Relations industrielles
Industrial Relations

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Volume 47, Number 3, 1992

URI: https://id.erudit.org/iderudit/050792ar
DOI: https://doi.org/10.7202/050792ar

See table of contents

Publisher(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (print)
1703-8138 (digital)

Explore this journal

Cite this article

Eden, G. (1992). Progressive Discipline: An Oxymoron? *Relations industrielles / Industrial Relations*, *47*(3), 511–528. https://doi.org/10.7202/050792ar

Article abstract

This paper contrasts competing paradigms of a key issue in the employee-employer relationship: the application of the concept of progressive discipline. In a review of both the arbitral jurisprudence in the unionized sector, and the organizational behavior literature, the author illustrates two very different perspectives regarding the application of discipline in the workplace: one view is embodied in arbitral law and focuses on the corrective effects of discipline, while the other is embodied in behavior modification theory and emphasizes its negative effects. The notion of discipline is then discussed in a broader perspective by highlighting some current trends in human resource management, as well as alternative approaches to dealing with employee misconduct.

Progressive Discipline
An Oxymoron?

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This paper contrasts competing paradigms of a key issue in the employee-employer relationship: the application of the concept of progressive discipline. In a review of both the arbitral jurisprudence in the unionized sector, and the organizational behavior literature, the author illustrates two very different perspectives regarding the application of discipline in the workplace: one view is embodied in arbitral law and focuses on the corrective effects of discipline, while the other is embodied in behavior modification theory and emphasizes its negative effects. The notion of discipline is then discussed in a broader perspective by highlighting some current trends in human resource management, as well as alternative approaches to dealing with employee misconduct.

The integration of research findings from organizational behavior into mainstream industrial relations has recently been cited as an important objective of industrial relations research in Canada (Craig 1988). This need to bridge the gap between industrial relations and organizational behavior is evident with respect to a key issue in the workplace – the application of the concept of progressive discipline.

The significance of the concept of progressive discipline has been illustrated by reference to it in the industrial relations literature as one of the central principles of just cause in dismissal cases (Kochan and Barocci 1985: 381) and as "the most significant arbitral development" (Failes 1986: 42). Indeed, it has been described as a necessary procedural safeguard for maintaining fairness in the regulation of dismissal (England 1978: 472-473, 506; Failes 1986: 142). It is seen to benefit not only the

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** This analysis is based on the author's Ph.D. dissertation. The author is grateful for the advice and guidance of her thesis committee: Morley Gunderson (supervisor) and John H. House of the University of Toronto, and Paul Weiler of the Harvard Law School. Financial assistance was provided by the Social Sciences and Humanities Research Council of Canada.

employer but also the employee (Alexander 1956: 79-80; England 1978: 473, 510-511; Palmer 1983: 234; Trudeau 1985: 71; Failes 1986: 43).

This perspective of discipline in the industrial relations literature reflects views that have been advanced in the arbitral jurisprudence in the unionized sector. Surprisingly, there appears to be little recognition in this literature of a competing paradigm regarding this concept. This competing paradigm, from the organizational behavior literature, stands in sharp contrast to the notion of discipline advanced by arbitrators.

In this paper, the author reviews the concept of progressive discipline depicted in the arbitral jurisprudence. This is followed by an overview of the organizational behavior literature that presents a very different view of discipline in the workplace. The study concludes by looking at the notion of discipline in a broader perspective by highlighting some current trends in human resource management.

An interesting question that arises is: does the arbitral approach signal a one best way, mechanistic approach to handling employee problems as opposed to an organic, contingency approach that may be suggested by other literature? While many have adopted arbitral assumptions regarding the application of this concept, it is the author's view that it is time to reconsider this legal precept.

THE ARBITRAL PERSPECTIVE

Definition and Application

In the arbitral jurisprudence, the concept of progressive discipline is normally referred to as penalties of increasing severity administered to the employee which include verbal warnings, written warnings, and escalating suspensions without pay (Adams 1978: 28; Palmer 1983: 248; Failes 1986: 42; Dolan and Schuler 1987: 483; Brown and Beatty 1988: 490). Numerous cases have adopted this approach and have specifically required the imposition of suspension without pay prior to the ultimate penalty of discharge.[1]

