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AFL-CIO Organizing Institute

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Comments

Includes author's essay "When a democracy isn't a democracy".

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FUTURE OF WORKER

Cornell University
STATEMENT OF RICHARD BENSINGER, EXECUTIVE DIRECTOR
AFL-CIO ORGANIZING INSTITUTE

BEFORE THE
COMMISSION ON THE FUTURE OF WORKER-MANAGEMENT RELATIONS

August 10, 1994

In the few minutes I have to speak with you, I want to press upon you the central issue which I fervently hope this Commission will address -- the single issue which I feel should frame the debate over "employee participation." I submit that what is at stake is something more fundamental than the survival of unions as institutions; more essential to our democracy than productivity and competitiveness; more meaningful to working families than higher wages and benefits. The core issue in this debate is human dignity.

Last week I visited a worker from a poultry plant in Michigan, a young Hispanic father of two who was working two jobs to support his family. He told me, "I would love to talk to you about how to get a union, but I'm very afraid of what the company will do." He was practically trembling as we talked at his doorstep.

This encounter was not unique. I have had this encounter with fear many thousands of times since the time twenty-one years ago when I joined with my co-workers to form a union at a factory in Colorado. Grown adults, citizens of the most powerful democracy in the world, are afraid to have conversations in the privacy of their own homes that might somehow leak back to their boss and jeopardize their livelihoods.

The issue is not about unions but about whether people have the freedom to believe in something and talk about something -- even to think about something in their own minds -- free of fear. A man or a woman can have a job and put food on the table, and yet if they have to go to work every day with fear in their hearts what do they really have?

I will share with you three conclusions I have drawn from my twenty-two years as a union organizer.

My first conclusion is this: quality circles and employee involvement schemes in the non-union context may or may not enhance productivity, but they do not contribute to human dignity. Dignity and fear cannot coexist in the same human heart.

The discussion of "employee participation" proceeds as if there is something new and even trendy about these schemes. This baffles me somewhat since I have encountered countless variations on this theme for over twenty years. In a non-union environment the word I associate with these "quality circles" or whatever you want to call them is "hypocrisy." While mouthing slogans of "win-win," "trust," "empowerment" and other psychobabble, management fights tooth and nail to prevent real employee "empowerment" through an organization the employees own.

In 1973 I was working in a factory where safety conditions were atrocious. When several of us began to campaign for a union, management responded by beefing up its "communications committee," touting a "non-traditional" forum for employee involvement. Representatives from each department met regularly to "problem - solve," with the approval and endorsement of management, while

those of us trying to form a union to address the issues of concern to us faced threats, firings, and disapproval. We had overwhelming support from the workforce when we began, but after this management campaign we were fortunate to win by only 1%.

Several years later I had the unique opportunity -- unique for a union organizer, in any event -- to be trained as a supervisor in a non-union runaway shop where I was then working. A large anti-union consulting firm taught us to use "positive" labor-management relations to fight unions. Our aim was to make employees "feel" empowered, listened to, to create the illusion of a "team" of equals, while retaining full control for management. While we avoided all mention of the word "union" in creating these teams, we consciously recruited and co-opted potential anti-union leaders to help lead the teams.

The "cult" of "employee participation" reached almost spiritual proportions at Johnson & Johnson in Albuquerque, New Mexico, where I worked on an organizing campaign in the early 1980's. With Orwellian deliberateness, supervisors became "facilitator," discipline was enforced by "teams" of "peers," and an atmosphere of peer pressure was created as a new means of maintaining total control of the workplace. Professor Guillermo Grenier wrote a book on J&J's elaborate program in which the company acknowledges that the underlying goal of the team system was to keep the union out. The combination of behavior modification, peer pressure, and "brainwashing" with careful pre-employment screening and multiple unfair labor practices, made the company impenetrable to union organizing efforts. Meanwhile,

management got to portray itself as "progressive" rather than as an old-time "union buster."

The Organizing Institute has trainees and graduates involved in scores of organizing campaigns around the country. Most of these campaigns involve women, immigrants, and persons of color -- often earning below poverty-level wages. In our experience, various forms of "employee committees" go hand and hand with threats, firings and delays as the modern arsenal of the anti-union employer. The techniques of "team building" and "win-win" ultimately are more disempowering than traditional methods of union busting, because they give the illusion of participation while yielding no real power or control. The modern "union free" management philosophy needs both tactics of intimidation and manipulation.

That brings me to my second conclusion. Under current law, any employer who expends maximum (and even not so maximum) effort to defeat a union campaign can win, any time anywhere --without breaking the law. The potency of implied threats, the futility of winning first contracts, fear of retaliation, combined with exclusive access to the workforce and subtle manipulation through so-called participatory schemes is virtually unbeatable under our current system. What this means is that right now it is the boss, not the workers, who decide whether there will be a union. Rather than elaborate on this point, I am attaching an article which I wrote describing the injustice inherent in our NLRB election process by comparing it to democratic elections, in this case the Bush/Clinton presidential campaign.

I have heard some suggest that workers do not want unions. This is false. People cannot desire that which is fraught with danger and insecurity.

It is for this reason that I submit to you, as my third conclusion, that until this nation gives workers the right to form a union without the pervasive presence of fear, there can be no genuine employee participation at the worksite. It makes no sense to talk about "participation" for the poultry worker I mentioned earlier, or the millions more like him, because they are not free people. They are afraid to speak their minds, afraid to stand up for themselves.

