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BARRIERS TO ORGANIZING

By Emily Salem

INTRODUCTION

In the past few years, Starbucks has closed all three of its formerly bustling locations in Ithaca, New York, home to Cornell University and its over 15,000 sleep-deprived, coffee-loving students (Thakker, 2023). Why would a profit-driven franchise shut down otherwise successful cafés? Former Starbucks employees, legal courts, and the press have accused the chain of union busting (Thakker, 2023). **Union busting** refers to a wide range of illegal tactics that companies employ to break up existing unions or prevent workers from unionizing in the first place. While employers often exploit legal loopholes, it's important to note that the federal government protects workers' rights to organize, and most union-busting strategies are illegal.

Starbucks is not the only major corporation to face union-busting accusations. Other big names such as Amazon, Trader Joe's, Apple, and REI have also come under fire for wielding unfair labor practices (Scheiber, 2023). This recent wave of high-profile conflicts between unions and corporate management has renewed public interest in barriers to organizing, raising questions about what rights workers should have and what actions constitute a violation of those rights. While some argue that the government must bolster its regulations to safeguard workers' rights, others prioritize corporate autonomy.

Protesters rally outside a closed Starbucks location in Seattle, voicing their grievances with the company's union-busting tactics.

Source: Boston.com

***Union** – an association of individual workers that negotiates with management to address issues like pay and*

EXPLANATION OF THE ISSUE

Historical Development

Organized labor movements predate the official birth of the United States by nearly 150 years ("Social Movements," 2023). Throughout this long history of organizing, unions have been instrumental in championing the causes of workers. So, what are unions and how do they operate? **Unions** are democratically run

associations of individual workers that negotiate with management through a process called **collective bargaining.** Union advocacy is generally geared towards issues like improving working conditions, working hours, employment and retirement benefits, and pay rates. While workers have consistently formed unions to advocate for themselves, the labor movement in the United States has a turbulent history, marked by both advancements and setbacks in organizing rights.

Collective Bargaining *– the process through which unions negotiate with management.*

Issues with Early Unions

Identity-based divisions and legal barriers prevented the earliest unions from reaching peak efficacy. The first unions in the United States were comprised mostly of skilled workers and craftspeople, and industrial workers remained largely unorganized until the mid-1900s (Library of Congress [LOC], n.d.). Many of the barriers to organizing were due to a lack of labor regulation. There were no federal laws in place to protect workers from being disciplined or fired for joining a union, so unionizing often came at an especially high cost for unskilled industrial workers who could be easily replaced (Library of Congress [LOC], n.d.). By the end of the 19th century, business owners and members of government were cracking down on unions and threatening strikers with physical violence and jail time (AFL-CIO, 2017). Early unions were also characterized by gender and race-based discrimination and divisions. Unions primarily served white American men while persons of color , women, and immigrants were largely excluded from membership and the benefits that membership provided (AFL-CIO, 2017).

While barriers to organizing posed significant challenges, the labor movement brought much-needed attention to several important issues. Early and influential unions like the National Labor Union and the Knights of Labor rallied around common objectives, including securing an eight-hour workday ("Today in History," n.d.). Their goal was to protect workers from having to endure gruelingly long shifts to keep their jobs. Ultimately, pioneering unions were unable to secure federal regulations establishing an eight-hour workday and other common labor demands. However, many of these long-standing agenda items became law later beginning in the 1930s ("Today in History," n.d.).

Unionized workers protest the Waterman Repair Division in Maryland in 1935.
Source: Harold M. Lambert

New Deal Era Pro-Union Legislation

Some of the most foundational laws regulating workers' right to organize can be traced back to the New Deal era beginning in the mid-1930s. During the Great Depression, the number of unionized workers plummeted from five to three million in the short span of 10 years (LOC, n.d.). During this time, industrial production was outpacing skilled labor, but unskilled industrial workers remained largely ununionized (LOC, n.d.). Skilled workers and artisans

constituted the vast majority of union membership, and most were associated with the American Federation of Labor (AFL), a cooperative league of unions that merged with the Congress of Industrial Organizations (CIO) in 1955 to form what is now known as the **AFL-CIO**.

