THE LABOR-MANAGEMENT COOPERATION
DEBATE: A WORKPLACE DEMOCRACY
PERSPECTIVE*

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Introduction

Much contemporary debate in the field of industrial relations focuses on the wrong questions. Discussion is often framed in misleading terms or based upon unproductive assumptions. A prime example explored here is the current heated debate about whether we should replace “the adversary structure” of American labor relations with a “cooperative model.” In my view we do not face such a choice. Rather, workplace democracy and economic prosperity alike require new forms of work organization combining adversary and participatory assumptions, institutions and practices. The challenge is to link the two approaches in ways that enhance the virtues and minimize the shortcomings of each.

The adversarialism/cooperation controversy illustrates the need to recast the terms of reference of industrial relations debate. This Article attempts to provide groundwork for a revised approach. It does not purport to resolve the many dilemmas to which it calls attention. Rather, it is intended to clarify and reformulate some of the questions. Its perspective centers on the value of democracy in the workplace, and particularly on the goal of designing work so as to be an opportunity for human self-realization.

Part I discusses several major features of the ongoing transformation of American economic and social institutions. I introduce the concept of “postindustrial transition” as a way of identifying some of these changes. Part II outlines an approach to industrial relations issues in light of these ongoing transforma-

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tions. I have variously termed it a "workplace democracy" or a "self-realization" perspective. Part III describes a series of misleading dichotomies that dominate contemporary industrial relations discourse, particularly outside of academic circles. Part IV describes the background of one of these dichotomies: the debate between the "adversary" and the "cooperative" models of industrial relations. Part V argues that this debate, as currently cast, is ultimately unproductive. Part VI draws a brief conclusion and suggests a revised frame of reference for future discussion in light of the self-realization perspective.

I. The Changing World of Work

The structure of employment in the United States is undergoing a profound transformation. While this point has been debated over the past decade or so, the evidence for such a major shift seems increasingly clear. Some signs are obvious, even if still imperfectly understood:

(1) A rapidly changing technological environment, coupled with vigorous overseas competition in the areas of technical innovation, product quality, and work organization have compelled American businesses to rethink their fundamental assumptions. New techniques for managing "human resources" and "intellectual capital" have emerged. Historic trade deficits and a perception\(^1\) of slow productivity growth have prompted further reexamination, leading to major innovations in industrial relations.

(2) Union density has been in steady decline for about thirty years, so that union membership now accounts for less than 18% of the non-farm workforce.\(^2\) To be sure, collective bargaining is strategically located, particularly in manufacturing. Labor also continues to register organizational successes, not-

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ably among public employees and some private sector service personnel. Yet even its most incurable optimists now acknowledge that the labor movement is in crisis. Union membership is heavily concentrated in declining sectors. Unionized industrial jobs lost during the most recent recessions may never be recovered. Labor has had great difficulty in adapting strategically to the changing environment. Politically isolated and beleaguered, labor appears a helpless victim of employers' widespread willingness to violate the National Labor Relations Act\(^3\) and of the Reagan National Labor Relations Board's eagerness to eviscerate it.\(^4\) Meanwhile, the initiative in shaping the content of the employment relationship is gradually shifting from the collective bargaining table to personnel offices—or, to use the prevailing argot, human resource management offices—in non-union firms.\(^5\)

(3) Labor force participation has changed dramatically since World War II, both in terms of the identity of those who participate and the jobs they perform. Hitherto excluded groups—women, minorities, the undocumented—have entered the employment pool in large numbers. White males no longer constitute a majority.\(^6\) Women now constitute nearly half of the paid workforce and account for nearly two-thirds of labor force growth.\(^7\) Important strides have been made toward lowering


\(^7\) Women's Bureau, U.S. Dep't of Labor, Fact Sheet No. 86-1, at 1, Twenty Facts on Women Workers (1986) (summary of recent data) ("[w]omen accounted for over 44
race and gender barriers which historically have limited entry to elite or otherwise male-dominated occupations. Nonetheless, the labor market remains highly segmented. Women and minority workers continue to be channeled into distinct occupational openings characterized by inferior compensation, irregular and involuntarily part-time employment, limited advancement opportunities, and low levels of unionization. There is a strong inverse correlation between the degree of unionization of an occupational category and the representation of women within it.\(^8\)

The occupational composition of employment is also changing dramatically. The production of goods—manufacturing, extraction, and agriculture—has experienced declining employment levels (notwithstanding output growth), while the service sector and white collar employment have been expanding.

The decline of manufacturing employment appears to be an irreversible trend. In fact, a defining characteristic of advanced economies is that output growth occurs simultaneously with a long-term decline in labor time devoted to manufacturing and other goods production. "Deindustrialization" is not solely a problem of capital flight: it is a permanent feature of advanced economies.\(^9\) This prospect might be welcome if everyone who wanted to work were guaranteed meaningful, well-compensated

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\(^8\) Milkman, *supra* note 7, at 95-96. Note, however, that women workers "express at least as much pro-union sentiment as ... male workers, if not more, while nonwhites ... express exceptional desire for unions." R. Freeman & J. Medoff, *What Do Unions Do?* 227 (1984). *See also*, Kochan, *How American Workers View Labor Unions*, Monthly Lab. Rev., April 1979, at 23, 25 (study found that 33% of surveyed employees unrepresented by unions, excluding self-employed and managerial personnel, said they would vote for unionization if an election were held; 67% of all black and other minority workers and 40% of all women workers indicated they would vote for unionization).

\(^9\) Block, *The Myth of Reindustrialization*, Socialist Rev., Jan.–Feb. 1984, at 59, reprinted in F. Block, *supra* note 1, at 126–41. The word "permanent" should perhaps be qualified. The deindustrialization process could be halted if the advanced economies undertook a program of massive transfers of goods (i.e., reparations) aimed to improve the standard of living in the Third World.
employment; but this, of course, is not the case. In principle, increased employment in the service sector could take up the slack caused by declining employment in manufacturing. Due to a variety of forms of market failure, however, the private sector cannot be counted on to generate an adequate level of service employment. Accordingly, the ability of employment growth in the service sector to offset declining manufacturing employment over the long run will depend critically on the boldness and imagination with which public policymakers expand the meaning and mission of the social services and of human capital investments.

These prominent features of the employment landscape are symptomatic of an even deeper and more encompassing transformation of our economic and social world: the beginnings of "postindustrial transition." This is a term used by some economic sociologists to signify the coincidence of certain related social and economic trends. First of all, there are the labor market developments described above: the long-term decline of labor inputs relative to output growth in manufacturing, the growing importance of the services, and the increased participation and changing roles of women in paid employment. These developments have in turn prompted changes in industrial relations and public policy, some of which are discussed below. The concept of postindustrial transition also comprehends the appearance, at first gradual and now increasingly rapid, of automated, computer-based technologies that are dramatically reshaping the organization and experience of work and the content and character of the demand for labor. These changes have

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10 For example, many services, the expansion of which would be desirable from a workplace democracy perspective, resemble "public goods," so that massive private sector expansion in these areas cannot be counted on. "Public goods" can be jointly consumed and are such that it is costly or impossible to exclude non-payers from consumption. The market inefficiently allocates resources to the production of such goods. See generally, J. Hirshleifer, Price Theory and Applications 493–96 (3d ed. 1984); S. Zamagni, Microeconomic Theory: An Introduction 539–43 (1987) (A. Fletcher trans.).

11 My thinking about workplace issues has been deeply influenced by the work of two economic sociologists, Fred Block and Larry Hirschhorn. In particular, the main points of the description of postindustrial transition found in the succeeding pages are drawn directly from Fred Block's forthcoming book, An Economic Sociology Perspective on Postindustrialism (manuscript on file with Harvard Civil Rights-Civil Liberties Law Review) [hereinafter Postindustrialism].

reverberated well beyond the world of work and have caused significant innovations as well as strains in surrounding institutions and practices, most notably in family relationships, child-rearing patterns and education.

These developments have both sparked and been fueled by changes in the sensibilities and aspirations of American workers. A profound transformation is occurring, at the deepest cultural levels, regarding the meaning of and expectations about work. The civil rights movement, the social experimentation of the 1960's and, most particularly, the values and social movements associated with modern feminism have fundamentally changed the way many people regard work and life.\(^\text{13}\) Where once work was seen as a religious duty, a fate to be endured, or a mere means to the end of acquiring income, it is now increasingly understood as one of the central opportunities in life to grow, to experience autonomy from and connectedness with others, and to acquire respect. Not only in paid employment but also in the family, in education, and in community life, the deeper expectation is that people should be released from socially unnecessary barriers to self-determination and that they should have opportunities to develop their distinct capacities in response to their own inner needs.\(^\text{14}\) The desire is not simply for "job-satisfaction," in the sense of enabling workers to experience utilities from the consumption of safer, more pleasant, and less regimented working conditions. Rather, the goal is active self-realization in work, an experience of work that is developmental, that enables one freely to actualize one's abilities to the fullest extent possible.\(^\text{15}\) In Fred Block's phrase, one should be

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\(^{14}\) F. Block, *Postindustrialism*, supra note 11, at 31.

able to experience working life as one of the foundations of a
"developmental adulthood."\textsuperscript{16}

To put the point somewhat grandly, these changing attitudes
toward employment and its relationship with other life experi-
ences represent the emergence as a mass sensibility of the En-
lightenment ideals of self-determination and freedom. In more
familiar industrial relations terms, the "supply side" of the labor
market equation shows rapid growth in the desire to enter the
paid workforce and rising expectations about the content of
work, while the demand for labor reveals long-term, structural
slack.

I do not mean to suggest that postindustrial transition is a
fixed social process with a built-in logic. Nor do I suggest that
the prevailing industrial order has run its course. We can ob-
serve a set of interacting, sometimes mutually reinforcing,
changes in technology, workplace organization, the family, so-
cial institutions, public policy and popular sensibilities. The
combined impact of these trends is straining the industrial re-
lations system; yet, it is also producing considerable experi-
mentation and innovation. These developments may eventually
fuse in ways that will permit the construction of a new social
order. But the historical evolution will be intermittent, uneven
and inconsistent. The ultimate social meaning of postindustrial
transition is indeterminate. Hopeful outcomes are by no means
guaranteed or inevitable. Authoritarian as well democratic po-
tentialities remain latent in the emergent technological and social
changes. This is, however, a period replete with transformative
possibilities. Those committed to workplace democracy must
identify and seek to advance the aspects of postindustrial tran-
sition that will further human self-realization.