I have heard some propose in the context of the debate over employee participation that something short of a union is better than nothing. To this I say, there can be no dignity, no voice where there is not freedom. In South Africa, blacks were given their own "homelands" as a measure short of freedom. Nelson Mandela's answer to this was to spend twenty-seven years in prison. We in the labor movement -- and when I say the labor movement I include all workers who are seeking dignity whether or not they are in a union institutionally -- do not want "homelands." We want the freedom from fear in the workplace. We want a full and equal voice. We want dignity.

That is our struggle. With or without the blessings of those in Congress, in academia, in industry -- with or without labor law reform -- human dignity will remain our goal.

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WHEN A DEMOCRACY ISN'T A DEMOCRACY
Organizing Unions under the National Labor Relations Act

by **Richard Bensinger**
Executive Director, AFL-CIO Organizing Institute

Imagine waking up the morning after the Clinton victory parties, and reading the following headlines:

"Clinton wins--Bush files objections to the conduct of the election. A decision from the courts is expected within 2-5 years. Bush to hold office pending outcome of litigation."

Sounds bizarre, but that is the fate that awaits many of the tens of thousands of workers who vote each year to join unions under the National Labor Relations Act.

If you think electoral politics is dirty, then union representation elections are a mudslide.

What would it say about our democracy if electoral politics were played under the rules of the National Labor Relations Board (NLRB)? Imagine if President Clinton had to run under the same campaign rules that American workers face during a union representation election. Here are some examples.

1. Bush has unlimited television time, including several hours a day of compulsory viewing. Clinton is restricted to door-to-door campaigning.

During a union campaign, employers have a captive audience for eight hours a day, while union organizers have no access to the worksite. For example, at Nissan, the employer fought the United Auto Workers by placing TV monitors at every work station so workers could view daily anti-union messages. During every union campaign, workers are bombarded with speeches and one-on-one arm twisting by supervisors in an attempt to get them to vote against the union.

2. Avowed Clinton supporters risk losing their jobs. Bush decides to fire one Clinton activist in every precinct to send a message to the voters.

Union supporters face the constant fear that they will lose their jobs if they campaign to form a union. One out of ten union activists is fired, according to Harvard Law Professor Paul Weiler. The purpose of such firings is not only to get rid of one vote, but to spread a message of terror in the rest of the workplace. The only penalty for firing union supporters is back pay and reinstatement long after the election is over.

3. Bush campaign officials caught threatening Clinton supporters face the maximum penalty of having to sign a letter promising not to do it again.

The penalty for employer's threatening workers with things such as losing their job, taking away their health insurance, or moving the plant to Mexico, is to post a notice (long after the election is over) promising to be good.

4. Since time is on the side of the President, Bush decides to delay the election for a few months.

Delay is a readily available weapon for employers. Even when an overwhelming majority of employees support the union, the employer can use NLRB procedures to delay the election for months, even years.

5. Once outspoken Clinton supporters are identified, they are prevented from going to any meetings or rallies so as not to be able to persuade other voters.

A typical employer tactic is to remove and isolate union supporters, preventing them from attending employer anti-union meetings. These meetings then present a completely one-sided, biased view of unions.

6. Bush supporters are encouraged to wear buttons. Clinton supporters know that wearing a Clinton button means the risk of losing their job. They keep their support quiet to avoid any personal retaliation.

Wearing a button in a union campaign can easily cost you your job. Often union supporters are intimidated, so their views are not heard.

7. The election is held at Bush headquarters, and voters file past prominent Republican officials.

Union elections are on company premises, under the nose of company officials. The impression is that the employer has the upper hand, and that the union is the weaker party.

8. Local newspapers predict precincts that vote for Clinton will have their economy devastated.

Threats of plant closings are standard. One company lined the entrance with gravestones identifying the names of unionized companies which closed. A current organizing campaign by the Clothing and Textile Workers Union in Louisiana features not only company threats, but threats by the Independent Development Board that the plant will move to China if unionized.

9. Clinton wins, Bush refuses to accept the results of the elections. During a lengthy appeals process, Bush stays in office. Finally, after years, the litigation ends and Clinton takes office.

Employers routinely challenge the results of elections when the union wins, no matter what the margin of victory. The NLRB will spend months, even years, investigating minor and completely frivolous charges. By the time the company is ordered to bargain, many union supporters have quit or been fired, and new hires have been screened for union sympathy.

You are probably wondering how a law could be designed so unfairly. The intent of the law was to encourage collective bargaining. But the relative power and access of the employer never allowed for a truly free choice, and consultants and lawyers have further undermined the process by exploiting every loophole in the law. They make Mary Matlin and Roger Ailes look like amateurs. Weak and non-existent enforcement procedures mean outright violations go unpunished.

The results of the gradual erosion of worker protections and the destruction of the right to organize is that elections are down from 9,000 a year to 3,000 a year, while popular approval of unions has held steady. Unions represent only 10 percent of the private sector work force.

Commentators who mourn the decline of the middle class, and the inability of this generation to achieve the economic status of their parents, need look no further than the union-busting climate which has dominated government and industry since the mid-seventies and earlier.

The United States stands as a beacon of democracy for the whole world. We push for free and fair elections and we strongly support the rights of workers to organize throughout the world (as in Poland in the 1980's and more recently in Central America). It's now time to turn our national sense of justice and fair play to the right to organize unions in our own country.

Thanks to our political democracy, President Clinton's victory is secure. Let's give everyday people the same chance to have their voices heard.