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Union Organizing and the Employee Free Choice Act (EFCA)

Imagine a U.S. presidential election that took place in the following conditions. For the first months of the campaign, only one party—say the Tories—has an accurate and complete list of the voters. The Whigs can only build lists of voters by talking to a few of their supporters and asking them for names and addresses of other voters. The Whigs are further burdened with seeking voters out at their homes, while the Tories have direct access to them for at least eight hours every day.

At the workplace, the person who wears a Whig button or talks to another voter about supporting the Whig Party candidate risks being harassed or fired from their job. Threats, intimidation and lies are used to convince voters that a Whig victory will lead to conflict and the possible closure of the voter's place of employment. The Tories control practically all channels of communication and hire sophisticated political consultants to sway voters. When Election Day finally arrives, the vote is taken and tabulated in Tory Party Headquarters.

These are the circumstances that confront American workers when they attempt to organize a union through the National Labor Relations Board (NLRB) election process.

Under the NLRB union election rules, employers are given the freedom to threaten, harass and intimidate union supporters who often risk their livelihoods by attempting to organize.

Anti-union consultants direct front line managers--the people with the authority to fire, reprimand, demote and generally make worker's lives miserable--to meet with the workers they supervise and interrogate them about their union allegiance.

Is it any wonder then that union membership in America has fallen from nearly 40 percent in the late 1950s to less than 13 percent today? This is even more unfortunate given that today's union members earn on average 28 percent more than their non-union counterparts.

However, under U.S. Labor laws, employers aren't required to have an NLRB supervised election. They are allowed to bargain with a union, and are also allowed an additional method for unionizing—card check.

Card check requires that at least 50 percent plus one of workers sign union authorization cards which are later certified by the NLRB. The union then must be recognized by the employer as the authorized bargaining agent for the workers. By law, the company must engage in good-faith bargaining to create a collective bargaining agreement.

What's the problem with this picture?

Employers must voluntarily agree to the card check procedures. Most won't and don't.

The right to organize a union is a building block of a democratic society. It is a fundamental right in both international human rights doctrine and in the teachings of Christian, Judaic, Muslim and other religious traditions. This right can be reclaimed in the United States. It is currently the centerpiece of the Employee Free Choice Act (EFCA), proposed federal legislation that allows workers to truly have a fair and un-coerced voice in deciding whether or not to have a union.

EFCA mandates that employers must negotiate in good-faith with the union once a majority signs authorization cards and the NLRB certifies the results. It will end the warfare waged against workers by companies and their anti-union consultants and will allow workers a fair chance to make up their own minds.

EFCA will be introduced in the 110th Congress, though it will not pass easily. Even if it does pass both houses of Congress, there is no guarantee that the President will sign the bill. It is time to both educate ourselves, our friends and neighbors, fellow congregants and clergy about these issues and communicate with our congressional members to ensure that workers who want to organize to improve their pay, benefits and working conditions have a voice on the job.

Visit the IWJ website at www.iwj.org to learn more about Card Check and the Employee Free Choice Act.