

Issue Brief

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The Silent War:

The Assault on Workers' Freedom to Choose a Union and Bargain Collectively in the United States

June 2002

Introduction

THE FREEDOM OF WORKERS TO JOIN TOGETHER in unions and bargain collectively is a fundamental human right that U.S. labor law guarantees in principle. But when America's workers seek to exercise this right today, they nearly always run into a buzz saw of employer threats, intimidation, coercion and outright warfare. The experiences of the workers quoted in this report, sad to say, are typical.

These employer tactics are designed to suppress workers' freedom to organize a union, which they do with devastating effectiveness. The law, which is supposed to uphold and defend the right to form unions, has become a Catch-22

of ineffective enforcement and interminable delay. Millions of American workers completely lack legal protection of their right to make a free choice to form or join a union.

Workers in particular and society as a whole pay a huge price for the widespread denial of the freedom to form unions. This price is measured, in part, by the suppression of wages, enormous and widening gaps in the distribution of income and wealth, weakening of the safety net, decline in civic and political participation, unchecked corporate power and harm to the quality of life. Perhaps as serious is the suppression of democracy.



Employer Interference by the Numbers

Employers that illegally fire at least one worker for union activity during organizing campaigns:.....	25 percent
Employers that hire consultants to help them fight union organizing drives:.....	75 percent
Employers that force employees to attend one-on-one anti-union meetings with managers:.....	78 percent
Employers that force employees to attend mandatory anti-union presentations:.....	92 percent
Employers that threaten to call the Immigration and Naturalization Service during organizing drives that include undocumented employees:.....	52 percent
Companies that threaten to close the plant if the union wins the election:.....	51 percent
Companies that actually close their plants after a successful union election:.....	1 percent
Union elections workers win when the employer does not threaten to close or move:.....	51 percent
Union elections workers win when the employer does threaten to close or move:.....	38 percent
Workers in 1998 who won cases proving they had been illegally discriminated against for engaging in legally protected union activity:.....	24,000
Nonunion workers who say they want to join a union:.....	42 million
Share of U.S. workers who belong to unions:.....	13.5 percent
Share of U.S. workers who would be in unions if workers could choose freely:.....	44 percent

Sources: U.S. Trade Deficit Review Commission, *Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing*, by Kate Bronfenbrenner, Sept. 6, 2000; *Unfair Advantage: Workers' Freedom of Association in the United States Under International Human Rights Standards*, Human Rights Watch, 2000; *What Workers Want*, Richard B. Freeman and Joel Rogers, ILR Press; "A Proposal to American Labor," Richard Freeman and Joel Rogers, *The Nation*, June 24, 2002.

Suppression of Workers' Freedom to Form Unions is Widespread in United States

IN SEPTEMBER 2000, Human Rights Watch, one of the world's most respected human rights organizations, published a historic, book-length report on workers' freedom to form unions and bargain collectively in the United States, after conducting a meticulous 18-month survey.¹ Human Rights Watch Executive Director Kenneth Roth summarized the report's findings as follows:

*"Our findings are disturbing, to say the least. Loophole-ridden laws, paralyzing delays, and feeble enforcement have led to a culture of impunity in many areas of U.S. labor law and practice. Legal obstacles tilt the playing field so steeply against workers' freedom of association that the United States is in violation of international human rights standards for workers."*²

So stark a conclusion from an unimpeachable source about the sorry state of workers' freedom to choose union membership in the largest economy and most powerful nation on earth should be a wake-up call to us all.

Human Rights Watch found that a large proportion of the U.S. workforce has no legally protected right to join together in unions

whatsoever, including most agricultural workers, independent contractors, household workers and supervisors, as well as many federal employees and state and local government employees in the 21 states without collective bargaining laws. There is no justification in human rights terms, according to Human Rights Watch, for these enormous gaps in legal protection.

Moreover, workers who in theory enjoy legal protection of the freedom to form unions are scarcely better off. According to National Labor Relations Board (NLRB) records cited by Human Rights Watch, illegal reprisals against employees attempting to exercise their right to freedom of association have reached epidemic proportions. These illegal reprisals numbered fewer than 1,000 per year in the 1950s. That figure has grown exponentially by the decade, reaching more than 23,000 in 1998. When employer illegality reaches such a level, Human Rights Watch's conclusion that the law is too weak and is inadequately enforced seems inescapable. While employers are the main perpetrators, the report emphasizes that government bears ultimate responsibility for protecting workers' freedom of association.

We were subjected to one-on-one meetings with our supervisors in which they pressured us to oppose the union. Imagine how powerful such a negative message is for nurses when it is coming from the person who sets your schedule and assignments, approves your time off, has the power to impose disciplinary action and has a say in whether you get a raise.

—Neonatal nurse Nancy Schweikhard (testimony before the U.S. Senate Health, Education, Labor and Pensions Committee, June 20, 2002)

Equally if not more potent in suppressing workers' freedom of association, according to Human Rights Watch, is a wide array of employer tactics that are perfectly legal under U.S. law. Examples include mandatory captive-audience meetings, during which a one-sided, anti-union message is presented and veiled threats are made that the workplace will be moved or closed should the workers vote to form a union. If these and other strong-arm tactics are not

enough, employers can and do avail themselves of interminable administrative and procedural delays.

The report's longest chapter is a compelling presentation of case studies of violations of workers' freedom of association. The workers' own words are far more powerful than any NLRB statistic. Human Rights Watch researchers interviewed "apple pickers and computer programmers in Washington State; hotel workers in California; nursing home workers in Florida; steelworkers in Colorado; shipyard workers in Louisiana; factory workers in Michigan, Illinois and Maryland; farm workers and hog processing workers in North Carolina; sweatshop workers in New York; and more."⁴

A mosaic of pervasive suppression of workers' freedom to choose a union emerges from these case studies. In the United States today, unfortunately, the fine rhetoric of the 1935 National Labor Relations Act (NLRA)—according to which, "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other mutual aid or protection.

—National Labor Relations Act (NLRA, passed by Congress in 1935)

engage in other mutual aid or protection"—has become a false promise for most workers.

Human Rights Watch's findings are reinforced by Dr. Kate Bronfenbrenner's analysis of more than 400 union representation election campaigns during 1998 and 1999.⁴ A partial list of

employer tactics tabulated by Bronfenbrenner includes:

- Mandatory captive-audience meetings, in which workers are forced to sit through one-sided, anti-union presentations;
- Repeated closed-door, one-on-one meetings with supervisors, during which workers are interrogated about their views of unions and pro-union workers are advised to change their minds;
- Employer assistance to anti-union workplace committees;
- Widespread threats that the workplace will close or move should the workers vote to form a union; and
- Illegal discharge of workers who support forming a union.

A ***captive-audience meeting*** is a meeting on company time during which a strong, one-sided, anti-union message is presented. Workers can be fired for refusing to attend. Workers

who support the union can be forbidden to attend. No equal time—or, indeed, any time—is allowed during working hours for workers seeking union representation to make their case. According to Bronfenbrenner's research, private-sector employers use captive-audience meetings as a tactic to suppress workers' freedom to form unions during 92 percent of union organizing drives. On average, these employers hold 11 captive-audience

meetings during a NLRB representation election campaign.

Seventy-eight percent of private-sector employers force employees to attend one-on-one anti-union meetings with managers during NLRB representation election campaigns. In two-

thirds of representation elections, these one-on-one meetings take place at least once a week during the campaign.

Fifty-five percent of private-sector employers force workers to watch anti-union videos during NLRB representation election campaigns. Seventy percent send anti-union letters to workers' homes; an average of 6.5 such letters are sent to each worker's home by these employers during a typical campaign. Three-quarters of private-sector employers distribute anti-union leaflets to workers during NLRB representation election campaigns; on average, 13 separate anti-union leaflets are distributed by these employers during a campaign.

