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"Review" Justice on the Job, David Ewing, Harvard Business School Press, 1988. In the Sloan Management Review, Fall 1990, pp. 97-99

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In Pursuit of Justice

Justice on the Job: Resolving Grievances in the Non-Union Workplace

by David W. Ewing

Boston: Harvard Business School Press, 1989, 352 pages, \$24.95

Reviewed by Mary P. Rowe

In the past fifteen or twenty years three new topics have emerged in discussions about grievance procedures in the United States: the establishment of explicit, rights-based grievance procedures oriented toward justice at more and more nonunion workplaces; an emphasis on *alternative* dispute resolution procedures (ADR), which are principally based on reconciling and building on different interests; and an emphasis on building complaint *systems* that provide a range of alternative dispute resolution techniques as well as formal grievance mechanisms. *Justice on the Job* is among the best of the recent books and articles on the first of these topics. It also helps illuminate the second and third topics, thanks to the detailed research of its extraordinarily knowledgeable author. (David Ewing was managing editor at *Harvard Business Review* for many years, and has written extensively on fair process in the workplace).

The introductory chapters of *Justice on the Job* analyze why many top managers have established nonunion grievance procedures. Ewing briefly explains the causes: contemporary trends toward questioning authority, increased cultural diversity, idealism among CEOs, changing patterns of participative decision making and loyalty, an increased emphasis on the importance of human resource management, increasing concern with ethics and whistleblowers, changes in employment at will, decline in unionization, and increased expectations in the United States based on human resource management policies in other countries.

I would have added two points to Ewing's overview. The first is that sexual harassment and gen-

der relations, and concerns about race, religion, and disability, are among the major forces driving the establishment of complaint systems in the United States today. Complaints regarding these issues include not only supervisor-supervisee problems but peer conflicts. The second is that managers are increasingly among the complainants; they are disputing ethics, contract issues, and discrimination. One general, if subtle, shortcoming of this book (and of most other discussions of fair process in the workplace) is that it is still chiefly oriented toward "worker versus management" problems. In real life, in part because of race, gender, and other diversity issues, peer conflicts and manager-complainants are of growing importance both for productivity and for cost control. These overlooked topics are of special importance because they are among the issues most strongly driving the development of ADR and the establishment of justice-oriented procedures.

The first half of *Justice on the Job* discusses due process within corporations. It offers a number of reasons why CEOs should be interested in due process, presents careful lists of questions for policy makers and complaint system designers, examines shortcomings of and alternatives to in-house complaint processes, and describes the effects of attempts to provide due process in the workplace. Except for the oversights mentioned above, the first half of the book is a good overview for anyone interested in contemporary grievance procedures.

The second half of the book profiles grievance procedures in fifteen well-chosen companies. These profiles are presented in two sections: investigator-type systems (Bank of America, CIGNA, IBM, and NBC) and grievance board systems (Citicorp, Control Data, Donnelly Corporation, Federal Express, GE, Honeywell, John Hancock, Northrop, Polaroid, SmithKline Beckman, and TWA). Ewing's case studies of these companies are the best of those provided in recent books on corporate complaint systems. Each company is doing something really creative, and he has constructed the profiles so that an employer who is considering a new complaint system will learn a lot, efficiently.

What Is Due Process?

A central question, for all who are interested in fair human resource management, is whether corporations can actually deliver due process. Examination of this question requires an understanding

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of the nature of due process.

Most people define due process in one of two ways—each is quite different from the other. Many think of due process simply as that which is “due under the circumstances” or appropriate to a given case; this is usually interpreted by the speaker to mean, “whatever I think of as fair for myself in a given case.” The other standard view is to define due process as a set of elements in a grievance process. Commonly recognized elements are the following: notice to a defendant; timeliness of process; the right to present one’s own evidence and to question the evidence brought by the other side; the right to confront an accuser and to answer concerns that are raised; the right to accompaniment and/or representation by another person; a fair and impartial factfinding and hearing; the right to a decision that is not capricious, arbitrary, or unreasonable; notice of the decision of the arbitrator or judge, and perhaps a written decision with stated reasons for the decision; the right to an appeal process; the right to be aware of all relevant rules and policies; freedom from retaliation for raising a complaint in a responsible manner; the right to some consistency of process for the same kinds of cases; and the right to reasonable privacy for all those concerned.

What makes the subject of due process difficult are these points: Few grievance procedures formally include *all* of the elements listed above; few grievance procedures actually deliver on all these elements; and most of these elements are part of a rights-based, *adjudicatory* process. Many people with a complaint at work will not voluntarily choose an adjudicatory process if their problems can be resolved in a less confrontational way. Instead, if they think it is possible and will be effective, they will choose one of the ADR processes mentioned earlier. For example, they may ask for help in dealing with a problem directly; they may prefer just to ask questions or make suggestions; they may want an informal go-between or formal mediation; they may ask for a generic address to their problem; or they may want the system itself to change so that the individual problem goes away. In short, for many different kinds of grievances, many people are less interested in *justice*, per se, than in *dispute resolution*, and they need access to both.

