, significant forces have affected public sector labor-management relations in the United States. The primary forces have pressed for increased efficiency and improved services—in terms of both quality and delivery. Other forces, however, have pressed for a smaller government presence and for privatization of many government responsibilities. Similar forces have affected other industrialized countries.

Lorenzo Bordogna examines this comparison with regard to non-U.S. industrialized countries in the first chapter of this volume, noting that most other industrialized countries started out with a larger public sector and more state-run enterprises, greater union density, more-pervasive use of participative models, and broader labor rights. He describes efforts in many of those countries to reduce the influence and independence of collective bargaining, often by shifting wage-setting authority to the employer or by increasing the role of centralized settlements. His basic conclusion is that pressures on governments are becoming similar to pressures in the private sector: to provide better services, reduce employment, improve applications of information technology, and "privatize" or subcontract work.

Privatization is usually viewed in the United States as a serious threat to public sector unions. Yet even though there was considerable interest in privatization during the 1990s, public sector employment actually grew overall during that period. Marick Masters and Robert Albright

inform us in their chapter that there was a decline in federal employment, but that it was not specifically the result of privatization. Bipartisan support for a smaller federal government during the Clinton administration led to the federal decrease, but it was outweighed by state and local sector growth.

Terry Thomason and John Burton's research indicates that widespread interest in privatization did not on balance affect U.S. public sector employment growth and union density during the past two decades. In their chapter they show that both public sector employment and public sector union membership grew by 25 percent over the period 1983-2002 and that, consequently, union density (the proportion of employees who are union members) remained relatively stable over this period, within the range of 36-39 percent. They also show, however, that privatization has had some significant effects in several important public sector functions, including health care and education. In the hospital industry, for example, the public share of employment declined from about 25 percent to about 13 percent over the past 20 years. The public share of employment in education also declined, by about six percentage points. Privatization apparently led to lower union density in hospitals, but in education it did not. Because in the private sector union density steadily declined over the past 20 years, the importance of public sector unions as a segment of organized labor has steadily increased. In 2002 public sector union membership constituted over 46 percent of total union membership in the United States.

These pressures and patterns have created some responses that are unique to the United States. One has been the formation of collaborative, service-oriented relationships, which have shown substantial evidence of reducing costs, improving service, improving the quality of work life, and markedly changing the nature of the bargaining relationship. Collaboration represents a potential answer to pressures for increased efficiency and improved service quality, even though it does not significantly address the more political or ideological calls for less government and more privatization. Although still very much the exception, service-focused, cooperative relationships show promise for improving labor-management relations and the climate surrounding the role of unions in the public workplace. They thus represent a significant and useful response to the pressures on government and on unions of public employees. Such relationships are still new enough, however, that it is difficult to judge their efficacy or to predict the factors that might sustain them and help them succeed.

The basic premise of such relationships is not new. Effective labor-management interaction requires a relationship that goes beyond contract negotiation and grievance handling and allows the parties to solve problems of mutual importance that occur between bargaining rounds. Even early works such as Slichter, Healy, and Livemash recognized the importance of informal dealings in oiling the labor-management relationship and promoting problem solving (Slichter, Healy, and Livemash 1960:841-78). Many of the more-traditional relationships that have led to respectful and productive interaction and have produced effective service and work-life improvements have done so without moving to an explicitly cooperative model, however. Both explicit and implicit cooperative relationships appear to require quality leadership, mutual trust and respect, stability over time, recognition of common interests, and an atmosphere that acknowledges the legitimacy of differing opinions.

Given the nearly universal pressures on public employees and public employee unions to improve the efficiency and quality of public services, this volume focuses principally on the growing and promising practice of cooperative relationships. It is part of an ongoing IRRA series on public sector employment relations.¹ Our volume seeks to explore the prospects, ingredients, and key issues surrounding this nontraditional approach to labor-management relations. It also explores other important issues related to the state of public sector labor relations, such as union density and the inclusion of supervisors in bargaining units—the latter being a long-standing topic of debate in the field.

Most of the authors in this volume share the view that the expanded use of more-collaborative, service-oriented approaches to public sector labor-management relations would be valuable. As the practice expands and matures, additional research will be required to help determine its specific value and effects. The parties will need to learn to understand the ingredients associated with successful collaborative relationships, the effects of political and economic pressure on them, the prospects for such relationships to weather changes in leadership, and the effect of collaboration on their roles as advocates. We hope this volume serves to stimulate research on this important phenomenon.

For now, it appears that, while cooperative relationships are difficult to initiate, they do indeed both contribute to the quality of services received by the public and enhance employee satisfaction. Evidence in this volume also suggests that cooperation enhances the value of the union to employees and makes the jobs of union leaders more interesting. Cooperation also leads to increased flexibility, usually benefiting all parties,

and reduces the cost per unit of service. It can also help to avert layoffs, even as productivity and quality improve, and under the right circumstances it can confer political benefits to both management and union leaders. But, as several authors in this volume note, cooperation entails risk and risk taking by both parties.

