

# Why Advocates for Economic and Racial Justice Need The Employee Free Choice Act

by Peter Dreier and Gary Flowers

A strong labor movement is key to building a progressive America that promotes economic and racial equality. It was the American labor movement that provided the basis for what many citizens now take for granted. For example, the 40-hour work week, non-working weekends, 8-hour work days, occupational safety and health standards, and the prohibition of child labor all are the result of the American labor movement.

Today, the Employee Free Choice Act of 2009 (EFCA) represents what should be the right of all workers—the right to organize, free of management interference.

Throughout this nation's history, labor unions have represented the strongest voice for democratic reform in three key arenas of American life—the workplace, the economy, and politics.

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*A highly useful directory of academic studies, reports, blogs, policy briefs, op-eds, letters to the editor, Congressional testimony and resources of various organizations relating to EFCA, assembled by the Univ. of Mass. Political Economy Research Inst., is available at <http://www.peri.umass.edu/efca/#c859>. Two other excellent sources are at <http://www.americanrightsatwork.org/employee-free-choice-act> and <http://lawcha.org/tls.php>*

## A Better Workplace

Unions raise workers' wages and benefits: According to the Economic Policy Institute's *State of Working America*, union workers earn 14.7% more in wages than non-union workers in the same occupations and with the same level of experience and education. The "union premium" is even higher when total compensation is included, since unionized workers are more likely than their non-union coun-

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terparts to get health insurance and pension benefits.

Unions not only raise wages, they also reduce workplace inequalities based on race. The union wage premium is especially high for Blacks (20.3%) and Hispanics (21.9%). In other words, unions help to close the racial wage gaps based on employer discrimination. Unions made it tougher for employers to use racism to divide workers. Unions also reduce overall wage inequalities because they raise wages more at the bottom and middle than at the top.

During the first half of the 20<sup>th</sup> Century, many unions—particularly the older "craft" unions—were often hostile to Blacks and Latinos. Many White workers sought to protect their hard-won gains and viewed Blacks and Latinos more as a threat rather than as fellow workers. Employers often hired Blacks, and sometimes Latinos, as strikebreakers in order to exacerbate racial tensions. Some unions thus helped contribute to racial segregation in American workplaces, with Blacks and Latinos relegated to the lowest-

paying, dirtiest and most dangerous jobs.

Union strength reached its peak (at 35% of the workforce) in the United States in the mid-1950s. Unions enabled American workers, especially blue-collar workers, to share in the post-war prosperity and to join the middle class. Union pay scales boosted the wages of non-union workers as well.

But it was not until the Civil Rights Movement of the 1960s that Black Americans began to gain a fairer slice of these post-war economic gains. With organized labor finally becoming an ally, the civil rights crusade helped many Black Americans move into the economic mainstream. They gained access to good-paying jobs—in factories, government and the professions—that had previously been off limits. And, as noted above, in unionized firms, the wage gap between Black and White workers narrowed significantly.

Today, Blacks, Latinos and women—including immigrants—are at the forefront of the labor movement's efforts to expand its power. Blacks are more likely to be union members (18.2%) than any other group, while the proportion of Latinos in unions has been growing significantly, even as overall union membership has declined in the past decade.

## A Stronger Economy

Contrary to business propaganda, unions are good for the economy. A December 2007 study by the Economic Roundtable found that union workers in Los Angeles County earn 27% more than non-union workers in the same job. The increased wages for the County's 800,000 union workers adds \$7.2 billion a year in pay. As these

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workers spend their wages on food, clothing, child care, car and home repairs, and other items, their additional buying power creates 64,800 jobs and \$11 billion in economic output.

These positive benefits for workers on the job and for the overall economy exist even though unions represent only 12.4% of the nation's workforce. (The benefits are somewhat greater in Los Angeles County, where unions represent 17% of all workers.) Imagine how much bigger the gains would be if union density were greater!

The relative weakness of the American labor movement accounts for many of the most troublesome aspects of our society. Income inequality is greater today than at any other time since the 1920s. Families' declining purchasing power—for example, their inability to keep up with mortgage, car and other payments—accounts for a major share of the nation's economic woes.

Canada has many of the same big employers and a similar economy as the U.S. But in many ways—crime rates, poverty, homelessness, infant mortality and others—Canada is much more livable. In *Differences That Matter: Social Policy and the Working Poor in the United States and Canada* (2006), sociologist Dan Zuberi compared the lives of hotel workers in Vancouver, Canada, and Seattle, Washington, 140 miles apart, who worked for the same hotel chains.

