Employ Respons Rights J (2007) 19:193–206
DOI 10.1007/s10672-007-9045-z

Tactics of Labor Struggles

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Published online: 12 July 2007
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Abstract Some actions by employers have the potential to generate outrage due to perceived injustice or abuse. Employers have five main methods to inhibit such outrage: covering up the action, demonizing the workers, reinterpreting what is happening, referring the matter to official channels that give only the appearance of justice, and using intimidation and bribery. Examples from Australian labor struggles are used to illustrate these tactics and how they can be opposed.

Key words labor disputes · industrial relations · injustice · tactics · Australia

Many actions by employers have the potential to generate outrage, including dismissals, speed-ups, wage cuts, elimination of medical benefits, closure of facilities, unsafe working conditions, bias in appointments and promotions, and embezzlement. Outrage is most likely when actions, or sometimes failures to act, are perceived as unjust or abusive. Examples include humiliation or dismissal of loyal employees, and wage cuts at the same time the CEO receives a huge bonus. Such actions can, in some circumstances, rebound against employers by creating ill will that reduces productivity, alienates customers, or damages the company's reputation.

However, despite the potential, widespread outrage from employer actions is the exception rather than the rule. Therefore, it makes sense to examine what employers do that prevents outrage, as well as the ways that employees and others can promote it. This means

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focusing on tactics used in struggles between employers and employees. To do this, we draw on a framework for understanding how injustices may or may not backfire (Martin 2007).

There are many historical examples in which violent attacks on peaceful protesters generated outrage and resulted in greater support for the protesters (Sharp 1973, pp. 657–703). For example, following the bus boycott in Montgomery, Alabama in 1956–1957, a court ordered that buses be desegregated. Extremist supporters of segregation then bombed churches and houses. These actions were counterproductive, causing some leading segregationists to defect (Sharp 1973, p. 670; see, generally, Chalmers 2003).

This type of reaction can also occur in other sorts of cases, well beyond the violence-nonviolence framework. For example, the beating of Rodney King during an arrest by Los Angeles police in 1991 caused widespread anger after video footage of the incident was broadcast on television: there was intense media coverage for months, calls for the police chief to resign, and a decline in public opinion of the police force. In contrast, other police beatings, just as serious but not recorded or publicized on television, caused little public concern (Martin 2005).

Selling technology used in torture can backfire when information about it is communicated to relevant audiences. For example, the British television documentary *The Torture Trail* showed a British businessman admitting selling thousands of electroshock batons to Saudi Arabia. This and other revelations in the program led the European Parliament to extend arms export controls to such technologies (Martin and Wright 2003). Any action that is perceived as unjust or as a norm violation has the potential to backfire.

In these and many other cases, perpetrators commonly use several techniques that inhibit outrage or action based on it:

- Cover-up;
- Devaluation of the target;
- Reinterpretation of the events;
- Referral of the matter to official channels that give the appearance of justice;
- Intimidation and bribery.

Censorship can backfire because it is commonly perceived as a violation of the norm of free speech (Jansen and Martin 2003, 2004). A classic example is the defamation suit by McDonald's against two British activists, Helen Steel and Dave Morris, involved in the production of a leaflet, "What's Wrong with McDonald's." McDonald's preferred to operate out of the public eye: other activists apologized over the leaflet, but Steel and Morris refused to acquiesce quietly and instead publicized the case, so cover-up failed. McDonald's portrayed Steel and Morris as lawbreakers but, because they were both indigent and principled, was unable to discredit them. McDonald's presented the defamation action as protection of its reputation, but others saw it as heavy-handed censorship. McDonald's took the issue to court, but supporters of Steel and Morris went public, generating massive publicity about the case. McDonald's regularly used legal threats and actions against critics, but in this case intimidation failed. Although McDonald's won in court, it was a public relations disaster for the corporation, with millions more people reading the offending leaflet than would have occurred otherwise. This case, commonly called McLibel, shows that a powerful corporation may find that its actions against apparently weak opponents backfire. But McLibel was an exception: McDonald's had threatened or sued numerous other critics previously, with little adverse reaction (Donson 2000).