Public Sector Labor-Management Relations

Collective bargaining in the public sector grew dramatically in the 1960s and early 1970s. During that period many states passed statutes supporting the right of public sector employees to join unions and engage in collective bargaining. These statutes significantly mirrored statutes governing the private sector, but strikes were generally prohibited and impasse procedures differed across jurisdictions. From the start it was widely recognized that labor-management relations in the public sector existed in an environment that was inherently political. As Wellington and Winter wrote, "Collective bargaining by public employees and the political process cannot be separated. The costs of such bargaining, therefore, cannot be fully measured without taking into account the impact on the allocation of political power in the typical [jurisdiction]" (Wellington and Winter 1971:31). Although private sector unions and employers are certainly involved in the political process (they are often active participants in lobbying and election campaigns, for example), their involvement is vastly different from that of public sector unions and employers. In the public sector, unions not only engage in lobbying activities and campaigns for elected officials, they typically deal with these officials across the bargaining table as well.

The politics of public sector bargaining significantly affected the nature of the rights granted to unions, the character of union organizing, the strategies of contract negotiation, and other factors. The difference between the bargaining dynamic in the public sector and the private sector is more significant than those who created most public sector bargaining statutes generally contemplated (Kheel 1999:105-06).

Public sector bargaining statutes reflect one major difference between the public and private sectors. Public sector statutes in most jurisdictions established boards or commissions that have responsibility for four basic activities: resolving representation issues, deciding improper practices, managing conciliation and dispute resolution procedures, and handling other regulatory matters. In most segments of the private sector, however—those governed by the Taft-Hartley Act—the responsibility for representation issues and improper practices is separated from

dispute resolution and conciliation procedures: the former resides in the National Labor Relations Board (NLRB), while the latter resides largely in the Federal Mediation and Conciliation Service (FMCS).

Regrettably, because little attention has been paid to state boards and commissions in the recent research literature, we know relatively little about their current status and effectiveness or their influence on the practice of labor-management relations within and beyond their jurisdictions. It is ironic that so little is known because, collectively, state boards and commissions monitor the rights of almost as many represented workers as does the NLRB. Leaders of boards and commissions have reported that they have been burdened by both increases in workload and reductions in resources and constrained by political factors that influence the appointment of their members. Board and commission representatives tell a story of significant staff turnover and great difficulty in performing their functions effectively.²

Martin Malin points out, in his chapter on public sector labor law and labor-management cooperation, that labor relations in the public sector has a tradition of being highly litigious and process oriented. In a typical relationship, the parties devote significant amounts of time to arguments over alleged violations of their respective rights and disputes over the scope of bargaining. The dominant activities in many (but certainly not all) traditional relationships are arguments between the parties over issues that ultimately need to be resolved in legal forums (boards, commissions, and courts) or in other settings (arbitration hearings, regulatory agencies) that rely on lawyers and other specialists who are not involved in service delivery and do not have to live with the outcomes of these proceedings.

Malin, Masters and Albright, and Charles Kerchner all say that persistent arguments over substantive and procedural rights are clearly not productive. (By implication, other contributors to this volume make the same point.) They suggest that expanding the scope of the parties' ongoing discussions and focusing greater attention on the quality of work life would help foster both constructive relationships and better public services. Malin notes that in authentic collaborative relationships most of the interactions between the parties are devoted to improving the quality of service delivery, reducing the costs of delivery, and improving the quality of work life.

Requirements of a Collaborative Relationship

The key to an effective collaborative relationship is that both parties become aware of, and assume responsibility for, issues that are traditionally

the responsibility of only one of them. In these relationships public sector employers focus more on the quality of their employees' work life and public sector unions focus more on improving the quality of public services. If the parties are willing to move in these directions, then even within the current restrictive statutory framework they can overcome wasteful legal disputes that sour their relationships. In fact, even in traditional relationships that are free of such wasteful disputes, the evidence presented by the authors in this volume suggests that a collaborative, service-oriented approach can enhance the parties' relationships and assist in carrying out their respective responsibilities.

Malin makes a modest proposal: he suggests that requiring consultation between the parties on issues normally considered to be beyond the scope of bargaining would help solve service-delivery and workplace problems and reduce the number of disputes ending up in legal forums. Kerchner and Malin believe that expanding the scope of the discussions between the parties would have desirable effects. Nearly all current cooperative relationships—in which the scope of discussions is by definition broad—exist under preexisting statutory frameworks in which the formal scope of bargaining is narrow. A legal regime that is more encouraging and protective of cooperation—such as that proposed by Malin or Kerchner—might foster the acceptance, diffusion, and sustainability of these relationships.³

If the parties confine their interactions to those required by statute, they are unlikely to be able to deal jointly and effectively with issues affecting either the delivery of services or the quality of work life. They are more likely to become entrapped in the arcane and often absurd disputes Malin documents. In traditional relationships in which the parties are able to develop informal channels of communication based on mutual trust, they have a better chance of dealing with more fundamental issues. They would seem to have an even greater chance in a more complete form of cooperative relations. When teachers are precluded from participating in curriculum discussions, Kerchner would argue, the result is bound to be substandard and impractical. When sanitation truck drivers and mechanics are not consulted about mechanization and new equipment purchases, the result will likewise be inadequate. When social workers cannot offer advice to agency managers about new policy issues or a new information system, the treatment of families in crisis and the flow of information within the agency are likely to be weakened. When well-trained professionals are not consulted by their managers, they are likely to feel that they are not respected and to have their dignity undermined.