Given current economic problems and the unpredictable
course of postindustrial transition, this is inevitably a time of
great risks and threats to workers' rights. The system of em-
ployment institutions, forged in response to the rise of industrial
unionism in the 1930's and 1940's, has turned out to be fragile
and vulnerable. Unless it is reversed, the current decline of the
labor movement will result in a profound loss to American

democracy. The liberating potential of the new technologies and innovative forms of work organization have thus far yielded ambiguous results. New styles of human resource management have been associated with the worst sorts of union avoidance and unfair labor practices. Because of the United States' totally inadequate systems of support, new opportunities for women in employment and social life have been accompanied by continuing adverse labor market segmentation and wage discrimination, enormous economic vulnerabilities, and the feminization of poverty. Deindustrialization invitingly promises a gradual emancipation of labor time from the often onerous and personally limiting tasks of goods production, so that human energies can be redeployed to more creative and fulfilling endeavors. In our political system, however, most people are dependent on earned income for access to the basic goods of life; yet paid employment is not considered a right. Moreover, invidious discrimination based on race, gender and other characteristics exists in the allocation of employment opportunities. As a result, deindustrialization raises the terrifying (but historically unnecessary) spectre of job dislocation, unemployment and continuing discrimination.

Postindustrial transformation, however, also holds out exciting prospects. For this reason advocates of workers' rights should not cling wistfully and defensively to dated visions of industrial organization, born of earlier and quite different historical challenges. (Labor activists' defense of the adversary model often has this ring to it.) While we should carefully identify and preserve the enduring achievements of industrial unionism and its associated visions of industrial democracy, we should also embrace the possibilities presented by the emerging technology and by "capital savings" in goods production. These trends may enable us to revise and expand the meaning of

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17 See infra note 63.

18 This is not to suggest that the nearly exclusive access to goods through earned income is appropriate. A variety of social thinkers have recently argued that the link between goods and jobs should be loosened. See, e.g., C. Offe, Disorganized Capitalism: Contemporary Transformations of Work and Politics 52-100 (1985); Aronowitz, The Myth of Full Employment, The Nation, Feb. 8, 1986, at 135; Block, Cloward, Ehrenreich & Piven, The Trouble with Full Employment, The Nation, May 17, 1986, at 694; Block, The Political Perils of Full Employment, Socialist Rev., May-Aug., 1984, at 24.

19 See infra text at notes 86-89.
democracy in the workplace and to create employment structures that are more participatory and democratic. This endeavor will hopefully be informed by a growing infusion of feminist consciousness into the trade union movement, and by the enrichment of feminism with the best of labor's traditions of solidarity and class-consciousness. Likewise, labor should use the opportunity presented by technological change and the restructuring of work to inject new, contemporary content into the old ideal of workplace democratization. The spread of a new mass sensibility about work—rejection of regimentation and monotony and insistence that work be meaningful and expressive—should give rise to some optimism for the future, despite the need for caution regarding the risks.

II. Self-Realization and Industrial Relations Theory

In the context of current industrial relations debate, it seems obvious that this should be a time for fundamental reevaluation and for exploration of new approaches. To some extent these processes are taking place. From my perspective, as an advocate of workplace democracy, I would suggest the following tentative definition of the mission of industrial relations theory in the era of postindustrial transition: to develop a vision of workplace institutions and practices that will encourage economic growth and prosperity consistent with expanded and equitably distributed self-realization opportunities.

The proposed "self-realization" orientation to industrial relations theory requires that attention be simultaneously paid to

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20 Despite my postindustrial perspective, I have retained such traditional terms as "industrial relations theory" and "industrial sociology." No doubt this vocabulary evokes intellectual currents responding to the challenges of the industrial order of a half-century ago. Regrettably, the more modern idiom of "human resources management" and "employment relations" also has distinct and historically specific connotations. Such phrases often faintly suggest approval for the decline of collective bargaining. In order to avoid that coding, and pending the appearance of a new terminology appropriate to the transformative potential of the current period, I have provisionally retained traditional usages. For a lively and informative discussion of the intellectual history of the discipline, see Whyte, From Human Relations to Organizational Behavior: Reflections on the Changing Scene, 40 Indus. & Lab. Rel. Rev. 487 (1987).

21 "Expanded" is meant here to refer both to the type and content of self-realization opportunities and to the number of groups within the population to whom self-realizing work opportunities are offered.
each of the following three dimensions of the employment relationship.\textsuperscript{22}

\textbf{A. The Efficiency or Productivity Dimension}

My use of efficiency refers to how the structure of the employment relationship and the organization of work affect productivity, meaning, in this context, the relationship of outputs to given units of input.\textsuperscript{23} The issue is the size of "transaction surplus" from output,\textsuperscript{24} which, when distributed as income to the various parties to the relationship, indirectly facilitates the satisfaction of preferences. Industrial relations structures also impact on preference-satisfaction in a direct sense. Employees seek job satisfaction from interesting and challenging tasks and pleasant working conditions; they seek to avoid the disutilities of boring, onerous or dangerous work. Managers, too, seek direct satisfactions from the activity of managing work, including the psychic satisfactions of succeeding at challenging tasks and of exercising power over others.

\textbf{B. The Distributional Dimension}

This aspect refers to how work structures affect the distribution, as between the employer\textsuperscript{25} and employees, of the transaction surplus yielded by their joint activity. Those writing about workplace organization tend to obscure or ignore the complexities of this dimension. The standard assumption is that the residual claimant (ordinarily the employer) should have plenary power to structure the firm and to direct operations because his

\textsuperscript{22} It is essential to note that the focus here must include not only the content of the employment relationship as such but also the connections between work structure and the other domains of personal and social life, e.g., childrearing and family life, education, community and political participation, and so on. This might be called the social linkages dimension. See infra text accompanying notes 41–46.

\textsuperscript{23} On the complexities of the concept of efficiency in this sense, see McPherson, \textit{Efficiency and Liberty in the Productive Enterprise: Recent Work in the Economics of Work Organization}, 12 Phil. & Pub. Affairs 354, 357–61 (Fall, 1983).

\textsuperscript{24} The Marxian notion of "surplus value" is a somewhat different but, nonetheless, related concept. See infra note 29.

\textsuperscript{25} The "employer," of course, comprises several, sometimes overlapping groups—namely, directors, personnel professionals, operations managers, shareholders and others.
or her interest is in maximizing output while reducing costs. As typically formulated, this claim is at best unproved and quite probably mistaken. The theory virtually ignores significant inefficiencies of hierarchy, for example, "subgoal pursuit" by residual claimants and their representatives. Employers often select industrial relations courses of action that are suboptimal from the standpoint of productivity but that are designed to preserve or increase the employer's share of transaction surplus.

C. The Self-Realization Dimension

This aspect evokes my central premise: work is and should be experienced as an opportunity for self-realization, that is, the

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27 Due to systematic imperfections in the labor market, these inefficiencies of hierarchy are typically not corrected by the process of employer/employee bargaining. See McPherson, supra note 23, at 362–63.

28 Only by overlooking this problem (among others), do Alchian and Demsetz conclude that the hierarchical capitalist firm is efficient. Alchian & Demsetz, Production, Information Costs, and Economic Organization, 62 Am. Econ. Rev. 777, 783 (1972).

29 For example, if employees are in practice able to siphon value from the employment bargain (e.g., by unilaterally realizing productivity gains in the form of increased leisure—a process employers call "shirking"), a rational, maximizing employer might impose a suboptimal organizational form (e.g., an intensive monitoring system that prevents shirking but also lowers morale) in order to prevent such unilateral appropriation of surplus. This might occur where "shirking" would reduce the employer's share of surplus more than it is reduced by the direct and indirect costs of monitoring.

Essentially the same point made here in neoclassical terms can be formulated thus within a Marxist framework: capital's goal of exploitation (i.e., the extraction of surplus value from the labor process) drives the organizational structure of the firm. See generally H. Braverman, Labor & Monopoly Capital: The Degradation of Work in the Twentieth Century 59–123, 139–52 (1974).

30 This analysis sets self-realization apart from efficiency and distribution as a distinct concern. One need not proceed this way. The concepts of neoclassical theory are sufficiently elastic that one could easily treat self-realization as a "good." Self-realization would then be subsumed under the more traditional two-dimensional analysis. (We would speak of maximizing the output of and equitably distributing self-realization opportunities, consistent with preferences.) While such an approach is perfectly consistent with neoclassical theory, for the time being I want to treat self-realization separately in order to bring democratic issues to the fore of industrial relations debate. Additionally, following Elster (see supra note
full and free development of one’s powers and abilities. To the extent possible, work should be structured as a locus of opportunities for learning, self-discovery, growth and expression—as well as a means to achieve economic benefits, respect and immediate psychic satisfactions. Both work itself and the governance processes of enterprises should provide self-realization opportunities. At a minimum, those who perform work should participate in selecting and implementing the strategic goals of the firm and in developing its organizational structure. A premise of this approach is that a democratic culture should aspire to awaken and nurture in all people their capacities for self-realization and self-governance. Work, social institutions and law should be designed to serve this end.

As I will argue below, significant values are sacrificed whenever industrial relations theory or practice minimizes the importance of any of these aspects of the employment relationship. Democratic values and the ideal of self-determination are particularly threatened by downplaying or ignoring the distributonal and self-realization dimensions.

III. The Dominant Discourse

This is indeed a period of ferment and experimentation in industrial relations theory. New approaches, reflecting a variety of perspectives, are being sought and tested. Yet despite this high level of theoretical innovation, much current debate about the organization of work is dominated by concerns and questions that appear largely rooted in the visions and conceptions of the past. This is especially true of discussion in the public domain—in the press and business journals, in judicial decisions, and in political debate—as distinct from the work of academic specialists. Four preoccupations or intellectual in-

15), I want to highlight the differences between (passive) consumption and (active) self-realization. The industrial relations parallel to this distinction is the important difference between job satisfaction, on the one hand, and personal expression and development in work on the other.

