

***The Transformative Capabilities of Mediation on Strenuous Labor-Management Relation: An Exploratory Case Study within the Telecommunications Sector in an Emerging Economy***

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**Abstract:**

This paper examines how and why a mediation process may transform an antagonistic labor-management relation, in two post-privatized telecommunications companies in an emerging economy, and make it evolve from severe confrontation to responsive collaboration. We deem that the analysis of such process allows gaining a better understanding of the positive impact that frank dialogue and trust may have on an organizational conflict, even when the prevalent social and political context, present in a good number of the Latin American countries, encourages labor-management altercations (Reade & Reade McKenna, 2009). After a decade of structural reforms that dismantled the state-owned economic apparatus, social turmoil, economic depression and extreme political weakness led, by the end of 2001, the Argentinean government to collapse. A new government, inaugurated in 2003, proclaimed the instatement of a new policy of wealth distribution guided by equity that eased the access to power within their organizations to the most combative union members and, consequently, made labor-management conflicts proliferate. After a tumultuous episode in 2004, both Telefónica de Argentina's (TASA) and Telecom de Argentina's (TECO) management and the Federación de Obreros y Empleados Telefónicos de la República Argentina – Sindicato Buenos Aires' (FOETRA-BA) leadership agreed to carry out a mediation process seeking to transform their unproductive confrontation into fruitful collaboration without relinquishing their respective interests. The contribution of this exploratory case study is the exposure of the transformative capabilities of a mediation process on a previously strenuous labor-management relation.

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After a decade of structural reforms that dismantled the state-owned economic apparatus, social turmoil, economic depression and extreme political weakness led, by the end of 2001, the Argentinean government to collapse. A new government, inaugurated in 2003, proclaimed the instatement of a new policy of wealth distribution guided by equity that eased the access to power within their organizations to the most combative union members and, consequently, made labor-management conflicts proliferate. After a tumultuous episode in 2004, both Telefónica de Argentina's (TASA) and Telecom de Argentina's (TECO) management and the Federación de Obreros y Empleados Telefónicos de la República Argentina – Sindicato Buenos Aires' (FOETRA-BA) leadership agreed to carry out a mediation process seeking to transform their unproductive confrontation into fruitful collaboration without relinquishing their respective interests. The contribution of this exploratory case study is the exposure of the transformative capabilities of a mediation process on a previously strenuous labor-management relation.

### Research Questions and Literature Review

How and why a mediation process may convert an antagonistic labor-management relation and, notwithstanding a confrontational sociopolitical context, make it evolve from severe conflict to responsive collaboration? The examination of this question offers an adequate path to gain a better understanding of the transformative capabilities of mediation, candid dialogue and trust on protracted organizational conflict; such is the essence of this study. Labor-management relation, either in everyday interactions or when periodically engaged in a Collective Bargaining (CB), are relevant for the delineation of the workplace climate and, ultimately, for the firms' performance (Benson, Young, & Lawler, 2006; Subramony, 2009). In some cases, labor-management cooperation supersedes confrontation on account of several contextual characteristics: *decentralization of operations, complex work system issues, new compensation arrangements that reward achievement via gain sharing, and an increased emphasis on enhancing career employment and skill capabilities for the workforce* (McKersie & Cutcher-Gershenfeld, 2009). An exploratory case study, involving TASA & TECO and FOETRA-BA, exhibits that it is possible to build a collaborative labor-management relation, in spite of previous mutual grievances, through a mediation process in which candid dialogue, and subsequently trust, is set as the new foundation for the relation.

Most of our study relies on data gathered through personal interviews with both union delegates and corporate managers and through labor-management joint meetings; such encounters -which allowed participant observation- rendered evidence that the induction of candid dialogue proved to be an effective trust building process that enables the removal and alleviation of diverse sources of conflict or transforms disagreements into an interest based problem-solving interaction. This exploratory study extracts, from these and other sources of information, explanations regarding constructive ways to reformulate a labor-management relation in a tumultuous social and political environment such as the one prevailing in

Argentina, particularly since its political and economic breakdown in 2001, and, for analogous causes, in other Latin American countries.

This article is grounded on existing bodies of literature on Organizational Conflict (OC), Collective Bargaining (CB) and Labor Conflict Mediation (LCM). To our knowledge there are no previous studies on the evolution of labor-management relation within telecommunications companies after their privatization in emerging economies; thus, an exploratory case study of such process seems to be the most appropriate method. Our purpose is to fill such void by using a distinctive mix of interview data, participant observation and archival information from publicly available records and news media to extract lessons of academic and managerial relevance –for public official, private managers and for union representatives as well– and to outline an area of research which we consider particularly pertinent for future examination.