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1 *Re North York General Hospital* v. *Canadian Union of General Employees* (1973), 5 L.A.C. (2d) 45 (Shime); (*Re Cooney Haulage* v. *Teamsters Union*, Local 91 (1987), 28 L.A.C. (3d) 97 (MacDowell); *Re Treasury Board (Employment & Immigration)* v. *Quigley* (1987), 31 L.A.C. (3D) 156 (Cantin); *Re George Lanthier et Fils Ltee* v. *Milk & Bread Drivers* (1987), 31 L.A.C. (3d) 320 (Bendel); *Re K Line Maintenance & Construction Ltd.* v. *I.B.E.W.* (1988), 35 L.A.C. (3d) 358 (Cromwell); *Re Oshawa Group Ltd.* v. *Teamsters Union, Loc. 419* (1988), 33 L.A.C. (3d) 97 (Knopf); *Re Boart Inc.* v. *C.A.W., Loc. 1256* (1988), 35 L.A.C. (3d) 253 (Palmer); *Re Famz Foods Ltd. (Swiss Chalet)* v. *Canadian Union of Restaurant Employees, Local 88* (1988), 33 L.A.C. (3d) 435 (Roberts); *Re Nat'l Auto Radiator Mfg. Co.*

It has been recognized that there may be instances where discipline is not appropriate; arbitrators have drawn a distinction between voluntary and involuntary unacceptable behavior on the part of the employee. If a person's lack of competence is as a result of an involuntary shortcoming, such as a lack of ability to perform required job responsibilities, or, where difficulties arise due to health problems, measures other than discipline may be required. In these circumstances, employers are obliged to communicate the required standards of the job, to warn employees in a non-disciplinary sense that they are not meeting those standards, and to ensure that they are given an opportunity to improve performance.

Other instances where progressive discipline may not be required is where the particular misconduct so seriously undermines the employment relationship that dismissal is justified without prior warning (Failes 1986: 40). Theft and fighting are sometimes cited as such serious offenses.[2]

Apart from the foregoing exceptions, the concept of progressive discipline appears to be well established in the arbitral jurisprudence. However, its purpose has been described in various ways.

Purpose

Themes of Correction and Rehabilitation. A general trend in the jurisprudence is to view progressive discipline as corrective and rehabilitative.[3] Basic to the corrective approach espoused by arbitrators is the notion that progressively increasing the severity of the discipline imposed will give employees incentive to reform their conduct. The themes of correction and rehabilitation appear, in some cases, to have been imported from theories in criminal law (Alexander 1956: 79-80; Adams 1978: 6; England 1978: 473; Heenan 1985: 156) as illustrated in the following often quoted passage:

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v. *C.A.W., Loc. 195* (1988), 2 L.A.C. (4th) 346 (Walters); *Re Emergency Health Services Com'n* v. *C.U.P.E., Loc. 873* (1988), 35 L.A.C. (3d) 400 (Black); *Re Canada Post Corp.* v. *C.U.P.W. (Leewes)* (1988), 3 L.A.C. (4th) 162 (Bird) and other cases too numerous to mention).

2 *Canada Safeway* v. *United Food & Commercial Workers* (1987), 29 L.A.C. (3d) 176 (Hope)

3 *Re Toronto East General Hospital Inc.* v. *S.E.I.U.* (1975), 9 L.A.C. (2d) 311 (Beatty); *Re Canada Tungsten Mining Corp.* v. *U.S.W.* (1984), 14 L.A.C. (3d) 346 (Hope); *Re Marystown Shipyard* v. *Marine & Shipbuilding Workers* (1985), 21 L.A.C. (3d) 304 (Easton); *Re Cooney Haulage* v. *Teamsters Union, Local 91* (1987), 28 L.A.C. (3d) 97 (MacDowell); *Re Emergency Heath Services Com'n* v. *C.U.P.E., Loc. 873* (1988), 35 L.A.C. (3d) 400 (Black); *Re Canada Post Corp.* v. *C.U.P.W. (Leewes)* (1988), 3 L.A.C. (4th) 162 (Bird).

Most simply put, the principle of corrective discipline requires that management withhold the final penalty of discharge from errant employees until it has been established that the employee is not likely to respond favourably to the lesser penalty. To draw an analogy from the criminal law, corrective discipline is somewhat like an habitual offender statute. It presupposes that the preliminary purpose of punishment is to correct wrongdoing rather than to wreak vengeance or deter others. Corrective discipline assumes that the employer as well as the employee gains more by continuing to retain the offender in employment, at least for a period of future testing, than to cut him from the rolls at the earliest possible moment. (Alexander 1956: 79-80)

There are several interesting references in the above passage that are worth noting – the reference to punishment, the criminal law analogy, and deterrence.