31 See, e.g., L. Hirschhorn, supra note 12 (postindustrialism); Transformation, supra note 5 (strategic choice perspective); R. Freeman & J. Medoff, supra note 8 (alternative economics); C. Sabel, Work and Politics: The Division of Labor in Industry (1982) (careers at work); R. Milkman, Gender at Work: The Dynamics of Job Segregation by Sex During World War II (1987) (feminist labor history).
distincts continue to cloud debate, and thereby to inhibit progress. They are at odds with the priorities of the self-realization perspective on work organization suggested here. These themes are:

1. The notion that there is a choice to be made between "adversary" and "cooperative" models of labor relations.

It is often imagined that the structure of appropriate industrial relations institutions follows more or less naturally from making this basic choice, as with the new "quality-of-work-life" (QWL) programs favored by advocates of cooperation, or the traditional collective bargaining practices defended by the partisans of the adversary model.

It might seem that claims of sharp polarization in the debate over industrial relations models are exaggerated. One might assume that observers speak only in terms of emphasizing one or the other approach rather than making a choice between two fundamentally incompatible models. Yet, particularly outside of the academic writing of specialists, the discussion often proceeds as though it involves a choice between distinct, alternative models. For example, courts favorable to the idea of labor-management cooperation have actually made law on this basis, with particularly damaging consequences. Curiously, activist and academic critics of these developments have also adopted the notion of a choice between alternative models.

It is a mistake to imagine that we face a choice between adversarial and cooperative industrial relations models. Demo-

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33 NLRB v. Streamway Div., Scott & Fetzer Co., 691 F.2d 288, 292-95 (6th Cir. 1982); NLRB v. Northeastern Univ., 601 F.2d 1208, 1214 (1st Cir. 1979); Hertzka & Knowles v. NLRB, 503 F.2d 625, 631 (9th Cir. 1974). Each of these cases sustains a non-collectively bargained worker participation scheme under circumstances that I believe should have led to a finding of a violation of NLRA § 8(a)(2), 29 U.S.C. § 158(a)(2) (1982). Non-bargained participation schemes initiated close in time to or during union representation campaigns or decertification elections, and non-bargained schemes linked to unfair labor practices or other evidence of employer resistance to collective bargaining should be presumptively illegal.
34 M. Parker, Inside the Circle: A Union Guide to QWL 1–94 (1985); Kohler, Models of Worker Participation: The Uncertain Significance of Section 8(a)(2), 27 Bos. Coll. L. Rev. 499, 499–509, 513, 517–18 (1986). Note, however, that Professor Kohler believes that cooperation schemes can potentially supplement collective bargaining if they are implemented through a joint decision-making process. Id. at 518, 547.
democratic values and economic growth possibilities will be sacrificed unless the design of workplace structures aims to combine adversarial and cooperative institutions and practices. The remainder of this Article is largely devoted to an explication and defense of this proposition. However, I first note briefly three additional false dichotomies or approaches that obscure contemporary discussion.

2. The notion that there is an inherent and inevitable tradeoff between workplace democracy and efficiency.

Efficiency, here, refers both to maximizing productiveness and to the welfare economist’s idea of satisfying preferences. Although perhaps not so formulated, the notion of such a tradeoff has long been an implicit focus of industrial relations discussion. Claims of an inevitable tradeoff between workplace democracy and efficiency are mistaken. At most, theory has suggested that under certain circumstances participatory work organization might reduce output. But neoclassical models have not plausibly demonstrated that this is always and necessarily true. Further, theory does not rule out the possibility that participatory work organization has productivity-enhancing features, or that hierarchy may possess productivity-diminishing features. Substantial evidence suggests that, particularly in our unfolding technological and trade environment, democratic work organi-

35 For example, there is a long tradition of academic debate in which both critics and advocates of collective bargaining have explored the productivity implications of that particular form of industrial democracy. Curiously, until quite recently neoclassical economic theory has paid scant attention to the issue. This puzzle has been attributed to the fact that neoclassical theory treats labor and capital as discrete, independently quantifiable inputs into the production function. This has deflected attention from the central postindustrial productivity issue of organizing the links between labor and technology (that is, how in a "qualitative" or sociotechnical sense the factors of production should be combined). Block, Postindustrialism, supra note 11, at ch. 4. Contemporary theory has begun to focus on the organizational dimension of labor productivity, and strong claims of a tradeoff between democracy and efficiency have been advanced. Williamson, The Organization of Work: A Comparative Institutional Assessment, 1 J. Econ. Beh. & Org. 5 (1980); Alchian & Desetz, supra note 28. The forerunner of this branch of transaction cost theory is Coase’s classic article, The Nature of the Firm, 4 Economica (N.S.) 386 (1937). For a penetrating discussion and critique of this literature, see McPherson, supra note 23. Some of the seminal defenses of collective bargaining take for granted that hierarchy is efficient. See, e.g., Feller, A General Theory of the Collective Bargaining Agreement, 61 Calif. L. Rev. 663, 722 (1973) ("[t]he industrial enterprise . . . must be . . . bureaucratically organized") (footnote deleted).
zation may well offer superior transaction cost and efficiency properties as compared to hierarchy. If so, a self-realization approach to industrial relations can be consistent with a prospering economy.

3. The notion that market exchange and planning are radically distinct modes of organizing employment and related transactions.

Planning, here, refers both to administration internal to the firm and planning through the agency of public policy. The choice between market and planning, between exchange and administered transactions, remains, of course, a perennial theme of American political debate. It has been given new life by the "deregulation" and "supply side" shibboleths of the Reagan era.

The idea of a radical disjunction between exchange and planning has been thoroughly deconstructed. Markets take their character from their legal structure (among other things); thus, efficiency (in the neoclassical sense) is a function of that structure. Moreover, market actors, such as businesses, often have good reason to attempt to supersede the market in organizing transactions; furthermore, the law frequently permits and encourages them to do so. Employment relationships in the United States today take their shape at least as much from planning (which is often private) as from market forces.

The challenge, therefore, is not to choose between market and administration, but to make the two processes work well together in order to enhance growth, equity and self-realization opportunities. From the self-realization perspective of this Article, our priorities should be to democratize the administration of the employment relationship within firms and to radically

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37 Those who believe markets are morally or historically "prior" to politics, e.g., Epstein, *supra* note 26, have not grasped this point, and in that sense part company with neoclassical theory as well as radical critique. To sustain their position they must have recourse to one fiction or another, such as "naturalizing" their own idiosyncratic and ahistorical view of the common law. See generally Kelman, *Taking Takings Seriously: An Essay for Centrists*, 74 Calif. L. Rev. 1829, 1833–51 (1986).

38 See generally, Coase, *supra* note 35.

redistribute power in labor markets through an aggressive program of market reconstruction.\textsuperscript{40}

4. Thinking about the structure of work has traditionally assumed a full-time, continuous worker.

This final item on the list of obscuring themes is more an intellectual instinct than a false dichotomy. It is heartening that a literature on flexible work options has begun to appear,\textsuperscript{41} no doubt prompted in part by modern feminism.\textsuperscript{42} Still, much theory and debate, particularly in the area of labor-management relations, focuses almost exclusively on the regular, full-time employee, the part-time worker being treated as the exceptional case.

The focus on the full-time, continuous worker makes plausible a view of employment as a largely self-sufficient domain of personal and social experience. Steep job discrimination barriers and the rigid mechanisms for entry into and exit from paid labor enhance the image of employment as a distinct realm, separate and apart from the home and other social institutions. In fact, obviously, employment is intimately linked to family life, childrearing arrangements, the educational system, opportunities for community and political participation, and so on.\textsuperscript{43}

\textsuperscript{40} "Market reconstruction" means changing the legal groundrules that structure markets. Radical market reconstruction aims to do this in the service of the goals of distributional equity and self-realization. On the concept of market reconstruction as a strategy of social reform, see Kennedy, \textit{supra} note 36, at 964–67.

\textsuperscript{41} See, e.g., F. Best, \textit{Flexible Life Scheduling} (1980).

\textsuperscript{42} Such work also builds upon the contributions of theorists of labor market segmentation. \textit{See generally} B. Bergman, \textit{The Economic Emergence of Women} (1986); P. Doeringer & M. Piore, \textit{Internal Labor Markets & Manpower Analysis} (1971); R. Edwards, \textit{Contested Terrain: The Transformation of the Workplace in the Twentieth Century} (1979).

\textsuperscript{43} A crucial feature of any form of work organization is the set of linkages or articulations it has with other domains of personal and social life, particularly the institutional mechanisms relating to entry into and exit from paid labor. There are two kinds of entry and exit problems. The first is the issue of working hours on a day-to-day basis. What is the impact of practices regarding the daily scheduling of work (and related issues such as childcare availability) on paid work opportunities for people who, because of parenting, other caretaking, or educational commitments, are not available for or do not want full-time employment? The second issue concerns periodic exit and reentry at various points over the course of a career at work, as, for example, when child-bearing, parenting roles, educational opportunities or economic dislocations draw employees out of the active labor pool. What is the impact of leave policies, promotion lines, benefits structures and laws, and other practices on the long run self-realization opportunities of those who seek or are obliged to make temporary withdrawals from
The illusion of the self-sufficiency of the workplace and inattention to social linkages builds into industrial relations discourse a structural incapacity to confront the problems of gender bias and patriarchal power. The supposedly self-sufficient realm of work, inhabited by full-time, career employees, is enmeshed in and supported by a complex web of social arrangements for mobilizing unpaid homemaking and childrearing labor in the home. These social arrangements include a discriminatory, gender-based division of labor sustained by deeply embedded, culturally reinforced stereotypes about women’s roles and aspirations and by such linkage mechanisms as the so-called "family wage." This system impairs self-realization options both for those within and those excluded from paid labor. In particular, it has profoundly destructive consequences for women’s opportunities for self-determination.

Additionally, the full-time orientation prevents industrial relations theorists from fully appreciating the potential of post-industrial technology to facilitate flexible forms of work organization amenable to a variety of conceptions of working time and careers at work. If our goals include enhancing and more fairly distributing self-realization opportunities—particularly for women—and creating equitable access to earned income in the era of deindustrialization, then it is essential that we develop more imaginative and layered conceptions of commitment to jobs.

As this discussion suggests, a democratic, self-realization approach to industrial relations reform must contain multiple layers. It must revamp decisionmaking processes within firms and attempt to redesign daily work operations. It must concern itself with public law as well as with the structure of labor paid employment? For a succinct statement of the issues, see WHO Chronicle, Women as Health Care Providers, 31 Int'l Nursing Rev. 18 (1984).