Our work is organized as follows: after a brief introduction we review the pertinent literature followed by an exposition of the methodological facet of our work. The subsequent part is a concise depiction of the evolution of the telecommunications sector in Argentina and an explanation of the Argentinean union's workings, in general, and in the telecommunications sector in particular. The following part refers to the TASA & TECO - FOETRA-BA's 2004 turbulent conflict and strike and an examination of the positive outcomes of their 2007 mediated CA negotiation. After discussing the distinctive characteristics of both episodes we expose some conclusions about this exploratory case study.

#### Organizational Conflict (OC)

Conflict is pervasive in both personal and organizational environments; in both contexts, three preconditions are necessary to arise it: *a perception of goal incompatibility; the availability of resources –material and knowledge– required for goal accomplishment and*

*interdependent activities* (Schmidt & Kochan, 1972). OC researchers formulate a distinction of which two basic types result: (a) *Task-conflict*, (b) *Relationship-conflict*. Divergent perceptions on cognitive matters on which decisions are based –viewpoints, ideas and opinions– characterize the first type; the emotional factors that hinder interpersonal exchanges –because they lead to nervousness, irritation, or hostility between group members– delineate the latter (Jehn, 1995). Subsequent research identified a third type, termed *process conflict*, which complements the previous two and encompasses perceived differences over methods, roles and resource allocations (Jehn, 1997). There is a consensus among employers and workers that conflict predominantly inflicts negative impacts on organizations. Contradicting such assumption, scholars have elicited empirical evidence from experiments and field-researches confirming hypotheses contending that conflict is not necessarily detrimental for organizations: it may lead to beneficial outcomes to the organization if certain conditions are present (Van de Vliert & De Dreu, 1994; Jehn, 1995; Tjosvold, Hui, Ding, & Hu, 2003; De Dreu, 2008; Tjosvold, 2008).

Conflict may be faced in three distinctive ways: collaborating, contending or avoiding responses to it. Under some circumstances, when the development and maintenance of intra-group trust fails to prevent the emergence of a *relationship-conflict*, avoiding rather than collaborating or contending responses may be helpful to allow the team to function and be effective (De Dreu & van Vianen, 2001); however, avoiding conflict, as a fixed rule, allows problems to aggravate, relationships to worsen, and obstacles to remain unsolved (Tjosvold, 2008). As the effects of any *task-conflict* are dependent upon the type of task and amount of person-related conflict (De Dreu & Weingart, 2003), such interdependence imposes limits to the encouragement of *task-conflict*, as source of positive outcomes, because it may impact negatively on affective factors among the participants involved and derive in pernicious *relationship-conflict*.

Ultimately, conflict's final outcomes lack predictability; consequently, organizations' members need to acquire skills, and develop attitudes, that enable them to manage conflicts properly and, thus, reduce uncertainty. Necessity, and the losses inflicted by unrestrained conflicts, led to the development of specific methods and procedures to handle conflicts; the underlying rationale is that a proficient OC management empowers both managers and employees, and the organization as a whole, to benefit from it as a mechanism to investigate problems, generate inventive solutions, learn from their experience, and enliven their relationship (Cooke, 1989; Kolb & Putnam, 1992; Thomas, 1992; Conbere, 2001; Tjosvold, 2008).

#### Collective Bargaining (CB)

Since its constitution in April 1919, as part of the provisions of the Treaty of Versailles, the *International Labour Organization* (ILO) has developed and sustained a system of international labor standards guided by humanitarian, political and economic considerations. The ILO is the United Nations specialized agency committed with the advancement of decent and productive work opportunities for women and men in conditions of freedom, equity, security and human dignity; as part of its duties the organization provides legal guidance and practical assistance to its 183 member countries.

Two of the ILO's eight fundamental conventions are strongly intermingled: the *Freedom of Association and Protection of the Right to Organize Convention* (1948) and the *Right to Organize and Collective Bargaining Convention* (1949); the former ensures that employers and workers can associate to efficiently negotiate work relations and the latter assures workers and employers to have an equal voice to conduct negotiations that accomplish fair and equitable outcomes and prevent costly labor disputes (ILO, 2009).

The CB, pursuant to ILO's conventions and derived instruments, is the activity or process that precedes and culminates with a Collective Agreement (CA). The CA is the

written document regarding working conditions and terms of employment, which should be binding for the signatories, concluded between an employer and group of employers, and one or more representative workers' organizations in accordance with national laws and regulations (Gernigon, Odero, & Guido, 2000).