The lack of consultation and cooperation will lead to increasing levels of frustration as governments become increasingly dependent on "knowledge workers" (to use Peter Drucker's well-known term).

If the parties want to broaden the scope of their discussions beyond strict statutory requirements, they must be willing to take risks and do the difficult work of building and maintaining trust. Only when each party is willing to learn about the other's internal culture and leadership pressures can ways be found to expand their interactions. Both public sector managers and union leaders are often risk-averse, however, and either unable or unwilling to broaden their perspectives beyond a traditional definition of their roles and responsibilities. Perhaps it is not surprising, then, that developing cooperative and trusting relationships is such a difficult undertaking. Moreover, even when management and union leaders are able to overcome the barriers to developing cooperative relationships, turnover in the leadership ranks can obliterate the gains they have made. Union and management officials sometimes become champions of innovations in labor-management relations, but in these cases, when the champion leaves the organization, the innovation often dies. When union and management leaders successfully reach agreements that incorporate innovative practices, their successors may abandon those agreements.⁴ Thus, adopting labor-management cooperation is a difficult challenge, but institutionalizing the practice is even more so.

What can unions and employers do to institutionalize the practice of labor-management cooperation? The chapters in this volume, as well as our own professional experiences, suggest that several steps can be taken. Institutionalization usually requires a concerted effort to change the culture of the relationship. It may help, for example, if a new program is embedded in the collective bargaining contract. Also useful is the commitment of the parties to invest in joint education and training programs. The more fully employees and managers understand the process of collaboration, including the risks involved, the greater the likelihood of success. Institutionalization ultimately depends on acceptance of the new approach by all stakeholders: rank-and-file union members, first-line supervisors, middle managers, and elected officials. Efforts must be made during transitions to show new leaders, on both sides of the table, the benefits of a collaborative system. Moreover, a communication strategy designed to keep key internal and external stakeholders fully informed is a valuable component of any effort to institutionalize innovative practices.

Labor and management representatives will likely change their attitudes about cooperation if they observe that cooperative relationships produce positive results, including not only improvements in service delivery and the quality of work life but also in their own relationships with one another. Mayors and governors appear to be swayed by service results that help them do their jobs and maintain political capital. Positive results will then probably lead to greater commitment to cooperative systems. Sonia Ospina and Allon Yaroni, in their chapter on the changing role of labor and management leaders, describe the skills leaders need to sustain an effective relationship in this new mode. They note that union leaders who seem to be successful have more involvement with budgets and systems, and management leaders who seem to be successful deal more effectively with human and emotional issues in the workplace. Developing the reciprocal responsibilities required in cooperative relationships results from a conscious effort to implement a joint decision-making structure and to avoid the legalistic approach Malin decries.

Government Support versus Government Barriers

Although the steps just described may help sustain an innovation, it is less clear how a successful collaborative system can be diffused from one location to others. Statutory changes of the type proposed by Malin might help, but it is clearly difficult to achieve the passage of new public sector bargaining laws. Only a couple of states have done so recently. In March 2003, New Mexico passed a law reinstating collective bargaining rights for teachers and other public employees; the previous public employee bargaining law had expired under a sunset provision in 1999.⁵ Also in 2003, the State of Washington passed a law that allows state employees to bargain over wages, hours, and other terms and conditions of employment but at the same time liberalizes the possibilities for contracting out.⁶

At the federal level, though, recent history has been different. The Clinton administration adopted the concept of labor-management cooperation and the president issued Executive Order 12871 in 1993, establishing the National Partnership Council (NPC) and "mandating that federal agency and department heads partner with their unions to improve government service and performance" (Clinton 1993). Masters and Albright observe that this initiative was arguably successful, or at the very least promising. Immediately after taking office in 2001, however, President Bush revoked Executive Order 12871 and dissolved the NPC. The new administration steered federal sector labor relations in a

different direction—away from cooperation and toward the restoration of traditional adversarial approaches. Most noteworthy was the Bush administration's insistence that employees of the two new agencies created in the wake of September 11, 2001—the Department of Homeland Security and the Transportation Security Administration—should not have the right to engage in collective bargaining. Many national unions reacted to the Bush administration's new approach by even further reducing the priority they attach to labor-management cooperation in their strategic plans.⁷

The Stance of Umbrella Organizations

How do union and management organizations and government boards and commissions—at the national or state or regional level—view collaboration? Traditional functions in public sector collective bargaining, such as contract negotiations, dispute resolution, and grievance handling, have by-and-large been standardized across many jurisdictions and, accordingly, have become predictable and familiar. Institutions and practices that support these functions have grown up around them. Collaborative practices seem to be more idiosyncratic, at least for now. They are rarely taught or encouraged in venues where most advocates, negotiators, and practitioners receive formal or informal training. As a task force appointed by the Secretary of Labor noted in 1996, law schools, schools of public administration, and other professional graduate institutions seldom teach about the cooperative approach or, indeed, about public sector practices more generally (U.S. Department of Labor 1996). Likewise, cooperation is not usually included as a substantial portion of the agenda of public sector unions or professional association meetings. Fostering cooperative relationships is not generally a part of the responsibilities of state boards and commissions. The budgets for these boards and commissions almost never include funds to foster collaborative relationships even though these bodies are in a prime position to recognize parties that are in need of help in developing new approaches. There are some important exceptions, however—some state boards and, notably, the FMCS will help parties seeking assistance to develop cooperative approaches.