44 See generally Conaghan, The Invisibility of Women In Labour Law: Gender-neutrality in Model-building, 14 Int'l J. Sociology L. 377 (1986), on which this section draws.


46 Philip Green has eloquently argued that true civic equality and democratic political participation are impossible without significant changes in the existing division of labor. Green, Considerations on the Democratic Division of Labor, 12 Pol. & Soc’y 445 (1983); cf. C. Pateman, Participation & Democratic Theory 45–84 (1970) (linkage between workplace participation and political democracy).
markets. It must focus on the relationships between the workplace, the home, schools and other social institutions. It should promote flexible options and career paths in relation to paid employment and should address the needs of part-time as well as full-time, continuous employees.

Such a program would at least include the following elements:

(a) labor law reform designed to strengthen collective bargaining, to increase its value and reduce its risks to employees;

(b) law reform designed to mandate minimum forms of non-adversary workplace participation, such as employee representation in firm strategic decisionmaking and employee "buyout rights";

(c) increases in the social wage, both through public provision of services or insurance coverage and through legally mandating the minimum socially acceptable content of the employment relationship (a "minimum wage and benefits package").

A full-scale examination of the four theoretical misconceptions and of implementation programs for democratic reform in the workplace is beyond the scope of this Symposium contribution. In an effort simply to push the current debate in a new direction, this Article concentrates solely on the first of the false dichotomies. Thus, I turn now to the debate about adversarialism and cooperation.48

IV. The Call for a "New Industrial Relations" and the Labor-Management Cooperation Debate

The idea that cooperation in the workplace can be of mutual benefit to employer and employee stems from a long lineage in

47 Two goals are particularly important here. Regarding employment and income security, public law should prohibit unjust discharge and should provide substantially improved protections against economic dislocation. Regarding the need to promote flexible entry and exit to paid employment, social welfare policies and the minimum wage and benefits package should be designed to facilitate a shorter work week and voluntary part-time work. This result can be achieved through, for example, full-time-equivalent benefits, lower maximum hours regulations, mandated flextime, and vastly expanded childcare services. Public policy should also provide paid and subsidized leaves of absence for parenting, education and retraining.

48 I make no pretense of having done more here than to assert my claims regarding the three remaining theoretical concerns. I intend to provide detailed treatment of each of them, as well as an elaboration and defense of the program of implementation, in future work.
industrial relations theory. Even Frederick Winslow Taylor believed that if employees would only cooperate with his rigidly authoritarian program, they would realize gains through productivity increases. The "company unions" of the post-World War I, pre-New Deal era were defended by business proponents as expressive of the "mutuality of worker and employer economic interests and [the desirability of] establishing an attitude of trust and willing cooperation with management on the part of employees and a sense of identity on their part with their employer." The call for "consensus oriented" industrial relations and the debate between adversarialism and cooperation was revived again in the 1970's and early 1980's, in response to acute business recessions, perceived slow productivity growth and the sharpening of trade competition. The entry of the "baby boom" generation into the labor market also fueled this controversy by bringing highly educated workers with modernized values and aspirations into the labor market.

In simplest form, the call for a new, cooperative approach to industrial relations stresses that competitive economic realities create a need for a change of attitudes (more elaborately, a change in the "culture" of the firm) that will generate a climate of mutual respect and improved communication between employers and employees, managers and unions. The "members" of the firm can then turn, in a nonconfrontative, pragmatic

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"Taylorism" or "scientific management" was initially designed to break the power of informal craft groups over the pace of production. It was eventually elaborated into a full-scale approach to the organization of work. Its core tenets included: general reduction of the skill levels of jobs and cheapening of the value of labor, chiefly by exceedingly fine subdivision of jobs into routinized tasks; separation of conception and execution; appropriation of workers' production knowledge by management; coordination of all work operations by direction; intensive monitoring and control of employees; and discipline by threat of discharge. A related concept subsequently added to Taylor's approach is the pacing of work by the speed of machines or of the assembly line, rather than by employee discretion. See generally K. Bradley & A. Gelb, id.; H. Braverman, supra note 29, at 85-152; R. Edwards, supra note 42, at 111-29. While there is debate over the extent of implementation of Taylor's and his followers' ideas, it seems a fair generalization that a rigidly hierarchical instinct and an objective to reduce employee and work-group autonomy—as well as unrelenting hostility to unions—were central to managerial ideology and strategy through most of the first half of the twentieth century.

50 Kohler, supra note 34, at 524 (1986) (citation omitted).

manner, to the identification and solution of mutual production problems. The stated goals usually are to increase the productivity and competitiveness of the firm and to enhance job satisfaction (which will also lead to improved morale and productivity). Employer and employee alike will ultimately share "positive sum" or "joint gains," while helping the United States regain an edge in world trade.\(^5\)

In more sophisticated versions, the new industrial relations reconceives the firm as a "community" constituted by reciprocal rather than asymmetrical rights and responsibilities in addition to widely distributed opportunities for decisionmaking participation. The new industrial relations aims to foster high-trust relations between management and employees. Under such a scheme, a firm would move away from hierarchical enforcement of corporate goals and toward voluntary alignment of the individual worker's goals and loyalties with the objectives of the firm. Of course, the objectives of the firm are understood ultimately to be defined by management. Vertical identification with the productive unit or the firm is supposed to supersede horizontal (i.e., class-based) allegiances. This new "constitution" of the firm will permit it to abandon Taylorism.\(^5\) Instead, the firm would favor labor flexibility, job rotation, in-service training and horizontal coordination of work.\(^5\) Drawing on advances in organizational theory and social psychology, sophisticated practitioners of the new industrial relations have developed an astonishing variety of innovative institutional structures to carry out their goals. These include Quality Circles, semiautonomous work groups, labor-management teams, sociotechnical systems, gain sharing plans and other schemes, all of which are sometimes collectively referred to as "employee involvement" (EI) or "quality-of-work life" (QWL) institutions.\(^5\)

\(^5\) A "zero-sum" game is a contest or negotiation in which one party can gain only at the expense of the adverse party. In a "positive-sum" or "joint gain" situation, both parties can simultaneously earn winnings or profits. Thus, a typical slogan of the new industrial relations calls for an "end to the zero-sum mentality of confrontational labor relations."

\(^5\) For a much cited rendition of this outlook, see Business Week Report, supra note 13. For convenience, I will refer to proponents of the new industrial relations as "cooperationists."

\(^5\) See supra note 49.


\(^6\) The literature describing and analyzing these programs is vast. For an introduc-
Calls for workplace cooperation often emphasize that adversary attitudes and practices are outmoded and irrational. The adversarial model is seen as an anachronism, representing an earlier but now long gone era of tumultuous and violent labor-management conflict. According to this view, management accepted the right of labor to organize a generation ago, though practitioners concede that harsh and hierarchical attitudes persist among managers brought along in the old "culture" of work. These backward attitudes were not so serious a problem when the American economy dominated world trade. However, competitive pressures from overseas no longer permit the luxury of cultural lag. The time has come for all sides to let go of the irrational adversary attitudes that block them from reaping mutually advantageous gains from cooperation.

Many American business people who advance the cooperative industrial relations perspective criticize mainstream collective bargaining. For many proponents of cooperation, "anachronistic, adversary attitudes" is a code phrase for collective bargaining. However, many other advocates insist that the basic premises and objectives of "cooperation" are consistent with unionism. Still, many among the latter group decry the alleged rigidity imposed on American business by the adversary character of our collective bargaining traditions. The claim is that the complex of union work rules, non-incentive pay schemes, job definitions and seniority ("non-merit") systems contained in collective bargaining agreements, which are in turn administered through semiformalized, adversary grievance procedures, denies American business a much needed capacity to make rapid, flexible and sensitive responses to changing markets. Rigidity and slow market response, in particular, raise problems in today's business world of "flexible" (programmable) technologies and increasing demand for nonstandardized products.

The call for cooperation has brought a mixed response from the ranks of labor. On the one hand, desperate economic cir-

tory overview of the variety of worker participation forms, see Kohler, supra note 34, at 505-13. See also T. Kochan, H. Katz & N. Mower, supra note 32, at 13-64 (describing operation of various types of worker participation programs).

57 See NLRB v. Streamway Div., Scott & Fetzer Co., 691 F.2d 288, 293 (6th Cir. 1982) ("the adversarial model of labor relations is an anachronism").
cumstances and declining organizational fortunes have pushed some unions to explore options for mutually advantageous problem-solving with management. In some cases, unions have enthusiastically joined efforts to reorganize work; they have joined, not only in hopes of accruing positive-sum gains, but also in hopes of enhancing worker satisfaction and achieving participation through the QWL movement. On the other hand, some within the labor movement along with some of its academic friends have questioned the calls for cooperation and have expressly championed the virtues and continuing relevance of the adversary model. The defense of the adversary model is sometimes combined with calls for renewed militancy, rank-and-file activism, and opposition to concession bargaining.

V. Limitations of the Cooperation Debate

It is a mistake to think that our society must choose between an adversary model of industrial relations and a cooperative model. All industrial relations systems combine adversary and cooperative aspects. Healthy, productive cooperation requires the existence of autonomous, collective organization of workers, a central feature of adversarialism. This should occasion neither surprise nor regret. From the standpoint of

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59 For a leading academic defense of the adversary model, see Kohler, supra note 34. See also Note, Collective Bargaining as an Industrial Relations System: An Argument Against Judicial Revision of Section 8(a)(2) of the National Labor Relations Act, 96 Harv. L. Rev. 1662 (1983).

60 Perhaps the most articulate exponents of this view are the group associated with the newsletter Labor Notes, and particularly Mike Parker, who has been a leading labor activist critic of the quality-of-work-life (QWL) movement. See M. Parker, supra note 34; Parker & Hansen, The Circle Game, The Progressive, Jan. 1983, at 32. For related views, see Mann, U.A.W. Backs the Wrong Team, The Nation, Feb. 14, 1987, at 171; Unions Absent on Sunday Are Dead On Monday, N.Y. Times, Sept. 1, 1986, at 23, col. 1. For convenience, I will refer to this outlook as the "renewed militancy perspective."