We use this framework to analyze tactics in labor struggles, both collective and individual. In most cases, actions by employers do not generate significant outrage: in effect, the methods of inhibition are effective. In a few cases, though, employer actions

backfire, to a greater or lesser extent. Examining labor struggles through the backfire lens highlights the role of tactics and potentially offers guidance for promoting just outcomes.

It is worth mentioning that actions by employees can backfire too. For example, if a worker endangers co-workers or harasses the boss, this can easily be counterproductive for the worker. However, individual workers seldom have the capacity to reduce outrage from such actions: their capacity to cover up, demonize bosses, reinterpret actions, use official channels, intimidate or bribe is limited, unless supported by managers or other workers. There is little surprise in the finding that a norm violation by someone with little power leads to adverse outcomes. Our interest is in the contrary situation, in which powerful groups—in this case employers—are the ones violating norms and attempting to get away with it.

Our examples of labor struggles are Australian, about which we have detailed knowledge. In the next section, as background, we describe the Australian industrial and labor system. In the following five sections, we look in turn at each of the five principal methods for inhibiting outrage from events perceived as unjust. We describe some of the common ways these methods are deployed in labor disputes and give some Australian examples. In the conclusion, we summarize the main points and tell how employees can counter the tactics used by employers.

Labor and Capital in Australia

The Australian industrial and labor system is similar in many basics to systems in other industrialized countries: the economy is based around private corporations regulated by government; most workers are employees, either in large or small businesses or the public sector. Trade unions are found in most parts of the economy.

Australian trade unions have a tradition of social action, including outside the traditional areas of wages and conditions, most famously in the "green bans," which are trade union bans, undertaken after community consultation, against work on projects deemed inappropriate for environmental or other reasons (Burgmann and Burgmann 1998; Roddewig 1978). Unions are now, however, a much less powerful force in Australia, with membership severely on the decline, and it can be argued that this is, at least in part, the result of a sustained attack against them from the state.

There is a long history of difficult relations between capital and labor in Australia, to a large extent bought about by the anomalies of development once convict transportation had ceased. Australia was "born modern" in the sense that capitalism was always the driving ethos, and that industrial development did not need to occur in the same "revolutionary" way that it had in England. Yet this was tempered by an immigrant population highly radical in their politics to the degree that democracy was demanded and won in Australia before it was in England, and where ideas about the nature of society and the relative worth of capital and labor were much debated from early in the nineteenth century (Gollan 1967, pp. 1–32).

Much of Australia's immigrant working population had come to escape particular social and working conditions in Europe, especially England, which meant that they arrived heavily politicized. Trade unions developed from the mid 1800s initially in an attempt to protect the customary rights of crafts and trades men and then more widely to curtail the effects of a rapacious bourgeois capitalism (Gollan 1967; Connell and Irving 1992). The resulting conflict culminated in what is known as the Great Strikes, or the Maritime Strikes, of the early 1890s. Involving all of Australia's major industries such as wool shearing, coal mining, and shipping, the strikes threatened to bring the developing country to a standstill (Lee and Mitchell 1992; Gollan 1967). Recognizing the new power of labor, the

government sought to temper it by bringing about a formalization of industrial relations (Dabscheck 1989; Dabscheck *et al.* 1992).

In the early 1900s it was made legally compulsory in most states to settle industrial disputes through state-based conciliation and arbitration tribunals (Macintyre 1989; Markey 1994). The Australian Industrial Relations Commission (AIRC) is still the peak body responsible for the control of industrial disputes in Australia, but its power and scope have been limited by successive acts of industrial legislation aided by a long post-war boom of economic prosperity. This has eroded the bargaining power of unions and facilitated the greater intervention of the state in industrial relations, resulting in a decline in trade union membership, and in the greater power of the state and courts to limit and punish strike activity (Patmore 1991, pp. 150–155).

In 1983, under a Labor government, the Prices and Incomes Accord was struck between the federal government and the Australian Council of Trade Unions (ACTU), the peak union body, which sought to further stabilize relations between labor and capital by agreeing on particular wage rates in exchange for cessation of industrial militancy (Carney 1988; Langmore 2000). Subsequent Coalition governments (more conservative than Labor) have gone further, introducing over 30 other pieces of legislation affecting industrial relations, including the *Workplace Relations Act* of 1996. It was under this act that the conservative agenda of union-busting became most obvious, with the introduction of legislation designed to remove unions from the negotiating of wages and conditions, the ability to prosecute unions for strike activity, the removal of compulsory unionism in most industries, and the replacing of union-negotiated awards with individual contracts negotiated directly between employer and employees (Pyman *et al.* 2000). The recent history of the relationship between capital and labor in Australia has revolved around increasing attempts by corporations and the state to limit the power and efficacy of unions and they have been largely successful in this aim.