Canada's much stronger labor, health, social welfare and public investment policies protected Canadian workers from the hardships that burden America's low-wage workers. Workers in Vancouver had better access to health care, public transit, housing and educational opportunities for their children than did their counterparts in Seattle.

In fact, the U.S. has the most inequality and poverty of any industrialized country. And it's no coincidence that, among all major affluent nations, where union density is three to five times greater, the U.S. has, by far, the fewest workers covered by a union contract.

## A Healthier Democracy

Despite its paltry size compared to its counterparts in other countries, the American labor movement remains the nation's most potent political force for progressive change. Unions play an

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important part in electing liberal and progressive candidates to office at the local, state and federal levels. Once in office, pro-labor politicians are typically the strongest advocates of tough environmental 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.

Consider the labor movement's role in 2008. Three weeks before the November election, *The New York Times Magazine* ran a cover story that asked, "Will Gun-Toting, Churchgoing White Guys Pull the Lever for Obama?" When the polls closed, the question was answered: Nationwide, a significant majority of White men, White women, working-class Whites, White gun owners, and White weekly churchgoers supported McCain.

But a significant number of Whites

in each category broke ranks and voted for Obama—enough to help him win key battleground states and the presidency. Exit polls conducted by Guy Molyneux, a survey expert with Peter D. Hart Research, explain why.

Molyneux surveyed 1,487 members of AFL-CIO unions—about half in battleground states—and compared the results with all voters. What he discovered is nothing short of astounding. Fifty-seven percent of White men favored McCain, but 57% of White male union members favored Obama. White gun owners cast 68% of their votes for McCain, but 54% of White gun owners who are also union members preferred Obama. Among White weekly churchgoers, McCain scored a landslide, receiving 70% of their votes, but Obama had a slight edge (49% to 48%) among White weekly churchgoers who were union members. Similarly, 58% of White non-college graduates voted for McCain, but 60% of White union members who didn't graduate from college tilted to Obama. Overall, 53% of White women cast ballots for McCain, but Molyneux found that a whopping 72% of White women union members favored Obama.

These numbers show the tremendous power of grassroots organizing. Nationwide, according to Molyneux, 67% of union members of all races—and 69% in swing states—supported Obama.

They voted for him because of the unions' effectiveness at educating and mobilizing members. They spent millions of dollars and built an army of volunteers who went door to door, reaching out to other members about key economic issues. Members in "safe" Democratic states staffed phone banks and made tens of thousands of calls to unionists in key swing states.

Unions made a special effort to talk with White members who may have been reluctant to vote for a Black man for president. AFL-CIO Secretary Treasurer Richard Trumka gave the same impassioned speech to union members in key states, appealing to their class solidarity, decency and sense of history: "There are a thousand good

reasons to for vote for Barack Obama. And there's not a single good reason for any worker—especially a union worker—to vote against Barack Obama. And there's only one bad reason not to vote for Barack Obama—and that's because he's not white."

Labor activists carried Trumka's message to union voters. On Election Day, union members, including White males, as noted above, were more likely than non-union counterparts to vote for Obama as well as for Democrats running for Congress and to volunteer for their campaigns.

## Labor and Civil Rights Movements

Rev. Dr. Martin Luther King, Jr. understood the importance of the labor movement to a more progressive America. He began his activism in Montgomery, Alabama, as a crusader against the nation's racial caste system, but the struggle for civil rights radicalized him into a fighter for broader economic and social justice. He recognized the limits of breaking down legal segregation. What good was winning the right to eat at a dime-store lunch counter if you couldn't afford a hamburger and a Coke?

During the 1960s, Rev. King became increasingly committed to building bridges between the civil rights and labor movements. Invited to address the AFL-CIO's annual convention in 1961, Rev. King observed that "the labor movement did not diminish the strength of the nation but enlarged it. By raising the living standards of millions, labor miraculously created a market for industry and lifted the whole nation to undreamed of levels of production. Those who today attack labor forget these simple truths, but history remembers them."

Rev. King also noted: "This unity of purpose is not an historical coincidence. Negroes are almost entirely a working people. There are pitifully few Negro millionaires and few Negro employers. Our needs are identical with labor's needs, decent wages, fair working conditions, livable hous-

ing, old age security, health and welfare measures, conditions in which families can grow, have education for their children and respect in the community. That is why Negroes support

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labor's demands and fight laws which curb labor. That is why the labor-hater and labor-baiter is virtually always a twin-headed creature spewing anti-Negro epithets from one mouth and anti-labor propaganda from the other mouth."

