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**The Cost of Social Relations Oversight in the Adaptive Appropriation of
Japanese Management Practices: the Case of the 1998 UAW Strikes against
General Motors**

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In 1998, a late July settlement of the Flint, Michigan United Auto Workers strikes at General Motors narrowly averted or postponed a labor-management confrontation fully capable of precipitating an economic meltdown with far reaching consequences for our increasingly global economy. This paper uses a comparative legal ecology model of the modern enterprise to gain theoretical and empirical insight into the economic and societal costs of combining Japanese manufacturing techniques with managerial prerogative pursued “the American way.” I begin by introducing the comparative legal ecology of the workplace as a theoretical concept to compare and contrast national differences in the modern industrial enterprise. This provides a standard to evaluate the extent to which General Motors had appropriately adapted the Japanese modes of social relations within the firm. The events associated with the Flint strikes evidence the cost of this oversight. The paper concludes by discussing the need to appropriately emulate Japanese modes of social relation when firms seek to successfully adapt their modes of production.

As globalization proceeds, scholars throughout the world continue to examine the implications of the economic “meltdowns” faced by several Asian nations and the development issues that continue to challenge former Soviet-block national economies. Long overlooked, however, is the scarcely noticed July 1998 settlement of two strikes against General Motors in the United States. This settlement narrowly averted or postponed a labor-management confrontation fully capable of precipitating an economic meltdown with far reaching consequences for our increasingly global economy.

This paper examines the Flint, Michigan strikes of General Motors (GM) by the United Auto Workers Union (UAW) to gain theoretical and empirical insight into the economic and societal costs of combining Japanese manufacturing techniques and managerial prerogative “the American way.” I begin by introducing the comparative legal ecology of the workplace as a theoretical concept to compare and contrast national differences in the modern industrial enterprise. I then review the Flint strikes and conclude by highlighting the implications of this case from the legal ecology framework.

The comparative legal ecology of the modern firm

The concept of a firm-specific comparative legal ecology developed from inquiry into the existence and nature of Japan’s lifetime employment system (Tackney, 1998). The inquiry demonstrated that the lifetime employment system has been, and continues to be, recognized in case law as an institutional feature of Japan’s postwar industrial relations system (Tackney, 1995). The postwar legal origins of this institutionalized practice have been traced to adaptive appropriation of Weimar era employment and labor law principles (Kettler & Tackney, 1997).

Two “working rules,” adapted before the high economic growth periods, established the legal framework that enabled development of the unique aspects of “Japanese management” practices. First, employment security was enshrined by establishment of “just cause” criteria for dismissals, along with the legal development of the concept of employer abuse of legislated dismissal prerogative. The “courtroom struggles” of organized labor were critically important in compelling and encouraging case law standards that, to this day, prohibit or severely restrain employers from redundancy dismissals due to poor management outcomes within Japanese firms (Saiki, 1980; Tackney, 1994). Second, worker participation in the functions and outcomes of the Japanese firm was legally grounded in 1946 Central Labor Relations Commission guidelines (Kettler & Tackney, 1997). These guidelines legitimate creation of worker participation forums as negotiated outcomes of collective bargaining. Such councils, referred to as “keiei kyogikai” (management councils), are common in postwar Japanese firms (Ministry of labor, 1995). More than 80% of unionized firms have established consultation forums and procedures. More than 70% of all Japanese firms having 5,000 or more employees maintain formal consultation structures. Councils are found in 68% of firms

with 1,000 to 4,999 employees and in 62% of firms with 300-999 employees.¹

Both “working rules,” adapted from the German approach to employment relations (particularly the work of Hugo Sinzheimer), recognize the inherently social and societal aspects of the employment relationship; labor is not only a commodity (Kettler & Tackney, 1997). The reciprocal human obligations between employer and employed enable German and Japanese firms to legitimately elicit the full range of employee “commitment,” while “compliance” remains the primary language of discourse in the United States (Gilbert, 1997).² Since these principles were adaptively appropriated from German sources, and framed within the legislative context of postwar labor laws essentially U.S. (New Deal) in origin, comparative legal ecology models of the postwar firm can be created. Key comparative parameters include legally institutionalized levels of employment security and institutionalized mechanisms for worker participation in company operations and outcomes (see Figure 1). The Japan case is notable for steering a middle course between the German and U.S. labor relations arrangements.