While the early 1930s was a low point for the labor movement, unions regained traction after the Roosevelt Administration passed powerful and lasting pro-union legislation (LOC, n.d.). The National Industrial Recovery Act (NIRA) was the first major New Deal victory for the labor movement ("Today in History," n.d.). The NIRA "provided for the establishment of maximum hours, minimum wages, and the right to collective bargaining" for workers (LOC, n.d.). However, it also reinforced racial inequities by excluding agricultural and domestic workers, many of whom were Black or Latinx in its provisions (AFL-CIO, 2017). In 1935, the NIRA was struck down by the Supreme Court (LOC, n.d.).

AFL-CIO *– the most prominent federation of unions in the United States; advocates for worker's rights and fair labor practices.*

After the NIRA was struck down, Congress quickly passed what has become the centerpiece of pro-union legislation. The National Labor Relations Act of 1935 (NLRA), also known as the **Wagner Act**, guarantees workers the right to organize, form, or join a union, engage in collective bargaining, and abstain from a union if they so choose (NLRB, n.d.). The NLRA established the National Labor Relations Board (NLRB) which enforces the NLRA and handles complaints about unfair labor practices (NLRB, n.d.). While the Wagner Act advanced workers' rights, the labor movement continued to face restrictions as the federal government passed anti-union legislation in the wake of World War II.

Wagner Act *– landmark legislation passed in 1935 that guarantees workers the right to organize, form or join a union, engage in collective bargaining, and abstain from a union if they so choose.*

Recent Downturns and Upticks in Unions

While there have been some periods of modest growth, union membership has slowly decreased since its peak years in the 1950s. Today, one in 10 workers are unionized compared to one in three, 70 years ago (Rosalsky, 2023). In 2022, hopes that the unions were finally making a resurgence grew as workers organized and conducted strikes at higher rates than before (Rosalsky, 2023). It remains unclear whether the United States is actually facing a "union boom," especially since 27– more than half– of U.S. states have passed **"Right to Work Laws"** which can hamstring unions by making it illegal for them to collect compulsory dues from non-member employees who still benefit from their advocacy (Rosalsky, 2023). Moreover, traditionally unionized sectors like manufacturing and transportation have shrunk with a changing economy. Meanwhile, emerging areas like the service sector– home to Uber, Lyft, DoorD ash, etc.– remain largely ununionized,

partly because they are relatively new and less regulated (Rosalsky, 2023).

Scope of the Problem

Labor organizing can be a polarizing topic as it involves a tension between workers' rights to organize, their freedom to choose not to organize, and the desire to maintain a free-market system where corporations have autonomy. Alongside these historically persistent ideological counterweights, the rise of the service sector and gig economy presents additional challenges. As politicians grapple with regulating unions and barriers to organizing, they must also decide how traditional labor rights should be applied to a changing economy.

Right to Organize vs. Right-to-Work

All 27 states with right-to-work policies are highlighted in blue.

Source: National Right to Work Foundation

Discussions of labor regulations tend to revolve around the tension between two different sets of rights: the right to organize and the right to work. Union advocates argue that all workers have a fundamental right to organize and engage in collective bargaining and that it is the federal and state governments' responsibility to protect these rights. However, others argue that workers' right *not* to unionize is just as important and should also be regulated. These individuals are proponents of **right-to-work laws**, laws that make it illegal to force an individual to join a union as a condition of employment. By making union membership optional, right-to-work laws also make paying union dues– the funding source for all union activity and activism– optional (Kenton, 2022). Currently, 27 states have instituted right-to-work laws, while there are no federal right-to-work laws.

Right-to-work laws *– laws that make it illegal to force an individual to join a union as a condition of employment.*

While the partisan and ideological viewpoints on right-to-work are discussed more below, it is important to make the distinction between union membership and union representation. When an industry or place of work is unionized, all of its workers reap the benefits of collective bargaining and union advocacy regardless of whether or not they are members, and whether or not they pay dues to the union. This is union representation (Shierholz et al., 2022). By contrast, union membership refers to the workers that have opted into the union, most of whom pay fees to support its activities. Because workers cannot be forced to join a union, union membership is almost always lower than union representation (Shierholz et al., 2022). In other words, all employees at a given workplace benefit from the union, but not all are part of the union. This distinction raises some concerns about a "free rider problem" in right-to-work states where employees are incentivized to remain ununionized themselves while still benefiting from union activities (Kenton,

2022). The free rider problem is discussed further in the areas of debate section.