61 For a somewhat related conclusion, see Transformation, supra note 5, at 146–77 (strong union presence is essential for success of quality-of-work-life innovations in organized settings).

62 In an interesting study of labor-management relations in a worker-owned enterprise, the authors tend to treat "conflict within cooperation" as a negative, destabilizing factor. See Hammer & Stern, A Yo-Yo Model of Cooperation: Union Participation in Management At the Rath Packing Company, 39 Indus. & Lab. Rel. Rev. 337, 338–39, 339 n.6 (1986). The possibility of a more positive relationship between conflict and cooperation is left open, however. Id. at 339 n.6.
workplace democracy and self-realization, the nexus of cooperation and adversarialism is—or at any rate can be made to be—a virtue. This point becomes evident when examining the limitations, from a self-realization perspective, of both the cooperation and adversarial approaches.

A. Cooperation

There are three characteristic weaknesses of the cooperation approach: an overly exclusive focus on efficiency at the expense of the other dimensions of the employment relationship; overemphasis on attitudes, which prevents the cooperationists from seeing the historical basis of adversarialism; and failure to take account of the true structure of power within the firm.

1. The Denial of Conflict

In its relatively unqualified (and frequently most audible) versions, cooperationism puts democratic values at risk by single-mindedly elevating efficiency at the expense of the other aspects of the employment relationship. Much writing on work organization fails to acknowledge that the efficiency interest potentially (although not necessarily) conflicts with the distributional and self-realization interests. Radical scholarship on this subject has provided historical and sociological evidence supporting the claim that important features of modern work organization derive not solely from efficiency concerns, but also

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63 This discussion concerns the views of those who hold a good faith, substantial, and sustained commitment to cooperation. In some cases, sham cooperative rhetoric is simply a cover for union-avoidance and union-busting. See, e.g., M. Parker, supra note 34, at 7, 114; Grenier, Twisting Quality Circles to Bust Unions, AFL-CIO News, May 14, 1983, at 8; Remarks of AFL-CIO Industrial Union Department President Samuel Before Conference On Work In America Institute, Daily Lab. Rep. (BNA), Jan. 13, 1984, at D-1. Some employers speak sincerely of cooperation, yet the instincts of a lifetime prevent them from making any more than token commitments to it (such as distributing company T-shirts and installing suggestion boxes, and calling this a cooperation program). Finally, the literature has identified the time-horizon as well as the depth of commitment as a crucial issue, and it offers numerous warnings against treating QWL as a "quick fix." See, e.g., Address by Roy W. Walters on Linking People and Job Design, Daily Lab. Rep. (BNA), June 8, 1983, at F-1; Office of Economic Research, New York Stock Exchange, People & Productivity—A Challenge to Corporate America 24 (1982).
from strategies regarding the distribution of surplus.\textsuperscript{64} Similarly, efficiency concerns potentially (though, again, not necessarily) conflict with workers’ self-realization interests. In the short run at least, a self-realization approach to work organization might require transaction surplus to subsidize participatory processes, job rotation, training opportunities, and flexible employee time commitments. The workplace democracy conviction is that, over the long run, enhanced employee self-realization opportunities will lead to a more productive workforce. But, no doubt there are interim and even long run tradeoffs to be made.

Sophisticated proponents of cooperation do not entirely deny the existence of interest conflict, particularly distributional conflict. For example, a key document of the Department of Labor’s “Laws Project”—a high visibility cooperationist intervention—is careful to note the inevitability and legitimacy of “bargaining to distribute gains and losses between the parties. . . .”\textsuperscript{65} Much advocacy for the new industrial relations, however, is less cautious and nuanced. A prominent labor lawyer and devotee of cooperation offers this typical view:

The basic premise of quality of work life programs is cooperation. The concept assumes that there is no fundamental conflict between the goals of the company, and the goals of its employees, and that the two can work in harmony as a team. So much for the background of QWL programs.\textsuperscript{66}

The statement is instructive. If pressed, its author would more than likely acknowledge distributive conflict in the employment relationship; but, characteristically, this acknowledgment would


\textsuperscript{65} Bureau of Labor-Management Relations & Cooperative Programs, U.S. Dep’t of Labor, \textit{U.S. Labor Law and the Future of Labor-Management Cooperation}, BLMR 104 (1986), at 32. Mr. Fetter, one of the principal drafters of this document, reaffirmed this position at this Symposium, \textit{supra}.

be as a reluctant afterthought. The energy and enthusiasm evoked by the cooperation rallying cry is generated by an image in which employees identify unreservedly with the goals of the firm because conflict between their interests and those of management has been eliminated.

Indeed, the cooperation perspective generally regards industrial conflict as a pathological occurrence and a reflection of failure, but never as a potentially creative force. Pluralistic subgroup self-determination is regarded as a threat to organizational effectiveness. In this respect, cooperationism joins a long tradition of American industrial relations theory that treats organizational integration as the paramount objective.

In sharp contrast, industrial pluralist philosophy—the mainstream modern defense of collective bargaining—recognizes that within certain institutionalized bounds, economic conflict plays a healthy (or at least socially innocuous) role in the industrial order. Although sophisticated thinkers within the pluralist tradition have promoted cooperative innovations in industrial relations, the wider appeal of the cooperation approach stems from its promise of an integrated, consensus-driven firm.

That employees have a stake in their employer's business success is scarcely news to American workers. Similarly, the notion of compromise and adjustment to changing economic circumstances is hardly novel to American collective bargaining. In short, the notion of joint efficiency gains by itself cannot

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67 On these points see Kohler, supra note 34, at 516–18.
68 For instance, the celebrated Hawthorne studies and the early classics of the human relations school were inspired by this goal.
69 Barbash, The American Ideology of Industrial Relations, 30 Lab. L.J. 453, 454 (1979); Korpi, Industrial Relations and Industrial Conflict: The Case of Sweden, in Labor Relations in Advanced Industrial Societies 89, 90–91 (B. Martin & E. Kassalow eds. 1980). Professor Kohler concludes from this that the adversary, collective bargaining model, which he defends largely in pluralist terms, is fundamentally inconsistent with any "integrative" industrial relations capacity. See Kohler, supra note 34, at 513–18, 545–51. To reach this conclusion, however, he must take pluralist theory at face value and entirely ignore its deeper, integrative project. See infra text at notes 86–108.

71 See, e.g., T. Kochan, H. Katz & N. Mower, supra note 32.
72 During the recent round of concession bargaining, unionized workers made enor-
be the motivating force of the new industrial relations. Its essence is its integrative ambition—the hope that employee and management goals can be more or less fully aligned. Except perhaps in relatively small, worker-owned cooperatives, this is an illusion. Interest conflict is a fundamental, inescapable feature of the employment relationship as we know it. Any industrial relations theory that purports to be inspired by democratic and self-realization ideals, or to concern itself with distributional equity, must take this as a premise.

2. The Overemphasis on Attitudes

Adversary practices reveal a distinctive logic when viewed in light of the historical experience of labor-management conflict in the United States. Largely ignoring that historical context, the cooperationist perspective tends to regard adversariness as primarily a problem of backward or irrational attitudes and sensibilities. It follows that the path to progress is to alter such attitudes. A considerable portion of the training provided in QWL programs focuses on the promotion of a "positive-sum mentality," the realignment of loyalties and other attitudinal changes. Such programs differ from training in skills associated with strategic decisionmaking, advocacy, or interest group mobilization, and give rise to the suspicion that a primary objec-
tive of the cooperationist initiative is to develop new systems of social control in the workplace.⁷⁴

The error of this approach is its failure to appreciate the autonomous and creative role of workers in shaping the culture of the workplace. One of the achievements of recent labor history has been to describe this active role of American workers. They have done this by transmitting and reinforcing customary values and by establishing informal rules in the workplace, as well as through conventional union activity.⁷⁵ Management cannot shape or inculcate workplace attitudes by directive; nor is adversarialism a genetic character trait of American workers.

The adversary spirit of American industrial relations arose as an historically specific response to historically specific employer strategies designed to gain and maintain control over the work process. Many features of those strategies persist. Adversary attitudes and strategies arose as a form of worker resistance to those management approaches. This means that attitudinal change cannot occur without major, democratizing changes in work organization and firm governance—changes far beyond what is ordinarily contemplated by the cooperationists.

The conflict over job control remains a central dynamic of American labor history. In order to protect their share of surplus (as well as to serve their efficiency goals), employers have relentlessly sought control over the organization of work and over

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effect. Nor does it seem appropriate to assume that employees will be totally passive and uncritical recipients of the employer's messages. Cf. Rinehart, supra at 90 ("because managers are not omnipotent and workers are not passive recipients of management ideology, the purposes of management schemes are not identical to their consequences"). Some evidence suggests that QWL training may indeed increase firm-identification in certain settings, particularly when no union is present or when an incumbent union plays an entirely passive, uncritical role in the QWL process. See, e.g., Verma & McKersie, Employee Involvement: The Implications of Noninvolvement by Unions, 40 Ind. & Lab. Rel. Rev. 556, 564–66 (1987). But there is no reason why alert, active unions cannot counteract implicit integrative messages or indeed, insist on an entirely different conception of QWL training.

⁷⁴ Social psychology is chief among the disciplines upon which QWL draws; on the "psychologism" of integrative industrial relations theory, see Fraser, supra note 13, at 103, 105–06, 109–10.

employee discipline. Employees have fought inexhaustibly to humanize the manner, conditions, and pace of work and to broaden their autonomy and dignity on the job.76

Before the New Deal, employer strategy in the job-control conflict centered on the set of practices known as "Taylorism" or "scientific management."77 Taylorism endorsed techniques such as "job-deskilling," intense monitoring, and harsh discipline in order to maximize employers' shop-floor control. The rise of industrial unionism in the 1930's—one of the great liberating accomplishments of the American working class—was in large part a delayed but long-simmering response to management's aggressive job-control strategies.78 Despite the rise of collective bargaining, the authoritarian spirit of Taylorism continues to inform much American managerial practice, even though many of the specific practices constituting Taylorism have been abandoned and alternative approaches have increasingly emerged. To this day, American management has never wholeheartedly accepted the legitimacy of collective bargaining.79

There is, then, a certain contextual rationality to union and employee adversariness.80 Adversariness persists not because of cultural lag, but because the job-control strategies to which adversariness is a response still exist in management practice. To be sure, employees who freely share their production knowledge with the employer can accrue "positive-sum" gains; but, employees know from bitter experience that such sharing can also lead to the speed-up and the layoff. Furthermore, although collective bargaining often establishes intricate and inflexible

77 See supra note 49.
79 Transformation, supra note 5, at 13–15, 56.
80 I have argued elsewhere that even our prevailing conception of industrial democracy in the United States, what I call the system of "defensive" or "reactive" democracy, is shaped and structured by the historical context of employee resistance to Taylorism. See Klare, supra note 76.
work-rules and job-assignments, these practices are not, as they are often portrayed, necessarily emblems of workers' selfishness or backwardness. Were workers genuinely consulted as full partners in enterprise governance, they might well choose a different tack. Of course, they are not offered this role. Moreover, cooperationists do not propose to make employees equal partners in the strategic decisionmaking of the firm. In our system, management manages. What protection do workers have against "realizing" efficiency gains in the form of layoffs? They have only the enforcement of collectively bargained rules through an adversary grievance procedure. From an employee's viewpoint, enforcement of work rules is not perversity, but is instead an historically grounded expression of democratic employee self-determination.