In the following sections, we give special attention to the dispute between the firm Patrick Stevedoring Corporation (Patrick) and the Maritime Union of Australia (MUA). In 1997, Patrick sought its own form of waterside reform by attempting to recruit and then train an alternative workforce by secreting them off to Dubai. The MUA was warned from inside Patrick of this action and employed the Australian Council of Trade Unions, Labor politicians, and the media to generate enough outrage to be successful in stopping this action. However, Patrick restructured itself so that it could fire and then lock out its entire MUA workforce from Port Botany in Sydney in April 1998. A long and bitter dispute ensued, ending in court cases in both the industrial and civil courts, with the final legal victory going to the MUA (Ellem 1999). Our aim is not to document this or other examples in detail, but rather to illustrate an approach to understanding tactics used in labor disputes.

Cover-up

Corporations operate with considerable secrecy about the internal operations, which allows them to hide unsavory activities. The formal and official nature of industrial relations in Australia also contributes to the ability of powerful groups to cover up their activities. Under the Freedom of Information Act (http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401430?OpenDocument) and the National Archives Act (http://ourhistory.naa.gov.au/library/archives_act.html), departments of the Australian government are exempt from releasing official documents which are not otherwise published,

and these are then automatically sealed for 30 years, preventing timely understanding of the government's involvement in ostensibly capital-labor relations.

In the Patrick case, it is known that there are documents showing how heavily the government was involved in both planning and carrying out union-busting activities, and suggesting that the government worked extremely closely with Patrick to initiate the whole dispute. These documents, especially those involving the Prime Minister, John Howard, remain safely unreleased under the thirty-year restriction. It is only due to the leaking of some earlier documents from a parliamentary staffer that we know as much as we do about the government's involvement in this case (Trinca and Davies 2000).

Similarly, Patrick is protected by various acts of legislation that enable corporate secrecy. For example, corporations are exempt from the *Freedom of Information Act*. Furthermore, corporations find it easy enough to operate outside the bounds of legislation. The whole waterfront dispute started with the exposure of secret plans to train an alternative workforce in Dubai. After the MUA obtained leaked information from a source inside Patrick (Trinca and Davies 2000) and revealed the plans, Patrick needed to change tactics in response to public outrage. Patrick then went about using various technical and legal loopholes to strip its companies of any assets and change the structure of the company so that it became legally possible to fire its entire MUA workforce.

Although Australian law requires that major company restructuring affecting the employment or conditions of its workers be discussed with those workers beforehand (Dabscheck 2000), the MUA was not informed about the Patrick restructuring until the day *after* the entire workforce had been fired and locked out. In this case, an illegal cover-up was used which had the effect of putting the union on the defensive in that they could only react to actions already taken by Patrick rather than mobilizing to prevent and advertise those actions beforehand. They were not able prepare their workforces and their families for sudden unemployment, or to mobilize other union and community support. They were not able to use tactics to prevent removal from their workplaces and were forced to form picket lines on the outside which could have led to negative media exposure, especially given that the majority of the public would not know, and were not told, that Patrick had been the first to break the law. By acting in this way, Patrick also set the terrain on which the battle would be fought, that is, largely one of a legal technicality, making it look like it was purely a business decision rather than part of a broader union-busting agenda.

Under the Australian tribunal system, disputants are often subject to settlement clauses that require secrecy, and trade-offs are made between open investigations and a resolution. In the Patrick case, the MUA won its immediate claims by using industrial relations law but a resolution was only achieved when it agreed to drop its counter-charge of conspiracy against Patrick and the government. This meant that many of the details implicating the government's and the corporation's involvement in illegal and unfair tactics remain uninvestigated and unexposed.