The CB, as an indistinguishable part of the labor-management relation, the convolutions of countries' governmental altercations and the strenuous development of the civil rights movement in the US, have all been critical for the contemporary emergence of negotiation as a matter of exhaustive analysis and academic deliberation. As Walton & McKersie (1991: 23) stated in their seminal work 'A Behavioral Theory of Labor Negotiations': "*. . . bargaining is not just a process of dividing up existing resources but is also a process sometimes used for creating additional values or mutual benefits.*"

Most of CB negotiations are intricate on account of the wide range of issues that they encompass; some of them configure the distributive aspect of the process -e.g.: wages and employment continuity- while others, like safety and health conditions or work organization design, offer the parties the opportunity to develop an integrative exchange among them. CB negotiations occur periodically, but the labor-management relation is continuous. Thus, everyday interactions create a strong link between the parties; neither labor nor management can avoid such exchanges or having a common history in which grievances and distrust may abound. If both parties deliberately restrict the CB negotiation to a purely adversarial discussion, in which there is no learning and trust remains inhibited, the resulting CA will fail to answer satisfactorily the interests of those they represent (Peterson & Lewin, 2000; Fonstad, McKersie, & Eaton, 2004; Marks & Harold, 2009).

#### Labor Conflict Mediation (LCM)

Mediation requires a neutral third party who impartially facilitates communication and understanding between opposing groups (Bush, 1996; Beardsley, Quinn, Biswas, &

Wilkenfeld, 2006) with the objective of enabling them to discover a reciprocally acceptable solution to their differences (Gewurz, 2001); it is almost imperative when:

*(a) Conflicts are complex, drawn out, and last for a long time; (b) the disputants' own efforts to deal with the conflict have gone nowhere; (c) neither side is prepared to countenance further escalation of the dispute; and (c) the disputants are prepared to break their pattern of conflict by cooperating with each other and engaging in some contact and communication (Bercovitch, 1996).*

Mediators have no power to impose any particular solution to the conflicting parties (Bazerman & Lewicki, 1985; Mayer, 1987; Pruitt, 1995; Wall, Stark, & Standifer, 2001); instead, the contenders concede them the faculty to make suggestions in order to keep the process productive (Arnold, 2000). Scholars that scrutinize the effectiveness of dissimilar mediation processes, including labor-management disputes, found empirical evidence that shows that both the conflict's nature and the mediator's strategy towards it have a crucial influence on the outcome (Lim & Carnevale, 1990; Esser & Marriott, 1995; Posthuma, Dworkin, & Swift, 2002; Martinez-Pecino, Munduate, Medina, & Euwema, 2008).

Mediators jeopardize their mission if they behave in ways that arise suspicions of a bias in favor of one of the parties; they must be extremely perceptive to all reactions, explicit or implicit, to their intercession for various reasons: the allegedly ill-treated party's perceptions –irrespective of being factual or unreal- regarding the mediator's subsequent interventions and proposals will have a negative impact on how they react to them (Conlon & Ross, 1993); progressively, distrust will be apparent (Wittmer, Carnevale, & Walker, 1991), weakening prior expectations, influencing the disputants towards a distributive instead of a collaborative attitude towards the disagreement and inducing a lower level of acceptance to the mediator's suggestions with regard to the conflict's resolution (Conlon & Ross, 1993; Welton & Pruitt, 1987). When trust is high disputants tend to engage in a more cooperative



behavior and give more to the other than when trust is low (Friedman, 1993); if trust dwindles, expectations that the others may defect and opt for an opportunistic behavior increase and, therefore, cooperation becomes an unattractive option because it may hurt one's self-interest (De Cremer, Snyder, & Dewitte, 2001).

Contenders reveal a high degree of satisfaction with mediation processes for several reasons: *...they retain control of the situation; mediation is inexpensive; usually it takes into consideration all aspects of the dispute; it allows for catharsis, with confidentiality; and in general, it is viewed as fair* (Wall & Callister, 1995). In general, participants tend to perceive mediations regarding labor-management conflicts fairer than arbitrations and deem them appropriate for achieving higher satisfaction levels and settlement rates among disputants (Carnevale & Pruitt, 1992; Bingham, 2004); such perceptions uphold although both union and management staff participants are aware that a mediation process alters their specific organizational interests (Monahan, 2008). What ultimately defines the measure of success of a mediation process is not only a positive outcome, which may be not accomplished, but also the disputant's perceptions about the process vis-à-vis the mediators' credibility and unbiased performance (Lewicki, Weiss, & Lewin, 1992; Gaynier, 2005).

### **Research Method**

The Case-Study (CS) methodology was used to explore and gain insight of the mediation process that transformed the TASA & TECO - FOETRA-BA antagonistic labor-management relation, exemplified by the 2004 strike, into the collaborative interaction that led to the 2007 CA's round of negotiations. We selected this case because of the richness of the information available and because, on account of the distinctiveness of its social and political context, it provides what we consider valuable lessons. Our unit of analysis is at the organizational level; albeit TASA & TECO and FOETRA-BA are different kinds of organizations, they are intermingled by their work relationship.