Authentic workplace cooperation will require not just attitudinal change but structural change within enterprises. The firm must be committed to compensating employees for what are to them the very real risks of cooperation. The firm must be committed to job security. These commitments must be reflected not only in words but in an institutional structure that empowers employees to protect their interests in strategic decisionmaking. In short, true cooperation requires power sharing. In an environment in which most employers do not, and have not, accepted the legitimacy of an employee voice in making basic managerial decisions, one really must wonder whether most employers are prepared to make the sort of commitments and sacrifices that are required for cooperation to progress beyond superficial levels.

3. Failure to Take Account of the True Power Structure of the Firm

Despite talk of mutuality and two-way communication, the aim of almost all management-initiated cooperation programs is to increase "organizational effectiveness." Yet these programs

81 Structural changes are also needed in public policy, so that our social services and entitlements programs are geared toward job security and a continuous upgrading of workers' skills and self-realization opportunities. See supra text at note 47. See generally, Block, Rethinking, supra note 1.
assume that the organization's goals are set by the employer. There are some exceptions: cooperation structures sometimes contemplate employee participation at strategic or mid-range policy levels. Examples of such programs are found in some labor-management committees, union representation on boards of directors, and genuine worker ownership plans. For the most part, however, cooperation schemes do not involve, and are not intended to involve, any way for employees to influence their company's basic strategic course. This is true even though employees may have a genuine participatory role in making marketing or production decisions with significant job security consequences.

Ultimate power under all cooperation schemes rests with management. Such is explicitly the case in Quality Circles; in the final analysis it is true even for more advanced QWL forms, such as semiautonomous work teams and sociotechnical systems. The literature is replete with instances of unilateral decisionmaking in firms that have made seemingly substantial commitments to cooperation. A unilateral decision to effect a mass layoff during the course of a cooperation program is the most vivid reminder of the underlying power structure in a "cooperative" firm. Such incidents, in which cooperation shows an "adversary face," are apparently quite common. Apart from the relatively small, worker-owned cooperatives, cooperation schemes can apparently lead to shared decisionmaking only in the presence of a strong union and a healthy collective bargaining relationship.

In summary, the autonomous organization of workers is an essential ingredient of any authentic system of industrial democracy. For all its considerable promise, workplace cooperation is in constant danger of being corrupted by the context of

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82 Such genuine plans are distinct from "worker ownership," such as found in many Employee Stock Ownership Plans (ESOPs), which amount to little more than devices through which capital is raised, pension and shutdown liabilities are compromised, and some gain sharing occurs, without any real sharing of decisionmaking power. See Prude, ESOP’s Fable: How Workers Bought a Steel Mill in Weirton, West Virginia, and What Good It Did Them, Socialist Rev., Nov.-Dec. 1984, at 27; Lynd, Why We Opposed the Buy-Out at Weirton Steel, Lab. Research Rev., no. 6, Spring 1985, at 41.
84 See, e.g., T. Kochan, H. Katz, & N. Mower, supra note 32, at 42, 58–59; Rinehart, supra note 73, at 89; M. Parker, supra note 34, at 137.
profound social and economic inequality in which most employment relationships in the United States remain embedded. Worker self-organization is a necessary countervailing response. A strong union presence can foster cooperation by assuring employees that productivity gains will be equitably passed through to them. It can assure protection of job security by alternative means if rigid work rules are loosened or abandoned in the interests of rapid and flexible market response. To the extent that cooperation programs are designed to enhance efficiency by increasing employer control, they are unlikely to succeed, to say nothing of their adverse impact on self-realization.

While successful cooperation requires adversarialism, an adversary context presents no guarantee that cooperation programs will lead to meaningful efficiency gains or self-realization advances. It remains to be seen whether cooperation schemes of the kind now in vogue can act as an entering wedge in a process designed to achieve genuine power sharing and workplace democratization.

B. Adversarialism

Skepticism about the limitations of cooperation does not mean an uncritical acceptance of "the" adversary model. Proponents of adversary industrial relations are typically far too complacent about the limitations of traditional collective bargaining. Ironically, this is as true of most radical critics of QWL as it is of mainstream pluralist commentators. Acclaim for the adversary model characteristically suffers from certain weaknesses: reliance on an idealized portrait of collective bargaining; an inability to see the need and contemporary potential for democratic work reorganization; and the failure to come to grips with the present context of profound economic transformation and of crisis within the labor movement.

1. Limitations of Collective Bargaining as a System of Industrial Democracy\(^\text{86}\)

Proponents of the adversary model fail to recognize that postwar American collective bargaining embodies not a univer-

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\(^{86}\) This section draws upon arguments developed in greater detail in other writings.
sal, but an historically distinct, and, in some ways, limited conception of industrial democracy. They view the collective bargaining institutions that grew out of the labor upsurge of the 1930's and 1940's as the core of industrial democracy. Mainstream unionists and academics writing in the pluralist tradition do this quite unambiguously. Union activists who support the "renewed militancy" perspective sometimes profess faith in a future day when the social order will be transformed and true industrial democracy will be inaugurated. However, their actual programmatic thinking centers on building a "militant social unionism." The perspective resembles CIO progressivism of circa 1940, with its emphasis on the organization of unorganized workers, the extension of collective bargaining, and the need for economic planning and an independent labor party. The perspective also pays some updated attention to the postwar offshore migration of American capital. Curiously, despite the calls for renewed labor militancy, the social unionists' program for the workplace essentially builds upon the traditional collective bargaining framework. Mainstream unionists, pluralist academics, and militant critics alike fail to recognize that the conception of industrial democracy embodied in our collective bargaining institutions is indelibly marked by labor's weaknesses as well as its strengths during the Cold War era. It is constructed upon economic, social, and legal assumptions that have been eroding for some time and may no longer be valid.

The postwar consolidation of collective bargaining represents an authentic and, in many respects, a highly successful effort to humanize work and to extend democracy to working people through the establishment of a rule of law in the workplace. It represents a genuine societal commitment to the principles of autonomous employee organization and of employee participation in the decisions that affect their working lives. But


See supra note 60.

M. Parker, _supra_ note 34, at 93.

See generally, _id._, 93–95; Kwik, Labor Notes Conference—A New Social Unionism, Resist, no. 194 (March 1987), at 1.
postwar collective bargaining also contains built-in principled and institutional limitations on industrial democracy. The collective bargaining system rests on a complex mixture of democratic and authoritarian assumptions. It embodies an enclave of due process within an overall context of managerial domination. This power context is ultimately embraced by collective bargaining's philosophy and endorsed by its legal paradigm.

Within the traditional collective bargaining framework, workers can seek to extend the margins of the democratic enclave and to ameliorate the consequences of adverse management decisions. They are, however, relatively powerless to alter the fundamental reality of management control over the strategy and direction of the enterprise. When functioning at its best, collective bargaining reveals a dual character. In some aspects it provides an arena of autonomy and self-determination for workers; in other aspects it leaves unchallenged and therefore legitimates bureaucratic or hierarchical control in the workplace. Indeed, some of the most articulate union-side champions of collective bargaining explicitly defend it on the functional grounds that it offers employers significant avenues to consolidate workplace control.\(^9\)

To its proponents, the adversary model corrects the deficiencies of "cooperation." Arm's length bargaining between management and autonomous workers' organizations serving their own rather than managerial interests bars the industrial relations system from performing integrative or control functions. Management is no longer in "ultimate control of the order of the employment relationship" because "[a]ll terms and conditions are subject to joint agreement."\(^9\) Failure of consensus is not unilaterally resolved by management, but is determined through the methods of economic conflict including, for example, the strike. "The aim of bargaining is not efficiency or willing compliance with management's goals, but the joint establishment and adjustment of the code governing the employment relationship."\(^9\)

\(^9\) Feller, supra note 35, at 764–71. On the role of industrial pluralism as a legitimating ideology, see generally the sources cited in the second paragraph of note 69 supra.

\(^9\) Kohler, supra note 34, at 518.

\(^9\) Id.
This is the ideal. The actual historical experience falls short of it. To begin with, the adversarial view exaggerates the degree of worker and union autonomy from management. Particularly given the "voluntarist" bent of American trade unionism's political tradition, job control conflict has for the most part been conducted at a decentralized, "privatized," plant or industry level. As a result, union fortunes in collective bargaining are to a very large extent tied to the economic fate of their respective industries, often to that of particular firms. Given their crucial stake in the employer's economic viability and success, unions have always acknowledged that the "adversariness" of the collective bargaining relationship has limits. To put it another way, adversarialism wears a "cooperative face."

To be sure, collective bargaining sharply differs from some of the new cooperative industrial relations approaches in that unionized employees have access to legally enforceable grievance procedures. They also retain in reserve the ultimate right to use economic force to improve the content of their contracts. From a self-realization perspective, these are great virtues. Employee self-determination has meaningful scope in unionized firms. That these enclaves of democracy exist represents a considerable and now threatened accomplishment of American workers. But the enclaves have limits. Unilateral and unreviewable employer decisions still for the most part determine the firm's strategy and, therefore, its economic fate. The employer's goals ordinarily dominate and frame the context of the collective bargaining relationship and, hence, workers' self-determination possibilities within it. The wave of plant shutdowns over the past decade, particularly in the steel industry, and the recent round of concession bargaining are eloquent and tragic testimony to this fact.