While the above passage appears to acknowledge that discipline is a form of punishment, this perspective is often downplayed or deemphasized in the jurisprudence. An explanation for this tendency of arbitrators to downplay or ignore the idea of punishment has been advanced by Adams (1978: 29-30): "Possibly at work is the natural desire to soften or disguise the pain of punishment by describing it more beneficially in terms of 'rehabilitation'".

While a review of the cases indicates that a number of arbitrators have considered concepts which have been applied to the rehabilitation of criminals, some have called for caution in importing criminal law theories into industrial relations.[4] Similarly, the theme of rehabilitation has not been universally accepted in the jurisprudence.[5]

Deterrence. Another purpose of progressive discipline that has been referred to in the arbitral jurisprudence is that of deterrence, both with respect to the offending employee's future conduct, as well as the conduct of other employees.[6] Indeed, it has been held to be an overriding factor in some circumstances.[7] This view is particularly strong where a capital offense has been committed such as theft, assault, or sabotage.[8]

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4 *Re Coast Canadian Inn* v. *B.C. Gov't. Employees* (1986), 26 L.A.C. (3d) 97 (Bluman); *Re Ontario Produce Co. Ltd.* v. Warehousemen and Miscellaneous Drivers' Union, Local 419 (1976), 12 L.A.C. (2d) 235 (Shime).

5 *Finning Tractor & Equipment Co. Ltd.* (1984), unreported (McColl); *Re B.C. Railway Co.* v. *C.U.T.E., Local 6* (1987), 29 L.A.C. (3d) 353 (Hope) and *B.C. Rail Ltd.* v. *U.T.U., Locals 1778 & 1923 (Mazur)* 1986), unreported (Ready).

6 *Re Canada Post Corp.* v. *C.U.P.W. (Leewes)* (1986), 3 L.A.C. (4th) 162 (Bird).

7 *Re Bell Canada* v. *Communications Workers* (November 14, 1983), unreported (Burkett); *Re Canada Safeway* v. *United Food & Commercial Workers* (1987), 29 L.A.C. (3d) 176 (Hope).

8 *Reg. Mun. of Ottawa-Carleton* v. *C.U.P.E. Local 503* (1985), 18 L.A.C. (3d) 292 (Burkett).

Other purposes. Another well held view of the purpose of progressive discipline is succinctly expressed by Heenan (1985: 154): "the routine of verbal and written warnings, suspensions of increasing length and the grievance mechanism, if they do nothing else, at least provide a ritual which allows for graduated and orderly expressions of dissatisfaction from the employer whose significance is clear to both parties". The same idea has been frequently expressed as "bringing home" clearly the employer's dissatisfaction with the employee.[9]

Some have gone further and asserted that industrial discipline benefits the employee by contributing to employee dignity and security. However, Glasbeek (1982: 75) asserts that this argument is not persuasive. He emphasizes the advantages of this principle to the employer, by characterizing progressive discipline as, "an arsenal of calibrated punishments...made available to facilitate whipping the work force into shape."

This emphasis on the benefit to the employer finds support with others. A principle objective of such negative sanctions has been described as "the development and maintenance of an efficient and profitable operation" (Adams 1978: 6). Conformity to workplace norms has also been emphasized as an underlying goal of progressive discipline.[10]

Alternatives to Progressive Discipline

Alternative approaches to the traditional approach to progressive discipline have been defended before arbitrators. In *Re Canadian Motorways and Teamsters Union*[11], the arbitrator found the company's introduction of a demerit system, which dispensed with suspensions without pay, was not contrary to the collective agreement. The scheme adopted by the employer involved the assessment of demerit points, the accumulation of which could ultimately lead to discharge. Continuous good performance could reduce and eventually eliminate the points.

Such alternative approaches to the application of the concept of progressive discipline appear to be the exception. No trend in the

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9 *Re Standard-Modern Technologies* v. *United Steelworkers of America, Local 3252* (1986), 26 L.A.C.. (3d) 150 (Schiff); *Re Cooney Haulage* v. *Teamsters Union, Local 91* (1987), 28 L.A.C. (3d) 97 (MacDowell); *Re Oshawa Group Ltd.* v. *Teamsters Union, Loc. 419* (1988), 33 L.A.C. (3d) 97 (Knopf); *Re Emergency Health Services Com'n* v. *C.U.P.E., Loc. 873* (1988), 35 L.A.C. (4th) 400 (Black).

10 *Re Cooney Haulage* v. *Teamsters Union, Local 91* (1987), 28 L.A.C. (3d) 97 (MacDowell).

11 (1988), 34 L.A.C. (3d) 76 (McLaren).

jurisprudence can be discerned towards the adoption of these or other alternative schemes, neither by employers nor arbitrators.