Bronfenbrenner's report focused on threats made by employers during organizing campaigns to close or move the workplace if the workers vote for a union. She found employers made such threats during 51 percent of the 407 1998–1999 organizing campaigns she analyzed. In mobile industries, the proportion of threats to close or move is even higher. For example, such threats were made during 71 percent of the manufacturing sector organizing campaigns in her sample. With increased globalization and capital mobility, especially since the passage of the North America Free Trade Agreement (NAFTA), employer threats to close or move have become much more common features of organizing campaigns. The prevalence of employer threats to close or move rose from 29 percent during organizing campaigns in 1986–1987 to the 51 percent recorded for 1998–1999.

Though threats to close or move if the workers vote to form unions are illegal, employers have become adept at wording them instead as legal "predictions." Penalties for making threats, furthermore, are so trivial that they are not a deterrent.

Employer threats to close or move are strongly associated with election outcomes. Workers voted to form unions in 51 percent of represen-

tation election campaigns during which the employer did not threaten to close or move. By contrast, workers voted for a union in only 38 percent of elections when employers did threaten to close or move, and in only 24 percent of elections when employers threatened to move to another country. Similarly, workers won their unions at far higher rates in the least mobile industries, such as health care (60 percent), than in manufacturing (28 percent).

Bronfenbrenner finds that one out of every four employers illegally fires workers for union activity during organizing campaigns. On average, these employers fire four workers during a typical NLRB representation election campaign. Illegal discharges have a chilling effect on the entire workforce. Penalties for illegal discharge for union activity are miniscule, making it extremely cheap for an employer to illegally suppress the right to organize by firing union supporters.

In workplaces with high proportions of undocumented workers, during more than half of all NLRB representation election campaigns the employer threatens to call the Immigration and Naturalization Service if workers vote for a union. A recent 5–4 Supreme Court decision—*Hoffman Plastics*—has made matters even worse by denying back pay awards to undocumented workers who are victims of illegal, anti-union discrimination.

This is just a partial sample of the tactics commonly used by U.S. employers to suppress workers' freedom to choose a union. Bronfenbrenner found that employers increasingly use large numbers of these tactics, often 10 of them or more, as building blocks of aggressive, comprehensive campaigns designed to frustrate workers who seek nothing more than to exercise their fundamental human right to join together in a union. As Bronfenbrenner put it in earlier work done with Tom Juravich:

"...the overwhelming majority of employers use a broad range of aggressive legal and illegal anti-

union tactics, including discharging workers for union activity, giving workers illegal wage increases and imposing unilateral changes in benefits, conducting one-on-one supervisor meetings with employees, offering bribes, supporting anti-union committees, holding captive-audience meetings, establishing employee involvement programs, holding social events and mailing letters and distributing leaflets...most of these tactics are associated with significantly lower win rates....”

The probability of workers winning their union declines 7 percent for each additional anti-union tactic the employer uses “when the influence of election environment, bargaining unit demographics, and union tactics were controlled for.”⁵

Bronfenbrenner’s findings reinforce the conclusion that the suppression of workers’ basic freedom to join a union and engage in collective bargaining has reached epidemic proportions in the United States.

During three-fourths of all NLRB representation election campaigns, employers hire experienced professional anti-union consultants—union-busters—to advise them on strategy and tactics and to coordinate their anti-union campaigns. There is an entire industry in the United States of anti-union consultants whose sole objective is to suppress the freedom of workers to join unions—that is, to snuff out a fundamental human right.⁶ As labor historian John Logan describes it, this is an industry:

“...whose entire purpose is to enable employers to ‘circumvent the intent’ of the National Labor Relations Act (NLRA) through a stunning array of union-busting tactics, implemented before the union arrives and continuing until after it is defeated or decertified, tactics that are designed, at every step of the way, to undermine employees’ right to select bargaining representatives free from management interference.”

The world of anti-union consultants and lawyers is shadowy, and the size and scope of

this pernicious industry is not well known. One academic who published a study in 1990 reported that employers were spending about \$200 million per year on anti-union consultants, and a total of \$1 billion annually for their campaigns to thwart their employees’ freedom to form unions.⁷ Another academic study published in 1995 had this to say about fees paid to anti-union lawyers to suppress workers’ freedom to organize:

“One attorney interviewed for this study stated that the going rate for an experienced Atlanta attorney from a well-established, specialized labor law firm is in the \$150–\$250 per hour range, with rates for ‘big name’ attorneys being \$300 per hour or more (in 1992)....

An inexpensive campaign in a small-medium size firm with one attorney may cost the employer \$20,000 to \$30,000 in legal fees, whereas an ‘all out’ campaign with several attorneys and all the latest campaign tools (e.g., slick videotapes, visits by prominent politicians or civil rights leaders) can easily exceed \$100,000. Campaigns in a large, multifacility firm may involve a dozen or more attorneys and cost in excess of \$1 million.”⁸

If the figures from these two academic studies are accurate, updating for inflation the corresponding 2002 amounts would be more than \$275 million per year paid to anti-union consultants, \$1.4 billion spent yearly by employers on campaigns to thwart workers’ organizing and attorneys’ fees of \$1.3 million for a typical large firm’s anti-union campaign.

John Logan describes the “stunning array” of tactics routinely deployed by anti-union consultants and the employers who hire them when workers try to form unions:⁹

■ Consultants advise employers to respond hard and fast to undermine workers’ desire to form a union. “Prior to a certification election, the union is required to submit to the NLRB authorization cards signed by at least 30 percent of the eligible bargaining unit. Consultants

encourage employers to act quickly and aggressively against card drives because ‘no company has ever lost an election that wasn’t held.’ The tougher you are at the outset, the consultants advise, the better....Before the union files the cards, consultants emphasize their critical importance, cautioning employees that signing an authorization card is akin to ‘signing over power of attorney to the union’ or ‘signing a blank check.’ One consultant distributed anti-union leaflets stating that authorization cards are ‘legally binding contracts.... You are now obligated to abide by all the union’s rules and regulations....You could be fined. If you refuse to pay the fine, the union can sue you to collect payment.’ ”

■ If workers have signed authorization cards but the union has not filed them yet with the NLRB, workers are told they should ask the union to give back their cards. To encourage this, workers frequently are given form letters, written by the consultant, that ask the union to return their signed cards. Similar letters are addressed to the NLRB, with envelopes provided.

■ “After the union has submitted the authorization cards to the NLRB, management stresses the lack of importance of the cards, reassuring employees that ‘even if you signed a card, you can, and should, *vote no* in the forthcoming election. No one will know how you vote.” Consultants advise management never to agree to the union’s request to examine authorization cards. If, however, the union makes the mistake of presenting the employer with origi-

nal signed cards, consultants tell the employer to “destroy them immediately because the union is required to supply the labor board with originals.”

■ Consultants advise management how to skirt the employer’s legal requirement, once signed authorization cards have been filed with the NLRB, to supply the union with employees’ names and contact information. Employers are counseled to provide an “incomplete, outdated, and misleading list...at the last minute permitted by law.”

■ Consultants counsel employers to utilize NLRB procedures to manipulate the definition of the bargaining unit to frustrate workers’ efforts to form unions. “Consultants advise employers on how to object to both the size and make-up of the bargaining unit, how to pack units with anti-union employees, exclude pro-union employees and reduce the number of employees eligible for collective bargaining.” This commonly used tactic reduces the proportion of pro-union workers who will be eligible to vote in the representation election, divides the workforce and introduces lengthy delays that frustrate workers’ freedom to join unions.