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93 This is as distinct from a nationally focused, politically based form such as exists in some Western European traditions. See Tilly & Franzosi, Book Review, 5 Indus. Rel. L.J. 426, 437-39 (1983) (reviewing P. Edwards, Strikes in the United States 1881-1974 (1981)). There are, of course, notable exceptions to the voluntarist tradition in American labor history.

94 Activist critics tend to lay blame for the concessionary rout on a failure of labor militancy. This is perhaps the central theme reiterated from month to month in Labor Notes. To be sure, many companies that demanded concessions had no genuine need for relief, and many that won concessions failed to use the funds for modernization. No doubt a more solidaristic and imaginative response from labor might have prevented
There is a second, broader sense in which the adversary model reveals a cooperative face and an integrative dimension: the postwar collective bargaining system was consolidated as the very product of class compromise. After World War II, labor fought with enormous energy and considerable imagination to extend the frontiers of industrial democracy. There was a tremendous strike wave, and prominent CIO leaders talked of democratic economic planning. General Motors workers called upon the company to freeze prices while raising wages and to "open the books." These initiatives were met by a fierce, determined, and very skillful employer counterattack aimed to secure control over strategic business decisions and to reassert shop-floor discipline. In the end, labor proved unable to outflank this initiative. Employers—apparently not intent upon dislodging unions altogether—succeeded in containing collective bargaining within certain bounds. Through a complex and fragmented process, the elements of a compromise emerged.

Modern collective bargaining of course drew upon practices and legal norms that had been unfolding for a century. But the distinctive legal and institutional trademarks of postwar collective bargaining emerged through this process of "class truce." The basic components of the compromise were as follows. Major employers conceded unions a substantial measure of security (the union shop and dues checkoff, for instance). They accepted very real but bounded incursions on their decisionmaking power through the establishment of legally enforceable grievance arbitratebacks and blocked the most inequitable abuses of the concessionary climate. Yet, to understand concession bargaining entirely in these terms is to ignore both the deeper transformations occurring in the American economy and the long-term, structural roots of labor's decline. What needs to be examined is the economic and industrial relations processes over the past decades that have brought labor to its recent disastrous bargaining situation. Specifically, could the rout of the 1980's have been avoided had labor, thirty or forty years ago, sought and gained a broader role in corporate decisionmaking and greater input into national economic planning? And had labor over the years been more aggressive and creative in organizing women and minority employees, or had labor responded more quickly and successfully to the human resource management strategies employers have been developing for years, would not labor have been better situated to resist concession bargaining? One assumes, of course, that proponents of renewed militancy would answer "yes" to these questions. An affirmative response would seem to imply, however, the need to take a more critical look at the assumptions and practices built into routine, even militant, collective bargaining in its heyday and at the fundamental changes in the business environment giving rise to current pressures for restructuring.
bitration. Employers also promised, and for a long time actually delivered, steadily improving wage and benefits packages. For their part, unions agreed to deliver uninterrupted production during the term of the contract through the granting and policing of legally enforceable no-strike clauses. Labor also conceded that the core of entrepreneurial decisionmaking would remain a prerogative of management. To be sure, the precise boundaries of managerial prerogative are never fixed and are always subject to contestation at the margins. Yet within the system, it is assumed that there is some central and untouchable core of inherent entrepreneurial prerogative and that most investment decisions are inside that core.95

Its proponents tend to see the adversary model in the abstract, in isolation from the postwar social contract that informs its modern character. The adversarialists therefore have difficulty recognizing the distinct limitations of collective bargaining as a system of industrial democracy and as a framework for employee self-determination. They deny that it has any integrative dimension. They fail to confront a series of anti-democratic values, assumptions, and concepts of legal order embodied in modern collective bargaining.96

First, at least until recent innovations (toward which the adversarialists remain decidedly cool), the collective bargaining system has assumed that work operations must, in the nature of things, be organized on an authoritarian basis.97 The revealing Yeshiva University case98 symbolically confirmed this by in effect holding that if employees (there, college professors) meaningfully participate in workplace governance, they for that reason cease to be “employees” within the meaning of federal

96 For present purposes, I aim to call attention to problematic aspects of the collective bargaining system overlooked by the adversarialists. I therefore will not provide a complete and balanced review of the complex and contradictory mixture of democratic and authoritarian, self-determining and co-optative aspects of collective bargaining. For further discussion, see sources cited in note 86 supra.
97 Feller, supra note 35, at 737.
collective bargaining law. In the first instance, it is the prerogative of the employer to administer the workplace. The union’s role is to monitor and react, but not to co-participate directly in administration ("work and grieve"). Despite these imbalances, the rule system of the plant is made to appear legislated and consented to by employees, and it is for that reason "legitimated" by collective bargaining.

Second, managerial prerogative is deemed to be reserved or inherent; thus, not all workplace decisions are submitted to a joint decisionmaking process. This assumption surfaces in the doctrine of nonmandatory subjects of bargaining and in the crucial arbitral doctrine of retained rights. Kohler’s previously quoted assertion that “[a]ll terms and conditions are subject to joint agreement” typifies the enthusiastic excess of the adversarialists. It accurately states neither the law nor the practice of American collective bargaining.

Nothing in the nature of things requires the assumption of reserved or inherent prerogatives. From a workplace democracy perspective, it would be preferable to assume a vested right of employee participation in decisionmaking; yet this view has not prevailed in the United States. Critics complain that cooperative or QWL structures leave ultimate power in management’s hands, so that promises of reciprocity are deceptive.

99 Note that the rule of Yeshiva is not intrinsic to collective bargaining. Most nations where collective bargaining is practiced reject the principle. The Yeshiva outcome is best understood as reflecting a unique ideology of and approach to collective bargaining characteristic of the postwar United States. See Klare, The Bitter and the Sweet: Reflections on the Supreme Court’s Yeshiva Decision, Socialist Rev., Sept.–Oct. 1983, at 99.


102 Unless, that is, the phrase "terms and conditions" is given its technical meaning (bargainable subjects) and waivers are ignored. In that case, the statement is legally correct, but it is then also an implicit confession of the limitations of the adversary model.

103 Canada has in some respects firmly rejected it. Langille, "Equal Partnership" in Canadian Labour Law, 21 Osgoode Hall L.J. 496, 503–05 (1983). Professor Langille does note, however, that the concept of inherent managerial prerogative creeps back into Canadian labor law through a variety of doctrinal openings. See id., at 520–23 (duties of disclosure); 526–28 (duties during the freeze period); and 532–36 (arbitral doctrine of reserved rights).
Perhaps so, but at least with respect to strategic decisionmaking, this is largely true of the adversary model as well.

Third, American collective bargaining assumes certain pronounced limitations on employees' participatory contribution. The scope-of-bargaining problem has just been mentioned. There are also numerous limitations on the permissible uses of employee self-help, such as restrictions on grievance strikes, safety strikes, secondary activity and refusals to handle struck goods, and job actions to achieve work reorganization. Furthermore, most public employees are barred from striking. These limitations on autonomous employee action are inconsistent with a self-realization perspective.

Finally, the dominant collective bargaining philosophy embodies an inexplicably tepid and self-limiting conception of the use of public law in order to reconstruct markets. As a result, employer economic power constantly threatens to erode employees' statutory rights.

For these reasons, and notwithstanding its enormous achievements, modern collective bargaining is incomplete as a system of workplace democracy. While not necessarily uncritical of existing collective bargaining law and institutions, mainstream pluralists generally have not called for fundamental revision of the system. Militant social unionists sometimes advance a socialist commitment to workplace transformation in vague terms, but such convictions hardly inform their programmatic ideas about workplace reform. At that level the renewed militancy perspective largely reaffirms the traditional assumptions of collective bargaining. A self-realization perspective demands more. It looks toward the construction of workplace institutions and practices that will advance the project of democratizing work, not in some distant future, but as a part of ongoing practice.

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2. Failure to See the Need for Democratic Work Reorganization

Progress toward democratizing work requires abandoning the notion of a choice between adversarial and cooperative models and developing instead institutional structures that combine the virtues and mitigate the disadvantages of each. Let me restate this point as a general proposition of democratic theory in the era of postindustrial transition, true in different ways of the family and polity as well as the workplace. This is a time when democratic values and aspirations are taking on new meanings and rooting themselves ever more deeply into daily life; yet, it is also a time of continuing and profound inequality and power imbalances in the home, in the workplace, and in politics. In such a context, democratization requires the simultaneous elaboration of adversarial and participatory institutional forms.

Social and economic inequalities constantly threaten to erode and undermine democratic initiatives. Vulnerable groups (for instance, most employees in relation to their employers) therefore need autonomous, collective organization to increase their strength and solidarity so as to advance their interests. Formalized, rights-based, and adversary due process mechanisms (such as grievance procedures and litigation options) provide essential (although not fully satisfactory) protection against domination. At the same time, the project of democratization remains incomplete if the routines of daily life are organized on a hierarchical, authoritarian basis. While the right to file a grievance over an instance of managerial abuse is significant, it is not the same thing as direct, continuous participation in management. The ideals of self-realization and democratization require the elaboration of inclusive institutions of governance through which people can continually participate in making the decisions that affect their lives. Democratization of the workplace requires institutions that guarantee employees or their representatives direct, active, and continuous (i.e., nonadversarial) participation both at the level of strategic decisionmaking and in the management of daily operations.

Adversarialism fails to appreciate this point and, therefore, lacks commitment to the goal of total democratization. Unions
continued during the postwar years to make some efforts, through collective bargaining, to achieve greater access to firms' strategic decisionmaking. However, for the most part, neither mainstream leaders nor radical activists have inscribed the goal of reorganizing work operations upon labor's banner. Practically and psychologically committed to the bounded postwar framework of industrial democracy, labor has lost the initiative in democratizing the structure of work.

This is all the more regrettable given the transformative potential of the period we live in. The cybernetic revolution and the intensification of world trade competition provide business with considerable incentives to explore the flattening of hierarchy and the expansion of participation and autonomy on the job. Advocates of workers' rights inside and apart from the labor movement should seize the opportunity presented by this rapidly changing business environment to give modern content to the age-old ideal of workplace democratization. Labor's advocates should fashion and champion a self-determination perspective on worker participation, not remain reluctant and defensive observers as the process of industrial relations innovation unfolds on the basis of other, integrative assumptions.