Labor disputes, and labor relations more generally, are poorly reported in the Australian mass media; this acts as a form of de facto cover-up. The logic of big business is firmly entrenched in the Australian psyche; this is particularly so given that the mass media are big businesses themselves, with ownership concentrated in the hands of the richest men in Australia—most prominently Rupert Murdoch—with their own local and global business interests. The media report business news consistently, for example in large sections of quality newspapers, and rarely run stories from the worker's point of view. The mainstream press rarely covers labor disputes at all, much less sympathetically. The corporate orientation of the commercial mass media has also affected public broadcasting. Patrick's attack on the MUA backfired when, uncharacteristically, the media broke major stories

relating to the case, with journalists working closely with the MUA to do so, often in such a way as to take the government and Patrick to task over their behavior. The MUA used professional media advisers to aid this process. For the two journalists at the heart of the story who wrote the book *Waterfront,* the dispute raised questions of national significance—about the secrecy of government, its alignment with big business, and what it was prepared to do against ordinary working people (Trinca and Davies 2000, pp. xiii–xviii). In addition, unions in other countries were alerted and expressed their support.

The exposure of attacks against workers is further hindered by the reluctance of workers to speak out. There are many institutional barriers to workers taking matters into their own hands, and sometimes unions themselves are slow to take up the cause, especially when their power is already limited by the legislative frameworks within which they must operate. Workplace culture can be a barrier to openness; the traditional machismo associated especially with blue-collar work can cause male employees to think twice before complaining for fear of seeming effeminate, weak, or a complainer. For women, the difficulties of exposing workplace injustice, especially of a sexual nature, is further intensified by the predominance of males in the upper echelons of business and law, and for both men and women the very real fear of losing one's job works to further prevent exposure of workplace problems.

Devaluation

It is a common tactic of those perpetrating injustice to seek to demonize or devalue the target. Unions have long been subject to this devaluation, so much so that it can be argued that demonizing organized labor is routine procedure. This is in large part made possible by the tight and often unquestioned bond between business, the media, and government. Although many people have a consciousness of corporations as greedy or unprincipled, it is still the case that corporate behavior goes largely unchallenged while organized labor is often the target of selective reporting and a derogatory portrayal.

The media play a strong role in this. They are selective in choosing stories to pursue, usually only being interested in those likely to have some kind of broader national or political relevance. This is especially so around election time and may be one reason why there was so much interest in the Patrick case: the government was coming into an election period. Some media are sensationalist, concentrating on aspects of the case most likely to have shock value, resulting in a lack of serious attention to the issues at stake and, at worst, a demonization of any kind of organized activity. They are quick to portray activists as violent and disruptive, showing pictures of union picket lines awash with red flags, or focusing on any displays of violence or bad behavior rather than the issues at stake. Recently, when a union representative spat on a manager while he was attempting to drive through a picket line, this behavior was portrayed as yet more evidence of the violence and inappropriateness of the union movement (Norington 2003). Rarely are the issues involved in the action discussed in any sensible way, nor was the driver reviled for placing people in danger by using his car to move through a crowd. In the Patrick case, protests in support of the MUA were huge community actions including family members of the dock workers. The media often presented images of the children present at the protests, with the emphasis on the inappropriateness of this, suggesting that the unions put children in the front line deliberately.

There is a notable exception to this general rule and this also involves the Patrick case. As most of this case played out in the print media the use of visual imagery was extremely important. Patrick found themselves on the receiving end of public outrage after the *Sydney*

Morning Herald published photos of their use of dogs to remove men from the docks on the night of the lock-outs, and their subsequent use of balaclava-wearing security men. This was seen by many as evidence of the corporation going too far, and helped win sympathy for the union cause. Many of the images were reclaimed by the union and used repeatedly against the company to great effect.

Labor can be reviled in a number of other ways. The focus often is on the public inconvenience caused by strike action, such as by nurses or transport drivers, with strikers portrayed as selfish and uncaring while the reasons for their action are ignored. Those who question the workings of big business are sometimes labeled communists or conspiracy theorists. In Australia in the late 1980s, commercial airline pilots went on strike and were demonized not only for the huge upheaval this caused but because they were "too privileged," not "real workers" entitled to be disgruntled about their work conditions. The causes of their action went largely unnoticed by the mainstream (Bray and Wailes 1999).