The ranks of both labor and management leaders at the national level typically do not place collaborative relationships high on their agendas. In fact, there is some evidence at the national level of wariness of cooperative approaches. The perceptions and attitudes of the leaders of these umbrella organizations affect the willingness and preparation of local labor and management leaders to attempt a cooperative approach.

The national and international unions in the United States that have significant public sector representation showed some interest in promoting the collaborative approach during the mid-1990s, but most have omitted it from their strategic priorities since then. Although there are important exceptions, many local and national leaders on both sides do not even consider it a viable choice for dealing with the pressures and changes they are experiencing. A strong lore exists that labor-management cooperation frequently results in betrayal or embarrassment (in the form of layoffs, for example, or changes in authority relationships). Mutual trust is a necessary ingredient for sustaining cooperative relationships, but trust is much harder to achieve and sustain than such traditional practices as the periodic renegotiation of new contracts and the arbitration of unresolved grievances. As a result most national unions in the United States give priority to sustaining current membership levels, organizing nonmembers, and engaging in political activity as methods of advancing the status of their unions and attach a much lower priority to the promotion of labor-management cooperation. The major national-level management associations have also not expressed strong support for labor-management cooperation. Although there is serious interest at the top levels of the International Personnel Management Association and some support among the staff of several other management organizations, there is no evidence that the senior leaders of most management organizations are champions of cooperation. Is there hope for labor-management cooperation if the leaders of the national unions and management associations do not attach a high priority to it?

Evidence in this volume, as well as in the 1996 report of the Secretary of Labor's Task Force (U.S. DOL 1996), shows that adopting labor-management cooperation is almost always a local decision. Such a move is generally made only after the occurrence of a crisis, often accompanied by a change in local leadership, when a non-confrontational approach has more immediate appeal. The key decision makers are the chief executives and elected officials of schools, cities, counties, and other jurisdictions, on the one hand, and local union leaders and their constituents, on the other. So the support of national-level organizations might be helpful with the diffusion of such relationships, but it does not appear to be essential to their establishment or effectiveness.

There have been instances, however, when a national union, such as the American Federation of State, County and Municipal Employees or the Service Employees International Union, has provided assistance to local affiliates seeking to reform their relationship with their management

counterparts. These interventions by the national unions have usually had beneficial effects on local relationships. At the federal level, the National Treasury Employees' Union (NTEU) and the American Federation of Government Employees have also encouraged cooperative approaches. Masters and Albright describe how the major unions representing federal employees actively embraced labor-management cooperation during the Clinton administration.

Likewise, in those cases where public employee relations commissions and boards or public sector management associations have encouraged collaborative relationships, their support appears to have made a difference, particularly in relationships characterized by frequent disputes and impasses. The role these activist boards and the FMCS have played in encouraging cooperative relationships demonstrates the value of intervention and support services by a neutral agency.

In the field of education, both major teacher unions—the American Federation of Teachers (AFT) and the National Education Association (NEA)—have advocated teachers' playing a greater role in guaranteeing and improving the quality of education. As Kerchner states, "Increasingly unions are realizing that their role is to negotiate on behalf of *teaching* as well as teachers." The NEA grew out of efforts by teachers in the early part of the twentieth century to form a professional association. Until the 1960s, most members of the NEA did not regard their organization as a union and did not believe it should formally endorse collective bargaining. The AFT, by contrast, was clearly a union from its inception and promoted the use of collective bargaining. When collective bargaining took root in public education in the 1960s, the rivalry between the NEA and the AFT was often manifested in a debate about whether teachers' interests were best promoted by a professional association or a union. Eventually, of course, the NEA did increasingly behave like a union and begin to be aggressive about pursuing members' rights. But the debate over the most effective form of teacher representation continues today. Are teachers professionals in the same sense as doctors, lawyers, and accountants? Or are they more like other employees in public sector bureaucracies? If one assumes the former, then a teacher union should be more like a professional association; if one assumes the latter, then a teacher union should be more like an industrial union.

Meanwhile, while teachers were debating their most effective form of representation, the public became increasingly concerned about the quality of education provided by the nation's schools. Particularly after the 1983 publication of *A Nation at Risk* (U.S. Department of Education

1983), a study sponsored by the Reagan administration, alarm about the deteriorating quality of public education increased dramatically. In response to the public's concern, both the NEA and the AFT "officially put themselves in the quality education business," as Kerchner says. Pursuing this theme even further, if teacher unions are going to play a significant role in improving the quality of education, should they define their role as more analogous to professional associations or to industrial unions? Kerchner believes neither is appropriate and proposes a different approach. He believes that the more deeply teacher unions become involved in the delivery and quality of educational services, the more they begin to resemble the guilds of the Middle Ages—organizations of skilled craftsmen that were formed to enhance and protect the standards of the products their members produced. The collaborative approach, with a focus on service delivery, appears to allow attention to both the quality of work life and the quality of the educational product.