We choose the CS methodology because it is a form of qualitative enquiry that pursues the systematic observation of a specific unit of analysis and is particularly apt for the exhaustive analysis of a limited number of events or circumstances and the processes that take place and the interrelationships in action; thus, the researcher attains depth rather than breadth. As Robert Yin (1984: p. 23) put it: *...a case study is an empirical inquiry that investigates a contemporary phenomenon within its real life context; when the boundaries between phenomenon and context are not clearly defined; and in which multiple sources of evidence are used.* The CS methodology is the most appropriate means to address *how* and *why* questions regarding a set of facts, being at the same time a proven research strategy that allows attaining new knowledge and, eventually, theories (Eisenhardt, 1989); we consider it the most suitable research strategy to accomplish the purposes of our research.

The material for this case study was data collected from interviews held with TASA's & TECO's senior executives -representing Institutional Relations, Public Affairs and Corporate Communications, Security and Human Resources and Organizational Design-; with FOETRA-BA's authorities and delegates within both firms; from joint meetings held by corporate and union representatives, which made possible unobtrusive observation, and the consideration of an array of public, corporate and private documents. The data collected allowed us to elicit patterns, themes and interrelationships and to depict this specific labor-management relation amidst the intricacy of the social, historical and temporal context in which it takes place; in short, our goal was *to deal with the inherent complexity of the real world with the purpose of making sense of it* (Pettigrew, 1990).

We conducted face-to-face, in-depth, semi-structured interviews; they were arranged with the understanding that the identity of the respondents would remain anonymous in our report. The interviews were carried out at TASA & TECO respective main buildings and at FOETRA-BA's headquarters -all of them in Buenos Aires- along the second half of 2007;

their duration varied from at least 60 to a maximum of 90 minutes. All interviews –40 in total– were conducted without asking leading questions; our purpose was not to exert influence over the answers or on the general direction of each interviews. At their inception, each interviewee was asked to describe her views on the evolution of the labor-management relation since the 2004 strike and how the following interactions, particularly those started by the mediation process during 2007, impacted on the organization and on each of them individually. After their first answer, interviewees were encouraged to freely comment about their experiences, opinions, feelings, and knowledge; when pertinent, clarifying questions were asked about intra and inter-group organizational processes and interactions (Patton, 2001).

Such data was complemented with the compilation and content analysis of various written documents; public records, statistics, reports, publications, books, magazines and newspapers, research papers and other published information, were reviewed. The sources include: (a) TASA & TECO, (b) FOETRA-BA; (c) the Argentinean national government and other government agencies; (d) several international bodies: the International Labour Organization (ILO), the World Bank Group (WBG) or the International Monetary Fund (IMF); (e) telecommunications industry specialists and economists from diverse associations specialized in the telecommunications sector; (f) scholars and (g) other sources of published information.

The use of secondary data, complemented with other unobtrusive methods of research, has one major advantage over the collection of primary data: the researcher does not intrude in people's normal activities (McNeill & Chapman, 2005). The secondary data collected was checked in four basic aspects to reassured its usefulness: (a) *authenticity*; by checking the authorship; (b) *credibility*; by controlling and confirming that the documents were free from errors or distortions; (c) *representativeness*; by assessing if a particular document is typical of

a wider set of potentially relevant documents or not, and (d) *meaning*; by excluding documents with deficient clarity and comprehensibility and considering both their intended and unintended meanings paired with the social context in which they were produced. Further controls were performed to test their: (a) *reliability*; by taking into account its original collector, the method of collection used, the sources cited and if it was temporally pertinent and the original researcher had adopted a perceptibly unbiased attitude towards the interpretation of the data; (b) *suitability*; by confronting the original object, scope and purpose of the primary data of the original collector, with those of our own research and, (c) *adequacy*; by controlling that the level of accuracy and the width of scope of the data used matched the levels sought for our own inquiry (Scott, 1990).

To confirm, or contradict the results, obtained via different methods and, at the same time, attempting to avoid modifying them by means of personal subjectivity, we utilized *triangulation* as a validation process; our rationale rests on an acknowledged dictum:

*...organizational researchers can improve the accuracy of their judgment collecting different kinds of data bearing on the same phenomenon...not only to examine the same phenomenon from multiple perspectives but also to enrich our understanding by allowing for new and deeper dimension to emerge (Jick, 1979).*

*Triangulation* has been described as a research strategy of multi-method/multi-trait or convergent validation. The different notions reveal that a shared view predominates: qualitative and quantitative methods should be viewed as complementary rather than as rivals. A limitation must be acknowledged: even those authors that strongly advocate for its usage avoid prescribing how to perform it and how to elucidate if it has been accomplished (Eisenhardt & Graebner, 2007).

## CASE STUDY

### Telephone service in Argentina: From private to state-owned and back

A Belgian company, in association with an American firm, started the first telephone service in Buenos Aires -Argentina's capital city- in 1881. After successive mergers and acquisitions the enterprise became, in 1929, an indirect subsidiary of the U.S.-based International Telephone & Telegraph Corporation (ITT). The *Unión Telefónica* (UT), as it was commonly called, remained for almost two decades Argentina's largest telephone company.

