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## Employee Participation or Labor Militancy: Remarks of Ellis Boal Before the Commission on the Future of Worker-Management Relations

Ellis Boal  
*Labor Notes*

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### Comments

Includes info sheet on Labor Notes.

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Hot Topic

"Future Worker  
Management"

Employee Participation or Labor Militancy

Labor Notes

Remarks of Ellis Boal to the  
Commission on the Future of Worker-Management Relations

September 8, 1994

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## Employee Participation or Labor Militancy

We are here today with solutions to workplace problems. The commission has identified many and this morning our brothers and sisters in the AFL-CIO made a number of constructive suggestions.

This afternoon we address only Sections 2(5) and 8(a)(2) of the National Labor Relations Act. These sections say any group in which employees participate to deal with employers about working conditions is a "labor organization," and forbid an employer from assisting or dominating any labor organization. They inhibit employers from using participation to control workers ideologically.

We say leave them alone. Last month the AFL-CIO said the same thing, but we come to the conclusion a different way.

The commission's fact finding report noted the high incidence of illegal activity among the working age population.<sup>1</sup> But the widespread occurrence of employee participation plans cynically flouting Sections 2(5) and 8(a)(2) concerns us equally. As you found, a third to a fifth of the workforce is covered by some form of employee participation.<sup>2</sup> Unable to control itself, much of corporate America is telling you restrictions should be lifted.<sup>3</sup>

But as Labor Notes has been saying since 1985, when it first appeared as amicus in Ona Corp.,<sup>4</sup> and most recently again in The Independence of Labor, written for you last fall,<sup>5</sup> employee participation plans are used to defeat and weaken unions.<sup>6</sup> They give workers a voice the same way a ventriloquist does. They preempt not only formal union organization, but informal unorganized rank-and-file activity. This activity, like free speech,

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\* This was why the phony "action committees" were set up in E-lectromation. They were not a response to a union drive but to a petition of disgruntled employees saying "this company does not realize that we are human beings and not machines." The petition asked that a previous attendance bonus program be reinstated, saying the company:

should go over this policy and come up with something more reasonable and should clear the record of anyone who received warnings for days missed while under doctors care or at appointments and when summonsed to court!

Later, responding to the same discontent, the workers themselves tried to organize a union. They lost the election,  
(continued...)

is fragile and precious, and needs gingerly protection. Finally, where unions allow plans in, they demoralize and weaken the organization.

### Productivity Is Not The Only Issue

Two of the three questions the president and secretaries of labor and commerce asked you concerned the supposed linkage between cooperative behavior and productivity. But you found employee participation plans are actually associated with productivity losses.<sup>7</sup> Academia has given up trying to show otherwise.

You should have stopped there since that is all you were asked about. Corporate America has the burden of proof on this issue. It has not made and cannot make the link between participation and productivity. The case is closed and 8(a)(2) should stay.

But the report went further. Participation does improve productivity when combined with broader changes, it said. Huge management changes are needed in labor-management relations, the organization of work, employment practices, manufacturing policies, structures, and decision-making procedures.<sup>8</sup>

You cited three studies for this.<sup>9</sup>

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\*(...continued)

but an ALJ disestablished the committees. With the committees gone, the Teamsters won the rerun and employees got a three-year contract.

- \* One occurred in a Xerox plant where the company recognized the union without resistance and gave a no-layoffs guarantee.<sup>10</sup>
- \* The second surveyed auto plants in 17 countries for attributes of "lean production," and concluded that a commitment to employment security or an absolute "no-layoff" policy is probably essential for lean production to take hold.<sup>11</sup>
- \* The third reviewed 15 human resource practices in the steel industry. It found the firms with the highest performing set of practices all operate at greenfield sites and are unionized.<sup>12</sup>

The common theme we see here is employee participation combined with unionization and employment security. But the report did not draw out these implications. Neither these nor the other innovations are discussed or mentioned again in the report.

Nor did you investigate other dimensions that might also increase productivity: the threat of a plant closure, the provision of safe and healthy workplaces, or family-oriented work practice.

Your conclusion:

Those [plans] most vulnerable to legal challenge are precisely those that take a broader, more systemic approach to participation that the evidence suggests have the greatest long term positive effects on economic performance."<sup>13</sup>

But this is not right. Unionization and economic security pledges are legal. The legal problems of participation plans are lessened, not heightened, by their presence.

### "Which Side Are You On?"

What could motivate the statement that broad plans are legally vulnerable? A clue is found in the report's several assertions that technological changes have blurred the line between employees and supervisors.<sup>14</sup> Indeed one commissioner predicted several years ago that "the expansion of new forms of work organization and participation may lead to a breakdown in the legal line of demarcation between 'labor' and 'management.'"<sup>15</sup>

We consider this view completely wrong-headed.

