

# STRENGTHEN THE RIGHT OF WORKING PEOPLE TO ORGANIZE

## SUPPORT FOR GROWTH, JOB CREATION, AND CAREER DEVELOPMENT

**W**idely shared middle-class prosperity has made the United States the most hopeful and dynamic country on earth and is a foundation of strong democracy. Yet today, America's middle class is in trouble: the traditional routes into the middle class have become more difficult to travel and security has eroded for those already in the middle class. Major economic and policy changes over the past three decades have widened economic inequality and reduced mobility in ways that go far beyond the impact of the recent recession. Too many people who play by the rules and do everything right find that they cannot climb into the middle class—or stay there. To meet this challenge, Millions to the Middle offers dramatic public policy initiatives to rebuild and grow the nation's middle class.

### POLICY IN FOCUS

#### STRENGTHEN THE RIGHT OF WORKING PEOPLE TO ORGANIZE

Automatically recognize a union when a majority of employees provide signed authorizations, enable either the union or management to refer any disputes about the contract to mediation if an accord has not been reached within 90 days after bargaining begins, and increase penalties for violations of labor law.

We aim to accomplish two broad interrelated goals: to ensure that all Americans have a chance to move into the middle class and, second, to ensure greater security for those in the middle class. The 14 policies we offer are rooted in mainstream American values and able to command strong public support over the long term. Together, they go beyond the confines of the current policy debates and are of sufficient scale to firmly establish a middle-class America.

Our policy agenda is based on the three broad pillars of middle-class opportunity and security: investments in human capital and education; support for growth, job creation, and career development; and helping Americans build assets. This policy is part of the **Support for Growth, Job Creation, and Career Development**.

# POLICY: STRENGTHEN THE RIGHT OF WORKING PEOPLE TO ORGANIZE

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Rebuild labor rights so that Americans can band together to negotiate pay and benefits that enable them to enter the middle class.

## POLICY RATIONALE

Unions were instrumental in creating the American middle class, and today they continue to empower millions of Americans to bargain for wages and benefits that are capable of sustaining a middle-class standard of living. Among workers in similar jobs, unionized employees are significantly more likely to earn middle-class wages;<sup>1</sup> and have sick, family, and vacation leave policies, health care, and retirement plans.<sup>2</sup> Unions also improve wages and job quality even for those who are not members: in areas and industries with a high degree of union representation, unions can exert upward pressure on industry standards across-the-board.<sup>3</sup>

In surveys, 53 percent of non-managerial, non-union workers say they would likely vote for a union in their workplace.<sup>4</sup> Yet only 11.9 percent of the nation's wage and salary workers were union members in 2010, and just 6.9 percent of private sector employees belonged to unions.<sup>5</sup> While a number of factors, including shifts in employment away from the traditionally unionized manufacturing sector, contributed to the decline in union membership, one significant element is employer obstruction of workplace rights.

Enacted in 1935, the National Labor Relations Act was aimed at encouraging the formation of unions and promoting collective bargaining. According to the NLRA, employees did not previously “possess full freedom of association or actual liberty of contract” because individual workers were at a disadvantage when attempting to negotiate working conditions with an employer that could organize as a corporation.<sup>6</sup> This imbalance of power in the workplace would push down wages and reduce workers’ purchasing power, making recessions worse. To remedy the imbalance, the National Labor Relations Act gave employees the right to organize unions and bargain collectively.

Today, the system meant to defend the rights of employees to form unions no longer functions. Weak and slow-moving enforcement of labor rights allows employers to routinely violate the law, threatening and harassing employees who attempt to organize. Illegal threats, bribes, and even the firing of union organizers are commonplace.<sup>7</sup> Employees who dare to stand up for their right to join a union can face years of unemployment when they are illegally fired, while employers face virtually no penalty for denying their employees’ basic legal

## OPINION SNAPSHOT

- 78 percent of Americans say they support legislation that would make it easier for workers to bargain with their employers for better wages, benefits, and working conditions. 75 percent favor the specific mechanisms we outline in this report: allowing employees to collectively bargain once a majority of employees in a workplace sign authorization cards indicating that they want to form a union.<sup>8</sup>

rights. By strengthening penalties and replacing the easily abused mechanism of National Labor Relations Board (NLRB) elections with a streamlined employee sign-up procedure, this policy, based on the Employee Free Choice Act considered by Congress in 2007, would restore Americans' ability to choose union representation. In every workplace where a majority of employees want union representation, they could join easily, and begin to negotiate the pay and benefits that would enable them to enter the middle class.

## POLICY DESIGN

- Automatically recognize a union as the legitimate bargaining representative in a workplace when a majority of employees provide signed authorizations stating that they want to be represented by that union.
- To facilitate agreement on a first contract for employees after the union is recognized, enable either the union or management to refer any disputes about the contract to mediation if an accord has not been reached within 90 days after bargaining begins. If the mediator is unable to reach a deal within an additional 30 days, the dispute will go to binding arbitration.
- Increase penalties for violations of labor law: raise maximum fines to \$20,000 per violation for employers who have willfully or repeatedly violated employees' rights during an organizing campaign or first contract drive; triple the amount of back wages employees can receive if they are illegally fired or discriminated against for exercising their labor rights; require the courts to seek injunctions against employers, as well as unions, that violate labor laws.

## ENDNOTES

1. Bureau of Labor Statistics, "Union Members Survey," United States Department of Labor, January 27, 2012, Accessed March 4, 2012. <http://www.bls.gov/news.release/union2.nr0.htm>
2. Bureau of Labor Statistics, "Employee Benefits in the United States – March 2011," United States Department of Labor, July 26, 2011, Accessed Online March 4, 2012. <http://www.bls.gov/news.release/pdf/ebs2.pdf>
3. Bruce Western and Jake Rosenfeld, "Unions, Norms, and the Rise of Wage Inequality," Harvard University Working Paper (March 2011). [http://www.wjh.harvard.edu/soc/faculty/western/pdfs/Unions\\_Norms\\_and\\_Wage\\_Inequality.pdf](http://www.wjh.harvard.edu/soc/faculty/western/pdfs/Unions_Norms_and_Wage_Inequality.pdf)
4. Survey by Peter D. Hart Research Associates, December 2006, survey among 808 adults nationwide and 382 union members, conducted for the AFL-CIO.
5. Bureau of Labor Statistics, "Union Members Survey," February 7, 2012. <http://www.bls.gov/news.release/union2.nr0.htm>
6. "29 USC, Section 151 – Findings and Declaration of Policy," Legal Information Institute of Cornell University, Accessed on March 4, 2012. [http://www.law.cornell.edu/uscode/29/usc\\_sec\\_29\\_00000151---000-.html](http://www.law.cornell.edu/uscode/29/usc_sec_29_00000151---000-.html)
7. Kate Bronfenbrenner, "No Holds Barred – The Intensification of Employer Opposition to Collective Bargaining," Economic Policy Institute Report (May 2009). <http://www.epi.org/publications/entry/bp235>
8. Hart Research Associates, "Public Opinion Regarding the Employee Free Choice Act, National Survey Results," AFL-CIO (January 2009). [http://www.aflcio.org/joinaunion/voiceatwork/efca/upload/Employee\\_Free\\_Choice\\_Act\\_polling\\_memo\\_1.pdf](http://www.aflcio.org/joinaunion/voiceatwork/efca/upload/Employee_Free_Choice_Act_polling_memo_1.pdf)

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