The wealth creating propensities of the U.S. legal ecology model are not in doubt. However, there is growing awareness of specifiable social costs associated with labor relations “the American way.” Job loss from an “at will” employment prerogative and astonishingly high compensation differentials between U.S. company executives and employees are two well-known issues.³ Furthermore, the legal ecology model challenges the widely held view that “Japanese management” practices are, or should be, defined solely in terms of manufacturing process and technique (Womack, Jones, and Roos, 1990). Instead, the social relations of Japan’s postwar legal ecology of the firm are highlighted as antecedent, essential conditions from which the Japanese economic miracle arose. Accordingly, the recent strike cases in Flint offer a cautionary insight into the societal cost of adopting Japanese manufacturing techniques while maintaining a U.S. managerial ideology.

The Flint, Michigan GM Strikes⁴

GM has a history of labor disputes with the UAW.¹ There have been seven strikes since early 1997.² Recurring issues are employment security and the linkages between job protection and management efforts to improve productivity. The UAW has challenged GM management stress on the need to outsource production to less expensive (in terms of labor costs) sites, mostly overseas, and struggled against job loss associated with the introduction of more efficient production technology.

An important part of GM strategy to improve productivity and reduce cost per vehicle

¹ Two recent texts on worker participation are: Rogers and Streeck (1995), Markey and Monat (1997).

² Gilbert stressed that “compliance” and “commitment” are “distinct responses that involve two distinct processes” (IERA, 1998). He argued that compliance is the response of significance in contractual relationships, as commitment speaks to psychological or, possibly, spiritual issues. A comparative legal ecology perspective indicates there are national distinctions in the nature of the employment contract and these can infuse the relation with psychological dimensions.

³ See the Executive Pay Watch home page of the AFL-CIO at <http://www.aflcio.org/corporatewatch/paywatch/>

since the 1970s influx of Japanese imports has been the adoption of Japanese manufacturing techniques, among which “Just in time” production is a key principle. This is a parts and assembly manufacturing process within which supplies are provided only when needed at every plant site. The reduction in stock costs is substantial, yet a very fragile manufacturing system structure is an obvious collateral outcome. Should one plant, for whatever reason, cease production, parts and vehicle assembly both upstream and downstream from the troubled site are all rapidly placed in jeopardy, as upstream production, having nowhere to pile up, must also stop.

On June 5, 1998, 3,400 workers of UAW local 659 struck a Flint, Michigan stamping plant. The plant supplies 16 assembly sites in the U.S., Canada, and Mexico with key parts such as fenders and doors. Flint, Michigan is the birthplace of both General Motors (1903) and the United Auto Workers union (1936).³ Flint remains GM’s largest production center. Before the walkout, union representatives on two occasions succeeded in preventing the firm from removing stamping racks and other critical manufacturing items from the plant.

UAW representatives were initially optimistic that the strike would be rapidly resolved. This was because GM faced another strike threat over separate negotiations at a different Flint plant. This second plant is a major parts supplier to a larger number of plants throughout the GM production stream.⁴ Yet, on June 16th, without a settlement at the first struck plant, UAW workers struck the Delphi East Flint plant and positions further hardened.⁵ Given the Japanese style manufacturing processes, the strikes at two plants by about 9,200 workers quickly resulted in production halts throughout the GM network. By June 17, 1998, 1,000 GM workers were without work and 95 parts and assembly plants in three nations (US, Canada, and Mexico) had been idled.⁶ This was 11 days after the first strike and only six after the second strike had begun.