Labor Notes supposes that, if writing on a blank slate, a different or better legal definition of the word "supervisor" might be envisioned. Perhaps the line -- which divides rank-and-filers (who are protected) from supervisors with responsibility to management (who are unprotected) -- could be moved an inch or two one way or another. It would take a lot of time and effort, probably more than it is worth.

But the line itself will never "break down" or wither away. Adversarialism is a hallmark of our society. News reporting is adversarial. Litigation is adversarial. We have a two-party system politically. The marketplace is adversarial. Market-share wars rage constantly. Most on point, the mutually backstabbing \$750 million/year quality-consultant community is in civil war.<sup>16</sup>

Worker-management relations are naturally adversarial. Labor and management have different interests, as the supreme court long ago recognized,<sup>17</sup> and unions do well to take wages and conditions out of competition. To those who say adversarialism is bad, we answer that unions reduce it. They unite workers in solidarity with workers in competing companies, including workers overseas.

All of the foregoing motivates our plea to the commission to leave 2(5) and 8(a)(2) alone. But there is one more point we want to make.

### Union Culture

We have spent time discussing productivity because that is what the executive branch asked you to think about. But productivity is not the only issue for workers. We live in a rich country in a world awash in natural resources. If productivity is to be considered, then especially after NAFTA and GATT it must be considered on a global scale.

In this context the question whether an individual line or plant is productive diminishes next to equal or larger questions

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\* W. E. Deming: "I'm not interested in stamping out fires. That's what Juran does." J. M. Juran: "Recognition has become the biggest thing in Deming's life." James A. Byrne, "High Priests and Hucksters," Business Week, 10/25/91, p. 52.

such as fairness to workers and environmentally friendly products.

Where unions allow participation plans in, the plans can have a devastating effect on workers' culture. More often than not unions have little or no role in the day-to-day functioning of the plans.\* They become uncontrolled dual powers on the shop floor. This occurs in a system where the union is supposed to be the exclusive representative.

One of the studies you cited describes the "positive" peer pressure of participation groups operating under group incentives:

Kandel and Lazear<sup>18</sup> ... argue that a firm may need a set of [human resource management] practices to develop a culture of positive peer pressure to enforce a group incentive contract. In particular, firms develop an environment of positive peer pressure by instilling a sense of guilt or shame in workers. However, if workers differ according to a personality trait of whether or not they respond to shame, the different types of workers will not self-sort.... Workers who do not respond to shame must be "weeded out" or "converted."

...

Just as Kandel and Lazear ... argue, many workers must be "weeded out" or "converted."<sup>19</sup>

Shame, guilt, and threat of discharge? These are not the workstyles this commission should be promoting. This does not "empower" workers.

Day after tomorrow I will be speaking on a podium near Detroit with employees on strike or locked out in the Illinois "prairie fires" at Caterpillar, A. E. Staley, and Bridgestone/-Firestone. In each of these situations workers and their unions accepted company assurances of cooperation and elimination of the "we/they" perceptions. As part of this, in each case workers

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\* In one study, management unilaterally designed and implemented the plan in 37% of cases while the local did so in 0%. Management set the agenda unilaterally in 41% of cases, while the local did so in 0%. Chairpersons were chosen by management in 55% of cases, while the union rep was the chair or co-chair in 5%. The local had a rep attend meetings in 43% of cases, and in 7% union reps were excluded. Adrienne E. Eaton, "The Role of the Local Union in a Participative Program," Labor Studies Journal, Spring, 1990, p. 33.



then revealed their "black book" knowledge of production. What was the result? Strengthened and emboldened, in each case the company then said "cooperate with us or we will replace you" in long and bitter impasses.

What is the alternative for workers today? Prospects are bleak, with so few in unions and union leadership in disarray.\*

But worker self-activity and independent unionism remains the only answer. Militant and democratic unions are instruments of social justice. They have a vision and a history. And unlike employers and quality consultants, we have songs, and dozens of them.

Neither this commission nor congress should be the ones to tell workers to organize. They have to decide that on their own. Until they do that and do it in large numbers, genuine improvement of their lot, not to mention labor law reform, will fail.

In the meantime, as has been said so often, what legislation can do is to level the playing field. Strengthen the penalties for violations. Equalize the rights of workers and unions to speak, act, bargain, and strike. And stand firm on employer cooptation in phony participation schemes.

