

**STATEMENT OF WADE HENDERSON,
PRESIDENT & CEO, LEADERSHIP CONFERENCE ON CIVIL RIGHTS**

**U.S. SENATE COMMITTEE ON HEALTH, EDUCATION,
LABOR AND PENSIONS**

**“REBUILDING ECONOMIC SECURITY: EMPOWERING WORKERS TO
RESTORE THE MIDDLE CLASS”**

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Senator Harkin, Ranking Member Enzi, and members of the Senate Committee on Health, Education, Labor and Pensions, I am Wade Henderson, President and CEO of the Leadership Conference on Civil Rights (LCCR). I am also honored to serve as the Joseph L. Rauh, Jr. Professor of Public Interest Law at the University of the District of Columbia. I appreciate the opportunity to speak before you today to express LCCR's strong support for the restoration of American workers' right to organize, and to explain why a strong labor movement is critical to the continuing advancement of civil rights in our nation.¹

LCCR is the nation's oldest and most diverse coalition of civil rights organizations. Founded in 1950 by A. Philip Randolph of the Brotherhood of Sleeping Car Porters, Roy Wilkins of the NAACP, and Arnold Aronson of the National Jewish Community Relations Council, a core mission of LCCR is to further the goal of economic opportunity and workplace dignity through legislative advocacy and public education. LCCR consists of approximately 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, the LGBT community, and major religious groups. I am privileged to represent the civil and human rights community in submitting testimony for the record to the Committee – and I want to express my strong gratitude to you for today's hearing and also for your support over the years for the rights of women and minorities in America's workforce.

A Declining Labor Movement Hurts the Cause of Civil Rights

Over the past four decades, employers have, with increasing aggressiveness, sought to keep unions out of the American workplace. By exploiting weaknesses in our labor laws that allow businesses to coerce workers with virtual impunity, employers have made a mockery of the right to form a union. As a result, workers have endured rising income inequality and diminished rights and dignity in the workplace.

¹ In connection with this testimony, I am also submitting a pre-release version of a forthcoming report by LCCR, entitled *Let All Voices Be Heard: Restoring the Right of Workers to Form Unions – A National Priority and Civil Rights Imperative*. The report, which was originally released in 2007 and has been updated to reflect recent data, includes an in-depth explanation of why protecting the right to form a union is critical to the advancement of civil rights.

Today I would like to focus on the particularly strong negative impact the decline of our labor movement and our inadequate labor laws have on women and minorities in the workplace. LCCR co-founder A. Philip Randolph, the longtime leader of the African-American Sleeping Car Porters union, embodied the idea that a broad pro-worker agenda, with a strong labor movement as its cornerstone, was essential to promoting racial equality in our nation. Following in Randolph's footsteps, Dr. Martin Luther King, Jr., when he marched in support of striking Memphis sanitation workers, recognized that it was not racial prejudice alone, but the joint effects of racial discrimination and economic privation that denied economic opportunity to poor African-American workers.

As King realized, unions hold forth the promise of bringing us closer to a society where all Americans enjoy economic opportunity. Unions markedly improve wages and benefits for those trapped at the bottom of the economic ladder, who disproportionately are women and minorities. They also make workplaces fairer and more humane through the enforcement of contract provisions addressing issues like sick leave and workplace safety – measures which help all workers but are of particular benefit to women and minorities.

Moreover, one of the twentieth century's great champions of civil and human rights in our nation, Eleanor Roosevelt, recognized that the right to organize was instrumental to securing human rights domestically and globally. Roosevelt led the efforts to draft the 1948 Universal Declaration of Human Rights, which laid the foundation for international human rights standards. The Declaration states that “[e]veryone has the right to form and to join trade unions for the protection of his interests.”²

Women and minorities need unions now more than ever. The current economic downturn is a particularly strong threat to low wage workers. Indeed, whatever modest economic gains women and minority workers have garnered in recent decades may be wiped out if they are unable to push back against wage and benefit cuts and to fight for better job security.