Rev. King worked hard to build the civil rights-labor alliance. Several major unions, especially the United Auto Workers and the International Ladies Garment Workers, donated money to civil rights groups, supported the sit-ins and Freedom Rides, and helped organize the 1963 March on Washington, where King delivered his "I Have a Dream" speech.

Most Americans today know that Rev. King was killed in 1968 in Memphis, Tennessee, but fewer know why

he was there. He went to Memphis to support African-American garbage workers, who were on strike to protest unsafe conditions, abusive White supervisors and low wages—and to gain recognition for their union.

Were Rev. King alive today, surely he could have been in Chicago and in Tar Heel, North Carolina last December in solidarity with workers fighting for their rights.

In Chicago, 240 members of the United Electrical, Radio and Machine Workers of America (UE)—80% of them Hispanic, most of the others African-American—illegally occupied the manufacturing plant of Republic Windows and Doors for six days after their employer abruptly told them that it was shutting down the factory. Their bold action worked. They got what they demanded—60 days of severance pay, earned vacation pay, and two months of health insurance coverage. That same month, in Tar Heel, after a brutal 15-year organizing battle, workers at the world's largest hog-killing plant voted to unionize. These 5,000 workers at the Smithfield Packing slaughterhouse—60% of them African-American—had rejected union membership in 1994 and 1997, after being

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subjected to the company's illegal harassment and intimidation in a state known for its anti-union climate. The workers' vote in favor of the United Food and Commercial Workers (UFCW) was one of the largest private-sector union victories in many years and the biggest in the UFCW's history.

## Rights At Work

Some people might ask: If unions are good for workers and good for the economy, why are so few employees union members?

Business leaders argue that employees are simply anti-union. Anti-union attitudes, they claim, account for the decline in membership. In fact, a December 2006 Peter Hart Research Associates poll found that 58% of non-managerial workers would join a union if they could. But they won't vote for a union, much less participate openly in a union organizing drive, if they fear losing their jobs for doing so.

And there's the rub. Americans have far fewer rights at work than employees in other democratic societies. Current federal laws are an impediment to union organizing rather than a protector of workers' rights. The rules are stacked against workers, making it extremely difficult for even the most talented organizers to win union elections. Under current National Labor Relations Board (NLRB) regulations, any employer with a clever attorney can stall union elections, giving management time to scare the living daylights out of potential recruits.

According to Cornell University's Kate Bronfenbrenner, one-quarter of all employers illegally fire at least one employee during union organizing campaigns. In 2007, over 29,000 workers were illegally disciplined or fired for union activity. Some workers get reinstated, but years later and only after exhaustive court battles. Penalties for these violations are so minimal that most employers treat them as a minor cost of doing busi-

ness. Employees who initially signed union cards are often long gone or too afraid to vote by the time the NLRB conducts an election.

Big business spends hundreds of millions a year to hire anti-union consultants in order to intimidate workers from participating in or showing support for union campaigns. Employers can require workers to attend meetings on work time, during which company managers 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 leaflet outside factory gates (an activity unions have not found cost-effective), visit workers' homes or hold secret meetings. This is hardly workplace democracy.

In fact, unions added 428,000 members in 2008, lifting the proportion of

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unionized workers to 12.4%, a 0.3% increase from 2007, according to a January 2009 report by the Labor Department's Bureau of Labor Statistics. This was the largest increase in union density since 1983, the earliest year for which comparable data are available. Except for last year's increase and a smaller rise in 2007, union membership has fallen or held steady in every year since 1983.

Two-thirds of that increase was among public-sector workers. As the workers at the Smithfield packing-house learned, workers in the private sector are still fighting an uphill battle because of one-sided labor laws.

## **The Employee Free Choice Act**

That's why the Employee Free Choice Act is the most crucial battle for workers' rights since the original National Labor Relations Act was passed in 1935. "It is the most important issue that we have," AFL-CIO

President John Sweeney told the *Wall Street Journal* after the November election.

The Act would allow workers to skip the lengthy, corporate-dominated NLRB process. If a majority of employees in a workplace sign a union card (a system called "card check"), the company would be obligated to bargain with employees through the union. It would also increase penalties for companies that violate worker rights and provide for mediation and arbitration for disputes over a first contract—a key provision, because employers often drag out negotiations in order to wear down a new union.