Reinterpretation

When an action is perceived as unjust, it can cause outrage and consequently backfire on the perpetrator. Reinterpretation is the process of portraying the action as *not* unjust but as understandable, reasonable, and justifiable. Part of this reinterpretation can be called ideological in that differences of opinion stem from the inherently different positions and points of view of capital and labor. Business and corporations seek to portray themselves as neutral and natural entities, suggesting they seek only to bring choice, freedom, and prosperity to society. Economics is portrayed as a science, operating under impersonal rules and laws. Profits are returned to stockholders and this, suggest companies, is what dictates their activities. They use words such as reform, productivity, and cost-savings to describe their dealings, thereby obscuring the human relations that are deeply affected by the actions of business.

Many employees see things somewhat differently, unions even more so. Although employees can be equally concerned with the well-being of a company and are often loyal and make personal sacrifices for their work, they are generally more aware of the tenuousness of their position within a company. In recent decades, the notion of a lifetime's service to one company has lost credibility, hence workers are more likely to be cynical towards company rhetoric. Unions have traditionally been more explicit about the perceived nature of the relationships between employer and employees and use a language more overt in its class terminology and more militant in its advocacy.

It is during labor disputes that the real differences between capital and labor are exposed and the tactic of reinterpretation is at its strongest. When companies complain of low profits and then cut staff in response, the real-life impact of this makes it harder for workers and the broader public to accept that business acts in everyone's best interest. This is even more so when CEOs continue to reap huge salaries. When workers threaten strike action because of wages or workplace conditions, employers are quick to talk about economic forces beyond their control. It is much easier for companies to talk the language of economics and big business in the media in such a way that their viewpoint seems rational and natural while workers' opinions are made to seem unrealistic, self-centered, and short-sighted.

The Patrick case provides a good example of how reinterpretation can work. In an article published in the journal of the Institute of Public Affairs, a right-wing think tank, Chris Corrigan, the owner and CEO of Patrick at the time of the dispute with the MUA, suggests that there would be no disputes if his employees considered working on the docks as an

Olympic sport (Corrigan 2002). They would then be less likely to consider their employer's demands as "a concession to a class enemy" but "would see it [reform] as an important tactical and inspirational exhortation and hang on every word and nuance." Their complaints about long working hours and unsafe working conditions would be replaced by "employees throwing their bodies on the line every day as if it were a grand final [Australian rugby equivalent of the Super Bowl]." Instead of workers perceiving their employer's actions as unjust, unfair, and exploitative, they should see them as "clever, flexible, progressive, innovative and imaginative" (Corrigan 2002, p. 25).

It is highly unlikely that the MUA, or its members, see dock working as an Olympic sport. The fact that Corrigan uses this kind of language is interesting—as a business man he knows better than most that work is not sport, and there are good reasons why his employees see it that way. Whether Corrigan actually believes his own rhetoric is somewhat irrelevant, the point here is that business frequently uses emotive language like this to disguise the true nature of the relationship between capital and labor, to hide exploitative and self-interested work practices, and to make workers appear unreasonable and selfish where business is supposedly generous and progressive (Spicer *et al.* 2001).

Official Channels

We have already noted that labor disputes in Australia are very tightly controlled through legislation requiring that they be settled through the Australian Industrial Relations Commission with its system of tribunals. While this process has an appearance of fairness, there are several ways in which it can operate against the worker.

Firstly there is the issue of access. It is rare for an individual worker to mount a case through the tribunal, let alone to do so without a lawyer well versed in industrial relations law. This means that workers who are not rich or part of a union have less chance of having their case heard successfully through the tribunal, and sometimes taking a complaint to a union is itself problematic as unions are not always able to act for a single employee but must consider the collective welfare of their members. Given this, unions are more likely to agree to compromises.

Secondly, the tribunal itself is set up to control conflict. Its aim is to manage disputes; it was established originally to help ensure that the relations between capital and labor run smoothly. It will therefore advocate compromise wherever possible, and at least part of this compromise involves ensuring that businesses can continue their activities (unless they are blatantly illegal or harmful).