■ A potent tactic frequently recommended by consultants is to claim that workers seeking a union perform supervisory duties and therefore lack the legally protected right to organize under the NLRA. Frequently the job duties of the workers in question have little if anything to do with supervision. “Consultants often

attempt to persuade the labor board that union activists are, in fact, supervisors, thereby removing them from the union campaign and leading to possible charges that supervisors have unlawfully assisted an organizing drive. By reclassifying ordinary employees as supervisors... or as ‘independent contractors’—none of whom are covered by the

After the firings [of union supporters] everybody clammed up. They were afraid....Even now I’m shunned by people who used to be my friends there. They’re afraid of losing their jobs.

—Jewel Parham, fired for attempting to organize a union at a Miami nursing home (interviewed by Human Rights Watch)

NLRA—employers can reduce significantly the number of employees who are eligible for unionization.”

■ Intentional fostering of delay is another poison arrow in the consultants’ quiver. “Consultants have...developed a host of complex legal maneuvers designed to delay NLRB proceedings. They stress that time is on the side of the employer and teach managers how to file frivolous complaints with the labor board....Delays extend the duration and effectiveness of the employer campaign and undermine employee confidence in the effectiveness of both the union and the labor board.”

■ Because a frequent consultant tactic is to portray the union as an “outsider,” consultants often go to great lengths to conceal their involvement in the campaign from the workers. Because another frequent tactic is to attack the “lavish” salaries of union officials, consultants go to great lengths to conceal the fees being paid to them by the employer. “In most counter-organizing campaigns, consultants work surreptitiously and employees rarely see the firm’s chief campaign strategist. Indeed, in many campaigns, employees are blissfully unaware of the consultant’s presence in the workplace. This allows the consultant to...avoid becoming the focus of union attacks, and sidestep the reporting requirements of the LMRDA [Labor-Management Reporting and Disclosure Act].”

■ Consultants advise employers to use front-line supervisors as the primary foot soldiers in the campaign to suppress workers’ freedom to form a union. “Consultants gain the cooperation of supervisors by warning that unionization will be a personal calamity for them because a union contract will undermine their authority on the shop floor and advise that, as part of management, supervisors can be terminated for refusing to participate in

anti-union campaigns....¹⁰ Supervisors are made to believe their future and entire worth at the company is dependent on how many ‘no’ votes they deliver in the election.”¹¹

■ If supervisors are the foot soldiers, consultants are the generals. In a typical campaign to suppress workers’ freedom of choice about union membership, consultants meet frequently with supervisors and use these meetings to orchestrate the employer’s campaign. “Supervisors... serve as ‘precinct captains’ during counter-organizing campaigns, and consultants advise having a minimum of one supervisor to every 10–20 employees. Consultants hold regular meetings with individual supervisors to follow what is happening in every section of the facility. They require supervisors to talk daily to employees on a one-to-one basis and record their reactions to the conversations. These meetings become more frequent and consultant pressure on supervisors and supervisor pressure on employees intensifies as the campaign progresses.... Towards the end of the campaign, supervisors report to the consultants on a daily basis or even more frequently. Based on information obtained from the supervisors’ reports, consultants compile detailed lists of pro-union, anti-union and undecided workers, thereby allowing managers and supervisors to target more effectively undecided workers.”

■ Consultants frequently advise employers to discriminate against workers who favor forming a union, and since such discrimination is technically illegal they further advise employers how to cover it up. “Pro-union workers are given unfavorable evaluations, transferred to undesirable jobs and physically isolated within the workplace—moved to areas where they have little opportunity to influence undecided workers—while supervisors psychologically isolate activists by spreading malicious rumors designed to undermine their credibility.”

■ “Vote no” committees have become an increasingly common weapon in the consultants’ arsenal. Though such committees frequently appear to form spontaneously during NLRB representation election campaigns, in reality their formation is often anything but spontaneous. “Consultants teach supervisors how to identify and organize anti-union employees into ‘vote no’ committees...to put pressure on undecided employees, even though direct management involvement in such groups is illegal.”

■ Consultants advise employers, in detail, about the nature, content and timing of their communications to workers throughout the NLRB representation election campaign. “Consultants try to persuade employees that the company, not the union, is the sole source of credible information. Designed to create an

They [tire iron- and baseball bat-wielding anti-union thugs] left me for dead. I surprised them. I’m still here and I’ll continue to fight until we win.

—Mario Vidales, Las Vegas casino worker (testimony before the U.S. Senate Health, Education, Labor and Pensions Committee, June 20, 2002)

atmosphere of fear, intimidation and confusion within the workplace, most employer communications stress familiar themes—strikes, violence, insecurity and disruption. Large consulting firms frequently boast of their extensive files of counter-organizing literature.... Consultants’ anti-union propaganda includes predictions of violent strikes and permanent replacements, restrictive clauses of the union constitution, salaries of union officials, union dues, allegations of corruption, charges that employees will surrender their right to deal directly with management and warnings about the difficulty in decertifying unwanted unions.”

■ The sowing of misinformation, disinformation and fear is a common feature of consultant-

designed employer communications strategy. “Consultants write or help employers to write anti-union letters signed by senior management that are delivered to employees on the job by supervisors....Consultant-scripted letters predict job losses, plant closures or relocations in the event of a union victory, and stress the general ‘futility’ of unionization—employers are not required to agree to the union’s demands or even to sign a contract and management hostility will continue long after the election campaign. Consultants recommend that management organize ‘going out of business’ discussions—especially in manufacturing plants, where the threat of closure or relocation is greatest.”

■ Employers and their consultants frequently predict or threaten that the workplace will close or move if the workers vote to form a union.

Such “predictions” have become especially common since passage of the North American Free Trade Agreement (NAFTA), particularly in sectors of the economy like manufacturing that are especially susceptible to plant closings and relocations. “Management in ‘mobile’ sectors of the economy can easily get its relocation message across to

employees without violating the law—for example, by placing maps of Mexico around the workplace.”

■ Consultants use scare tactics to persuade workers that if they vote for a union, collective bargaining with their employer will be futile or worse. “The consultant warns employees about the potentially disastrous consequences of collective bargaining. If the union were to win, employees are told, the company would be forced to abandon its flexible attitude to work rules, negotiations would ‘start from scratch,’ management would bargain ‘hard’ and employees may lose, rather than gain, as a result of the bargaining process.” Even though strikes are extremely rare in the United States

today, “employer communications frequently imply that strikes are all-but-inevitable if the union wins the election and warn that during strikes, employees lose not only wages but health insurance, face the threat of permanent replacement and have no automatic right to unemployment insurance benefits.”

■ The imagination of consultants knows few bounds in conveying a message of fear and intimidation to workers. “Consultants utilize gimmicks such as anti-union comic books, cartoons, competitions and ‘vote no’ T-shirts and buttons. Competitions typically include the ‘Longest Union Strike Contest’ (the correct answer being the greatest of three possible choices) or ‘true or false’ quizzes....Consultants try to schedule NLRB elections to coincide with paydays, holiday periods, immediately after annual pay increases or at other ‘feel good’ times. On payday elections, employees receive two paychecks—one for the amount of the monthly union dues, the other for their regular amount minus the dues money.”

■ Unlike political elections, access to the voters is almost completely one-sided in union representation elections. “Aside from its superior financial resources, consultants stress that management’s greatest advantage during an organizing campaign lies with its exclusive and unlimited access to employees at the workplace.” Workers who favor forming unions, by contrast, are limited to contacting their

colleagues outside the workplace or during nonworking time.