EFCA would make union organizing campaigns easier and reverse labor's four-decade membership decline. The U.S. would match other democracies in the protection of workers' rights. Canada has "card check" systems in half its provinces, and union membership is more than double that in the U.S.

If union membership is growing under America's one-sided existing labor laws, imagine how much more successful union organizing would be if the laws were more even-handed.

America's business community is gearing up to defeat the Employee Free Choice Act. This is likely to be the biggest battle over workers' rights since the Depression. A Democratic majority in Congress and a progressive Democrat in the White House don't guarantee EFCA's victory. The U.S. Chamber of Commerce and its business allies have pledged to spend whatever it takes—in advertising, campaign contributions and other means—to get enough moderate Democrats in Congress to oppose EFCA and ensure its defeat. The labor movement is raising its own warchest to mobilize union members and their allies to lobby Congress on behalf of EFCA.

Business may differ on issues like global warming and healthcare reform, but opposition to the EFCA "is one the business community is united on," Dan Yager, spokesman for HR Policy Association, a corporate lobbying group, told the *Wall Street Journal*. "Now that it looks like it has a serious

possibility of being enacted, we think it will galvanize the community even more."

Bernard Marcus, co-founder of Home Depot, told *Business Week* that EFCA is a "planned hostile takeover of [companies'] human resources." And Steven Law, the U.S. Chamber of Commerce's General Counsel, correctly observed to *Business Week* that EFCA would "alter a relative balance in labor-management relations which has existed for the last 50 years."

Business is on the warpath. The Chamber and other business lobbyists spent \$50 million last year on advertising against the Free Choice Act and millions more trying to get anti-EFCA candidates elected to office. Now that the election is over, business will wage the most expensive corporate propaganda campaign in American history. They formed a front group, the Coalition for a Democratic Workplace, and pledged to spend at least \$200 million for TV and radio ads and direct-mail and lobbying efforts, particularly in states with fence-sitting Senators, to defeat the proposal. Their key goal is to keep EFCA advocates from getting a filibuster-proof 60 votes in the Senate.

Unions cannot—and should not—fight this battle alone. Unions recognize that coalitions with community, religious and environmental groups are essential to building a broader movement for social justice. A wide spectrum of issue groups support EFCA, including the National Baptist Convention, Sierra Club, Human Rights Watch, NAACP, National Consumers League, National Women's Political Caucus, Presbyterian Church USA, United Methodist Church, U.S. Student Association and Stonewall (gay and lesbian) Democrats. But for the bill to pass, these and other groups need to use all their political muscle to energize their supporters on behalf of labor law reform.

Obama pledged to support EFCA during his campaign, and union leaders consider his appointment of progressive pro-union Congresswoman Hilda Solis to be his Secretary of Labor a positive signal. And at the end

of January, at a White House meeting to announce a task force on strengthening the middle class, surrounded by major union leaders, Obama said he believed that "we have to reverse many of the policies toward organized labor that we've seen these last eight years, policies with which I've sharply disagreed. I do not view the labor movement as part of the problem. To me, it's part of the solution." And at that meeting, Vice-President Joe Biden told the assembled union leaders: "Welcome back to the White House."

But Obama is understandably reluctant to push EFCA to near the top of his legislative agenda, and trigger the

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### ***America's business community is gearing up to defeat EFCA.***

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unified opposition of the country's business lobby, until he has gotten Congress to adopt an economic recovery plan and until key indicators—unemployment, foreclosures, credit, consumer confidence and others—suggest that the economy is steadily improving.

Without grassroots lobbying and protest—in the halls of Congress, in the streets and in cyberspace—it will be difficult for Obama to carry out a

progressive agenda. It will require vigils and rallies around the country, and perhaps civil disobedience like the Republic workers' sit-in, to win a new New Deal policy agenda—not only an infrastructure plan to stimulate the economy, like the one adopted in February, but also a "green jobs" investment program, a universal health insurance proposal, a strategy to help Americans afford housing, and a significant federal investment in public schools and college financial aid.

It's do-or-die time for the American labor movement. If labor stumbles toward irrelevance, our overall society will become nastier, more unequal and more individualistic than it already is.

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 passes the Employee Free Choice Act, it would not only increase union membership but also lead to a rebirth of progressive politics. Americans who care about building a healthier, more liveable society—one in which prosperity is widely shared—should view the battle over the Employee Free Choice Act as a fight for their own future as well. □