Thirdly, the industrial relations machinery is bound by industrial relations law. Some of these laws are overtly anti-worker, a result of the ability of conservative governments to push through "workplace reform" legislation without significant public consultation. Disputants bringing either civil or tribunal cases are often dismayed at the lack of empathy the law provides (Dawson 1998). For example, claimants for payments under workers' compensation legislation often must undergo severe scrutiny and excessive delays. This is exacerbated by the fact that tribunals and industrial relations legislation are largely procedural: they are not always able to provide guidance for ruling on matters of ethics or rights, but confine lawyers and judges to ruling on technical legal points.

In the Patrick case, the MUA won in court not because they had moral justice on their side nor because the courts were sympathetic to their cause but because they were able to show that Patrick had acted illegally under industrial relations law (Dabscheck 2000). It can be argued that in the long term, resolving their dispute through the courts has worked against the

MUA as Patrick has been able to largely bring about its desired workplace reforms anyway and the MUA is now almost powerless to resist (Trinca and Davies 2000, pp. 278–280).

Current industrial relations law in Australia is deliberately prohibitive of employee activism. Since the introduction of the *Workplace Relations Act* in 1996 and the system of "enterprise agreements" whereby unions or employees agree to the terms and conditions of employment in a particular workplace directly with the employer, it has become illegal to take any other industrial action except during a bargaining period. It is also illegal, through the secondary boycott provisions of the *Trade Practices Act*, for other unions not directly involved in the dispute to take sympathetic action. This act also limits the ways and means under which strikes can take place, and falling foul of it severely limits the likelihood of a successful courtroom resolution.

Businesses are very good at using official channels to their own advantage. They rely on the technical aspects of law, in which they are very well versed, and are often protected by layers of government bureaucracy. In the arena of labor disputes, apart from the Industrial Relations Commission, businesses can rely on government-instigated investigative commissions to either legitimize or hide their behavior. Likewise, governments can use private consultancies to distance themselves from the appearance of actively supporting business. In the Patrick case, the government employed a private consultant to investigate its options for instigating waterside reform; critics said the consultant was paid a large amount of money to tell the government what it wanted to hear (Trinca and Davies 2000, pp. 29–32). Private subcontractors were then employed to set in motion some of the recommendations of this consultancy, effectively separating their actions from those of regular government employees (Trinca and Davies 2000, pp. 42–46).

Royal commissions are government-established independent inquiries with extensive powers for collecting evidence and compelling testimony. Several have been held in Australia into labor disputes. Royal commissions have an appearance of neutrality that is misleading, because they commence at the behest of the government, which appoints the commissioner and sets the terms of the investigation. One of the most famous was the Cole Royal Commission into the Builders Laborers' Federation (BLF) which used the previously discussed language of reform to justify an inquisition into whether a legitimate and well supported union was in breach of the *Workplace Relations Act* and could, or should, be deregistered. The final report of the commission was 23 volumes totaling thousands of pages which went well beyond the initial scope of the inquiry and gave credence to the government's view that unions, especially via their system of bargaining in a pattern across an industry, were hindering the government's agenda of enterprise bargaining (something of a tautological finding, at least). The initial scope of the inquiry was to find out whether the BLF had acted illegally; the commissioner's findings on this issue were contained in the final volume of his report, marked confidential and recommended not to be made public. To this day, the full report is available to download from the government website, except for the final volume (see http://www.royalcombci.gov.au/hearings/reports.asp where Volume 23: Confidential Volume is not available for download). In the case of labor disputes, it is essential to understand the way official channels act to give the appearance of neutrality and fairness yet actually serve to control employees and dampen outrage over abuses.

Intimidation and Bribery

Intimidation can be a potent tool in a workplace where livelihoods are on the line, and can be used in both overt and subtle ways to keep workers compliant. At the overt end of the

spectrum, employers can threaten, reprimand, demote, dismiss, and blacklist workers who agitate for better conditions, and employers can and do take legal action against workers and unions. More subtly, intensifying workplace rules and stricter work disciplines, such as time keeping, scrutiny, and monitoring, serve to intimidate employees into submissive behavior in the workplace. The threat of reprisals, the prospect of a difficult work situation being made worse, and the fear of being unemployed all combine to ensure worker silence.

A subtle form of bribery can take place when those who "toe the line" enjoy greater workplace benefits, increased job security, and expedited promotion. Employees can also be bribed with expensive gifts, holidays, or salary packages disguised as productivity bonuses. No doubt these are sometimes well earned but they do act as incentives to silence in the face of workplace injustice and serve to keep workers individualized.