Employment impact outside of the GM system began to be reported on June 22. More than 3,000 workers at two different firms (ITT and Lear Industries) were temporarily laid off. Johnson Controls reported the lay-off of 1,570 workers on June 26.⁷ Although estimates vary, the cost of the strike to GM ranged between \$70 and \$80 million per day.⁵ As of late June, GM was not producing about 106,000 vehicles per week. CNN reported that Standard & Poor’s analysts “estimate that 100,000 vehicles that GM does not produce reduces the gross domestic product by \$2 billion”.⁸

Domestically and internationally, the Flint strikes were important matters. President Bill Clinton was reported to be closely following strike developments.⁹ Under the Taft-Harley Act, the U.S. government retains legal authority to directly intervene in industrial disputes if national security interests are threatened. One report, of considerably historical irony, examined the GM domestic labor-management turmoil impact on Isuzu Motors in Japan. On June 23d, Isuzu announced that truck production at two of its Japanese plants came to a halt

⁴ For readability and space, all web page references have been relegated to Endnotes.

⁵ All monetary figures are in U.S. dollars.

as of June 18th. There was no announcement of any employee layoffs.

Negotiations were halted, then resumed. The negotiation process complicated by the annual UAW convention scheduled at Las Vegas and the upcoming annual two-week summer shutdown of the GM plant system.

GM began legal action against the UAW on June 24th, filing a grievance seeking expedited arbitration of the firm's claim that the UAW strikes violated the national GM-UAW agreements.¹⁰ The firm also publicly threatened to withhold unemployment benefit compensation from those idled by the two strikes.

One week before GM's annual two-week summer vacation shutdown (June 29 to July 13), GM was operating at less than 20% of its total production capacity. By June 28, more than 160,000 workers in four nations had been laid off (U.S., Canada, Mexico, Singapore).¹¹ Temporarily laid off workers in the U.S. could apply for unemployment insurance benefits from the government. The State of Texas, however, refused to pay these benefits to 1,000 laid off GM employees on the grounds that union fees paid by the idled workers had, in effect, subsidized the Flint strikers. In a preliminary hearing this was found to invalidate claims for unemployment compensation according to a 1955 state law.¹²

When the strikes began, GM stated it would continue to pay medical benefits to idled, non-striking workers. The striking workers, according to their collective bargaining agreement, receive medical insurance coverage to the end of the month of their last day of employment.¹³ In the fourth week of June, GM announced it was cutting off health insurance benefits to the strikers, and threatened to cut coverage for all of its non-striking workers idled by the Flint walkouts. For citizens of a country lacking a national health care system, the cut-off of employer medical benefits would almost immediately eliminate any and all medical insurance for tens of thousands of GM employees and their dependents.

The first hint of a softening of attitudes appeared on June 29th, when GM stated it would continue to pay benefits for the laid-off workers.¹⁴ In a public statement, GM claimed the strikes "have hurt thousands of their fellow workers in other plants across the country. They've also threatened the economic stability of hometown, U.S.A. Small businesses are beginning to sting from the rippling affect of the strike."¹⁵ In the same press release, GM stated, "GM and its employees must be on the same side – teammates in a game where the rules are changing dramatically. There's a better way of doing business than strikes and shutdowns. And it involves making positive changes."

The UAW increased pressure on the firm. The same day that GM announced continuation of medical benefit coverage, members of UAW Local 696 in Dayton, Ohio, voted "overwhelmingly" to grant strike authority to the union leadership. While another strike was not immediately likely, a Merrill-Lynch auto industry analyst thought, "the Dayton plant may be getting ready to go take up the relay when the Flint strikes get settled."¹⁶ Outsourcing, job cutbacks, and unrealized promises to expand the workforce were cited as proximate issues at Dayton, where a strike two years earlier had resulted in a GM loss of \$900 million.

Public statements from both sides continued moving toward alternative, long-term strategies. GM let it be known that it was beginning to look for alternative parts suppliers.¹⁷ This move would enable it to bypass the struck Flint plants and allow some plants to reopen. UAW workers, contractually obliged to use parts regardless of source, would then be confronted with the difficult issue of working with non-union parts or face dismissal. This announcement was viewed as “red herring” that would be extremely difficult to put into practice. But GM very quickly proved this view inaccurate.