Conceiving of teacher organizations as either professional or industrial unions is not sufficient, Kerchner argues, because both forms of unionism focus on improving teachers' compensation and other terms and conditions of employment and relegate the quality of education to a lower priority. Kerchner also notes that in most school districts union leaders and the teachers they represent are a more stable group in the local system than the superintendents and principals who manage the schools and that the turnover of elected union leaders is usually lower than that of elected school board members. Both these factors serve to enhance the value of the guild approach. Furthermore, as teacher unions have increasingly focused on improving the quality of education, they have become more like the medieval guilds, even if most teachers are unaware of it. One measure Kerchner believes would encourage guildlike behavior of teacher unions would be to make educational quality a mandatory subject of bargaining.

The Benefits of a Collaborative Approach

The former president of the NTEU, Robert Tobias, suggests in his contribution to this volume that the collaborative approach has been crucial to attracting and engaging union membership in recent times. NTEU's membership consists not only of federal employees in more traditional "pink-collar" occupations but also of doctors, lawyers, accountants and auditors, and other professionals employed by federal agencies. He discusses the success the NTEU has had in gaining new members in spite of the absence of such union security provisions as the union shop

or the agency shop. Between 1982 and 2000 the NTEU grew from 55,000 to 71,000 members, an increase of 29 percent, while most other federal sector unions suffered declines in their memberships. Tobias believes his union's impressive gains are a consequence of its emphasis on cooperative, service-oriented relationships.

In another chapter, Stephen Goldsmith, a former mayor of Indianapolis, describes how efforts in his city to promote labor-management cooperation resulted in lower tax rates, better public services, and improvements in his city's budget. The Indianapolis story, Goldsmith maintains, is not about privatization—for which he is incorrectly credited or pilloried in the popular literature on public labor relations—but about a carefully developed labor-management partnership that resulted in benefits for all parties: higher wages, reduced costs, better service, better jobs, improved job security, and gain-sharing bonuses. Goldsmith tells of entering office with the idea of privatizing the city's services but soon coming to realize that collaboration was a more effective strategy. He was strongly opposed by most of the local unions at the beginning, but by the end of his first term in office he received their support in his bid for reelection. Although most observers note the risks to politicians of promoting collaboration, Goldsmith's story illustrates the potential political gains of service-oriented partnerships.

Goldsmith suggests that the path to a cooperative relationship depends on local circumstances. Union and management officials need to tailor their relationship so that it fits the environment in which they operate and serves each party's goals. Generally, successful collaboration requires the formation of better and broader forums for discussion, an ongoing commitment to training, a chief executive who has compassion for the welfare of his employees, and union leaders who have a genuine interest in improving the quality and lowering the costs of the services their members deliver. Goldsmith describes how he exercised leadership in establishing goals and defining standards used to judge improvement in his city's financial health. He worked diligently with union leaders to develop a relationship in which both the City of Indianapolis and its unions could contribute to achieving mutually beneficial results. As a consequence of this collaboration between the city's officials and its unions, taxes were reduced, gain-sharing bonuses were regularly distributed, and layoffs were minimized. Goldsmith's chapter offers valuable insights into how elected officials can establish and maintain the kind of labor-management relationships that serve the purposes of both municipalities and unions.

Risks of Collaboration

Several contributors to this volume note the risks union leaders assume when they foster cooperative relationships with management. For example, Jeffrey Keefe recalls that a major corporation laid off a very large number of employees in the late 1990s following cooperative efforts by their union leaders to accommodate management's needs. Both Keefe, and Masters and Albright, writing separately about public sector labor relations at the local and federal level, respectively, note the sense of betrayal felt by many union leaders when cooperation is followed by significant layoffs or other negative consequences for workers and their unions. Masters and Albright remind us that the establishment of the NPC during the Clinton administration was followed by major reductions in force of federal employees and ultimately by President Bush's decision to abolish the NPC. These cases certainly do not prove causality, but they illustrate that the levels of instability and uncertainty of the cooperative model usually exceed the levels associated with more-conventional labor-management relations. Even when cooperation appears to fail in other relationships, and not in one's own backyard, Keefe argues, such failures dampen enthusiasm for undertaking the risks involved in collaboration.

The forces impeding collaboration in the public sector are real and powerful. In the 1996 IRRA research volume, Richard Freeman (1996: 76-78) reported on a survey about public and private sector employee attitudes toward cooperation. On the one hand, he found that a majority of union members in both sectors believed that their unions could only be effective if management cooperated with them. On the other hand, he found that "public sector union members were almost twice as likely (40% vs. 23%) as private sector union members to prefer an organization with power that management opposed [over an organization without power that management cooperated with] and considerably less certain (60% vs. 75%) that management cooperation was the *sine qua non* of effective employee organizations." What accounts for this difference? Freeman wrote, "One plausible explanation consonant with the way in which the two sectors operate, rests on the fact that public sector employees have greater power outside collective bargaining to affect management decisions than do private sector employees. They have this power through the political process: They are voters and, through unions, a force in electing public sector leaders; whereas in the private sector, workers rarely are shareholders who can vote and appoint management" (Freeman 1996:78).

