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Labor Law Reform Not Just For Unions

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A bill now moving through Congress to expand workers' rights could be the most important legislation in decades to advance the concerns of environmentalists, public schools, higher education, senior citizens, universal health care, housing, women's and gay rights, and civil rights.

The bill—called the Employee Free Choice Act (EFCA)—is understandably the top priority for America's labor unions. It would mean better wages, benefits and working conditions for all employees. It would also make it more likely for unions to win organizing drives in workplaces.

But why should other constituencies rally behind this effort to reform the nation's labor laws? The reason is simple. The labor movement is still the most effective political force for electing liberal candidates at the local, state and federal levels. Once in office, pro-labor politicians are typically also the strongest advocates of strong environment laws, funding for public schools and higher education, civil rights, women's rights, gay rights, universal health insurance, affordable housing and protection of Social Security. A strong labor movement benefits these other agendas and causes, which have been under attack by conservative forces in recent years.

The Employee Free Choice Act would level the playing field between management and workers, making it more likely that union organizing campaigns will be successful. It would help reverse the labor movement's four-decade decline in membership.

Current federal laws are an impediment to union organizing rather than a protector of workers' rights. Elections held under current National Labor Relations Board (NLRB) rules are bureaucratic, inefficient and put workers and their unions at a disadvantage. Any employer with a clever attorney can stall union elections, giving management time to scare the living daylights out of potential recruits. According to Kate Bronfenbrenner of Cornell University, one-quarter of all employers illegally fire at least one employee during union campaigns. In 2005, over 31,000 workers were illegally disciplined or fired for union activity, according to the NLRB. The lucky workers get reinstated years later after exhaustive court battles. Indeed, penalties for these violations are so minimal that most employers treat them as a minor cost of doing business. Employees who initially signed union cards are often long-gone or too afraid to vote by the time the NLRB conducts an election.

The rules are stacked against workers, making it extremely difficult for even the most committed and talented organizers and workers to win union elections. Big business spends hundreds of millions of dollars a year to hire anti-union consultants who use elaborate strategies to keep unions out. Employers in the United States can require workers to attend meetings on work time where company managers and consultants give anti-union speeches, show anti-union films and distribute anti-union literature. Unions have no equivalent rights of access to employees. To reach them, organizers must visit their homes or hold secret meetings. This is hardly workplace democracy.

Business leaders argue that employees' anti-union attitudes account for the decline in union membership, which was 12 percent last year after peaking at 35 percent in the 1950s. In fact, a December 2006 poll found that 58 percent of non-managerial workers would join a union if they could. But they won't vote for a union, much less participate openly in an organizing drive, if they fear losing their jobs for doing so.

The Employee Free Choice Act would allow employees to form unions by simply signing a card

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stating that they desire union representation. If a majority of employees in a workplace sign a card, the company would be obligated to bargain with the union the employees choose. The law would also increase penalties for companies who violate worker rights and provide for mediation and arbitration for first contract disputes—a key provision given that employers often drag out negotiations to wear down a new union.

If this law were adopted, the U.S. would match other democracies in the protection of worker rights. In Canada, for example, the "card check" process is in place, and union membership is more than twice that in the U.S.

American workers' rights gained a foothold in 1935 with passage of the National Labor Relations Act, commonly called the Wagner Act. The Wagner Act granted workers the legal protection to organize and set up a democratic process in the workplace to gain representation. The NLRB was set up to oversee the effective functioning of workplace democracy. The frequently violent clashes between workers and owners was channeled into a government mechanism for managing conflict.

After World War II, unions faced a major assault from business and conservative forces. At that point, the labor movement was bigger and more powerful than it had ever been, representing more than a third of American workers. In 1947, the Republican Congress enacted the anti-union Taft-Hartley Act over the veto of President Harry Truman, who described the act as a "slave-labor bill." The new law restricted workers' rights to strike, picket, and boycott.

During the subsequent three decades, business groups used the Taft-Hartley restrictions to reduce union membership and political clout. In 1978, the labor movement sought to restore some of the workers rights that had been eroded by Taft-Hartley. A labor law reform bill was defeated by one vote in the Senate. Pressured by heavy lobbying from business, Democratic Senator Dale Bumpers of Arkansas was instrumental in the failure to override a Republican filibuster.

This victory strengthened business' hand even more. Nothing symbolized this more than President Ronald Reagan's busting of the Professional Air Traffic Controllers Association after they engaged in an illegal strike in 1981. Under Reagan, George H.W. Bush, and now George W. Bush, federal agencies designed to protect workers rights—such as the NLRB and the Occupational Safety and Health Administration—have had their budgets cut and their enforcement staffs eviscerated. Meanwhile, business's violations of labor laws have increased exponentially. A new union-busting consulting industry has flourished.