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\* The decline of unions has been associated with the decline of other mediating social structures: families, religious congregations, service and fraternal groups, and grassroots political clubs. One author calls these the "seedbeds for the civic virtues." Thomas Kohler, "The Overlooked Middle," 60 Chicago-Kent Law Review, 1993, pp. 229, 230.

## Endnotes

- 1 Fact Finding Report, p. 22.
- 2 Fact Finding Report, p. 36.
- 3 Fact Finding Report, pp. 52-53, 54, and 56. See also National Association of Manufacturers president Jerry J. Jasinowski, commission testimony 11/8/93, pp. 9-10; Labor Policy Association board chairman Bruce Carswell, commission testimony 11/8/93, p. 2; Chamber of Commerce, brief to NLRB in Electromation, 8/26/91, p. 2 n. 2; Congressman Gunderson brief to NLRB in Electromation, p. 5.
- 4 Ona Corp., 285 NLRB # 77, 128 LRRM 1013 (1987).
- 5 October 1, 1993.
- 6 Fact Finding Report pp. 47-50.
- 7 Fact Finding Report p. 45. See also Maryellen R. Kelley and Bennett Harrison: "Unions, Technology, and Labor-Management Cooperation," in Lawrence Mishel and Paula B. Voos, Unions and Economic Competitiveness, Washington, D.C., Economic Policy Institute, 1992, p. 247; Casey Ichniowski, Kathryn Shaw, and Giovanna Prennushi, "The Effects of Human Resource Management Practices on Productivity," unpublished paper, Carnegie Mellon University, June, 1994.
- 8 Fact Finding Report, pp. 29, 46. See also pp. 36, 53, 56.
- 9 Fact Finding Report, p. 46 n. 21. A fourth is described but the title and authors are not named.
- 10 Joel Cutcher-Gershenfeld, "The Impact on Economic Performance of a Transformation in Workplace Practices," 44 Industrial and Labor Relations Review, January, 1991, pp. 241, 244, 258.
- 11 John Paul MacDuffie and John F. Krafcik, "Integrating Technology and Human Resources for High-Performance Manufacturing: Evidence From the International Motor Vehicle Research Program" in Thomas A. Kochan and Michael Useem (eds.) Transforming Organizations, New York, Oxford University Press, 1992, p. 209.
- 12 Casey Ichniowski, Kathryn Shaw, and Giovanna Prennushi, "The Effects of Human Resource Management Practices on Productivity," unpublished paper, Carnegie Mellon University, June, 1994.
- 13 P. 53.

- 14 Fact Finding Report, pp. 6, 37-40, 45.
- 15 Thomas A. Kochan, Harry C. Katz, and Nancy R. Mower, "Worker Participation and American Unions," Upjohn Institute for Employment Research, Kalamazoo, Michigan, 1984, p. 195.
- 16 Otis Port, "Dueling Pioneers," Business Week, 10/25/91, p. 17.
- 17 NLRB v. Insurance Agents Union, 361 U.S. 477, 488-89, 80 S. Ct. 419 (1960); Apex Hosiery Co v. Leader, 310 U.S. 469, 503, 60 S.Ct. 982 (1940).
- 18 Eugene Kandel and Edward Lazear, "Peer Pressure and Partnerships," Journal of Political Economy, vol. 100 # 4, 1992, pp. 801-17.
- 19 Casey Ichniowski, Kathryn Shaw, and Giovanna Prennushi, "The Effects of Human Resource Management Practices on Productivity," unpublished paper, Carnegie Mellon University, June, 1994, pp. 4-5, 39.

## ABOUT LABOR NOTES

Since 1979, Labor Notes has been the voice of union activists who want to "put the movement back in the labor movement." Through our monthly newsletter, we provide news, analysis of management trends, and examples of effective union tactics and strategies.

Much of our coverage you won't find anywhere else: stories of the reform movements that are beginning to emerge in a number of unions; the good news and the bad news about ongoing struggles such as the UAW campaign at Caterpillar; a realistic look at what we can expect from the Clinton/Reich Administration.

### RESOURCES AND STRATEGIES

We've also been first with book-length examinations of various corporate attacks on workers: *Stopping Sexual Harassment* in 1980; *Concessions and How To Beat Them* in 1983; *Inside the Circle: A Union Guide to QWL* in 1985; *Choosing Sides: Unions and the Team Concept* in 1988; and *Unions and Free Trade* in 1992. All these books were about successful counter strategies.