Union Avoidance

The official lines between what is legal versus illegal when it comes to labor practices are blurry. While the NLRA states that all workers must have the right to join a union, employers often use **union avoidance** tactics to prevent their workers from organizing without outright union busting (Shierholz et al., 2022). It has become commonplace for management to hire "union avoidance consultants" when their employees seek to unionize. These consultants devise strategies to deter workers from unionizing. In 2019, the Economic Policy Institute found that employers in the private sector spent almost $340 million annually just on union avoidance consultants alone (Shierholz et al., 2022). While it is not illegal per se, union avoidance is highly controversial and some argue that consultants often institute unfair labor practices (Shierholz et al., 2022).

Union Avoidance *– tactics employers may use to prevent workers from organizing without outright union busting.*

Union Busting

While employers may outwardly admit to union avoidance, most union busting activities and retaliatory actions are illegal as per the NLRA. However, this does not mean that union busting never happens. On the contrary, federal records indicate that illegal intimidation and union busting tactics are fairly common (Shierholz et al., 2022). According to a study conducted by McNicholas et al. in 2019, employers were charged with violating federal law in over 40% of union election campaigns (Shierholz et al., 2022). The data also indicated that in 20% of all union election campaigns, workers faced unlawful termination as a direct consequence of their involvement in union activities. Why would employers consistently risk legal reprimand for union busting? Labor experts suggest two main reasons: first, the cost of violating certain labor laws is relatively low since "penalties are grossly insufficient" in disincentivizing union busting; second, the benefits are relatively high since preventing unionization often allows employers to pay lower salaries and offer fewer benefits (Shierholz et al., 2022). While some argue that it should be up to companies to navigate labor laws as they see fit, the persistence of legal violations has prompted others to demand new, more stringent legislation that would protect workers more effectively.

A protest sign criticizes former Starbucks CEO, Howard Schultz, for union busting.
Source: massjwj.net

Addressing the Gig Economy

Even if all the above issues were magically resolved, legislators would still have to grapple with the question of how to treat labor rights in the gig economy. The **gig economy** refers to the rapidly expanding network of jobs that individuals "pick up" outside of a

Free rider problem *– in the context of right-to-work laws, refers to the incentive for workers to remain ununionized while still benefitting from union representation.*

formal workplace. Gig work is often temporary, unpredictable, and may be either a person's primary source of income or a "side job" that is just meant to earn them some extra cash (Weil, 2023). Some examples of newer well-known companies associated with gig work include Lyft, Instacart, Uber, DoorDash, and Getir. The category of gig workers also includes more traditional jobs like truck drivers, construction workers, and more. Depending on how you categorize different kinds of work, the gig economy accounts for anywhere from 10 to 36 percent of overall employment in the United States (Weil, 2023).

The vast majority of labor law does not currently apply to gig workers as they are considered independent contractors, not employees.

What does the gig economy have to do with barriers to organizing? The vast majority of labor law does not currently apply to gig workers as they are considered independent contractors, not employees, under the law (Weil, 2023). This means that Uber drivers, for example, are not entitled to the same protections (minimum wage, benefits, overtime, etc.) as other workers. While this can benefit contracting companies by reducing the amount they have to pay workers, it can also box gig workers into unfavorable working situations where they have little leverage to make change. As the number of gig workers continues to rise (it already surpasses 20 million), demands to update existing labor policies and allow for unionization in the gig economy have become louder and more pressing (Weil, 2023).

Congressional Action

As of June 2023, Congress has not passed significant new labor legislation. However, several bills have been proposed that, if passed, would transform the legal landscape for unions. The **National Right to Work Act**, which would extend right-to-work legislation to all states, has been introduced multiple times over the last several years but has yet to pass either the House or the Senate (S 532, 2023). While this act has some strong support, mostly from conservative representatives, it has failed to pass in all previous sessions where it was introduced.