Collective action can help to mitigate workplace injustice to some extent but, as we have seen, recent tightening of workplace legislation, and increased job insecurity, do not ensure that collectivity will defuse intimidation. Unions leaders can be, and sometimes are, bribed into acquiescence, either through direct corruption or through being forced into compromise once disputes reach the tribunal level. Unions can also be threatened with legal action: the *Trade Practices Act* sets the rules for union behavior and if employers feel unions step beyond this they can order investigations into unions, going so far as to call for them to be deregistered. These investigations themselves can be nasty affairs, sometimes leading to violent confrontations between employers and unions. Industrial disputes themselves can be violent; before the commencement of formal court proceedings against the MUA by Patrick, the company employed burly security guards, often wearing balaclavas and using trained guard dogs, to lock workers off the docks. Unions have no immediate legal recourse against this sort of behavior.

Employers on the other hand are able to call on the forces of the state to physically intimidate workers, to break strike actions, and to bring legal proceedings against workers taking a stand. There are limits to this however, in that the police themselves, as workers, can sometimes be sympathetic, or be concerned about their reputation. In the Patrick case, police cooperated with the MUA to ensure that the protests remained within the law and that danger to the public and the police was minimized. The police command asserted its operational independence from government and for the most part resisted pressure from Patrick and the government to crack down on the pickets. With the intense media scrutiny engendered by the pickets, a violent confrontation could have damaged the police's professional image (Baker 2005).

Ultimately, however, the most strident form of intimidation and bribery is the ability of employers to fire an entire workforce and employ an alternative one. The comprehensive attacks on unions and the establishment of enterprise agreements and individual contracts has meant workers have little hope against such activities unless they are able to mobilize widespread public support, as the MUA did.

Conclusion

The backfire model offers a convenient framework for understanding tactics in many labor struggles. There are numerous Australian examples—of which we have only mentioned a small selection—that reveal each of the five methods by which employers can inhibit outrage from actions perceived as unjust.

Because the methods are fairly standard, it is reasonable to expect to find them used in other countries. Cover-up is widespread because corporations in all countries maintain

secrecy in many of their affairs, often aided by governments. Devaluation of workers and unions is found in many countries, in part because the mass media routinely report events from the point of view of management or consumers rather than workers and focus on violence and disruption rather than the issues at stake. Reinterpretation of events is routine, with the dominant neoliberal view on the importance of markets, productivity, and corporate prerogatives providing the background for examining issues, at least in routine media reporting, so that worker perspectives are less salient. The formal processes for settling labor disputes are a powerful tool for reducing outrage in many countries; when workers step outside these channels, for example in wildcat strikes, this is widely perceived as illegitimate. Finally, intimidation and bribery are widely used by employers in many countries.

By using these methods, employers and their allies are able to get their way in many situations that might otherwise be seen as unfair, such as dismissal of productive workers, continuation of dangerous work practices, cut-backs in wages and conditions, and exorbitant rewards for top executives. But there always remains a possibility for employer actions to backfire, should the methods of inhibiting outrage fail. By looking at each of the methods in turn, it is possible to suggest ways of promoting outrage.

To counter cover-up, information about an injustice needs to be obtained and then communicated to receptive audiences. Some employees with access to information about workplace problems decide to speak out in the public interest or, in other words, to blow the whistle. Whistleblowers commonly suffer reprisals such as harassment, ostracism, reprimands, dismissal, and blacklisting. This is a further injustice, on top of the problem they spoke out about; all five methods of inhibiting outrage are commonly used against whistleblowers (Martin and Rifkin 2004).

A more effective way to expose problems is for a group of workers—sometimes but not necessarily associated with a union—to gather and share information and then to collaborate with others, such as community action groups or investigative journalists, to put the information into a form that is effective for raising concern. There are several challenges: obtaining the information in the first place, ensuring that it is credible, preparing accessible reports, communicating to receptive audiences, and then being able to build on the concern generated. Given the orientation of the mass media to employers, communication of workers' concerns through leaflets, newsletters, alternative newspapers, websites, and emails is often effective.