During his first constitutional mandate Argentinean President Juan Domingo Perón decided, in 1946, to acquire UT; along his two consecutive administrations almost all small private telephone operators were bought and consolidated in one State Owned Enterprise (SOE). The resulting quasi-monopoly was operated by Empresa Nacional de Telecomunicaciones (ENTel) -as UT was renamed in 1956. During its existence ENTel's top management was changed 28 times; only one policy persisted: telephone service costs were maintained low for political reasons. The consequences of mismanagement and insufficient funding emerged: demand remained unsatisfied, connection costs soared and over 60 percent of the network was obsolete or out of order; ultimately, the company's workforce amounted 47,000 and its deficit rose to \$ 1.48 billion (Abdala, 1998).

In 1989, Argentina was a highly indebted country immersed in an infrequently long period of high inflation that ended in hyperinflation; subsequent economic collapse and social turmoil led President Raúl Alfonsín (*Radical Party*) to resign and be succeeded, 6 months before ending his mandate -on July 8, instead of December 10- by President elected Carlos Menem (*Peronist Party*). After a few days in office, Menem announced his plan to introduce a deep reform to state apparatus and the Argentinean economic structure (República Argentina; INFOLEG); one of the pillars of his plan was the privatization of every SOE.

The world's first wave of telecommunications SOEs privatizations included: British Telecom (1984); Nippon Telegraph and Telephone Public Corporation (1985), and Compañía

Teléfonos de Chile (1988). A second wave started in 1990 and encompassed four national administrations: Mexico, Argentina, Canada and Jamaica; by 1999, 90 countries around the world had at least partially privatized their telecommunications SOEs and 95 had built separate regulatory authorities (Gutiérrez, 1998; Wallsten, 2002).

The international bid was designed dividing ENTel into two concession areas: the southern half of Argentina -including Buenos Aires' downtown business district, 57 percent of the access lines in metropolitan Buenos Aires and more than half of the surrounding province of Buenos Aires- and the northern half of Argentina and the remaining sectors of Buenos Aires' area. To entice potential bidders each of the winning private consortia would receive a non-expiring license to operate their unit, with an initial seven-year monopoly on telecommunications and the right to be rewarded with a three-year extension if the targeted goals of the concession were timely fulfilled. Additionally, preceding the tender, an extra financial reward was established to attract more potential bidders: telephone service fees for residential customers were almost doubled (Walter & Senén González, 1998; Wallsten, 2004).

Finally, the southern area was awarded to Compañía Internacional de Telecomunicaciones S. A. Its owning partners were Telefónica de España S.A., Citicorp Equity Investments S.A., and the Argentinean holding company Organización Techint; the new company was named TASA. The northern area was awarded to Nortel Inversora S.A. The consortium was formed by the Italian telecommunications firm Stet-Società Finanziaria Telefonica S.p.A.; France Telecom S.A.; the Argentine holding company Perez Companac Group and the U.S. investment bank J.P. Morgan & Co. Inc.; the new company was named TECO. The remaining 30 percent of both firms' shares were sold, in 1992, to public investors on the Buenos Aires and New York stock exchanges, and the outstanding 10 percent went, through a stock participation program, to former ENTel's employees.

## **Government, unions and the telecommunications labor-management relation in Argentina during and after the Menem's years**

The Confederación General del Trabajo (CGT) is the Argentinean national league of unions; its close ties with Perón -Labor Secretary in the 1943 unconstitutional military government- preceded his emergence as a populist and charismatic leader in 1945. Since then, the CGT had been one of the pillars of the *Peronist* party. The Argentinean *Labor Union Law* grants the CGT, and their affiliated unions, monopoly of representation; such legal structure, and the way in which *Peronist* administrations and unions interact, have guaranteed the CGT an unyielding control over the whole union movement (Etchemendy & Palermo, 1998; Etchemendy & Berins Collier, 2007; Usami, 2008).

Menem's reform plan split CGT's leadership in two: the CGT-Azopardo, which opposed the reforms, and the CGT-San Martín that supported them. Within each group dissent prevailed; a number of subgroups showed disparate degrees of rejection or acceptance to Menem's overall scheme (Montes Cató, 2006).

The Federación de Obreros Telefónicos de la República Argentina (FOETRA) was one of several unions intermingled with ENTel since its consolidation as a national telephone service operator in the late 50's. Initially, FOETRA-BA was FOETRA's branch for a jurisdiction including the Autonomous City of Buenos Aires and 22 *partidos* (municipalities) of the surrounding metropolitan area. Menem appointed Julio Guillán -at that time FOETRA's Secretary General and a CGT-San Martín affiliated- Under Secretary of Communications. In November 1989, unionized workers voted Héctor Esquivel -a fervent opponent to the reforms- over Guillán's followers as head of FOETRA-BA. Shortly after, in plain collision with the union's national hierarchy decisions, Esquivel declared several 24-hour work stoppages to demonstrate the workers reluctance towards the SOEs privatization process (Tuman, 2007).