National Right to Work Act – *proposed legislation that would extend right-to-work legislation to all states.*

On the opposite end of the ideological spectrum, the **Protecting the Right to Organize (PRO) Act** has also been introduced in both chambers of Congress and passed in the House last year (S 567, 2023). The PRO Act would expand existing federal regulations protecting workers' rights to organize by 1) broadening the definition of "employee" to include most gig workers and currently ununionized service sector employees; 2) allowing secondary strikes (also known as solidarity strikes) wherein employees at one company strike in order to support other employees at another company who are already striking; 3) allowing unions to make paying membership dues compulsory in states where right-to-work is not instituted; 4) limiting the actions employers can take to prevent employees from

organizing; and 5) increasing the penalties for unfair labor practices (S 567, 2023).

Other Policy Action

Courts and labor boards also play a massive role in determining the future of union policy. Most recently, in June of 2023, an NLRB ruling on a case involving the Atlantic Opera made it easier for gig workers to organize (Eidelson, 2023). In the case, which focused on hair and makeup staff at the opera, the NLRB voted to expand the definition of an employee, making it easier for people to demonstrate that they are employees as opposed to independent contractors (Eidelson, 2023). As of the writing of this briefing, it is still unclear how this ruling will affect unionization among gig workers, but it is certainly a step towards expanded unionization.

Representative Bobby Scott (D-VA) speaks in favor of the PRO Act.
Source: npr.org

IDEOLOGICAL VIEWPOINTS

Conservative View

Protecting the Right to Organize (PRO) Act *– proposed legislation that would expand existing federal regulations protecting workers' rights to organize.*

While there are some exceptions, conservatives are generally unsupportive of unions (Kenton, 2022). Instead, they prioritize preserving corporate autonomy and limiting government regulation. Conservatives argue that union advocacy, especially in states where right-to-work is not instituted, can impose an undue burden on companies. According to this perspective, further federal regulations could hurt the economy by driving businesses out of their state or the country entirely to avoid confrontation with unions. Conservatives also believe that union membership should never be mandatory, and workers should always be able to decide whether or not to opt in.

Liberal View

Whereas conservatives tend to want to limit federal oversight and regulation, liberals favor increasing federal protections for workers.

Liberals are generally pro-union and tend to prioritize the right to organize over corporate autonomy. They argue that unions are essential institutions that contribute to higher wages, better working conditions, and higher standards of living overall for workers. Whereas conservatives tend to want to limit federal oversight and regulation, liberals favor increasing federal protections for workers. Liberals emphasize the importance of making it easier to join and form unions and do not usually support right-to-work laws that would allow workers to opt-out. They argue that deregulation and right-to-work benefit already-rich corporations while limiting union power and lowering wages and standards of living for workers (Kenton, 2022).

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AREAS OF DEBATE

As conflicts between management and unions at prominent companies like Starbucks and Amazon continue to make the headlines, legislators are under immense pressure to implement more effective labor laws. While several solutions addressing right-to-work, the gig economy, union avoidance, and union busting have been proposed, Congress has not been able to agree on any significant changes. This is in large part due to a clear partisan divide on unions that has created legislative gridlock.

Regulating Union Avoidance Expenditures

In 2021, Amazon spent $4,260,000 on union avoidance consultants tasked with undermining workers' organizing efforts (McNicholas et al., 2023). While Amazon's budget is larger than most, union avoidance is shockingly common across companies whose workers seek to organize. This is problematic because these tactics disempower unions and prevent workers from reaping the benefits of collective bargaining. While employers are legally required to report most union avoidance activities and expenditures, they often exploit legal loopholes to keep their union avoidance tactics secret (McNicholas et al., 2023). Specifically, if an employer can claim that a union avoidance consultant is only offering "advice," not formal comprehensive services, then they are legally exempt from reporting their expenditures (McNicholas et al., 2023). While the Obama Administration attempted to close this legal loophole, the changes were never enforced and the Trump Administration peeled them back (McNicholas et al., 2023).