The recent peak in the cyclical interest in privatization may serve to motivate public sector unions and their members to undertake the risks

associated with cooperation. Ironically, labor's reluctance to risk collaboration and management's unwillingness to expand discussions with unions beyond the formal scope of bargaining decrease the opportunities the parties have to improve the quality and reduce the costs of public services. There is ample evidence in this volume and elsewhere that union reluctance to engage in cooperation ultimately diminishes the public's perception (and perhaps the reality) of the value of unions in the public workplace. By the same token, management's reluctance leads to missing the advantages that Goldsmith and others have noted.

An issue that was widely discussed in the early years of public sector bargaining has been thought to carry with it a special risk of collaboration. That is the issue of including supervisors in the same bargaining units with rank-and-file employees, which is the topic of a chapter by Adrienne Eaton and Paula Voos in this volume. The core risk question is whether this creates a conflict of interest for supervisors by pitting their loyalty to their union against their obligation to maintain discipline.

Public sector supervisors are commonly entitled to join unions and engage in collective bargaining, in contrast to supervisors and managers in the private sector. In some jurisdictions supervisors have separate bargaining units but in others they are included in the same unit as their subordinates. A number of observers have feared that including supervisors and their subordinates in the same bargaining unit would hamper effective supervision and make collective bargaining more complicated. The research done by Eaton and Voos suggests, however, that in the units included in their sample there was little practical difficulty in having supervisors in broader bargaining units. Their research showed that "if problems arose, they did so in the highly unusual context of a work stoppage or around the nonroutine issue of discipline." They found that the problems encountered could be accommodated and concluded that, "People can wear two hats. People can be loyal to the mission of the agency (and act as supervisors to further that mission), while they are also union members."

There are several other potential risks to both management and union officials in adopting a cooperative approach: the dangers of leaving familiar turf and being stuck out on a limb, of misjudging the opponent and losing face, or of failing to deliver on promises and being faced with dire choices. The most incendiary risk is probably privatization. While privatization seems to be a real threat to unions and has been a major factor in other industrial democracies with larger public sectors and more state enterprise, its impact in the United States has actually been

remarkably small. The Bush administration, however, has specifically called for greater privatization of federal services (as have others before it). It is too soon to tell now what the effect of President Bush's push for privatization will be, but previous initiatives have had limited results.

The Secretary of Labor's Task Force reported that almost every instance of labor-management cooperation resulted in significant cost savings, even with stable employment levels, and thus blunted the call for privatization. Some evidence shows that few jurisdictions, other than newly incorporated cities, have, in fact, embarked on wholesale privatization (U.S. DOL 1996:13-25). In public education, some school districts are experimenting with various forms of privatization, but the major teacher unions are clearly betting that schools and education will be better off in public hands.

Other factors make it difficult for local labor leaders to engage in cooperative relationships. Keefe points out that they face a triple threat. First, they may lose member support if the members feel they are too close to management and too involved in collaborative efforts. Second, they can seldom expect to get support for cooperative efforts from their national or regional bodies. Third, they face the possibility that their commitment to cooperation will be followed by management decisions, such as layoffs and reductions in force, that leave them looking like dupes. Goldsmith notes that *managers* in the public sector face a parallel set of risks, but Tobias suggests that the risks to the parties of not working together may exceed the risks of cooperation, particularly in the face of falling public confidence in government.

Public sector managers and union leaders are always engaged in a balancing act, weighing the risk of cooperation failing against their obligation to serve the best interests of their constituents. In truth, on a long-term basis, continuing conventional labor-management relationships may prove to be as risky as attempting to move to cooperation. The conventional approach can result in arcane and wasteful conflicts, and, as Malin notes, it necessarily limits employee involvement and motivation to improve the delivery of public services. Accordingly, it reduces the potential contribution public employees can make to their communities. Arthur Hamilton, former president of the National Conference of State Legislatures and a member of the Secretary of Labors Task Force, was fond of saying that in bringing about change in the labor-management relationship, "Someone has to risk first." Union leaders and managers may want to keep that statement as the fulcrum of their balancing act.

Summary

When public sector officials and union leaders are willing to enter into cooperative arrangements, the evidence in this volume and elsewhere suggests they usually find that cooperation results in improvements in both the delivery of public services and the quality of work life. Certainly there have been instances when cooperation has failed to produce desirable results, but this volume includes ample testimony to its potential beneficial effects and depicts successful experiences with cooperation at the federal government level, in a number of state governments, in Indianapolis, and elsewhere. Also, we know that in places such as Los Angeles; Phoenix; Portland, Maine; Toledo, Ohio; Cincinnati, Ohio; and numerous other locales the cooperative approach has achieved positive results (U.S. DOL 1996). Yet cooperation in the public sector remains the exception rather than the rule.