When President Menem made public, in 1990, his decision to sell 60 percent of ENTel to private investors, FOETRA's leadership obtained several compensations in exchange for their consent: a shared-ownership program –10 percent of the shares of the new two companies would be transfer to the employees to constitute a fund; a 42% wage increase; the promise of no firings and a financially attractive early and voluntary retirement program to reduce job redundancies. Menem's administration granted further concessions to buttress Guillan's support: FOETRA attained full control of the employees' shares trust fund and of the welfare fund (Obra Social Telefónica – OSTEL, in its Spanish acronym) which, up to that time, had been jointly administered with the company's management (Herrera, 1993; Hill & Abdala, 1993).

Discontent unions –mostly from CGT-Azopardo– broke up and formed, in November 1992, the Central de Trabajadores de Argentina (CTA), as their rejection to past and ongoing Menem's reforms and both CGT's acquiescence. Their contention was: *CTA defends the interests and needs of the file-and-rank members rather than those of the top union leaders*. Since then, CTA upholds the request for full legal recognition without success; several national administrations passed without changing the monopolistic, and pro-*Peronist*, union legal framework.

Guillán's adherents regained control of FOETRA-BA in the 1993 elections (Murillo, 2000:159-160) but loose it again in 1997. Then, FOETRA–BA's new anti-Menem authorities suggested the affiliated workers to abandon FOETRA permanently; their proposition was accepted (Senén González, 2000). Finally, the Federación de Obreros, Especialistas y Empleados de los Servicios e Industria de las Telecomunicaciones de la República Argentina (FOEESITRA) succeeded a strongly diminished FOETRA (Marshall & Groisman, 2005) and started to confront with FOETRA–BA.

**The 2004 communication breakdown: An unworkable labor-management relation**



In Argentina each CA may be negotiated at two different levels: (a) for a whole sector or activity or (b) between the union and a specific company. Since 1991, by Executive Decree 2284 (Art. 104 and 105), the parties are allowed to choose the negotiating level without taking into account the precedent CA. If the parties are unable to agree a new CA, the ongoing persists; such situation is labeled: *ultra-activity*. If a CB fails, the current CA would be replaced by the general conditions established by the *Work Contract Law*, which are less favorable for the workers.

The first CB between TASA & TECO and FOETRA-BA, after the Argentinean crisis of 2001-2002, took place a few months after the inauguration of Néstor Kirchner (*Peronist Party*) as Argentinean President. That same day, May 25, 2003, Kirchner announced the reversal of most of Menem's reforms and the launch of a policy of wealth redistribution based on equity. In that first CB, the parties agreed a partial increase of wages and the postponement of the rest of a due rise –salaries have remained unchanged since 1994- until a new CB during the following year.

By the end of 2004, FOETRA-BA's leadership decided to siege both companies' main premises; their contention was that both firm's managers were avoiding to meet with the union's representatives to delay the completion of the commitment made the year before. Initially, TASA & TECO offered a 3% hike; afterwards, their offer was increased to a 7% and later the rise offered was of 15%; on the opposite side, FOETRA-BA's leadership requested a 25% increase that was later lowered to a 20%.

As disagreement persisted, unionized workers occupied by force TASA's telecommunications hub building in downtown Buenos Aires and TECO's *Golf* building –the firm's network focal point- in Buenos Aires' Palermo neighborhood. The conflict made it to the front pages of the main newspapers and was the salient topic of all commentators in the televised news reports (Tosi, 2004). The Labor Ministry officials intervened to alleviate the

conflict with two main purposes: firstly, to inhibit the conflict to escalate and, in a second place, to hinder a wage rise agreement exceeding the percentage previously accorded by Labor Minister, Carlos Tomada, with both CGTs and the CTA.

On Saturday, December 4, 2004, after four days of indirect negotiations -the parties never gathered and all exchanges were channeled through Minister Tomada-, FOETRA-BA's leadership announced to the press a 48-hour stoppage if their request of a 25% hike remained ignored; both firms kept their lower offer unchanged. The telecommunications' total collapse, within Argentina and with the rest of the world, was imminent; the workers' deviant behavior would disrupt not only telephone communications but also telex, internet, the banking clearing system and other automatic services (Dunlop & Lee, 2004).

FOETRA-BA's press Secretary, Sergio Sosto, denounced that the firms' security personnel was carrying arms and operating like paramilitary forces. Both companies' legal agents denounced the seizure of their premises before Federal Court No. 3 and asked for the immediate release of the buildings. Meanwhile, workers from other unions met in front of both buildings to show their support to the strikers.