In 1990 we published *The Search for Job Security*, a short pamphlet that was distributed by the thousands in auto plants around the country. In 1991 we issued *A Troublemaker's Handbook*, a mammoth compilation of workplace tactics of every type, and in 1992 *A Union Strategy Guide to Labor-Management Participation Programs*. In 1992 we also completely revised and reissued *Stopping Sexual Harassment*, to take account of the gains made in the past decade.

### EDUCATION

Labor Notes has sponsored five four-day schools on dealing with the team concept, and one workplace strategies school. In addition we've given dozens of workshops for individual unions on team concept, free trade, and sexual harassment.

### SUPPORT AND NETWORKING

But Labor Notes is more than a source of information. We are a center for a network of activists across the country who are trying to rebuild a democratic, militant, and international labor movement. Need to find someone who works at your company in another city? Call Labor Notes. You've started a caucus in your local; are there similar caucuses in other locals of your union? Call Labor Notes. You're a newly-



elected president on a hostile executive board; how have others survived? Labor Notes will find someone who can give you advice.

Our six international conferences have been launching pads for a number of networks, including the National Unemployed Network and the Black Rank & File Exchange. A number of groups have used the biennial Labor Notes conferences as a gathering point for their own affiliates. Our schools have brought together people from different unions who are amazed to find how similar their problems are. They learn from and strategize with each other.

### SOLIDARITY, FROM SOUTH BEND TO SEOUL

Labor Notes makes international solidarity a high priority. We have publicized and participated in solidarity campaigns with workers in Mexico, South Africa, the Philippines, Korea, Central America, and elsewhere.

We've supported important labor battles such as the PATCO, Hormel, and Pittston strikes and the lock-outs at Caterpillar and Ravenswood Aluminum.

In 1990, we initiated an Outreach Project to broaden our network among people of color.

Labor Notes is able to do this work because we are far more than just eight staff members. We are thousands of union activists who read Labor Notes, hundreds who distribute it, and dozens who write for it. We are the people at this conference who are searching for ways to revitalize the labor movement.

We're proud to play a role in that revitalization. We're proud to be associated with the thousands of union activists across the country and around the world who are rebuilding our movement.

# What They're Saying About Labor Notes.

"[An example of] outstanding labor journalism... *Labor Notes*...provides highly informed, insightful reporting on the labor movement."

—William Serrin, former labor writer, *New York Times*

"I have yet to find a branch of the U.S. trade union movement where there are people concerned with making the labor movement stronger, more democratic, and more responsive, who have not found *Labor Notes* of enormous value and very practical aid."

—Victor Reuther, Co-founder, United Auto Workers

"Our bargaining unit at Yale University is 85% women. *Labor Notes* helps us feel that we're part of a larger labor movement—one that is finding new, creative ways to organize the unorganized."

—Lucille Dickess, President, HERE Local 34

"Whether you work in an auto plant, a hospital, or the public sector, *Labor Notes* will take you out of the immediate skirmish you find yourself in, pull you above it, and let you get a bird's-eye view of the entire battlefield you're fighting on."

—Celia Wcislo, President, Service Employees Local 285

"It is rare that something like *Labor Notes* comes along and creates a forum for the new efforts and innovations of working people that give life and hope to the stagnant parts of the labor movement. *Labor Notes* was one of the few labor publications that had the courage to cover our victorious struggles against Campbell Soup and Heinz... Not many in the labor press wrote about these efforts, much less supported them. *Labor Notes* did both."

—Baldemar Velasquez, President, Farm Labor Organizing Committee

"Today, the gains made by African-American workers in the 1960s and 1970s are being stripped away by aggressive employers and the Administration in Washington. In order for us to stop this, we need to learn from and build solidarity with other unionists. *Labor Notes* gives us the contacts we need to build a unified movement."

—Selwyn Rogers, National Chair, Black Rank and File Exchange

"*Labor Notes* brings together unionists to discuss how to ensure that the labour movement remains a fighting movement—not simply a service organization controlled by a few high-paid officials who don't answer to the rank and file. It helps us fight back against employer attacks and make our union as democratic as possible."

—Dale Clark, Prairie Region Director, Canadian Union of Postal Workers

"*Labor Notes* is one of the best tools for keeping informed about progressive activity throughout the labor movement. We use *Labor Notes* to help mobilize our members, build coalitions, and strengthen ourselves for the long haul."

—Margaret Butler, Executive Vice President, CWA Local 7901

"As a long-time union activist, shop steward, and local union officer, I know the importance of finding new and creative means of moving the labor movement forward. That's why I read *Labor Notes*, a source of concrete, practical information where we can share our victories and defeats, analyze what we've learned, and keep abreast of current labor struggles."

—Julie McCall, Executive Board Member, Service Employees Local 722

## Labor Notes

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