Why is this? Entering into cooperative relationships requires a willingness by the parties to engage in risk-taking behavior. Public sector unions and managers are usually reluctant to undertake the risks necessary to establish cooperative relationships and prefer the comfort of traditional and familiar approaches. Both management and union bureaucracies tend to be conservative in the sense that they ordinarily prefer the status quo. Moreover, public sector bargaining statutes, which were mostly enacted in the turbulent 1960s—and the practices that emerged around them—serve to enshrine the traditional, adversarial approach to labor-management relations rather than to promote cooperation. At the national level both unions and management organizations usually place a higher priority on other objectives (organizing and engaging in lobbying and political activity, for example) and consider cooperation to be a less-significant priority. The pursuit of cooperation is also affected by political and ideological factors. The election of a new mayor or a new union leader sometimes destroys efforts by previous leaders to establish cooperative relations.

Nevertheless, there are union and public officials who have been willing to undertake the risks necessary to embark on a cooperative path. Often cooperation between the parties has arisen as the consequence of a crisis—one that may be related to fiscal distress, for example. Occasionally cooperation follows a disappointing effort to privatize public services. Cooperation may also occur when union leaders and public officials come to believe that it serves their respective political interests. And there are instances when enlightened public sector managers and union leaders turn to cooperation out of sincere conviction that doing so serves the best interests of both their employees and their communities.

Cooperation is almost always the result of local-level initiatives by union and management decision makers. It ordinarily occurs below the radar screen of national-level organizations. When cooperation occurs, however, it requires that the parties develop structures that will help ensure its success. Training and education programs for representatives on both sides of the table are one example. The parties must also be prepared to create new mechanisms of support, such as nontraditional approaches to conflict resolution like grievance mediation, joint committees to handle topics like the quality of work life and the improvement of service delivery, and forums that encourage employee participation in decision making.

Taken together, the chapters in this volume suggest the following conclusions about labor-management cooperation in the public sector:

- The vast majority of statutes that provide collective bargaining rights for public sector employees do not promote or support cooperative labor-management relationships that potentially would benefit both the parties and their communities.
- Where a common desire exists, however, parties have been able to work around the statutory framework to participate in a regularized regime of collaborative problem solving.
- Politics can significantly affect the context and the specific relationship, creating instability and uncertainty that interfere with establishing and operating collaborative relationships—or even productive traditional relationships.
- National union leaders, who must juggle many forces affecting their unions' growth and influence, in general respect the cooperative approach but remain wary of the risks associated with it.
- With the possible exception of some federal sector unions, teacher unions, and school board associations, active support for collaboration occurs primarily at the local level, spurred by a local crisis, new leadership, or dissatisfaction with bargaining outcomes. The use of cooperation, although still limited to a minority of relationships, appears to be growing at the local level and has proved to be highly valuable to the parties on both sides of the table and to the citizens who, as a consequence, receive improved public services.
- Some state boards and the entire FMCS encourage and support cooperative efforts, but other boards take a conservative approach, emphasizing in their mission the legal adjudication of rights rather

than improvement in the quality of the relationship. Members of these boards, and many union and management representatives, believe they do not receive sufficient resources to support their core functions, let alone to promote labor-management cooperation.

- In specific localities, however, legislators and local executives have found that cooperative relationships have not only resulted in improved public services but have also helped them fulfill their other responsibilities to their constituents.
- Trends in union membership, largely the consequence of changes in the economy and the workforce, have resulted in public sector union membership now constituting nearly half of the total number of union members in the United States. Public sector union members tend to have more education and to occupy more-highly skilled and more-professional jobs than their private sector counterparts. The demographics of public sector membership, accordingly, make the use of traditional union-management relationships even more problematic there than in the private sector. As the number of knowledge workers in the public sector grows, the need to explore new approaches to union-management relations will be even more pressing.
- Workers rather than managers are often the constant figures in schools, firehouses, social service agencies, and other public sector organizations. Given this characteristic of some spheres of public sector employment, unions may want to consider adopting more of a "guild" role, focusing as much on guaranteeing and improving the quality of public services as on the improvement of their members' terms and conditions of employment.
- The inclusion of supervisors in public sector unions and bargaining units may result in fewer difficulties than some experts had previously expected.
- The pressure to privatize, which is strongly advocated by the current presidential administration—along with limits on taxes—will continue to create cost and quality pressures. Under traditional relationships, conflict and resistance to service improvement are the typical response. Cooperative, service-oriented models, perhaps in combination with appropriate political strategies, offer a way to counter that response to these pressures.

We hope that this volume contributes to both the knowledge of, and debate about, the value of cooperative service-oriented relationships

and the barriers to their use. We also hope that this model will be more fully explored in the future, against the backdrop of major changes affecting labor union membership and the rights and reasonable expectations of citizens, workers, and managers in the public sector.