■ Intentional creation of turmoil and disruption in the workplace is another common consultant tactic during NLRB representation election campaigns. “Consultants deliberately create an atmosphere of divisiveness in the workplace, especially when the workforce consists of white-collar or professional employees. They believe that confrontation and disruption are more effective than fear and intimidation in turning professional employees, such as health care workers, against the union. In these campaigns, employer communications stress that unionization is incompatible with the employees’ professional identity and that collective bargaining would create an ‘adversarial’ and hostile relationship between management and employees....The consultant’s intention is to disrupt the customary functioning of the firm and create the impression that the union is responsible for this unwanted upheaval. But if the employees were to reject the union, they are assured, the atmosphere in the workplace would return to normal.”¹²

■ Consultants advise employers on how to time their NLRB representation election campaigns for maximum impact. “The consultant times the employer campaign to ensure that anti-union sentiment peaks just before the election. Management organizes a final captive meeting 24 hours prior to the election (speeches during the final day are illegal), stressing that it recognizes that it has made mistakes, that it has ‘heard’ the employees’ complaints and intends to introduce improvements and asks that it be given ‘another chance.’ ”

*I’ve thought about organizing in my new job,
but I need to be guaranteed that I won’t be fired.
As long as there is no law to protect us better,
I don’t think it is likely that I will organize again.*

—Mario Ramirez, fired for attempting to organize in a New York City sewing shop (interviewed by Human Rights Watch)

■ The law is so weak and so poorly enforced that many consultants routinely advise employers to violate it. “The most ruthless consultants have advised their clients to take illegal actions to counteract union campaigns, especially if the outcome of the election is in any doubt. Some consultants tell employers to fire a few union activists, if possible, for ‘just cause,’ and teach them how to make these terminations appear legitimate. Consultants assure employers they are unlikely to get caught, that the penalties for violating the law are weak, that the NLRB takes months to reinstate sacked workers and that the ‘chilling effect’ created by sacking activists can stop a union campaign in its tracks, as employees’ fear of reprisal for union activity immediately loses all of its vagueness.”

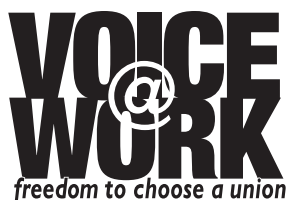
■ Consultant advice to break the law goes beyond counseling employers to fire workers who support forming a union. “Consultants... tutor management and supervisors on how to engage in unlawful activities—such as surveillance, interrogation, unscheduled pay increases and threats of dismissal—without fear of facing ULP [unfair labor practice] charges.”¹³

Workers’ freedom to bargain collectively often is not respected even after they vote to form a union. Bronfenbrenner finds that a year after elections, unions were able to negotiate first contracts only 68 percent of the time, primarily because of challenges to the election results,

refusals to bargain and other delaying tactics. As with union representation elections, experienced anti-union consultants often are retained to orchestrate employers’ anti-first contract campaigns. According to Logan:

“During the mid-1980s, unions were able to negotiate first contracts after only two-thirds of representation victories; with continuing employer opposition, that figure fell to just over half three years after a union election victory. In negotiations involving consultant activity, unions were 2.5 times less likely to secure a first contract than in cases when consultants were not used....”

“After a union victory, consultants continue to advise management on anti-union hiring practices. With the termination of pro-union employees, high labor turnover and the recruitment of carefully selected anti-union employees, the company can engineer a sea change in the union sentiment of the workforce. Consultants advise management on how to stall or prolong the bargaining process, almost indefinitely—‘bargaining to the point of boredom,’ in consultant parlance. Delays in bargaining allow more time for labor turnover, create employee dissatisfaction with the union and prevent the signing of a contract. Without a contract, the union is unable to improve working conditions, negotiate wage increases or represent the workers effectively with grievances; and by exhausting every conceivable legal maneuver, certain firms have successfully avoided signing contracts with certified unions for several decades.”



The Union Advantage by the Numbers

Union workers' median weekly earnings:.....	\$718
Nonunion workers' median weekly earnings:.....	\$575
Union wage advantage:.....	25%
Union women's median weekly earnings:.....	\$643
Nonunion women's median weekly earnings:.....	\$494
Union wage advantage for women:.....	30%
African American union workers' median weekly earnings:.....	\$603
African American nonunion workers' median weekly earnings:.....	\$463
Union wage advantage for African Americans:.....	30%
Latino union workers' median weekly earnings:.....	\$578
Latino nonunion workers' median weekly earnings:.....	\$398
Union wage advantage for Latinos:.....	45%
Union workers with guaranteed (defined-benefit) pension:.....	70%
Nonunion workers with guaranteed (defined-benefit) pension:.....	16%
Union pension advantage:.....	54 percentage points
Union workers who get health benefits:.....	73%
Nonunion workers who get health benefits:.....	51%
Union health benefits advantage:.....	22 percentage points
Union workers who get short-term disability coverage:.....	66%
Nonunion workers who get short-term disability coverage:.....	33%
Union disability coverage advantage:.....	33 percentage points
Union workers who get life insurance coverage:.....	78%
Nonunion workers who get life insurance coverage:.....	53%
Union life insurance coverage advantage:.....	25 percentage points

Sources: U.S. Department of Labor, Employment and Earnings, January 2002;
Bureau of Labor Statistics, Employee Benefits in Private Industry, 1999.

The High Cost of Suppressing Workers' Freedom to Form a Union

EMPLOYER INTERFERENCE has a devastating impact on workers' freedom to choose a union. According to a paper by Phil Comstock and Maier Fox, 36 percent of "no" voters in union representation elections explain their vote as a response to employer pressure, and 86 percent of those mention fear of job loss specifically.¹⁴

According to recent updating of a major survey by Richard Freeman and Joel Rogers, 42 million nonsupervisory, nonunion employees want to join a union. In earlier work, Freeman and Rogers found that the "natural" rate of union membership in the mid-1990s—if there were a "free market" for union representation—would have been 44 percent, the highest in U.S. history. Freeman and Rogers also find that management's anti-union wars on workers are the principal reason that workers who say they want a union do not have one.¹⁵

The consequences of failing to protect the freedom of workers to organize go way beyond the loss of wages, benefits and respect on the job, serious though these are. They also include the silencing of workers' voices in the political process and the weakening of the counterweight against corporate power that is so essential to the preservation of democracy.

Unions raise wages for all workers, as the fact sheet "The Union Advantage by the Numbers" (see page 12) makes clear—but they raise them the most for members of excluded and disadvantaged groups.¹⁶ Overall, union members earn 25 percent more per week than nonunion workers. The union difference is even greater for members of traditionally excluded groups. Female union members earn 30 percent more per week than nonunion female workers, and the union wage advantage is also greater for African Americans (30 percent) and Latinos (45 percent).