Labor advocates have proposed a variety of legislative solutions to the issues with union avoidance. First, Congress could close the reporting loophole and require companies to disclose *all* activities with union avoidance consultants (McNicholas et al., 2023). This has been proposed in the PRO Act and would mean that employers could no longer conceal their payments to consultants on the grounds that they were just receiving "advice" (McNicholas et al., 2023). Second, Congress could pass a bill prohibiting employers from claiming tax deductions on union avoidance expenditures which would disincentivize union avoidance in the first place (McNicholas et al., 2023).

Proponents of these solutions argue that they are necessary in order to ensure that workers actually have a fair chance to organize as guaranteed under the law. Because so many companies fail to report their union avoidance activities, employees and the public cannot know how much employers spend on preventing unionization. This puts workers at a disadvantage because knowing the amount their employers spend on union avoidance "could

empower them at the negotiating table when employers claim they can't afford to increase pay and benefits" (McNicholas et al., 2023). Moreover, the proposed regulations would increase overall corporate transparency and hold companies publicly accountable for their anti-union activities.

Not everyone agrees that union avoidance is a problem, and some argue that it would be a breach of corporate autonomy to require companies to report every expenditure. Detractors also argue that it is unfair to limit employers' tax deductions when they are only trying to act in their own financial interests by avoiding unions.

Political Perspectives on this Solution

In general, Democrats favor regulating union avoidance expenditures. They believe that the federal government has a responsibility to level the playing field and give workers a fair chance to organize, especially since many of the corporations who engage in union avoidance dedicate so many resources to preventing unionization. According to this perspective, anti-union activity effectively impinges the right to organize to such a degree that more protections are needed. Democrats also believe that corporate transparency is an essential component of a well-functioning democracy. Unions themselves as well as prevalent union federations like the AFL-CIO also favor more stringent regulation.

Republicans oppose these solutions and tend to see the proposed regulations as a glaring overreach of federal power. They believe that companies have a right to spend their money as they see fit without reporting everything to the government. Republicans often argue that the right to organize is already protected under the law and workers do not need further protection. Major corporations like Starbucks, Amazon, and more who have been accused of union busting would logically fall on the conservative side of the spectrum on this issue as it is in their economic interests.

In 2021, Amazon spent $4,260,000 on union avoidance consultants tasked with undermining workers' organizing efforts.

Federal Right-to-Work

Another common proposal, mainly supported by conservatives, is a federal right-to-work policy. This would make it optional for all employees nationwide to choose whether to opt into unions. Since right-to-work laws are only instituted in 27 states, a federal right-to-work would extend this policy to the remaining 23 states, most of which are left-leaning (Kenton, 2022). A federal right-to-work would be implemented by making it illegal to require workers to pay union dues as a part of their employment contracts (Kenton, 2022).

The main argument in favor of right-to-work laws is that employees should not be forced to join a union to simply gain employment. Right-to-work proponents argue that it is coercive to force employees to join a union. They support right-to-work because

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it gives employees the opportunity to refrain from joining a union. Right-to-work states are also associated with higher rates of employment and lower costs of living (Kenton, 2022). Proponents also put forth the argument that states with right-to-work laws "attract more businesses" because employers can rest assured that, even if there is a strike, not all of their employees will be participating and semi-normal operations can continue (Kenton, 2022).

Opponents argue that the term "right-to-work" is misleading because it implies that this legislation is pro-labor. On the contrary, right-to-work weakens unions, thereby reducing the benefits workers can reap from collective bargaining. Indeed, workers in right-to-work states are paid lower salaries on average (Kenton, 2022). Beyond wages, weaker unions may also enable employers to reduce the quality of working conditions and workplace safety (Kenton, 2022). One of the ways in which right-to-work may hurt unions is by discouraging employees from joining unions and paying union dues. Since all employees at a workplace benefit from union representation, regardless of whether they are personally members, there is little incentive for people to contribute to union dues themselves; it is more tempting to let other people pay for your benefit. This dilemma is called the 'free rider problem' and is one of the main issues with right-to-work (see page 4 for a more extensive explanation of the free rider problem).

Pro-union workers protest right-to-work policies.

Source: motherjones.com

Political Perspectives on this Solution

Republicans are nearly universal in their support for right-to-work legislation. The most common argument for right-to-work revolves around their focus on individual freedoms and protecting citizens from threats to their autonomy. According to this perspective, federal regulation is warranted because it is preserving individual rights. When discussing right-to-work, Republicans tend to emphasize that this policy would allow unions to remain completely intact. Some Republicans also favor right-to-work as part of their general opposition to organized labor.