Despite all these setbacks, the labor movement remains the nation's most potent force for progressive change. In recent years, a few unions have become more feisty and effective. For example, in Los Angeles unions have used innovative and aggressive strategies not only to unionize workers, but also to build effective community relationships that connect struggles in the workplace to broader social issues, such as housing, the environment, and immigrant rights. Thoughtful union leaders and rank and file members have built coalitions with churches, college students, environmentalists and affordable housing advocates that link these struggles for justice. Hotel and hospital workers, janitors, nurses, and security guards have used these new relationships to gain support for organizing drives.

It's do-or-die time for the American labor movement. In the next decade or two, unions will either make a comeback or become marginal players in American society and politics. If labor stumbles towards irrelevance, our overall society will become nastier, more unequal and individualistic than it already is. It's not a happy prospect.

The weakness of the American labor movement—compared to its counterparts in other affluent, democratic societies—accounts for many troublesome aspects of our society. The U.S. has the widest gap between rich and poor among democratic nations. It also has the highest poverty rate; 13 percent of all Americans, more than 37 million people, live below poverty. The pay gap between men and women is wider in the U.S. than in other affluent countries. We are the only democratic society without universal health insurance; 47 million Americans lack even basic coverage. We spend less on job training, child care, and affordable housing, and more on prisons, than these other nations. Americans work longer hours, get fewer paid vacation days, and have fewer rights on the job than workers elsewhere. Our environmental and workplace safety laws are weak and poorly-enforced.

Political scientists argue that the decline of union membership in recent decades has contributed to the fall-off in voter turnout, because unions were traditionally the most effective vehicle for mobilizing low income and worker class voters. When labor unions educate and mobilize their members, they are very effective.

Organized labor still has a significant capacity to marshal resources—both money and

members—to influence the outcome of elections. Union members are more likely to vote, more likely to vote for Democrats, and more likely to volunteer for campaigns than people with similar demographic and job characteristics who are not unionized. In the November 2004 presidential election, union members represented 12 percent of all workers but union households represented 24 percent of all voters. Despite John Kerry's tepid campaign and upper-crust demeanor, union members gave him 61 percent of their votes over George W. Bush. In the battleground states, where unions focused their turnout efforts, they did even better. In Ohio, for example, union members favored Kerry by a 67 to 31 percent margin.

When voters' loyalties were divided between their economic interests and other concerns, however, union membership was a crucial determinant of their votes. For example, gun owners favored Bush by a 63 to 36 percent margin, but union members who own guns supported Kerry 55 percent to 43 percent, according to an AFL-CIO survey. Bush carried all weekly church-goers by a 61 to 39 percent margin, but Kerry won among union members who attend church weekly by a 55 to 43 percent split.

Among white males, a group that Democrats have had difficulty attracting in recent Presidential elections, Bush won by a 62 to 37 percent margin. But again, Kerry carried white males who were union members by a 59 to 38 percent difference. Bush won among white women by 55 to 44 percent but Kerry won white women union members by 67 percent to 32 percent.

Had union membership reached even 15 percent of the workforce, Kerry would have won by a significant margin.

In this climate, union leaders and their liberal allies are making a new effort to reform the nation's outdated and one-sided labor laws. On March 1, the U.S. House of Representatives approved the EFCA in a 241-185 vote. House Members who supported the bill stood up to heavy opposition by the U.S. Chamber of Commerce, which launched a costly barrage of radio ads in 51 House districts. Two Southern Democrats—Rep. Dan Boren of Oklahoma and Rep. Gene Taylor of Mississippi—voted against the bill.

Across the country, business leaders, the gun lobby, the religious right, and their Republican allies in Congress understand that a resuscitated labor movement would be an effective counterweight to their political influence. That is why they are on the warpath against the EFCA. President Bush has pledged to veto the bill if it passes the Senate and reaches his desk.

All the major Democratic candidates for President support the EFCA. The labor movement is likely to make support for the EFCA a litmus test for targeting its endorsement, money, and ground troops to candidates running for House and Senate in 2008, particularly those in swing districts and states, where Republican incumbents are vulnerable to defeat. If labor's liberal allies (such as the Sierra Club, NOW, ACORN, and NAACP), the do the same—and if Democrats gain more seats in both houses of Congress after the 2008 election—the EFCA has a good chance of passing. A Democrat in the White House will guarantee its victory. But even a Republican president could face a veto over-ride.

America is now closer than it has been in decades to having labor laws that truly protect workers' freedom to make their own choices about union representation, without management interference. If Congress can pass a veto-proof EFCA, it would do more than increase union membership, it could lead to a rebirth of progressive politics in America that would quickly echo across the United States for decades. All liberals and progressives should view the battle over the EFCA as a fight for their own future as well.