The freedom to choose a union is especially important to low-wage workers. Millions of nonunion workers toil at jobs paying wages so low that they and their families live in poverty, despite working full-time and year-round. As the following chart shows, union membership is the ticket out of poverty for workers in many low-wage occupations. For example, union janitors earn 39 percent more than nonunion janitors, union farm workers earn 36 percent more than nonunion farm workers and union cashiers earn 37 percent more than nonunion cashiers.¹⁷

How Unions Bring Low-Wage Workers Out of Poverty
Pay of union and nonunion workers in selected occupations—2000

Selected Low-Wage Occupation	Average Hourly Wage Union	Average Hourly Wage Nonunion	Yearly Wage Union	Yearly Wage Nonunion	Union Difference	Union Difference
Cashiers	\$10.04	\$7.35	\$20,883	\$15,288	37%	\$5,595
Library clerks	\$11.23	\$8.43	\$23,358	\$17,534	33%	\$5,824
Other protective service occupations	\$13.00	\$8.25	\$27,040	\$17,160	58%	\$9,880
Cooks, including short order	\$9.93	\$8.02	\$20,654	\$16,682	24%	\$3,973
Kitchen workers, food preparation	\$8.66	\$7.30	\$18,013	\$15,184	19%	\$2,829
Waiters'/ waitresses' assistants	\$10.63	\$8.05	\$22,110	\$16,744	32%	\$5,366
Misc. food preparation occupations	\$9.60	\$7.06	\$19,968	\$14,685	36%	\$5,283
Maids and housemen	\$9.86	\$7.76	\$20,509	\$16,141	27%	\$4,368
Janitors and cleaners	\$12.12	\$8.69	\$25,210	\$18,075	39%	\$7,134
Child care, except private household	\$9.46	\$7.69	\$19,677	\$15,995	23%	\$3,682
Farm workers	\$10.51	\$7.71	\$21,861	\$16,037	36%	\$5,824
Textile sewing machine operators	\$9.80	\$8.24	\$20,384	\$17,139	19%	\$3,245
Graders and sorters, except agriculture	\$12.30	\$8.13	\$25,584	\$16,910	51%	\$8,674
Stock handlers and baggers	\$9.59	\$7.80	\$19,947	\$16,224	23%	\$3,723
Hand packers and packagers	\$10.27	\$8.12	\$21,362	\$16,890	26%	\$4,472
Poverty Threshold for Family of Four*			Hourly	Annual		
			\$8.40*	\$17,472		

*Assumes full-time, full-year work

Sources: U.S. Census; *Union Membership and Earnings Data Book*, Barry T. Hirsch and David A. Macpherson, Bureau of National Affairs, 2001.

Not surprisingly, then, suppressing the freedom to form a union has contributed to one of the nation's most serious social and economic ills, namely increased inequality in the distribution of income.¹⁸ Suppressing the freedom to choose a union also has contributed to declining medical insurance coverage¹⁹ and declining pension coverage.²⁰ Seventy-three percent of union workers had health insurance benefits in 1999 (latest figures), compared with only 51 percent of nonunion workers. Seventy percent of union members had guaranteed or defined-benefit pensions in 1999, as against only 16 percent of nonunion workers. There are also large union/nonunion gaps in access to other important job-related benefits, such as disability benefits and life insurance.

Justice in the workplace suffers from the denial of workers' freedom to form a union. In virtually all unionized workplaces, workers only can be discharged for "just cause."²¹ By contrast, in virtually all nonunion workplaces in the private sector, workers are "employees at will" who can be discharged for almost any reason, good or bad—or for no reason—by their employer.

All workers, union and nonunion alike, have suffered from suppression of the freedom to form a union—because access to benefits and protections under a variety of existing laws depends on union membership and a strong union movement.²² Examples include workplace health and safety, unemployment insurance and workers' compensation. With the strength and expertise of their union backing them up, research shows that union members are better able than nonunion workers to access the protections of these and other safety net programs.

Further evidence of how and why strong unions are important to all workers, union and nonunion alike—and indeed all of society—can be found in the fact sheet, "The Benefits of Strong Unions" (see page 21). This fact sheet compares the 10 states where unions are strongest, as measured by union density (the proportion of the workforce that is unionized), with the 10 states where unions are weakest.

According to this fact sheet, wages and incomes are higher in states where unions are strong than in states where unions are weak, for all workers—not just for union members. The pay gap between women and men is smaller in states where unions are stronger, for all workers—not just for union members. Such safety net programs as workers' compensation and unemployment insurance are better in states where unions are strong than in states where unions are weak, for all workers—not just for union members. Health care is better in the stronger union states: a smaller percentage of people lack medical insurance, there are more physicians in relation to population, infant mortality rates are lower and life expectancy is higher. The rate of poverty is lower in the states where unions are stronger, and by various measures education is better, including the percentage of the population that has graduated from high school. Crime rates are lower in the strong union states.

Of particular importance is the result that voter participation is higher in states where unions are stronger. This finding is consistent with political science research, according to which the decline in unionization is a major cause of the long-term decline in voter participation in the United States.²³ Thus unions hold an important key to unlocking greater civic participation by working Americans.

Even American employers pay a heavy price for systematically denying workers' rights to organize a union, and for the incredibly conflict-ridden and acrimonious path that they—and the anti-union consultants they hire—have made virtually the only path to union recognition. The high-performance work organization methods that may hold the key to future economic success work best in workplaces where the freedom to form a union is respected.²⁴ As Karl Klare puts it, "wise managers know...(that) when employees feel secure, fairly treated, and welcomed as partners with a genuine voice in the enterprise, they contribute enormously to productivity, product innovation, and flexible adaptation to changing markets."²⁵

Everyone has the right to form and to join trade unions for the protection of his interests.
—Universal Declaration of Human Rights, U.N. General Assembly (1948)

Workers...without distinction whatsoever shall have the right to establish and...join organizations of their own choosing.
—International Labor Organization (a United Nations agency), Convention No. 87

Workers shall enjoy adequate protection against acts of anti-union discrimination.
—International Labor Organization, Convention No. 98

All member countries have an obligation...to respect, to promote, and to realize the principles concerning the fundamental rights which are the subject of those Conventions, namely:
(a) freedom of association and the effective recognition of the right to collective bargaining...
—International Labor Organization, 1998 Declaration on Fundamental Principles and Rights at Work (adopted with unanimous support of all U.S. delegates, including employer representatives)

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions.
—International Covenant on Civil and Political Rights (ratified by the United States in 1992)

The Church fully supports the right of workers to form unions...to secure their rights to fair wages and working conditions....No one may deny the right to organize without attacking human dignity.
—National Conference of Catholic Bishops (1986 pastoral letter on Catholic social teaching and the U.S. economy)

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other mutual aid or protection.
—National Labor Relations Act (passed by Congress in 1935)

The reality of NLRA enforcement falls far short of its goals. Many workers who try to form and join trade unions...are spied on, harassed, pressured, threatened, suspended, fired, deported or otherwise victimized...labor law enforcement efforts often fail to deter unlawful conduct...enervating delays and weak remedies invite continued violations. Any employer intent on resisting workers' self-organization can drag out legal proceedings for years.
—Human Rights Watch (August 2000)

Freedom to Choose a Union is a Fundamental Human Right

NOT ONLY ARE AMERICAN WORKERS and all of society paying a heavy price, but the suppression of workers' freedom to form a union constitutes a serious violation of human rights. Many people, including many trade unionists, are surprised initially to learn that the freedom to form a union is a fundamental human right. Yet support for this proposition is overwhelming, both from secular and religious sources.²⁶ As the 1948 *Universal Declaration of Human Rights* makes clear, "Everyone has the right to form and to join trade unions for the protection of his interests." Particularly noteworthy is the International Labor Organization's 1998 *Declaration on Fundamental Principles and Rights at Work*. This declaration was adopted at the instigation of the United States, and enjoyed unanimous support by all U.S. delegates to the ILO, including the employer representatives. According to the 1998 *Declaration*, all ILO member countries have an obligation "to respect, to promote, and to realize...fundamental rights (including)... freedom of association and the effective recognition of the right to collective bargaining."

Why Freedom to Choose a Union is a Fundamental Human Right

The notion that freedom to form a union and bargain collectively is a fundamental human right follows directly from the concept that every human being has value and should be treated with respect and dignity. If human beings have value and should be treated with respect and dignity, then they are entitled to participate in important decisions affecting their lives, such as determination of the terms and conditions of their employment. Denying any person the right to participate in these decisions is an affront to human dignity.