THE ORGANIZATIONAL BEHAVIOR PERSPECTIVE

While arbitrators have been developing theories of industrial discipline, organizational behavior specialists have been developing theories of reinforcement. Both theories advance perspectives on the concept of progressive discipline. Surprisingly, there has been little attempt to link the two perspectives.

On reviewing the organizational behavioral literature, the author was intrigued by the very different perspective advanced regarding the notion of discipline than that espoused in the arbitral jurisprudence. While the end goal is the same, that is, the elimination of undesirable behavior, it is clear that behavioralists regard the application of discipline in the workplace as a form of punishment. Several writers have expressly equated the use of reprimands and suspensions without pay with the concept of punishment (Wheeler 1976: 240; Dessler 1979: 86; Gibson et al. 1979: 82-83; Arvey and Ivancevich 1980: 131; Kerr and Slocum 1981: 123; Luthans 1981: 391; Arvey and Jones 1985: 370; Arnold and Feldman 1986; 69: Dolan and Schuler 1987: 278, 483; Ivancevich and Mattison 1987: 168.) Indeed, generally, the terms discipline and punishment are used interchangeably.

Reinforcement Theory

The concept of discipline or punishment in the organizational literature has its roots in reinforcement theory. Reinforcement theory, developed initially by the well-known psychologist B. F. Skinner (1953), contends that the behavior of people is largely determined by its consequences. Those actions that tend to have positive consequences (rewards) tend to be repeated more often in the future, while those actions that tend to have negative consequences (punishment) are less likely to be repeated. While positive behavioral strategies generally have been met with approval by psychologists and behavioralists, the application of negative consequences or punishment has generated a substantial amount of controversy.

Initially, the application of punishment in response to certain behaviors was studied under experimental conditions with nonhuman subjects. Skinner maintained that punishment was ineffective or temporary, and produced undesirable side effects. He concluded:

In the long run, punishment, unlike reinforcement works to the disadvantage of both the punished organism and the punishing agent. (1953: 183)

Punishment, as we have seen, does not create a negative probability that a response will be made but rather a positive probability that incompatible behavior will occur. (p. 222)

Such beliefs that punishment is ineffective and counterproductive have persisted for many years.

While the use of punishment has been discredited by many, it has also had some proponents. Solomon (1969: 136) asserted that the scientific base for Skinner's conclusions "was shabby, because, even in 1938, there were conflicting data which demonstrated the great effectiveness of punishment in controlling instrumental behavior". In a review article on the use of punishment, Arvey and Ivancevich (1980) cite studies that found the use of punishment to be effective in modifying deviant or pathological behaviors among human subjects.

Despite some evidence to the contrary in nonorganizational settings, beliefs about the negative effects of punishment have prevailed and have carried over to the use of discipline in organizational settings. Organizational behavioralists generally have not favored the use of punishment in organizational settings and have viewed it as counterproductive or of little value.

Criticisms of Punishment/Discipline

Many authors have reviewed criticisms of the use of punishment or discipline in organizations (Booker 1969: 526-527; Wheeler 1976: 235-236; Dessler 1979: 89-90; Gibson et al. 1979: 82; Arvey and Ivancevich 1980: 125-131; Kerr and Slocum 1981: 123; Luthans 1981: 261, 286; Asherman 1982: 529; Arvey and Jones 1985: 368, 383; Luthans 1985: 296; Dolan and Schuler 1987: 278; Ivancevich and Mattison 1987: 181).

The following is a summary of these criticisms on the use of punishment:

1. It is ineffective in eliminating undesirable behavior. It serves to suppress behavior temporarily rather than change it permanently. Once the threat of punishment is removed, the undesirable behavior will return full force.
2. It may result in escape or avoidance by the employee (e.g. absenteeism, turnover).
3. It generates emotional behavior, often directed against the person who administers the punishment (e.g. sabotage).

4. It can turn the person doing the punishing into an "aversive stimulus" with the result that the person cannot take any action that will be perceived as positive reinforcement.
5. It may have a disastrous effect on employee satisfaction and morale.
6. It is difficult for supervisors to administer. It is stressful for them to handle, and difficult to switch roles from punisher to positive reinforcer.
7. It may be used as a mechanical process to justify termination.
8. Supervisors who use discipline as their preferred strategy may be viewed negatively by upper management because of a perceived overreliance on aversive control systems.
9. It can lead to an increase in expensive, time consuming grievances.
10. It is often thought to be unethical and non-humanitarian.