Most Democrats are staunch opponents of right-to-work laws. They argue that, even though right-to-work does not ban unions, it creates a free rider problem and weakens them significantly. This leads to poorer treatment of workers, lower salaries, and limited collective bargaining power (Kenton, 2022). Ultimately, Democrats see right-to-work as a misleading policy that "rigs the system" against workers and in favor of massive corporations. In fact, many Democrats support the PRO Act which would override right-to-work laws nationwide, removing the policy from the states in which it already exists (S 567, 2023).

Enabling Gig Workers to Unionize

Individuals across the political spectrum recognize that gig workers face extra barriers to organizing. While up to 36% of the American workforce is part of the gig economy, most gig workers are not protected under existing labor laws like the NLRA (Weil, 2023). This is because gig workers are generally considered independent contractors rather than employees (Weil, 2023). One proposed solution is to expand the definition of employee to include the majority of gig workers. The PRO Act, which has yet to pass in the Senate, includes an expansion of the definition of employee under its provisions (S 567, 2023). Practically, this would be accomplished by amending the NLRA to include a clause explicitly distinguishing employees from independent contractors. For example, the PRO Act states that a worker is only an independent contractor if 1) they are operating independently from "control and direction in connection with the performance of the service," 2) "the service is performed outside the usual course of the business of the employer," and 3) they work in the industry independently and are not dependent on a single employer (S 567, 2023).

Proponents of this solution argue that failing to classify certain gig workers as employees would wrongfully deprive a massive (and growing) group of workers of the right to organize. According to these advocates, workers are often misclassified as independent contractors (rather than employees) when they are largely dependent on the companies they work for. As a result, they lose the protections and bargaining power that are available to other workers. For example, if independent contractors go on strike, they are not legally protected and can easily lose their jobs. In an economy where gig work is already less stable than traditional employment, losing the right to unionize makes it even harder for gig workers to subsist (Weil, 2023).

While up to 36 percent of the American workforce is part of the gig economy, most gig workers are not protected under existing labor laws like the NLRA.

Opponents argue that it does not make sense for gig workers to unionize. This is because gig work is inherently unstructured, and individuals currently classified as independent contractors do not have a traditional workplace connection that would facilitate organizing. Moreover, unionizing gig workers could increase the cost of operating for companies like Uber and Lyft, thereby increasing the price of services for consumers and/or decreasing pay for workers.

Political Perspectives on this Solution

Democrats tend to support expanding labor protections for gig workers. This is because they believe that workers who depend on companies for the bulk of their income more closely resemble employees than independent contractors. Consequently, they also believe that gig workers deserve labor protections, and the law should be extended to include them in its provisions. Otherwise,

highly profitable companies like DoorDash and Uber are enabled to cut costs by paying and treating workers poorly.

By contrast, Republicans generally oppose paving the way for gig workers to unionize. This is because they are more interested in limiting union activity and rolling back federal regulations. Even among those who are not firmly anti-union, conservatives are less likely to believe that organizing the gig economy is practical or necessary. Instead, they are more concerned with the effects unionization would have on contracting companies and the economy writ large.

Cracking Down on Union Busting

One of the main reasons union busting remains so common even though it is technically illegal is because the penalties for unfair labor practices tend to be relatively mild (Shierholz et al., 2022). For this reason, increasing the sanctions for companies found guilty of unfair labor practices has been proposed as a way to reduce their occurrence. This could look a variety of ways. One common proposal is increasing the fees employers must pay if they wrongfully terminate an employee for attempting to unionize. For example, the current fee is $50,000, and the PRO Act would double it to $100,000 (S 567, 2023). In addition to increasing penalties, Congress could place stricter limitations on what employers are allowed to do. Some frequently proposed regulations include making it illegal for employers to 1) force employees to waive their rights to sue their employer through collective litigation and 2) hold required meetings, also called "captive audience meetings," in which employers disseminate anti-union propaganda and often intimidate workers out of organizing (S 567, 2023).