So-called "individual bargaining," touted by some apologists of the suppression of workers' rights as an acceptable alternative to collective

bargaining, fails miserably in human rights terms.²⁷ In the modern workplace, most terms and conditions of employment are set as a matter of policy for the entire workforce. It is hard to imagine, for example, how there could be individual bargaining over workplace health and safety policies. Even pay is usually set in accordance with workplace-wide job evaluation policies. For most workers in most workplaces, therefore, the only practical alternatives are employer fiat or collective bargaining. The difference between these two alternatives in human rights terms could not be clearer. In the words of Karl Klare, "only autonomous organization enables workers to protect their interests, achieve dignity and respect, and participate effectively in decisions affecting their lives."²⁸

Consequences of Freedom to Choose a Union Being a Human Right

The consequences of workers' freedom to form a union and bargain collectively being a fundamental human right are far-reaching and profound. Calling something a fundamental human right "means that it is a moral right that prevails over considerations of convenience or efficiency, and gives way only to other moral rights."²⁹ If something is a fundamental human right, according to Hoyt Wheeler, "then it trumps mere economic interests of employers or the public."

If workers' freedom to form a union and bargain collectively is a fundamental human right, suppressing that right is morally equivalent to suppressing other such basic freedoms as the freedom of religion or the right to be free from discrimination based on race, gender or sexual orientation. If freedom to choose a union and bargain collectively is a fundamental human right, then it is a right "that all governments have a responsibility to uphold and promote, and which all individuals and employers have a responsibility to respect."³⁰

Overcoming the Crisis

WORKERS FORM TRADE UNIONS to aggregate their power and deal collectively with employers. If you ever worked for a living, you know about the inequality of power between employers and employees. Constitutional protections that Americans hold dear often stop at the workplace door. Inside that door, the employer's word is law unless there is a countervailing force. The employer hires and fires, and apart from governmental regulations that are relatively minimal in the United States, the employer sets the terms and conditions of employment. Employees can quit, but often this imposes heavy personal costs and carries no guarantee that the situation will be better at the next place of employment.

When workers have strong unions, employers no longer set the terms and conditions of employment unilaterally. Instead, these critical decisions are made via collective bargaining between workers' democratically elected union representatives and employers. Workplace democracy replaces workplace autocracy.

As we have seen, denial of workers' freedom to join a union has reached epidemic proportions, imposing huge costs on workers and on all of society, and harming the quality of life for the vast majority of Americans. Solutions to this crisis are urgently needed and long overdue. The U.S. government must meet its obligation to protect workers' fundamental human right to join together in a union and bargain collectively.

This will require changing the law to recognize that the right of workers to form unions is a fundamental human right analogous to freedom of speech, freedom of religion and the right to be free from racial or sexual discrimination—and deserving of the same kind of protection as these other fundamental rights.

The law must prevent employers from suppressing workers' freedom to form a union and bargain collectively. To achieve this goal, employers must be taken out of the decision making process about whether or not workers want to join together in a union. As Karl Klare explains it, "the employer has no rightful claim in moral or democratic theory to participate in and contest an election among employees as to how they wish to deal with the employer. The employer has no more right to do so than the Democrats have to participate in selecting the Republican candidates they will oppose in political elections (or vice versa)."³¹

Workers who choose to be represented by a union must have a meaningful right to collective bargaining that ultimately results in a contract on fair terms.

Employers who break the law must be held accountable, with punishment that "fits the crime" and is severe enough to deter violations.

Protections of the law must be extended to *all* workers, regardless of their placement in such easily manipulated contingent workforce categories as "independent contractor," "supervisor," "temporary" or "seasonal," consistent with our recognition of changing employment relations in the new economy.

These and other needed changes in the law will not come quickly or easily, but without them American workers, the economy and our society will continue to pay a very heavy price. This price is measured, in part, by the suppression of wages, enormous and widening gaps in the distribution of income and wealth, weakening of the safety net, decline in civic and political participation, unchecked corporate power and harm to the quality of life. Even more serious is the affront to human dignity.

Footnotes

¹ Human Rights Watch, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards*, Washington, D.C., 2000. www.hrw.org/reports/2000/uslabor/.

² Kenneth Roth, "Workers' Rights in the United States," Industrial Relations Research Association, 2001, *Perspectives on Work*, V. 5, No. 1, pp. 19–20. See also testimony of Kenneth Roth before the Senate Committee on Health, Education, Labor and Pensions, June 20, 2002, hearing on "Workers' Freedom of Association: Obstacles to Forming Unions."

³ Kenneth Roth, "Workers' Rights in the United States," Industrial Relations Research Association, 2001, *Perspectives on Work*, V. 5, No. 1, pp. 19–20.

⁴ Dr. Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing," *U.S. Trade Deficit Review Commission*, 2000. To access the report on the Web, go to www.ustdrc.gov/research and download the file [bronfenbrenner.pdf](#). Her findings are summarized in the fact sheet on page 2, "Voice@Work: Employer Interference by the Numbers."

⁵ Kate Bronfenbrenner and Tom Juravich, "It Takes More Than House Calls: Organizing to Win with a Comprehensive Union-Building Strategy," in Kate Bronfenbrenner, et. al. (eds.), *Organizing to Win: New Research on Union Strategies*, Cornell Press, 1998, p. 32; and Table 1.2, p. 30.

⁶ For an excellent account of the activities of these anti-union consultants, see John Logan, "Consultants, Lawyers and the 'Union Free' Movement in the USA, 1970–2000," *Industrial Relations Journal*, forthcoming.

⁷ John Lawler, *Unionization and Deunionization*, University of South Carolina Press, 1990.

⁸ Bruce E. Kaufman and Paula E. Stephan, "The Role of Management Attorneys in Union Organizing Campaigns," *Journal of Labor Research*, Vol. XVI, No. 4, Fall 1995, pp. 439–454.

⁹ See John Logan, op. cit.

¹⁰ Other researchers have found this is more than an idle threat. According to Richard B. Freeman and Morris Kleiner, "managers whose establishments faced or lost organizing drives were more likely than other managers to suffer setbacks to their careers (firing, reassignment, retraining or failure to be promoted)." Richard B. Freeman and Morris Kleiner, "Employer Behavior in the Face of Union Organizing Drives," *Industrial and Labor Relations Review*, Vol. 43, No. 4 (April 1990), pp. 351–365. For a powerful and compelling recent account of a supervisor who was fired for failing to comply fully with her employer's campaign to suppress

workers' freedom to form a union, see the testimony of Sherri Buffkin, former supervisor, Smithfield Packing Co., Tar Heel, N.C., to the U.S. Senate Committee on Health, Education, Labor and Pensions hearing on "Workers' Freedom of Association: Obstacles to Forming Unions," June 20, 2002. Buffkin's testimony is available on the Web at www.ufcw.org/home/internal.cfm?subsection_id=755&internal_id=755.

¹¹ Other scholars also stress the potency of anti-union campaigning by supervisors. For example, according to Richard B. Freeman and Morris Kleiner, "the most effective 'hard-nosed' company tactic was to have supervisors campaign intensely against the union." See Richard B. Freeman and Morris Kleiner, op.cit., p. 361. According to the management attorneys interviewed by Kaufman and Stephans, "effectively marshaling the cooperation and support of the supervisors was the single most critical ingredient to defeating the union." See Bruce E. Kaufman and Paula E. Stephan, "The Role of Management Attorneys in Union Organizing Campaigns," *Journal of Labor Research*, Vol. XVI, No. 4, Fall 1995, p. 447.

¹² Support for this point can be found in Larry Cohen and Richard W. Hurd, "Fear, Conflict and Union Organizing," in Kate Bronfenbrenner, et. al. (eds.), *Organizing to Win: New Research on Union Strategies*, Cornell Press, 1998, pp. 181–196.