The UAW president of Local 651 reported on July 2 that little progress in negotiations had been made. The union, he was reported as saying, “will no longer agree to let UAW members work at GM parts plants that supply vital parts to non-GM customers.”¹⁸ This Local had previously agreed to continue supplying outside customers during the Flint strikes, on the grounds that the UAW was not on strike against those clients. GM, for its part, began stressing the need to eliminate workers. Sources close to the firm, which had eliminated 64,000 jobs since 1992, were reported in the Wall Street Journal as stating that the firm was now looking to cut its hourly workforce of 224,000 by another 22 percent.¹⁹

Negotiations were thought to begin making some progress on July 9.²⁰ Some observers felt a settlement was possible before the two-week vacation. Working against this, however, was the need to get union membership ratification votes completed in time to permit a return to work for one full day on the last day before the vacation period began. According to the standing agreement, workers were not eligible for their first week of vacation compensation if they failed to appear on the last pre-vacation workday.²¹ While the union had a strong incentive to settle, GM would see little financial or productivity gains in a one-day plant opening before a two week vacation.

On July 15th, both sides in the GM-UAW dispute agreed to permit an arbitrator determine the legality of the Flint strikes.²² Despite, or in conjunction with, this development, UAW tactics broadened to include an unprecedented strike vote scheduled for Sunday, July 19th, at GM’s Saturn plant in Spring Hill, Tennessee. GM, for its part, ordered workers back to production at a non-striking plant in Romulus, Michigan. The workers found themselves compelled to install Japanese made spark plugs. The struck Delphi East plant in Flint had previously supplied these plugs.

By the 26th day of the walkout, total vehicle production losses reached 227,000. Twenty-six of 29 North American plants had closed and some 162,700 workers had been sent home.²³ On Monday, June 29, GM entered a two-week period of planned, annual shutdown with production not set to resume until July 13th.²⁴

On July 17th, Labor Secretary Alexis Herman offered federal mediation to settle the dispute.²⁵ This was the first indication of potential government intervention in the Flint strikes. Two days later, on July 19th, ninety-six percent of the more than 5,000 UAW voting workers at GM’s Saturn plant approved granting strike authority to the union leadership in their own dispute with GM-Saturn management.²⁶ The Saturn local represents 7,300 hourly workers. At

the time of the strike vote, the Saturn plant, inspired by the cooperative Japanese management model, was the only functioning plant in the U.S. under the GM umbrella. The causes for employee dissatisfaction were reported to be, “possible job losses due to work being sent to other plants, decreasing bonus pay and management decisions being made without their involvement.” The UAW-Saturn agreement contains provisions to include union voice in product-marketing decisions. Still, the UAW local claimed that management had begun outsourcing parts manufacture and planned another Saturn plant without union participation.

Public statements and actions by the UAW and GM became increasingly confrontational. UAW President Stephen Yokich, at a strike rally, declared the union’s readiness to strike until Christmas rather than lose what had become “an all-out war.”²⁷ On July 21, the U.S. government acted; a judge ordered both parties to submit to arbitration, a move perceived to be a GM victory.²⁸ Were the arbitrator to find the strikes illegal, the union would then face the likelihood of federal injunctions against the strikes and the daunting prospect of legal liability for the huge financial losses incurred by GM during the walkouts.

Despite the perception of having won a strategic legal victory, GM faced a number of interrelated crises. Some were simply the result of strikes in a Just-in-time manufacturing scheme, others were the outcome of a widespread, apparently well-coordinated, de facto attack on the firm’s managerial prerogative by different locals within the UAW.

GM faced difficulties in its Canadian operations. The strike had forced one of GM’s three remaining plants to close – the closed plant, employing 3,500, was located in Oshawa, Ontario. By late July, the Flint strikes had compelled the lay-off of 12,200 out of GM’s 30,000 Canadian workforce. At month’s end, GM was down to only two operating plants in North America, and one of these was the strike-threatened Saturn facility.

