

**RESOLUTION ON WORKERS' RIGHTS IN THE UNITED STATES**  
**Submitted by the Commission on Social Action of Reform Judaism**  
**to the 68th Union for Reform Judaism General Assembly**  
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**BACKGROUND**

In 1935, Congress enacted the National Labor Relations Act (NLRA), also known as the Wagner Act. The act codified the basic rights of most workers to bargain collectively through representatives of their own choosing and sanctioned activities, including strikes, designed to protect their bargaining rights. The NLRA also set up an enforcement body, the National Labor Relations Board, to administer the act and provide federal oversight over union representation elections.

In recent years, workers' rights to organize and bargain collectively have come under increasing attack, and gaps in existing law provide insufficient protection for many workers. For example, the NLRA has never offered protections to certain categories of workers, including agricultural workers. Furthermore, since 1935, changes in both U.S. labor law and in the workforce have weakened the ability of workers to organize unions. Current penalties for unfair labor practices, particularly the discriminatory discharge of union supporters, are not strong enough to be a deterrent to employers that are fighting organizing drives. The current remedy for an employer's unfair labor practices is to require reinstatement of workers with back pay, reduced by any interim earnings. That penalty, however, may take up to two years before it is imposed and is too easily written off as just another business expense.

Employees seeking union representation face an election process that favors opponents of unionization and allows employers a disproportionate role. Increasing penalties for unfair labor violations only partially addresses the current power imbalance in the election process. In "Free and Fair: How Labor Law Fails U.S. Democratic Election Standards," University of Oregon Professor Gordon Lafer evaluated the rules surrounding union elections according to six democratic elections standards (equal access to information, freedom of speech, equal access to the voters, absence of voter coercion, timely implementation of the voters' will and campaign finance regulation) and found that union elections fail all six tests.

For example, while employers have access to employees throughout the work day, union representatives have access to employees only after work hours when and if they can find them. Specifically, during a representation election campaign, employers frequently require employees to attend "captive audience" meetings, in which company representatives attempt to deter employees from voting in favor of unionization. At the same time, employers routinely prevent employees from discussing their union activities on the job through rules against solicitation. Furthermore, union representatives are often barred from distributing information in publicly accessible parking lots in which employees park their cars while at work.

These inequities are exacerbated by delays in processing representation petitions and directing an election, often because of disagreements over who belongs in the appropriate bargaining unit. During a delay, an election can be made to seem futile; the impending petition freezes most changes and delay thus becomes a tool to discourage employee support for representation. Furthermore, delay increases the opportunity for an employer who chooses to use unlawful tactics to defeat an election campaign to do so. In addition, delay can increase the acrimony that makes negotiating a first contract following a successful representation election difficult.

Delay and lack of access are both matters that can be dealt with by procedural reform. Prospective employee representatives should be provided equal access to employees within the workplace and elections should be conducted early, allowing employees whose status is at issue to vote subject to challenge and impounding ballots until other issues are resolved.

Though the NLRA, along with the Fair Labor Standards Act (FLSA), provides protections for most American workers, state labor laws also play an important role in guaranteeing U.S. workers' ability to exercise their right to organize. State laws govern labor relations for all workplaces not engaged in interstate commerce. Some states, like New York and California, have created model labor relations legislation. These states not only protect the organizing rights of both public sector and private employees, but they also provide this protection to agricultural workers who, though frequently engaged in the work of interstate commerce, have never been protected by the NLRA. Other states have been less proactive in enacting legislation that protects worker rights. In many states, state employees are not provided with legal protections to ensure their right to organize, and recent decisions by Missouri and Indiana governors to rescind collective bargaining agreements with state employees suggest that there is a movement at the state level to roll back worker rights protections.

In many states, "right-to-work" laws create an impediment to effective union representation. Although the National Labor Relations Act authorizes employers and unions to enter into collective bargaining agreements that require employees to pay union dues after they become employed, such agreements are not permitted in states with right-to-work laws. Advocates of right-to-work laws argue that this legislation allows individuals who disagree with their union's political activities to avoid supporting positions that violate their conscience, and that employees who do not wish to pay dues should not be required to do so. Those who oppose right-to-work laws point out that union security agreements require employees to pay only core dues—dues that cover the expenses for negotiating and enforcing collective bargaining agreements—and not expenses for political activities or organizing other employees. Because unions are obligated to bargain on behalf of all members of the bargaining unit and to represent all bargaining unit members in grievance proceedings—whether or not they pay dues—right-to-work laws make it financially more difficult for unions to effectively represent workers.