The Employee Free Choice Act, a bill to be introduced soon in the 111th Congress, presents the best opportunity in a generation to restore workers' right to unionize. If we do not bring fairness back to the process by which workers form a union, we will lose perhaps our best chance to preserve recent economic gains for women and minorities, and to give them a better path to economic prosperity for themselves and their children.

Labor's Proven Record of Improving Working Conditions for the Poorest American Workers

To fully understand the positive effect unions can have on our poorest workers, one only has to look at labor's accomplishments in the twentieth century. Organized labor has a proven track record of bestowing economic security and upward mobility on Americans previously condemned to the economic margins of our society.

² Universal Declaration of Human Rights, at <http://www.udhr.org/UDHR/default.htm>.

Beginning in the 1930s, after decades of focusing mainly on skilled workers, at the urging of John L. Lewis of the Mine Workers union, labor took on the task of organizing unskilled industrial workers. These factory workers were largely recent immigrants from eastern and southern Europe, and themselves were victims of stigma and prejudice based on differences in language and custom.

These early-twentieth century immigrants, despite being isolated by their lack of workplace skills and cultural barriers, were catapulted into the economic mainstream by labor unions. The result of these union organizing efforts was the birth of a broad and stable American middle class in the 1940s and 1950s.

Labor's Unfinished Task: Economic Opportunity for Women and Minority Workers

However, African Americans received fewer economic benefits from the mid-twentieth century union upsurge. This was due to a wide range of factors. African Americans were frequently assigned by employers to the most difficult, worst-paying jobs. Although many unions attempted to defy workplace racial hierarchies, others acquiesced and focused primarily on organizing white workers, while either neglecting African Americans or relegating them to the worst job classifications. Notably, the United Auto Workers (UAW) stood bravely athwart some of its own members in demanding equal treatment of African-American workers within Detroit's auto plants.³

Later decades brought about the dawning of a new day in the relationship of unions to African-American workers. Unions became much more strongly focused on organizing and promoting opportunities for African-American workers. In the 1960s, Walter Reuther and his UAW championed antidiscrimination laws, by funding the March on Washington of 1963 and by lobbying for the Civil Rights Act of 1964. Ironically, while unions helped pass laws to break down barriers to opportunity for America's African-American workers, the decline of the labor movement in the coming decades would eventually deal a great blow to the poorest workers who were not rescued by antidiscrimination laws. While antidiscrimination laws were a necessary measure, they were not sufficient to address the deep inequality, rooted in both race and poverty, which inheres in poor neighborhoods from which our most vulnerable workers cannot escape without access to greater financial resources.

Similarly, newer entrants to the workforce have failed to benefit from the tide of unionization in the mid-twentieth century. Women were at much lower levels of workforce participation during this time. Similarly, large-scale Latino and Asian-American immigration occurred in later decades. But today, women, African Americans, Latinos, Asian Americans, as well as LGBT Americans, all suffer from inequality in the workplace. All of these groups (other than LGBT Americans) are protected by Title VII, but disparities in income and working standards have persisted in spite of antidiscrimination protection. (LGBT Americans, meanwhile, must cope with a complete absence of federal workplace protection.)

³ See Robert H. Zieger, *American Workers, American Unions* (2d ed., Johns Hopkins Press 1994).

Women are burdened by stereotypes and societal expectations that force them into lower-paying jobs with fewer benefits, and often impose on them the primary obligation for family care, making it harder for them to sustain the same income trajectories as men. Women today make about 78 cents for every dollar earned by their male counterparts.⁴

Many Latinos and Asian Americans, unlike the early-twentieth century immigrants, have arrived at a time when anti-union attacks have weakened the movement to the point where it is not able to raise these newest arrivals into the ranks of the middle class. Indeed, these immigrant groups today are often forced to take the most difficult and unsafe jobs for the lowest wages, such as dangerous construction jobs.