To counter devaluation, workers need to pay close attention to the likely portrayals of their appearance and behavior. For example, in holding a picket, sometimes it is wise to dress conservatively and behave courteously, in spite of being very angry about the employer's action. Even a single flare-up can be used to paint picketers as thugs. On the other hand, media may not cover the action unless something dramatic occurs: this poses a dilemma (Scalmer 2002). Choosing actions carefully can also minimize the potential for demonization. For example, transport workers, instead of striking and being painted as holding the community to ransom, might instead work but refuse to collect fares, making the employer seem greedy when it objects.

To counter reinterpretation, workers need to emphasize the evidence that shows injustice or some other widely recognized matter of concern. Exposing lies by employers is a part of this; so is offering revealing examples, such as sacrifices made by workers, the impact of employer actions on the wider community and the environment (as well as on workers), and episodes of abuse or exploitation. It is advantageous to have articulate, persuasive, well prepared spokespeople to present the message, and to ensure that as many participants as possible also have a good understanding of the issues.

Countering the trap of official channels can be very difficult. The labor relations machinery of laws and rules appears to offer fair treatment to workers but in reality usually serves the interests of employers. The most important step is not to put any trust in official channels but rather to put energy into other methods of raising concern. For example, a dismissed employee might be tempted to seek justice by going to court claiming unfair dismissal—in Australia there are special industrial courts that handle such cases—even though the process could take months or years, cost many thousands of dollars, require untold hours for preparing documents, and yet have a low chance of success or result in only a relatively small payout. This should be compared to a campaigning approach of documenting the unfairness of the dismissal, circulating information to various audiences, and mobilizing supporters. This often has a much greater chance of creating outrage and putting pressure on the employer. If more workers took this path, it is likely that employers would be more careful about dismissals. The labor relations machinery can be seen as a safety valve for employers, reducing the chance that injustices will trigger wider outrage.

Australia's whistleblower laws, found in every state and territory though not federally, similarly give the appearance of protection for government employees but seldom with much substance (Martin 2003). Whistleblowers, in a major study, reported that official agencies such as ombudsmen helped them in less than one out of ten approaches, and in many cases the whistleblowers felt they were worse off afterwards (De Maria 1999). Whistleblower laws may encourage public-interest disclosures but at continued great risk to the employee.

It is also possible to undertake a dual-path response to injustice, using official channels but also waging a campaign. In this approach, each stage in the official process can be used to generate publicity. For example, making a submission to an appeal body can be the occasion for a media release and the initiation of court hearings can be the occasion for a small demonstration by supporters.

Countering intimidation can be done by refusing to be intimidated and by exposing attempts to intimidate, thereby causing more outrage. This is straightforward in theory but difficult in practice: many workers are not in a position to take the risk of serious reprisals, which is why intimidation so often succeeds. Similarly, the bribery implicit in keeping one's job or getting promoted as a de-facto reward for supporting management can be hard to resist. The best prospect is with collective responses: the more workers who resist intimidation and bribery, the easier it is for others to do the same.

We have outlined a framework—based on the potential for perceived injustice to backfire—for analyzing tactics by both employers and employees. In doing this, we have only made an initial overview. There is much more to be done, including looking more closely at each of the methods of inhibition. For example, techniques of reinterpretation found in other cases (Martin 2004) include blaming someone else who serves as a scapegoat and using "spin" to put unsavory actions in a positive light. Another area worthy of investigation is the timing of actions and communications. Employers sometimes take unwelcome actions when workers are least able to respond and when media are least likely to be interested. Conversely, workers need to time their revelations to maximize impact.

More generally, we believe that tactics in labor struggles deserve far more attention. In this paper, we have used Australian examples. There is a vast literature on Australian labor relations, with much emphasis on class struggle analysis, trade union organization and action, and government policy. Many writers are highly sympathetic to workers, and there has been much attention to past struggles, including glorification of those who took part. But this orientation to labor has seldom engaged with what to do to be effective at the level of day-to-day tactics. In our view, it is time for theory to engage with justice and injustice at an everyday level.

Acknowledgments We thank Damien Cahill, Rowan Cahill, Truda Gray, Wendy Varney, Ian Watson, and an anonymous referee for helpful comments on drafts. This work is supported by the Australian Research Council.

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