The UAW increased pressure on the firm. Some 4,000 laid-off workers in a Janesville, Wisconsin GM truck plant directed the union leadership to serve an obligatory, formal five-day advance notice to management of an intention to strike the facility.²⁹ Richard Shoemaker stated that he did not believe the Saturn union would wait 30 days before walking off the job. As of July 24, CNN was reporting that about 200,000 GM workers worldwide had been laid off because of the Flint strikes.³⁰

The two strikes continued for 54 days, until a provisional settlement was reached on July 28 and workers at both plants approved the settlement proposals.³¹ The approval rate was 76 percent at Local 651 of Delphi East and 90 percent at Local 659 of the Flint Metal Center. Under the agreements, GM dropped the challenge filed on the legality of the strikes. The firm promised not to sell three factories before January 2000. The UAW committed to enhance productivity and avoid strikes threatening production at two other GM plants. GM workers who lost the first week of vacation pay due to absence on the last work day before the vacation would receive a special compensatory payment.

Left unresolved, apparently, was the precedent-setting strike authority granted the UAW on July 19th by workers at GM’s Saturn plant.³² Ninety-six percent of the more than

Saturn's 5,000 voting workers approved the strike authority proposal. The GM-Saturn experiment, which sought manufacturing success premised on harmonious labor management relations, remains dangerously compromised.

Immediately after the settlement was announced, GM reported corporate board approval for spinning off the Delphi division of the firm by the year 2000.³³ GM was clear in stating that the settlement would be unaffected by this decision. The UAW, however, publicly criticized the move. Vice President Shoemaker stated, "we can and will aggressively work to protect the rights and interest of UAW members impacted by the sale."

On August 5th, GM reported a 37 percent drop in sales for the month of July.³⁴ This confirmed reports that the firm had lost the "No. 1 ranking" as the nation's auto producer. Analysts predicted it would take until September for the firm to return to normal sales levels.

Conclusions: A Western economic meltdown avoided, or postponed?

GM's court challenge to the legality of the UAW strikes points to the fundamentally ideological nature of this dispute about the "working rules" of U.S. industrial relations in an increasingly global economy. GM President Jack Smith presented the firm's view at a graduation ceremony speech given in the midst of the strike at Flint's Michigan's hometown Kettering University (June 19, 1998). GM sought, he said, "an agreement that allows us to meet the demands of this changing marketplace" (June 8, 1998). However, UAW Vice-President Richard Shoemaker asserted very early in the dispute that it was, a "dramatic example of GM's 'America last' strategy, in which the corporation is attempting to radically downsize its American work force in favor of exploiting less-than-poverty level wages in other countries."³⁵ He had already accused GM of, "ignoring their social contract with America by transferring jobs to China Thailand and Mexico" (CNN, June 5, 1998)

At the enterprise level, the first lesson to be learned from this comparative legal ecology inquiry is that imitation of Japanese manufacturing practices alone, without careful regard for, and inclusion of, the fundamentals associated with Japanese employment relations, can result in an extremely vulnerable and inherently unstable manufacturing framework. The second point concerns the considerable firm specific and societal costs of doing business under the GM, or American, model. The firm was estimated to have lost about \$75 million a day; total losses for the period are thought to exceed \$2 billion. As noted in the case, the cost of this managerial prerogative was not simply borne by the firm; for several weeks, lost GM production reduced the U.S. Gross Domestic Product by approximately \$2 billion per week. And this figure, given the global nature of GM's manufacturing system, is an underestimate of the loss to production worldwide.

The current strength of the U.S. economy and the corporate ideological orientation of media coverage tend, I believe, to mask the social cost of the dispute. Tens of thousands of workers were laid off and compelled to seek unemployment benefits. They learned that their employer was capable of threatening a cut-off of health care benefits in a nation lacking

national health care coverage. In other national industrial relations systems, where the legal ecology of the firm presumes reciprocal social and societal responsibilities between employer and employed, the very nature of the corporate enterprise tends to preclude the ideological conflict which has come to the surface in the Flint strikes.

Perhaps the “courtroom struggles” of Japan’s postwar organised labor movement can point the way for American unions to achieve a degree of industrial democracy unknown in the politically democratic United States. The day may yet dawn when U.S. workers have the same social relations in employment that were the fundamental and essential cornerstones of the post-World War II economic miracles in Germany and Japan.

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Endnotes

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 - 29 GM arbitration under way, July 22.
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 - 31 Crippling GM strikes over, July 28, and UAW approves GW pact, July 29.
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 - 34 GM slips to second place, August 5.
 - 35 GM strike hits production, June 8.