Thus, most behavioralists advocate that the use of punishment should be avoided if possible. Yet, some are of the view that, in some cases, the use of punishment in managing deviant employees may be necessary (Luthans 1981: 261). Arvey and Ivancevich (1980) drew from the literature on animal learning, clinical psychology, and child development to suggest that punishment can be effective in organizational contexts. However, these propositions do not appear to have been tested in organizational settings (Arvey et al. 1984: 449).

Empirical Research

Some have questioned persisting beliefs about the negative side effects of punishment and pointed out that these assumptions are without substantial empirical basis (Solomon 1969: 135-140; Arvey and Ivancevich 1980: 124-125; Arvey and Jones 1985: 368-372, Ivancevich and Mattison 1987: 181). On reviewing the literature one is struck by the paucity of empirical evidence regarding the effects of discipline in organizational settings. Although research in other applied settings (e.g., the treatment of deviant behavior and pathologies) has found discipline or punishment effective in reducing or eliminating undesirable behavior, there has been little research conducted on the effects of discipline in the workplace.

A field study conducted in a large U.S.A. corporation by Beyer and Trice (1984), appears to be the first empirical analysis on the effects of progressive discipline on employee performance. Beyer and Trice collected data using a questionnaire and private interviews with managers. In general, the results revealed that disciplined employees

had poorer work performance than did employees who were not disciplined (1984: 756). Informal discussions oriented toward problem resolution and brief suspensions were shown to have positive effects on work performance. Confrontational discussions, written warnings, and repeated and longer suspensions had an adverse effect on performance.

Beyer and Trice concluded that, in general, the results supported arguments made by organizational behavioralists that the use of negative sanctions is often ineffective, and even harmful (p. 760). As the authors point out, given the limitations of the study to a single company, the results are not definitive.

Given the lack of empirical evidence, it does not appear possible to draw firm conclusions about the effects of punishment on employee behavior and job performance. As pointed out by Arvey and Jones (1985: 393), we are largely lacking in our knowledge about organizational discipline and punishment.

THE ARBITRAL PERSPECTIVE VS. THE ORGANIZATIONAL BEHAVIOR PERSPECTIVE

It is obvious that the concept of discipline is a complex and controversial phenomenon. What is intriguing is the existence of competing paradigms over its effectiveness in the workplace. One view is embodied in arbitral law while the other is embodied in behavior modification theory. The general trend in the jurisprudence rendered in the unionized sector, is to view progressive discipline as corrective. While some arbitrators have acknowledged that progressive discipline is a form of punishment, this perspective is usually downplayed, deemphasized, or dismissed. The organizational behavior perspective equates the two concepts and appears to focus on the negative effects of discipline. Surprisingly, there has been little discussion of these disparate perspectives in the industrial relations literature. Some recognition of the tendency of arbitrators to deny the punishment aspect of discipline was pointed out by Wheeler:

> Arbitral writers expound the distinction between authoritarian discipline, which is based on fear, and corrective discipline, which attempts to instill 'self-discipline' in the employee. They deny that the purpose of corrective discipline is punishment. Yet it seems that corrective discipline is nothing more, or less, than a sophisticated form of punishment which, in the case of the disciplined employee, attempts to make full use of the effect of anticipated punishment described by Berkowitz (a negative incentive causing the suppression of actions that might bring about unwanted consequences). (1976: 241)

For the most part, Wheeler's study focused on the common themes running through the literature on punishment theory and arbitration theory and practice. He observed that both arbitrators and psychologists stress that the goal of discipline is to eliminate undesirable behavior.

The arbitral theme of correction appears, in some cases, to have been imported from theories in criminal law. The organizational behavior view appears to have developed from experiments on punishment with nonhuman subjects and the study of punishment on deviant and pathological behavior. It is apparent that traditional assumptions of both arbitrators and behavioralists lack sufficient empirical support.

TOWARDS A BROADER PERSPECTIVE

In the absence of empirical research supporting the competing paradigms, what can be said about the appropriateness of the application of negative sanctions in the workplace? Indeed, even if empirical research revealed that the application of progressive discipline does achieve its desired goal, and that the grim litany of criticisms levied against this approach are not valid, would this still argue for the administration of this concept? Should distinctions be made regarding its applicability to certain types of organizations? Could better results be achieved with alternative remedial responses? As suggested by Adams (1978: 2), discipline may only encourage minimum performance necessary to avoid its application. Discipline does not foster maximum job performance nor the realization of an individual's full potential.

Initially, the adoption of progressive discipline was an appropriate response by arbitrators. Certainly it was a better approach to problems in the workplace than the immediate discharge of an employee for a relatively minor or first offense. However, the philosophy of the employee-employer relationship has been, and still is, changing since the early development of the arbitral jurisprudence. A key question becomes: is discipline still an appropriate corporate response to wrongdoing for the workforce of the 1990s?