Acknowledgements

In addition to the excellent authors who have contributed to this volume, we owe many thanks to those who have helped inspire our work. Most especially to John Dunlop and Theodore Kheel, we extend our thanks not only for their pioneering work in the development of public sector labor-management relations but also for their continuing leadership and mentorship of many of us in the field. We also thank Leslie Redd, who first suggested to us that we organize a volume on this topic, Alice Ostdiek, who assisted in recruiting the authors, and Kasha Roseta, who managed the process of assembling the papers. We are sincerely grateful for their constant focus on action and implementation. We are indebted to Henry H. Perrit, Jr., and Martin Malm of the Chicago-Kent College of Law, who joined with us as cosponsors of a conference, held in Chicago in April 2000, that proved to be the genesis of this volume. We thank Chris Colosi of the Institute on Conflict Resolution at Cornell for his assistance on the project. We are especially grateful to Paula Voos, who, along with other members of the IRRA Editorial Committee, made many helpful suggestions in developing this volume. We offer special thanks to Elaine F. Goldberg and Paula D. Wells, who managed the editorial process and ensured that the volume would meet the high standards traditionally maintained by the IRRA. To Missy Harrington, who has been a constant friend and colleague, we offer our deepest thanks for coordinating all aspects of this project and making sure that the editors kept their noses to the grindstone. Portions of this project were funded by The Ford Foundation, and we express our appreciation for the foundation's support. Most especially, without the support of the foundation's Michael Lipsky (no relation to the co-editor of this volume), who has been dedicated to exploring the role of labor relations in the quality of community life, this project could not have begun or been completed.

Notes

¹ The most recent IRRA research volume devoted to public sector employment relations was edited by Belman, Gunderson, and Hyatt (1996). Earlier volumes included two editions of the volume edited by Aaron, Najita, and Stern, one published in 1979 and the other in 1988.

² In this paragraph we have summarized comments made by Parker Denaco, Pauline Kinsella, and Linda Hanson, each of whom is or was a member or senior staff of a state board or commission, at a conference, "The Future of Public Sector Labor-Management Relations: Working Together to Achieve Excellence for the Twenty-First Century," held on April 13-15, 2000, at the Chicago-Kent College of Law. The editors of this volume were the organizers of that conference.

³ Some scholars, particularly economists, are skeptical about the degree to which any legal regime can significantly influence behavior. Many of them believe that although the law may have its intended desirable effects, those effects are often outweighed by the unintended, and often undesirable, consequences of statutory regulation. This ongoing debate about the efficacy of government regulation is the focus of an earlier IRRRA research volume (Kaufman 1997).

⁴ For a discussion of the role of champions in introducing change in an organization, see Lipsky, Seeber, and Fincher (2003, especially pp. 135-37) and Ulrich (1997).

⁵ The text of the New Mexico law can be found on the New Mexico Legislature's website at <<http://legis.state.nm.us/>>. See also, "New Mexico Governor Signs Measure Reinstating Public Employee Bargaining" (2003: A-6).

The act is known as the Personnel System Reform Act of 2002. See State of Washington, House Bill 1268 (2001). For the provisions pertaining to subcontracting, see Section 208. See also, "State Labor and Employment Laws Enacted in 2002" (2003: S-51-52).

⁷ Richard Hurd reported on this development in his presentation on January 5, 2003, at the 55th Annual Meeting of the Industrial Relations Research Association held in Washington, D.C.

References

- Aaron, Benjamin, Joyce Najita, and James Stern, eds. 1988. *Public Sector Bargaining*. 2d ed. Washington, DC: Bureau of National Affairs.
- Belman, Dale, Morley Gunderson, and Douglas Hyatt, eds. 1996. *Public Sector Employment in a Time of Transition*. Madison, WI: Industrial Relations Research Association.
- Clinton, William J. 1993. "Labor-Management Partnerships." Executive Order 12871. *Federal Register*, Vol. 58, no. 192 (October 6).
- Freeman, Richard B. 1996. "Through Public Sector Eyes: Employee Attitudes Toward Public Sector Labor Relations in the U.S." In Dale Belman, Morley Gunderson, and Douglas Hyatt, eds., *Public Sector Employment in a Time of Transition*. Madison, WI: Industrial Relations Research Association, pp. 59-83.
- Kaufman, Bruce E., ed. 1997. *Government Regulation of the Employment Relationship*. Madison, WI: Industrial Relations Research Association.
- Kheel, Theodore W. 1999. *Keys to Conflict Resolution: Proven Methods of Resolving Disputes Voluntarily*. New York: Four Walls Eight Windows.
- Lipsky, David B., Ronald L. Seeber, and Richard D. Fincher. 2003. *Emerging Systems for Managing Workplace Conflict: Lessons from American Corporations for Managers and Dispute Resolution Professionals*. San Francisco: Jossey-Bass.
- "New Mexico Governor Signs Measure Reinstating Public Employee Bargaining." 2003. *Daily Labor Report* (Bureau of National Affairs), no. 46 (March 10), p. A-6.

- Slichter, Sumner H., James J. Healy, and E. Robert Livernash. 1960. *The Impact of Collective Bargaining on Management*. Washington, DC: Brookings Institution.
- "State Labor and Employment Laws Enacted in 2002." 2003. *Daily Labor Report (Special Report)* (Bureau of National Affairs), no. 43 (March 5), pp. S-51-52.
- Ulrich, Dave. 1997. *Human Resource Champions: The Next Agenda for Adding Value and Delivering Results*. Boston: Harvard Business School Press.
- U.S. Department of Education. National Commission on Excellence in Education. 1983. *A Nation at Risk: The Imperative for Educational Reform*. Washington, DC: GPO.
- U.S. Department of Labor. 1996. *Working Together for Public Service*. Report of the U.S. Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation. Washington, DC: GPO.
- Wellington, Harry, and Ralph K. Winter, Jr. 1971. *The Unions and the Cities*. Washington, DC: Brookings Institution.