¹³ See also Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald and Ronald L. Seeber (eds.), *Restoring the Promise of American Labor Law*, ILR Press, 1994. The editors noted in their introduction to this volume: "Management consultants have become so bold and so contemptuous of the weakness of the labor law that repeat violations are common, even after their clients are found guilty of unfair labor practices and required to post 'cease and desist' orders. In one particularly egregious but telling case, a union-busting consultant was ordered to post a cease and desist order seven years after a representation election was found to be tainted by his extensive unfair labor practices; he posted the notice on the seat of his employees' toilet."

¹⁴ Phil Comstock and Maier B. Fox, "Employer Tactics and Labor Law Reform," in Sheldon Friedman, et. al. (eds.), *Restoring the Promise of American Labor Law*, ILR Press, 1994, pp. 90–109. Comstock and Fox also found that aggressive anti-union tactics are used especially often, and with the most powerful impact, to frustrate organizing in workplaces where workers want and need unions the most: in firms where job satisfaction is low, the desire for unionization is high and there are high concentrations of women, minority or less-skilled workers. Freeman and Kleiner also find that employers are most likely to strongly resist unionization with an all-out anti-union campaign where wages are low, working conditions are bad and supervisory practices are poor. In such cases, firms are more likely to mobilize supervisors and more likely to commit unfair labor practices as part of their anti-union campaigns. Other things being equal, committing unfair labor practices improves the chances that the employer will

win the campaign. See Richard B. Freeman and Morris Kleiner, "Employer Behavior in the Face of Union Organizing Drives," *Industrial and Labor Relations Review*, Vol. 43, No. 4 (April 1990), pp. 351–365.

¹⁵ Richard Freeman and Joel Rogers, *What Workers Want*, Cornell Press. In "A Proposal to American Labor" in *The Nation*, June 24, 2002, in view of the growth in the workforce since their survey, Freeman and Rogers write that "applying our results to today's workforce, about 42 million workers want an organization with elected representatives and arbitration of disputes with management"—in other words, a union. Other scholars have reached a similar conclusion regarding the importance of employer opposition in suppressing workers' freedom to organize unions. See, for example, Paul Weiler, "Promises to Keep: Securing Workers' Rights to Self-Organization Under the NLRA," *Harvard Law Review*, Vol. 96, No. 8 (June 1983), pp. 1769–1827. Weiler concludes that the "persistent decline in union membership in the United States is to a considerable extent attributable to the stubborn and often coercive resistance by employers that is fostered by the representation process under the NLRA." (p. 1769). See also Richard B. Freeman and Morris Kleiner, "Employer Behavior in the Face of Union Organizing Drives," *Industrial and Labor Relations Review*, Vol. 43, No. 4 (April 1990), pp. 351–365. They "find that management opposition, reflected particularly in the actions of supervisors, is a key component in union inability to organize workers in the United States." (p. 364). See also Gary N. Chaison and Joseph B. Rose, "The Macrodeterminants of Union Growth and Decline," in *The State of the Unions*, edited by George B. Strauss, Daniel G. Gallagher and Jack Fiorio, pp. 1–47, Industrial Relations Research Association. Chaison and Rose point to industrial relations policy and employer opposition as the most important explanations for union density decline. For a more recent analysis of the impact of employer opposition, see Morris Kleiner, "Intensity of Management Resistance: Understanding the Decline of Unionization in the Private Sector," *Journal of Labor Research*, V. XXII, No. 3, Summer 2001, pp. 519–540.

¹⁶ Detailed information about the impact of unions on workers' wages and benefits can be found in the AFL-CIO booklet *The Union Difference*, available online at www.aflcio.org/uniondifference/index.htm.

¹⁷ For an excellent study of the impact of unionization on cashiers and other workers in the retail food industry, especially women and single mothers, see Institute for Women's Policy Research, "The Benefits of Unionization for Workers in the Retail Food Industry," IWPR Publication No. C351, February 2002.

¹⁸ David Card, "The Effect of Unions on the Structure of Wages: A Longitudinal Analysis." *Econometrica*, vol. 64, no. 4 (July 1996): p. 957–979, and "Falling Union Membership

and Rising Wage Inequality," National Bureau of Economic Research, Working Paper 6520, April 1998.

¹⁹ Thomas C. Buchmeuller, John DiNardo, and Robert G. Valletta, "Union Effects on Health Insurance Provision and Coverage in the United States." Working paper, December 1999.

²⁰ William J. Wiatrowski, "Factors Affecting Retirement Income." *Monthly Labor Review* (March 1993): p. 25–35, and "Employee Benefits for Union and Nonunion Workers," *Monthly Labor Review* (February 1994): p. 34–38.

²¹ See *Basic Patterns in Union Contracts*, p. 37, Bureau of National Affairs, 14th ed., 1995.

²² See, for example, Barry T. Hirsch, David A. Macpherson and J. Michael Dumond, "Workers' Compensation Reciprocity in Union and Nonunion Workplaces," *Industrial Labor Relations Review*, vol. 50, no. 2, (January 1997): p. 213–236; David Weil, "Enforcing OSHA: The Role of Labor Unions," *Industrial Relations*, vol. 30, no. 1 (Winter 1991): p. 2036; and John W. Budd and Brian P. McCall, "The Effect of Unions on the Receipt of Unemployment Insurance Benefits," *Industrial and Labor Relations Review*, vol. 50, no. 3 (April 1997): p. 478–492.

²³ See Benjamin Radcliff, "Organized Labor and Electoral Participation in American National Elections," *Journal of Labor Research*, Spring 2001.

²⁴ Sandra E. Black and Lisa M. Lynch, "How to Compete: The Impact of Workplace Practices and Information Technology on Productivity," NBER Working Paper, no. W6120, August 1997.

²⁵ Karl Klare, "The Right to Organize: A Basic Civil Right," unpublished paper, 2002, p. 1.

²⁶ For a sampling of these sources, see box, page 16.

²⁷ See Roy Adams, "Labor Rights are Human Rights," *Working USA*, July/August 1999.

²⁸ Karl Klare, "The Right to Organize: A Basic Civil Right," unpublished paper, 2002, p. 1.

²⁹ Hoyt Wheeler, "Viewpoint: Collective Bargaining is a Fundamental Human Right," *Industrial Relations*, July 2000.

³⁰ Roy Adams and Sheldon Friedman, "The Emerging International Consensus on Human Rights in Employment," *Perspectives on Work*, Vol. 2, no. 2, 1998.

³¹ Karl Klare, "The Right to Organize: A Basic Civil Right," unpublished paper, 2002, p. 7.

The Benefits of Strong Unions

<i>Wages and Incomes</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Average hourly earnings, 2000	\$15.61	\$12.49
Average annual pay, 2000	\$36,705	\$29,804
Average household income, 2000 ⁱ	\$46,378	\$38,854
Per capita disposable income, 1999	\$25,767	\$21,785

<i>Gender Pay Gap</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Women's earnings as a percent of men's ⁱⁱ	77%	74%

<i>Worker Safety Net Programs</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Unemployment insurance—maximum weekly benefit, 2002 ⁱⁱⁱ	\$379	\$296
Workers' compensation—maximum weekly benefit, 2001 ^{iv}	\$675	\$486
Number of states with minimum wage law, 2001	All 10 states	Six states
Number of states with minimum wage higher than federal minimum, 2001	Four states	None

<i>Health Care</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Percent of population without medical insurance, 1999-2000 ^v	11.8%	15.1%
Physicians per 100,000 population, 1999	297	235
Percent of mothers receiving late or no prenatal care, 1998	3.6%	4.3%
Low-birthweight births as a percent of all births, 1999	7.2%	8%