Proponents argue that cracking down on union-busting is necessary in order to effectively protect workers' rights. Employers often break the existing rules because the small consequences they face are worth the strategic benefit of crushing unions and avoiding the increases in expenditure that workers in them would demand. Moreover, there are several common tactics– like captive audience meetings– that are blatantly coercive barriers to organizing but continue to go unchecked.

Arguments against increased regulation center around the belief that it is not the federal government's role to micromanage what companies can and cannot do when their workers seek to unionize. Increasing penalties for union busting can be seen as an overreach of federal power that places undue restrictions on companies.

Political Perspectives on this Solution

Democrats– and the unions that support them– are typically in favor of cracking down on union busting. This is because they believe

that it is the federal government's responsibility to ensure that workers are not being coerced or disempowered by powerful corporations. Republicans, on the other hand, oppose stricter regulations. According to this perspective, increasing penalties for union busting is unnecessary and only serves to violate corporate autonomy and free market principles.

BUDGETARY CONSIDERATIONS

Because most of the proposed solutions relating to labor are regulatory and do not create new programs, funding is less of a consideration. However, since increased regulations could mean more of a demand for legal oversight, certain bills may require an increase in the budget for the NLRB, the board responsible for overseeing all labor violations. It is also important to consider how regulating unions could have an indirect impact on U.S. tax revenue by increasing or decreasing worker salaries.

CONCLUSION

Labor disputes are not going away. The longer Congress stalls on legislating, the longer civil unrest over union-management conflicts will continue. As representatives in the House Education and Labor Committee, it is your job to assess the situation and come up with solutions that will work for workers and companies. In addressing issues like union busting, union avoidance, right-to-work, and the gig economy, you will have to balance a variety of competing interests. While some of you will prioritize the right to organize, others will prioritize corporate autonomy and the right-to-work. No matter your stance, remember that you may have to compromise and consider other arguments to make effective change.

As we approach the conference in February, do not be limited by the solutions proposed in this briefing. You are allowed (and encouraged!) to combine and rework the policies proposed here as well as introduce new ideas of your own. Ideally, this briefing will serve as an educational template, but you and your fellow delegates will ultimately learn the most from each other.

As you continue to look into the topics discussed in this briefing, remember to consider how your assigned representative thinks about labor and barriers to organizing.

GUIDE TO FURTHER RESEARCH

As you continue to look into the topics discussed in this briefing, remember to consider how your assigned representative thinks about labor and barriers to organizing. In addition to researching the policies and positions your representative supports, look into the

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state of labor in your home district. Do you come from a right-to-work state? Are there any major labor conflicts? How important are unions in your local economy?

In addition to familiarizing yourself with your representative, it may be helpful to take a look at current bills that have been proposed on these topics. You can access all bills that have been introduced on the website congress.gov. Searching using some key terms like "unions," "right-to-work," etc., will help you find relevant bills. Paying attention to whether they have been passed and potential ways they could be improved will help you brainstorm your own ideas as we approach the conference.

Lastly, labor law and research are incredibly dense, and this briefing only skims the surface. If you would like to learn more, you are encouraged to read studies on the state of labor and the impact of different regulations. It may also be helpful to familiarize yourself with key labor laws such as the NLRA. However you decide to go about additional research, good luck and your chairs can't wait to meet you in February!

GLOSSARY

AFL-CIO – the most prominent federation of unions in the United States; advocates for worker's rights and fair labor practices.

Collective bargaining – the process through which unions negotiate with management.

Free rider problem – in the context of right-to-work laws, refers to the incentive for workers to remain ununionized while still benefiting from union representation.

Gig Economy– refers to the rapidly expanding network of jobs that individuals "pick up" outside of a formal workplace.

National Right to Work Act – proposed legislation that would extend right-to-work legislation to all states.

Protecting the Right to Organize (PRO) Act – proposed legislation that would expand existing federal regulations protecting workers' rights to organize.

Right-to-work laws – laws that make it illegal to force an individual to join a union as a condition of employment.

Union – an association of individual workers that negotiates with management to address issues like pay and working conditions.

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Wagner Act – landmark legislation passed in 1935 that guarantees workers the right to organize, form or join a union, engage in collective bargaining, and abstain from a union if they so choose.

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