An important omission in the arbitral literature, as well as the organizational behavior literature, is the integration of disciplinary or remedial response policies with an organization's philosophy toward its human resources, its human resource practices, and its model of job and work design.

Current Trends In Human Resource Management

New HRM Model. A factor that may be important in the design of disciplinary or remedial response systems is the emergence of a new

human resource model. As early as the 1960s experiments began to take place with "new" human resource philosophies and practices which focused on innovative work systems that stressed flexibility in work design, and worker participation in decision making and problem solving. In the 1970s and 1980s, such innovations grew more rapidly and visibly (Kochan, Katz and McKersie 1986: 62, 47, 94). Mechanisms to gain worker involvement have included "self-managed" work teams, labor-management steering committees, problem-solving groups such as the quality circles used in Japan, and redesign committees (Kochan and Barocci 1985: 15). Such workplace innovations feature a nonadversarial relationship between workers and employers that centers on collaboration and the circumvention of adversarial procedures such as grievance mechanisms.

Thus a new workplace scenario appears to be emerging that is less structured, less rule oriented, and less adversarial. There appears to be an increasing emphasis on delegating responsibility, consultation, and consensus-reaching. It seems fitting that these workplace innovations should be extended to addressing employee problems. If employees are being given a greater voice in decisions made at the workplace, isn't it inconsistent that, in matters affecting their own behavior at the workplace, decisions are made unilaterally according to a policy of discipline meted out by the employer instead of mutual problem-solving? The new model of human resource management does not appear consistent with negative sanctions such as reprimands and suspensions.

Changing Nature of Workforce. Another trend to be considered in determining appropriate remedial responses to misconduct is the changing nature of the workforce. Generally, the current workforce is becoming better educated, better informed, and more resistant to authority (Dolan and Schuler 1987: 13-14). Of course, characteristics of the workforce can vary from organization to organization or even within the same organization. Nonetheless, methods that may have worked before may no longer fit certain segments of the new workforce.

A Contingency Approach in the Design of Disciplinary Policies?

While a new human resource model appears to be emerging in some organizations, human resource philosophies and practices and the type of workforce may vary from organization to organization. No one organizational structure dominates corporate Canada, nor does one type of employee exist in the workforce. The workplace is characterized by a multiplicity of organizational structures and different types of jobs requiring different degrees of knowledge, skills, and supervision.

Accordingly, a contingency approach may be advocated in the approach to disciplinary policies; that is, the remedial response would be contingent on the type of organizational structure or the nature of the job. For example, progressive discipline may be easier to apply in those organizations with mechanistic organizational structures, but more difficult to administer in organic organizational structures. Mechanistic organizations are depicted in the organizational theory literature as highly bureaucratic, featuring formal hierarchies and centralization of power and decision-making. There are precise specifications of rules and procedures for employees to follow, and the work is highly specialized and routinized. In contrast, organic organizations are characterized by flexible structures, authority based on expertise rather than position, more lateral or upward channels of communication, communication based on advice rather than commands, fewer rules, and redefinition of tasks through interactions among members (Kerr and Slocum 1981: 128; Arnold and Feldman 1986: 287-288). The new human resource model described in the previous section appears to fit more closely with this latter organizational structure. However, many organizations still operate in a highly mechanistic fashion. Of course, within any one organization, different departments may be structured differently.

A contingency approach would take into consideration the type of organization and its' structure as well as the nature of the employee's job.

While the contingency approach is one alternative, it can also be argued that discipline is not appropriate in any workplace context. While punishment may (or may not) have a place in animal learning and child development, or, be appropriate as a means to treat pathological, deviant or criminal behavior, it can be argued that this notion does not fit well within the employment context. The nature of the employee-employer relationship is very different from one that deals with animals, children, and individuals manifesting psychopathic, deviant, or criminal behaviors. The very word "discipline" seems inconsistent with adults working together in a contractual relationship. Again, more experimentation and research in organizational settings is required in this area.

If the traditional industrial discipline model is deemed to be inappropriate or ineffective in any, or some workplace settings, what are the alternatives?