Ewing defines due process in terms of the second definition above, including most of the elements listed. He does not emphasize those which

are rights of the accused: notice of the alleged offense; the right to confront at least the evidence, if not also the accuser; the right to present one’s own evidence and answer to the concerns put forth by the other side. (I do not mean to imply that Ewing is not interested in the rights of defendants; rather, if he had addressed the diversity and peer disputes of the late 1980s, he might have been more sensitive to the complete evenhandedness that is required when management is a third party and not—yet—a defendant.)

Ewing emphasizes those elements of due process that speak to the needs of complainants. From the traditional perspective—that the most serious complaints that an employee can have are those against management—Ewing’s emphasis is, of course, important. He is especially concerned with real, perceived, and simple access to redress, and that the process actually make a difference for employees who need it. He also lays appropriate emphasis on the availability of staff people to help employees with complaints; of all facets of non-union due process, this may be the rarest.

Ewing is sensitive to the fact that managers are usually the defendants in the traditional, worker-management grievance process. He examines and re-examines why managers may be suspicious of due process and why in fact fair grievance procedures pay off, both literally and figuratively. While the discussion of elements of due process is oriented toward complainants, rather than toward defendants, the analysis of grievance procedures is focused carefully toward managers, planners, and decision makers.

Delivering Due Process

The company profiles are concise, well structured, beautifully written, full of hard questions, and generally laudatory. Ewing talked with many managers and some employees and came away convinced that senior managers in his fifteen companies are committed, and that the systems work effectively, whether or not they are perfectly configured in terms of the elements of due process. Most management decisions get affirmed in whole or in part; nevertheless, many get changed in part or reversed. Ewing and others conclude that this is the profile one would want.

Because this book is about “justice,” rather than about the full panorama of “dispute resolution,” which

includes both rights-based and interests-based mechanisms, the case studies are oriented toward investigation and adjudication. Some profiles do include brief descriptions of ADR. And some systems work well in more ways than one. Perhaps the clearest and most extraordinary example is that of the Guaranteed Fair Treatment Procedure (GFTP) at Federal Express. Federal Express procedures include all the elements of due process on my list, and the company is noteworthy for the fact that the CEO himself sits on the Appeals Board almost every Tuesday, year in and year out.

GFTP has five components. The first three are standard step procedures. The last two are a Board of Review (a jury-like, peer review structure) and the Appeals Board. The Appeals Board is usually the fourth and final step. It, however, may initiate a Board of Review, even though the Appeals Board is the most senior appeal body. This system therefore has unusual strength: a peer review option that functions remarkably independently of the line management structure, and an Appeals Board that carries the power of the CEO to change things.

Federal Express is unusual in other ways as well. Communications about GFTP are impossible for any employee to miss. Managers may and do use the GFTP. There are also alternative channels: an open door system whereby an employee can get answers to questions, employee attitude surveys where employees may safely express themselves, and a channel for Equal Opportunity complaints. There is also systems change; GFTP leads to constant changes in the ways things get done at Federal Express because of the presence of senior managers and the CEO at the weekly appeals meetings. This company, then, gets high marks on due process and also has at least some alternative dispute resolution mechanisms, though Ewing's account does not describe a complete "complaint system."

No perfect book has yet been written about internal due process and intra-company justice and alternative dispute resolution mechanisms, combined into a complete dispute resolution system. Nor do I yet know of one employer that has everything that an internal complaint system needs. However, *Justice on the Job* has taken us several steps closer. And the fair-minded companies profiled in this book are taking us closer. If you are interested in studying, building, or using such a grievance system, read this book. ■

The Saga Continues

Scale and Scope: The Dynamics of Industrial Capitalism

By Alfred D. Chandler, Jr.

Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1990, 860 pages, \$35.00

Reviewed by Shlomo Maital

The founders of the Standard Oil Trust did not establish it, in 1882, to monopolize the refining and marketing of oil; the Standard Oil alliance already produced 90 percent of the kerosene in the United States. Their purpose was to centralize managerial control and exploit economies of *scale* by closing some of the old refineries, building new ones, and coordinating crude oil and its products from wellhead to consumer. Soon, a fourth of world kerosene production was concentrated in three refineries, two-thirds of which was exported.

The Trust was very successful; unit costs dropped and profit margins doubled within one year. As Alfred D. Chandler puts it, "Knowledge, skill, experience, and teamwork[—]the organized human capabilities essential to exploit the potential of technological processes"—gave Standard Oil an enormous competitive advantage based on large-scale production.