<i>Health Care (contd.)</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Infant mortality rate, 1998 ^{vi}	6.9	8.1
Infant mortality rate—whites, 1998	5.7	6.4
Infant mortality rate—blacks, 1998	9.9	12.1
Age-adjusted deaths per 100,000 population, 1998	441	495

<i>Poverty</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Percent of population in poverty, 1999	10.6%	13.3%
Percent of children in poverty, 1999	12.8%	15.3%
Percent of seniors in poverty, 1999	8.8%	10.9%
Percent of families in poverty, 1999	7.8%	9.1%

<i>Economy</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Gross state product per capita, 1999	\$34,559	\$28,521

<i>Education</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Public education spending per pupil, 2000-2001	\$8,265	\$5,774
Average teacher salary, 1999	\$44,699	\$33,744
Percent of population graduated from high school, 2000	87%	84%

<i>Civic Participation</i>	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Percent of eligible voters who voted in presidential election, 2000 ^{vii}	55.2%	49.2%

Public Safety	10 States Where Unions are Strongest	10 States Where Unions are Weakest
Crimes per 100,000 population—1999	4,114	4,694
Violent crimes per 100,000 population—1999	443	489
Murders per 100,000 population—1999	4.8	5.7

10 States with Highest Union Density

New York
Hawaii
Alaska
Michigan
New Jersey
Washington
Illinois
Rhode Island
Ohio
Minnesota

10 States with Lowest Union Density

North Carolina
South Carolina
Virginia
Texas
Mississippi
Arizona
South Dakota
Arkansas
Florida
Utah

Sources:

ⁱ Income of Households by State in 2000 from US Census Bureau.

ⁱⁱ Ratio of median annual earnings for women employed full-time and full-year in 1999 to median annual earnings of similarly employed men. U.S. Census Bureau, Census 2000, *Profile of Selected Economic Statistics*.

ⁱⁱⁱ Unemployment insurance benefits in 2002 from Maurice Ensellem, Jessica Goldberg, Rick McHugh, Wendell Primius, Rebecca Smith and Jeffrey Wenger. "Failing the Unemployed: A State-by-State Examination of Unemployment Insurance Systems," March 12, 2002, Economic Policy Institute, Center on Budget and Policy Priorities, and National Employment Law Project.

^{iv} Workers' compensation benefits in 2001 from AFL-CIO, "Workers' Compensation and Unemployment Insurance Benefits Under State Law, January 1, 2001."

^v Percent of Uninsured, 1999–2000 from Kaiser Family Foundation Health Facts Online: 50 State Comparisons: Population Distribution by Insurance Status, 1999–2000.

^{vi} Infant deaths within first year of life per 1,000 live births.

^{vii} Voter turnout in 2000 from www.fairvote.org/turnout/preturnstate.htm.

All other data from O'Leary Morgan, Kathleen, and Scott Morgan, *State Rankings 2001*. Morgan Quitno Press, 2001.

Additional Resources

Readings

Human Rights Watch report: in September 2000, Human Rights Watch, one of the world's leading human rights organizations, published a major report on the status of workers' freedom to form a union, bargain collectively and strike in the United States. The report, entitled *Unfair Advantage: Workers' Freedom of Association in the United States Under International Human Rights Standards*, is available online at www.hrw.org/reports/2000/uslabor/.

Symposium on *Unfair Advantage*, edited by Sheldon Friedman and Stephen Wood, *British Journal of Industrial Relations*, December 2001 and March 2002. Contributions by Hoyt Wheeler, Jack Getman, David Brody, Lance Compa, Roy Adams and others.

Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages and Union Organizing," report for the U.S. Trade Deficit Review Commission, September 2000. Online at www.ustdrc.gov/research/bronfenbrenner.pdf.

James A. Gross, "A Human Rights Perspective on U.S. Labor Relations Law: A Violation of Freedom of Association," *Employee Rights and Employment Policy Journal*, 1999, Vol. 3, no. 1, pp. 65-103

John J. Sweeney, Remarks to the Labor and Working Class History Association, Washington, D.C. April 12, 2002. Online at www.aflcio.org/publ/speech2002/sp0413a.htm.

Hoyt Wheeler, "Viewpoint: Collective Bargaining is a Fundamental Human Right," *Industrial Relations*, July 2000.

Roy Adams, "Labor Rights are Human Rights," *Working USA*, July/August 1999.

Andy Levin, "What Thirty Million Workers Want But Can't Have," *University of Pennsylvania Journal of Labor and Employment Law*, Spring 2001.

Sheldon Friedman, "Ensuring Respect for Human Rights in Employment," Industrial Relations Research Association presidential address, January 2001. Online at www.irra.uiuc.edu/meetings/NO-2001/PresAddr_2001.PDF.

Martin Jay Levitt and Terry Conrow, *Confessions of a Union Buster*, New York, Crown Press, 1993.

Web Links

Voice@Work Month:
www.aflcio.org/voicework/month.htm

Common Sense Economics:
www.aflcio.org/cse/index.htm

Society for the Promotion of Human Rights in Employment (SPHRE):
<http://www.mericleinc.com/Sphre/>

Jobs with Justice, www.jwj.org. See section of their website that explains Workers' Rights Boards.

National Interfaith Committee for Worker Justice, www.nicwj.org/index.html

Voice@Work research agenda: The AFL-CIO has developed a research agenda to reach out to scholars and students who support workers' freedom to form unions and bargain collectively. For more information, see www.aflcio.org/voicework/month-research.htm.

A Quick Study of How Unions Help Workers Win a



What is a union?

A union is a group of workers who form an organization to win:

- Respect on the job;
- Better wages and benefits;
- More flexibility for work and family needs;
- A counter-balance to the unchecked power of employers; and
- A voice in improving the quality of their products and services.

How do people form a union?

When workers decide they want to come together to improve their jobs, they contact a union to help guide their organizing efforts to join a union. Once a majority of workers show they want a union, sometimes employers honor the workers' choice. Often, the workers must ask the government to hold an election. If the workers win their union, they negotiate a contract with the employer that spells out each party's rights and responsibilities in the workplace.

Does the law protect workers joining unions?

Yes. Under the law, which supports freedom of association, employers are not allowed to discriminate against or fire workers for choosing to join a union. For example, it's illegal for employers to threaten to shut down their businesses or to lay off employees or take away benefits if workers form a union.

What kinds of workers are forming unions today?

A wider range of people than ever before, including many women and immigrants, are building unions—doctors and nurses, poultry workers and graduate employees, home health care aides and wireless communications workers, auto parts workers and engineers, to name a few.

How do unions help working families today?

Through unions, workers win better wages, benefits and a voice on the job—and good union jobs mean stronger communities.

Union workers earn 25 percent more than nonunion workers and are more likely to receive health care and pension benefits than those without a union.

In 2001, median weekly earnings for full-time union wage and salary workers were \$718, compared with \$575 for their nonunion counterparts.

Unions lead the fight today for better lives for working people, such as through expanded family and medical leave, improved safety and health protections and fair trade agreements that lift the standard of living for workers all over the world.

What have unions accomplished for all workers?

Unions have made life better for all working Americans by helping to pass laws ending child labor, establishing the eight-hour day, protecting workers' safety and health and helping create Social Security, unemployment insurance and the minimum wage.

What challenges face workers today?

Today, thousands of workers want to join unions. The wisest employers understand that when workers form unions, their companies also benefit. But many other employers fight workers' efforts to come together by intimidating, harassing and threatening them. In response, workers are reaching out to their communities to help them exercise their freedom to improve their lives.

What about workers in other countries?

Unions fight to ensure that corporations and governments around the world respect all workers' fundamental rights to:

- Come together and negotiate with employers;
- Refuse forced labor;
- Reject child labor; and
- Work free from discrimination.



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