FOETRA-BA's negotiators, Osvaldo Iadarola and Claudio Marín, condemned the lack of a positive attitude of their counterparts. Marín made an additional statement: "... *FOETRA-BA is considering proposals; it is like in the Timba: each part is making stakes on the other showing the cards first...*" In Buenos Aires' colloquial speech, Timba implies any game played for money. The firms' speakers responded that in an effort to solve the dispute both companies' senior management was in permanent contact with Minister Tomada.

Before that Saturday ended, the parties announced that they have reached an agreement: the union accepted a 20% hike and an additional fixed amount of \$ 500 (Argentinean Pesos) payable with that month's salaries (FOETRA-BA, 2004). The

agreement, that benefited 18,000 workers, led the unionized workers to abandon, after 11 days, the buildings seized and to reestablish all services.

**Mediation and the 2007 reflective encounters: challenge of creating value in the TASA & TECO and FOETRA–BA labor-management relation**

The process started with a framework agreement between TASA & TECO. Afterwards, the firms proposed FOETRA-BA's leadership to participate in a joint effort to reform their relation without relinquishing their respective interests (TASA, 2007: 24; TECO, 2007: 40); the labor-management basic accord comprised the intervention of a Mediation Team (MT), a group of consultants from a recognized Argentinean business school, to conduct a mediation process.

Firstly, the MT met with FOETRA–BA's authorities and in a second stage the meetings gathered managers pertaining to TASA & TECO staff. The third phase included TASA & TECO staff and a group of union's delegates. The outcome of those encounters was that the parties agreed upon a few, but demanding, rules to govern their meetings: (a) Each participant would express all her concerns, withholding nothing; (b) The discussions would be based on facts –not on opinions- and on their perceived impacts and, (c) All the agreements reached would be, always, committed to paper.

The ongoing process, which the MT conducted under the accorded rules, allowed to define an initial set of attainable goals that all parties concurred as valuable: (a) To improve the medium term relationship; (b) To detect as many opportunities as possible to build consensus; (c) To fully cooperate in the management of conflictive everyday situations; (d) To jointly delineate a set of basic rules of civility to serve as a negotiated *umbrella* that would allow the process to flow normally.

Subsequent meetings led the parties to complement, or refine, their initial agreement with other objectives: (a) Each party's agents would candidly express how she perceived the

reality of their relation; (b) To build a consensus regarding a common vision of a desirable future for their labor-management relation, by identifying which are its strategic components, and assigning priorities, the enhancement sought; (c) To define strategic objectives (expectations for 2008 and 2009); (d) To jointly delineate an agenda and, (e) To settle a *Code of Co-existence* (CC) that would rule all future everyday workplace interactions.

The parties recognized that a recurrent agenda characterize their CB process and that, finally, successive CAs should, at least partially, elucidate it: increment of wages, work schedules and timetables, workers representation (on account of new services; e.g.: call centers, cellular phone services, contractors, etc.) and categorization (on account of new qualifications needed), retirement and working teams, or new working modes (plurality of functions, new time schedules or arrangements, etc.).

As between each CB the labor-management relation, with its everyday contingencies, is continuous, TASA & TECO and FOETRA–BA decided to institute a Dialogue Group (DG), on a permanent basis, with the expectation that it would allow them to identify problems and solutions, as well as areas of probable agreement, in their labor-management relation. Shortly after, the MT held an initial meeting with all the designated members of DG; from the discussion emerged that the DG would primarily undertake the 5 characteristic phases of every interest-based negotiation: (a) The identification of the problem/s; (b) The delineation of the interests in question; (c) The development of options via brainstorming; (d) The proposal of agreements based on valid criteria and (e) The selection of one solution.

The DG also agreed that all future conflicts would be revisited to extract lessons from them, with the purpose of enhancing the parties' labor-management relation and the group's own capabilities; their agreement on that matter included a basic set of questions to be asked, in all occasions, to each member: (a) What happened and which have been the underlying causes of this conflict? (b) Which were the interests, and the degrees of liberty to act, of each

of the parties involved? (d) What would you have done in the case of having been the leader of the company's team, or of each of the other parts? (e) What resolution is conceivable for each of the previous situations? (f) Which is the foreseeable future in the relation between the parties, as a consequence of the last interaction between them?

The MT and the DG advanced in the delineation of some preemptive measures that the DG would implement when necessary in order to avoid the interruption of interchanges or of strikes: (a) All parties should avoid to make excessive demands; (b) To confront the situation from the respective counterpart's point of view -each party thinking as the other normally does; (c) To pursue the attainment of partial agreements; (d) To agreed upon contingency plans -which should be written down and included as part of the agreement reached and (e) Search and consider the opinions and criteria of neutral and impartial third parties.