The ability to organize and to engage in collective bargaining can make a significant difference in the lives of American workers. According to the Economic Policy Institute, the union wage premium—the degree to which union wages exceed non-union wages—is 15.5 percent when adjusted for comparable experience, education, region, industry, occupation and marital status. For minorities, this premium is even greater: 20.9 percent for African Americans and 23.2 percent for Hispanics.

But the right to organize is not only an economic issue; it is also a human rights issue. The 1948 Universal Declaration of Human Rights asserts that “[E]veryone has the right to form and to join trade unions for the protection of his interests.” As employers are increasingly able to move their capital across international borders, ensuring that workers’ rights are protected both domestically and abroad is a critical part of the fight against human rights abuses and global poverty. In its 2001 study on organizing rights in the United States, Human Rights Watch found that “workers’ freedom of association is under sustained attack in the United States, and the government is often failing its responsibility under international human rights standards to deter such attacks and protect workers’ rights.”

Worker health and safety also remains a serious concern. Currently, willful violations of safety regulations that result in a fatality are only misdemeanors, and the Occupational Safety and Health Administration (OSHA) rarely recommends cases to the Justice Department for prosecution.

Judaism has a strong tradition of supporting the right to employment with dignity. We are taught in the Torah, “You shall not abuse a needy and destitute laborer, whether a fellow Israelite or a stranger in one of the communities of your land. You must pay out the wages due on the same day, before the sun sets, for the worker is needy and urgently depends on it; else a cry to the Eternal will be issued against you and you will incur guilt” (Deut. 24:14–15). Later tradition expands on this teaching by addressing not only wages but also working conditions. The rabbis of the Talmud taught in the case in which an employer says to workers, “I raised your wages in order that you would begin early and stay late,” they may reply, “You raised our wages in order that we would do better work” (Bava M’tzia 83a).

While Jewish law traditionally assumed that an individual contract between an employer and an employee regulates workplace relationships, with the rise of the industrial economy in the nineteenth century, many Jewish workers in Europe and in North America realized that their livelihood and safety depended on collective action. In the United States, Jewish immigrants played a dominant role in the founding of several unions, including the International Ladies’ Garment Workers Union and the Amalgamated Clothing Workers of America, and in 1935, Jewish activists joined with fellow members of the labor movement to support the passage of the NLRA. Both the Union for Reform Judaism and the Central Conference of American Rabbis have been active supporters of workers’ rights, and the Union’s own administrative and maintenance staff are unionized. In a series of resolutions beginning in the early 1960s,

the Union and the CCAR extended their support to agricultural workers seeking better working conditions and union recognition. In 1997, the Union and the CCAR affirmed their support for worker dignity, speaking out forcefully against sweatshops and child labor both at home and abroad in their resolutions on “Sweatshops and Child Labor.” These resolutions also called upon the U.S., Canadian, state and provincial governments to “provide for adequate staffing and funding to enforce existing workers’ protection statutes.” In 1999, the Union adopted a resolution supporting living wage campaigns, which would “require that to qualify for government contracts or assistance, service providers must pay their employees living wages, often defined as no less than the poverty line for a family of four.” In 2003, the Commission on Social Action of Reform Judaism passed a resolution in support of the rights of federal employees to bargain collectively. There is, however, no general resolution that deals more broadly with workers’ rights to organize and bargain collectively.

THEREFORE, the Union for Reform Judaism resolves to:

1. Support the rights of workers to organize and bargain collectively;
2. Call upon employers to:
  - a. Recognize the rights of those who work for them either directly or indirectly, under contractual arrangements for services, to be treated with dignity, to be paid a living wage and to work in a healthy, safe and secure workplace;
  - b. Allow their employees to choose freely whether to unionize or not, without intimidation or coercion;
  - c. Abide by their employees’ decision when a majority indicates that it supports union representation; and
  - d. Refrain from abusing National Labor Relations Board elections and appeals by using them as means for delaying or avoiding representation for their employees;
3. Call upon the U.S. government to amend the National Labor Relations Act to:
  - a. Cover agricultural workers;
  - b. Provide for increased penalties for the commission of unfair labor practices;
  - c. Ensure timely conduct of elections following the filing of representation petitions by relegating issues to post-election proceedings whenever possible; and
  - d. Ensure that employers and labor organization representatives have equal access to potential members of a bargaining unit during representation election campaigns.
4. Call upon the U.S. government to enforce existing OSHA regulations and increase penalties for OSHA violations; and
5. Address specific labor issues on the state level by:
  - a. Opposing adoption by states of “right-to-work” laws;
  - b. Supporting enactment of state labor laws to provide organizing and collective bargaining rights for agriculture workers; and
  - c. Affirming support for the organizing and collective bargaining rights of state employees.