At about the same time, a different story was being enacted in Germany. Three companies—Bayer, Hoechst, and BASF—made investments even larger than those of Standard Oil in order to exploit economies of *scope*. Huge new plants produced hundreds of different dyes and pharmaceuticals from the same raw materials and chemical compounds. The vast range of different products made each one cheaper, as each shared the same production and distribution facilities. For instance, the price of one new synthetic dye, red alizarin, fell to one-thirtieth its former level. Competitors were left far behind.

Scale and Scope, Chandler's long-awaited new book, expands the saga of capitalism begun in *The Visible Hand* (1977), the author's Pulitzer Prize-winning history of the U.S. managerial business system. It recounts the history of industrial capital-

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ism in Britain, Germany, and the United States from 1875 to the end of World War II, comparing the ways managers in each of the three countries tackled the organizational complexities involved in cutting costs by making increasingly large numbers of each product—economies of scale—and by producing and distributing an increasingly wide range of products—economies of scope.

Chandler's methodology is rigorous and painstaking, accounting for the thirteen-year wait since *The Visible Hand*. Within chosen core industries, he recorded collective histories of the two hundred biggest manufacturing firms in each of the three countries, at three points in time: during World War I, at the end of the 1920s, and at the end of World War II. Despite the mass of detail—there are 1,195 footnotes—Chandler never founders in it. He leaves the patient reader with a sharp vision of how industrial capitalism evolved in Europe and the United States across seven decades.

From *Strategy and Structure* (1962) to *Scale and Scope*, Chandler's alliterative anatomy of capitalism is superb. Chandler is to business history what Toynbee is to world history, and their views are not dissimilar—for both, history is a series of challenges to organizations, cultures, and societies, which respond either by adapting and thriving, or failing to adapt and dying.

I did feel that he might have made use of a recent contribution of economic theory. Although economies of scope have been a primal force in capitalism for a century, only in 1981 did economic theorists (John Panzar, Robert Willig, and William Baumol) rigorously define the concept, link it to economies of scale, and then use it to understand the structure of industries. They showed precisely how economies of scale and scope are closely interrelated, a link Chandler discusses but does not explore quantitatively.¹

As Chandler's tale ends, in about 1950, the United States dominates the world economy, producing fully three-quarters of world G.N.P. Apart from the war that ravaged Europe, one reason for U.S. preeminence appears to be its homegrown brand of dynamic capitalism—what he calls “competitive managerial capitalism”—built on teams of full-time, experienced, salaried managers fiercely competing for market share and profits at home and abroad. Britain's “personal capitalism,” based on school and family ties, was slowfooted and cumbersome and late to invest in new industries. As a result, it lost both foreign and domestic markets.

Germany's businesses did somewhat better but picked their own limited playing field, industrial goods, and practiced “cooperative managerial capitalism.” German managers negotiated chummily with one another for market share in domestic and foreign markets, instead of competing fang and claw United States-style.

After turning the last page, I found myself wishing Chandler had not ended his account so early. Even though history is indeed the science of events that never repeat themselves, the long perspective of a business historian is a sharp diagnostic tool. In the last eight pages of the book, Chandler describes six recent changes in modern industrial enterprises that have “no historical precedent.” Companies have been expanding into new markets where they have no competitive advantage. Top management has come unglued from middle management in operating divisions. Companies have extensively sold off operating units. Buying and selling of corporations has become a distinct business in its own right. Share ownership by portfolio managers seeking short-term gain has grown rapidly. And capital markets have evolved to facilitate buying and selling of “corporate control.”

These six changes took place mainly in the United States. (For example, in 1973 nineteen of the two hundred biggest industrial firms in the United States were conglomerates, compared to two for Britain and one for Germany.) And all of them cause, in Chandler's understated phrase, “more competition than growth,” with much energy and creativity spent in churning old paper instead of producing new goods.

Is the once-winning U.S. formula of competitive managerial capitalism now obsolete? Will it be supplanted by the German and Japanese forms of cooperative capitalism, with managers cooperating rather than competing to exploit economies of scope stemming from new technologies and joint ventures?

The answers await Alfred Chandler's next book. ■

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- 1 See J.C. Panzer and R.D. Willig, “Economies of Scope,” *American Economic Review*, May 1981, pp. 268–72; and W.J. Baumol, J.C. Panzar and R.D. Willig, *Contestable Markets and the Theory of Market Structure* (San Diego, California: Harcourt Brace Jovanovich, 1982).

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Federal Express is unusual in other ways as well. Communications about GFTP are impossible for any employee to miss. Managers may and do use the GFTP. There are also alternative channels: an open door system whereby an employee can get answers to questions, employee attitude surveys where employees may safely express themselves, and a channel for Equal Opportunity complaints. There is also systems change; GFTP leads to constant changes in the ways things get done at Federal Express because of the presence of senior managers and the CEO at the weekly appeals meetings. This company, then, gets high marks on due process and also has at least some alternative dispute resolution mechanisms, though Ewing's account does not describe a complete "complaint system."

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