3. Failure to Confront the Context of Economic Crisis and Change

This leads to a third characteristic blind spot in advocacy for the adversary model. There is commonly an air of unreality about such advocacy, due to its persistent failure to come to grips with the business crisis of the past decade, the dramatic restructuring occurring in the economy, or the present exigencies of the labor movement. The eloquent and timely defense of collective bargaining is not matched by any sort of convincing explanation of its precipitous decline in America. Realism sug-

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109 For one such (failed) effort, see First Nat'l Maintenance Corp. v. NLRB, 452 U.S. 666 (1981) (union denied right to collective bargaining regarding decision to close down part of enterprise).
gests at a minimum that attention needs to be paid to the steady erosion in recent years of the political and economic assumptions upon which the golden age of collective bargaining was founded.

Some adversarialists scarcely mention the economic environment at all. Others are sensitive to labor's distress but tend to understand the problem largely in distributive terms (i.e., as a management offensive in the face of labor's failure of militancy). This frequently leads adversarialists into a defensive program designed to buttress labor's past gains and existing institutional commitments and to hold onto jobs in industries facing long-term decline or significant readjustment.

Understandably, unions' immediate agenda must be to protect the employees they represent. However, this is no long-term solution to the deeper problems of the economy. Quite apart from managerial self-aggrandizement and intransigence, the economy is changing in ways that are undermining the overall business and industrial relations system in which collective bargaining has matured and flourished. This does not mean collective bargaining cannot adapt with changing times. Collective bargaining, perhaps in new, as yet unforeseeable forms, should play a vital role in governance of the postindustrial workplace. The point is that creative adaptation has become a necessity.

Advocates of workplace democracy must assume an unaccustomed and uncomfortable role. They must take responsibility for the task of devising paths to economic prosperity. This must be done not only in the arena of macroeconomic policy, where labor has frequently voiced its distinctive concerns, but also at the level of the enterprise, where customarily employees and unions have left (or have been told to leave) business policy to management. To be sure, a workers' advocate's approach to economic progress and business strategy must be informed by a special sensitivity to equity and self-realization concerns, and to issues of racial justice and feminism, that may be absent from a conventional business approach. Yet such concerns cannot entirely eliminate attention to efficiency and productivity growth. Efficiency is simply too important to be left to management. While almost all adversarialists acknowledge the possibility of joint employer/employee gains, too often the concession
is a grudging parenthetical. The focus on distribution is so powerful that efficiency concerns are often dismissed as merely a cover for speed-ups and rip-offs.\textsuperscript{111}

Moreover, the proponents of adversarialism miss the fundamental point that, quite apart from its philosophical implications (whether integrative or promotive of self-realization), participatory work reorganization has acquired a crucial efficiency dimension. With the rapid advance of automated, feedback-based technologies, the transition from "dedicated" (fixed) to flexible machinery, and the competitive movement from standardized to high quality, customized products, Taylorism is be-

\begin{itemize}
\item \textsuperscript{111} No doubt there is ample evidence in the history of American business practice to justify such suspicions. But over the long run, a refusal by workers' rights advocates to take seriously the problems of revitalizing and modernizing the economy is likely to prove self-defeating.
\end{itemize}

Parker's defense of the adversary model is a good example of the characteristic attitude. Parker does not take seriously the idea of any but the most short run common interests between employer and employee. Further, he remains unreflectively committed to the most traditional forms of "job unionism": rigid job classifications and seniority rules, resistance to technological change, and employee retention of production knowledge as a bargaining chip. \textit{See}, \textit{e.g.}, M. Parker, \textit{supra} note 34, at 17-18, 23-30, 50, 52, 59-60, 83-88, 102-04.

As I argued above, job unionism emerged as a defensive response to Taylorism and similar forms of managerial domination, and in that sense, represents an achievement for workplace democracy and self-determination. But as argued above and in the following paragraph of text, economic progress may demand a new social compact getting us beyond both Taylorism and the defensive responses it provoked. Advocates of workplace democracy must be prepared to search for these new alternatives.

Just as mainstream theory often elevates efficiency at the expense of distributional concerns, see text accompanying note 64 \textit{supra}, radical theory has suffered from a tendency to downplay or ignore questions of efficiency and growth, and to assume that the efficiency and distributional interests necessarily must conflict. This leads to pessimistic views such as that only the most transitory forms of participatory workplace reform are possible within capitalist society, and that the necessary tendency of capitalist work organization is to degrade labor. \textit{See}, \textit{e.g.}, H. Braverman, \textit{supra} note 29, at 83 (describing "deskilling" and extreme job fragmentation as the "general law" of the capitalist division of labor). The best in recent radical writing departs sharply from this approach and acknowledges the possibility that rational, self-interested capitalists might introduce work organization reforms that upgrade skills, enhance job satisfaction, and provide for nontrivial employee participation. \textit{See}, \textit{e.g.}, Derber & Schwartz, \textit{Toward a Theory of Worker Participation}, 53 Sociological Inquiry 61 (1983) (development of a theoretical model in which the imperative of worker integration is viewed as equally fundamental to capitalist labor process as the imperative—from the employer's point of view—of worker subordination). For radical criticism of the Braverman thesis, see L. Hirschhorn, \textit{supra} note 12, at 61-73; Edwards, \textit{The Social Relations of Production at the Point of Production}, The Insurgent Socialist, vol. 8, nos. 2-3, Fall, 1978, at 109, 109-10. See also, Sirianni, \textit{Production & Power in a Classless Society: A Critical Analysis of the Utopian Dimensions of Marxist Theory}, Socialist Rev., Sept.–Oct. 1981, at 33 (seminal article written within the radical tradition, but challenging typical radical views on the division of labor, workplace democracy, labor markets, and related issues).
coming increasingly outdated and counterproductive in much of the economy. Over the long run, prospects for growth and prosperity in the United States hinge on the emergence and success of non-Taylorist forms of work organization which rely upon workers' learning and problem-solving capacities. Strictly from the standpoint of business success, employers and employees share an interest in prompt and imaginative progress toward work reorganization and in the development of an expanded social service system which promotes public investment in human capital and responds to problems of displacement. Work reorganization is on the agenda of American business. Whether work reorganization takes a superficial or integrative cast, or instead presents an opening to significant democratization and enhancement of productivity and job satisfaction, depends fundamentally on whether workers' advocates seize the initiative and play leading roles in defining its future course.

VI. Conclusion

How to achieve the creative interaction between the adversary and cooperative models that will foster momentum for significant democratization of work is, of course, a great challenge. For one thing, only a fraction of American employees have the protection of collective bargaining. And with respect to unionized establishments, I do not mean to suggest that prefabricated participation structures can simply be grafted onto the existing collective bargaining process. Field studies show that weaving the two approaches together is a complicated and risky proposition. Where it has been attempted successes have occurred; but there have also been many disappointing failures.

\[112\] This is not to deny that there may always be significant sectors and industries in which employers will continue to seek to maximize profits by pursuing low-wage, low-tech, standardization strategies.

Some observers predict that labor market segmentation promises to become more, not less rigid in the future. See SEIU/9 to 5 Conference, "New Workforce" Issues, 126 Lab. Rel. Rep. (BNA) 87 (Oct. 12, 1987) (report of conference). The conference sponsors claimed: "[A]ll signs indicate that the contingent workforce [part-time, temporary, and contract employees]... will continue to grow as employers seek to cut labor costs by decreasing benefits and creating a large pool of workers to which the employer makes no long term commitment." Id. Conference speakers argued, however, that increased use of contingent labor is not a long-term, high productivity strategy.
The effort has required and will continue to require great skill and imagination, and it is far from clear that a will to proceed is sufficiently widespread, at least at the moment. One thing is certain from the field experience in forging "hybrid" industrial relations structures: easy generalization is impossible. Solutions to these difficult challenges will emerge, if at all, only through arduous experimentation and conflict.

At least it may be possible to formulate the agenda in general terms. From a self-realization perspective, the central issues are whether and how cooperative industrial relations forms can be opened up in the direction of true workplace democratization. Work reorganization is a process already underway in the United States. Can it be made an arena for creative, adversary conflict? Can work reorganization become a platform for a transformative practice in which employees seek to advance distributive equity and self-realization opportunities in work? Can we begin to theorize about a process of transition, some program of institutional and legal change that protects past achievements in workplace democratization yet cautiously embraces work redesign experimentation? Their claims to the contrary notwithstanding, the adversarialists have not demonstrated that these things are impossible. For their part, the advocates of cooperation may long for a conflict-free workplace, but their rhetoric of participation and mutuality invites workers to fight to achieve true power sharing. We should therefore move quickly beyond this falsely polarized debate and get on to these challenges.

COMMENTS

AUDIENCE MEMBER: Professor Klare, do you think that something like "portable seniority" would be a workable idea—where if you work for a place for five years and the company goes out of business, you could go to a new employer and there would be some sort of government assistance to that employer?

KLARE: At the very least, at absolutely the very least, the benefits and the retirement opportunities should be portable. They should not be tied to the misfortunes of a particular firm. The rights on entry into a new workplace—that, I think, is more
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complicated. For example, it doesn’t strike me as certain that a short-term, incumbent employee should necessarily have rights over a new entrant who is a long-term employee of that industry. On the other hand, there are fundamental issues of affirmative action to be considered. If we had the notion that there was going to be enough paid work for everybody to do and we weren’t using seniority to divide up a shrinking pie, I think some of those problems would become less painful than they have been. But, in principle, yes, “portable seniority” might be a promising concept.

AUDIENCE MEMBER: When you talk about cooperation, who are you talking about—the unions or the members of the unions? Because it seems to me one of the great problems associated with the decline or strength of unions in this country is that of shutting out their own membership from an active role in them. Who is cooperation envisioned between at this point? Because cooperation between union leaders and management doesn’t seem that far afield from what we have. Unfortunately, it doesn’t involve the workers that much.

KLARE: Of course, I am talking about participation of all employees and not just union leaders. Indeed, it is essential for the future of collective bargaining and for the revitalization of the labor movement that unions raise the banner of participation. And that has got to be participation within democratic unions as well as in the workplace.