The effects of the 2007 rounds of constructive dialogue within the DG were almost immediate. The 2008 CB bargain ended early; TASA's & TECO's respective CAs, signed on April 7, included a 19,5% hike for all wages plus specific increments for each of the 13 different monthly or *per diem* allowances that unionized workers may be entitled to in accordance with different posts duties or personal conditions. The agreements attained, effective from July 1, 2008 through June 30, 2009, included, in addition to the pecuniary matters, a number of clauses regarding technological and operative aspects with incidence on their ongoing and future labor-management relation (FOETRA-BA, 2008). Finally, the 2004 tumultuous mode of interaction had been effectively replaced.

### **Discussion**

What is it possible to learn about CB in the Argentina of recent times that may be valuable to be applied elsewhere? There are several reasons that lead disagreements between unions' leadership and corporate managers to impasses or strikes: each party overestimates its

own power and intangible needs, that remain unsatisfied and are perceived as grievances (justice, unfair treatment or malicious grapevine chats), are prevalent.

In the Latin American countries in general, but particularly in Argentina, corporate managers and public officials should always bear in mind that when they deal with unions they will be interacting with counterparts that have a preference for escalating conflicts: union's leaders need, and like, to show their toughness and combative spirit to their constituency and to the public in general. Additionally, as certainly happens in other sociopolitical contexts, negotiating agents –in all parties- may have a set of interests that are incompletely aligned with those of whom they represent and that may led them to act under the pressure of an excessively competitive thrust or an inappropriate appetite for prestige within their organization.

The 2004 Argentinean telecommunications clash shows that what is mostly needed to maintain a workable labor-management relation is preparedness to deal with both foreseeable and improbable conflicts, before they actually happen. If the parties want to avoid unintended escalation and unwanted outcomes they need to be proficient in managing all sorts of conflicts; such goals require effective intra and inter group communication twinned with conscious training –e.g.: scenario planning and conflict simulations. As this episode exhibits, corporate managers, governmental officials and unions' representatives have not developed and sustained appropriate links between them; they could not build a beneficial labor-management relation and let controllable divergences hinder their exchanges with consequences that they were unable to foresee.

The 2004 clash shows that FOETR-BA's delegates and the corporate managers were incapable of cooperation and eluded to delineate areas of common interests; they all tended to be excessively focused on their own interests making distrust prevail; thus, they failed to define an agenda which could lead them to build a consensus. Their conflict presented in its

life cycle several key instances or turning points that were mutually trespassed making an agreement unlikely; both parties ignored such boundaries and made decisions without acknowledging that escalating a conflict may worsen an already bad scenario: they pulled out the string up to the point to make it split.

When compared with the 2004 antecedent, the 2007 collaborative process shows that the parties accomplished one profound and basic change: they recognized that no agreement would result of a dyadic interaction in which one of the parties is unwilling to concur. Consequently, they opted to establish a minimum *affectio societatis* which by no means involved relinquishing their respective interests. As, so far, they had been unable to interact constructively, and both parties perceived that their animosity made conflicts worsen beyond their control, they agreed to build a workable labor-management relation, almost from the beginning, with the intervention of an impartial and neutral third party.

To enhance their already deteriorated relation, and the effectiveness of the forthcoming CB, the parties decided to acknowledge and seek solution for several factors - present in the 2004 clash- which could once again hinder their negotiation process if they left them unattended: (a) Each negotiating agent tended to focus excessively on her own interests and such attitude led to encapsulation in isolated *silos*; (b) 2004 negotiators were incapable of cooperative behaviors because they coexisted with extremely poor interchanges; (c) Negotiating parties should make genuine efforts to develop overlapping areas of interests; (d) Negotiators ought to define a viable agenda on which a consensus would be built; (e) Each negotiating party is expected to speak and act honestly; without trust, respect and cooperation agreements vanish; (f) The individualistic drive, characteristic of several Latin American countries' nationals, should be tamed; particularly, when it emerges twinned with the excessive eagerness for prompt results that characteristically inhibits the definition of long term –strategic- goals and the formation of stable union-management relations.

## Conclusion

We believe this exploratory case study provides some interesting contributions not only to the study of the transformative capabilities of mediation in labor-management relation –no matter how strenuous it may be and how confrontational the socio political context may be- but also the study of organizational conflict more generally.

Collective Bargaining and Collective Agreements are periodic instances embedded in the continuum of everyday workplace interactions. As a whole, they should receive the utmost attention from all the parties involved because, when analyzed with parsimony, they provide clues about how and why a labor-management relation may be changed for the better, or worsened, by attentively managing the diverse forms of *task-conflict* and *relationship-conflict* that they encompass.

The case study methodology, in its exploratory format, allowed us to describe and compare two very different moments in a continual labor-management relation and to extract some valuable lessons about the transformative effects that the intervention of a proficient mediation team may produce on it. Further, our exploratory case study signals candid dialogue and trust as the salient foundations of a collaborative understanding in a labor-management relation.



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