Other Approaches

The organizational behavior literature reveals that a few case studies have been conducted on organizations that instituted an alternative method of dealing with employee misconduct (Huberman 1975; Campbell et al. 1985). In each of these studies, organizations adopted an

approach to misconduct that had its origins in a nonpunitive model introduced in one organization in the mid 1960s by Huberman (1969). The steps involved in this scheme include an "oral reminder", a "written reminder", and a one day "decision making" leave *with* pay for the employee to consider his or her position with the company. The procedure involves communicating the required standards of the job to the employee, reviewing why the standards must be observed, and discussing the gap between desired and actual behavior. The emphasis at each stage is on shifting responsibility to the employee for his or her behavior and attempting to gain the employee's agreement to change the undesirable behavior. Refusal to agree to change behavior is documented and serves to strengthen the company's position if a record is needed to justify the employee's termination; however, at each stage, the supervisor expresses confidence in the employee's ability to meet expectations.

The punitive aspect in this approach is removed by issuing reminders rather than warnings that threaten future disciplinary action; reminders restate the essentialness of the standards and the employee's responsibility to meet them. If the employee fails to abide by a previous agreement to modify behavior, the one day leave with pay provides the employee with an opportunity to consider whether to meet desired expectations or resign and find a more satisfying work environment elsewhere. Further, the one day suspension demonstrates to the employee the seriousness of the situation and provides notice to the employee that the job is at risk.

In four organizations studied, a reduction in turnover, absenteeism, disciplinary problems, dismissals, and improved employee morale were reported (Campbell et al. 1985). However, there is no indication in these studies of the measures used or whether there was adequate controlling for other possible influences.

In a more recent case study of one organization reported in the human resource management literature (Osigweh et al. 1989), a similar nonpunitive approach to employee misconduct purportedly resulted in improved morale and reduced levels of absenteeism, complaints, and grievances.

The employment of such an approach may well mitigate or even eliminate the negative side effects of discipline. It appears to represent a more adult and positive way to encourage desired behavior. Moreover, it seems to fit the changing corporate culture of delegating responsibility to the employee, and should be better received by a more highly educated, sophisticated workforce.

The approach described in these case studies is consistent with the author's conclusions regarding the distinction arbitrators draw between

voluntary and involuntary shortcomings in the administration of discipline. Specifically, why should the standards that have been held to be required in circumstances of involuntary shortcomings not be equally appropriate for voluntary shortcomings on the part of the employee? If such standards are sufficient to bring home the employer's dissatisfaction with the employee in situations of involuntary shortcomings, why are they not sufficient in other situations? Why are suspensions without pay required to let the parties know where they stand with each other? Can this principle not be communicated without reprimands and suspensions?

CONCLUSION

Despite some exceptions in its application, the general trend in the arbitral jurisprudence is to view progressive discipline as corrective. While some arbitrators have acknowledged that progressive discipline is a form of punishment, this perspective is usually downplayed or deemphasized. This perspective stands in sharp contrast to the notion of discipline advanced in the organizational behavior literature which equates the concepts of punishment and discipline and appears to focus on the negative effects of discipline.

Surprisingly, there is little empirical evidence to support either of the competing perspectives of the concept of discipline in the workplace or the effectiveness of alternative approaches.

While the application of progressive discipline may well have been appropriate at one time, perpetuation of this principle may be an important weakness of the arbitral model. To adopt the concept of progressive discipline as a one best way of dealing with employee misconduct, to the exclusion of considering other approaches, is perhaps too simplistic an approach in dealing with the complexities of the employee-employer relationship in today's workplace. It fosters a conservative, traditional method of handling employee problems which may be out of step with the cutting edge of human resource management.

Indeed, this concept may have become so institutionalized that it constrains both arbitrators and the parties from pursuing alternative strategies that may achieve more effective results and may be more in keeping with the new HRM model and a more highly educated, sophisticated workforce. The arbitration process is open to question if legal principles have become entrenched to the point where the system is cast in an immutable mold from which arbitrators and the parties cannot extricate themselves. While established arbitral standards and principles

are important to guide the parties' behavior, there should be sufficient flexibility in the process to accommodate innovative approaches in dealing with employee problems.

However, responsibility does not rest with arbitrators alone. If this system has been perpetuated, the parties must also bear responsibility. Perhaps both employers and employees should reassess traditional practices in the approach to discipline and explore other alternatives. Ideally, the initiative should come from the parties with persuasive arguments made at arbitration hearings to justify departure from entrenched practices, and, concomitantly, an openness on the part of arbitrators to receive such innovations.

There are many factors that should be considered in the design of disciplinary systems or remedial response strategies to employee misconduct. New work designs, the trend towards increased employee participation in workplace decisions, and a more highly educated workforce that increasingly questions conventional authority structures all add to the complexity of the employee-employer relationship.

Clearly what is needed is empirical research on what disciplinary or remedial response strategies exist in organizations and their effectiveness in relation to job performance. Does it achieve the objective of eliminating undesirable behavior? Are the criticisms of organizational behavioralists valid? Are there other negative consequences of discipline that are omitted in the literature? For example, little recognition has been given to the burden that the administration of discipline may place on the employer. Do suspensions create lost production time for employers, scheduling difficulties, and the necessity to pay overtime? There is much ground for fruitful research.

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La discipline progressive: une antithèse?

Cet article met en relief la nature de paradigmes concourant différemment à l'application du principe de gradation des sanctions. L'auteure passe en revue la jurisprudence arbitrale du secteur syndiqué ainsi que la littérature traitant du comportement organisationnel en illustrant deux approches distinctes dans le suivi de la discipline sur les lieux de travail. La notion de discipline fait ensuite l'objet d'une discussion dans un cadre élargi où sont mis au jour certaines des tendances actuelles en gestion des ressources humaines, ainsi que les approches alternatives retenues en regard d'un comportement fautif de la part des salariés.

La tendance générale se dégageant de la jurisprudence arbitrale du secteur syndiqué consiste à considérer la gradation des sanctions comme un moyen de correction et de réhabilitation. Il appert, dans certains cas, que ces conceptions tirent leur origine des théories sous-jacentes du droit criminel. Alors qu'un certain nombre d'arbitres reconnaissent d'emblée que la discipline est une forme de punition, l'idée est souvent abandonnée sinon édulcorée.

Dans la littérature portant sur le comportement organisationnel, le concept de discipline prend racine dans la théorie du renforcement. De plus, la perspective organisationnelle assimile les concepts de discipline et de punition à une même réalité et leur confère ainsi une valeur d'interchangeabilité. Initialement, la punition faisait l'objet d'études expérimentales impliquant des animaux de laboratoire; elle s'avéra inefficace ou temporairement efficace et porteuse d'effets secondaires indésirables. En général, les spécialistes béhavioristes des organisations ne recommandèrent pas l'usage de sanctions.

Le relevé de la littérature étonne d'ailleurs en ceci que les recherches empiriques soutenant l'apport de chacun des paradigmes liés à la discipline au

travail se font rares. En l'absence de vérification empirique, une question s'impose: la discipline constitue-t-elle une réponse appropriée au méfait dans les années 1990?

Le développement d'un modèle de ressources humaines axé sur la participation des travailleurs à la prise de décision et à la résolution de problèmes pourrait constituer un facteur important dans la conception du système disciplinaire. L'esquisse d'un nouveau scénario dévoile ici une tendance propre à encourager la délégation des responsabilités, la consultation et la recherche de consensus. Ce modèle de gestion des ressources humaines n'apparaît certes pas compatible avec le mode d'intervention unilatéral de la direction en matière disciplinaire (réprimandes, suspensions...).

La nature changeante de la main-d'oeuvre constitue également une tendance à considérer. Généralement, celle-ci est mieux éduquée, mieux informée et plus encline à résister à l'autorité. Des méthodes mises au point jadis peuvent alors ne plus convenir à certains segments de la population active.

Les études de cas rapportées dans la littérature sur les organisations font état des résultats positifs obtenus des suites de l'instauration d'un mode de régulation mettant désormais l'accent sur la responsabilisation de l'employé pris en faute. La procédure inclut un rappel, à l'employé concerné, des attentes de l'entreprise sous les formes écrite et orale et, en dernier lieu, un jour de congé rémunéré que celui-ci occupe par une réflexion personnelle sur son cheminement dans la compagnie.

L'auteure avance que l'usage d'une telle approche peut contribuer à atténuer les effets secondaires négatifs du suivi traditionnel de la discipline et qu'elle représente une vision plus positive et réfléchie de la recherche de l'ordre désiré. Du reste, elle semble s'harmoniser avec le transfert organisationnel de la responsabilisation et pourrait être mieux perçue par une main-d'oeuvre plus qualifiée et raffinée.

Cet article suggère enfin que l'adoption du principe de gradation des sanctions en tant que mode de gestion unique et idéal relève peut-être du simplisme, eu égard à la complexité de la relation d'emploi vécue quotidiennement sur les lieux de travail. L'auteure enjoint employeurs et employés de reconsidérer la valeur des pratiques traditionnelles en matière de discipline et d'explorer d'autres alternatives; une ouverture quant au rôle de l'arbitre serait la bienvenue. L'importance des recherches empiriques mettant en relation les mesures correctives ou disciplinaires, leur efficacité et la performance au travail est finalement soulignée par l'auteure.