The Difference a Union Makes

The labor movement today is strongly committed to organizing women and minorities. And a reinvigorated labor movement offers the most surefire path to fulfilling the promise of economic opportunity in American society for all these groups. The data shows the profound impact unions have on income inequality. In 2006, median earnings for women in unions was 31 percent higher than for non-union women; 36 percent greater for unionized African Americans; 8 percent more for Asian Americans; and 46 percent more for Latinos.⁵

Union members are also far more likely to have health care benefits, and to have a greater share of health care benefits paid for by their employers.⁶ They are also more likely to receive sick leave and other types of paid time off. For many minority workers, already living from paycheck to paycheck, illness can be devastating financially, and union-negotiated benefits provide an important safety net. These benefits also help ensure that women workers with significant family-care responsibilities do not have to trade career advancement in order to care for their families. Unions also monitor and enforce contractual safety standards to ensure that no worker is unreasonably exposed to danger in the workplace – something especially beneficial to immigrant workers in highly dangerous fields. Further, union members are more likely to have retirement benefits.

These wage and benefit premiums can help give the poorest workers the stability and access to resources they need to forge better lives for themselves and to greatly expand their children's opportunities.

⁴ U.S. Census Bureau 2007 Current Population Survey, Aug. 2008.

⁵ House of Representatives, Committee on Education and Labor, Report on the Employee Free Choice Act of 2007, at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_reports&docid=f:hr023.110.pdf. Even when adjusted for experience, education, region, industry, occupation and marital status, the wage premiums remain large: 10.5 percent for women, 20.3 percent for African Americans, 21.9 percent for Latinos and 16.7 percent for Asian Americans. Economic Policy Institute, *State of Working America 2006/2007*, at http://www.stateofworkingamerica.org/tabfig/03/SWA06_Table3.34.jpg.

⁶ Lawrence Mishel and Matthew Walters, *How unions help all workers*, Aug. 2003 (EPI Briefing Paper #143), at <http://www.epi.org/page/-/old/briefingpapers/143/bp143.pdf>.

Often forgotten in the discussion about the value of unions in our society is the role they play in bringing dignity and fairness to the workplace. Apart from the fact that they give workers themselves a fairer share of the prosperity they help create, unions protect workers from arbitrary and unfair treatment at work. Indeed, unions can help stamp out discrimination. Union contracts provide transparent and uniform procedures for pay levels, job assignments, and promotions, making it difficult for employers to get away with race and gender discrimination. Moreover, union grievance procedures allow workers to seek redress for unfair treatment. In many cases, discriminatory actions – which might be difficult to prove in a courtroom under antidiscrimination laws – can be resolved through the grievance process, resulting in a far more just workplace. Also, while not a substitute for the right to sue, the grievance process can sometimes be a simpler and more streamlined approach for workers who do not want the time and expense of litigation.

For LGBT workers, who today enjoy no federal legal protection, unions may be the only protection against mistreatment based on their sexual orientation or gender identity. Unions can also help negotiate for equal benefits for LGBT workers, including same-sex partner health care coverage.

Finally, today, unions remain catalysts for new laws to improve the workplace, just as they once contributed to the passage of the Civil Rights Act of 1964. Most recently, unions stood side-by-side with civil rights groups in support of the Lilly Ledbetter Fair Pay Act, which was signed by President Obama this January and restored workers' ability to pursue pay discrimination claims.

Unions' Effectiveness Has Been Sapped by Weaknesses in Our Labor Laws

In spite of the benefits strong unions bring to women and minorities, we have failed to revise and strengthen our labor laws to deal with the changing circumstances that have dramatically weakened the labor movement. Employers routinely push the boundaries of our laws by delaying elections, coercing their workers to oppose unions, retaliating against union supporters, and refusing to agree to first contracts. Even when they overstep the law's boundaries, penalties are weak – nothing more than a slap on the wrist – so employers routinely decide they would rather risk the law's meager penalties in order to keep a union away.

In addition to aggressive employer resistance to the right to organize, the changing characteristics of the American workplace have also made it extremely difficult to organize women and minorities. Not only has our workforce shifted from manufacturing to low-skill service-sector jobs, but women and minority workers are most likely to be concentrated within these service jobs. Unlike manufacturing, the service industry presents unique obstacles to union organizing. The kind of shop-floor solidarity that often occurs in factories where workers toil side by side is less likely to take root. In contrast to large factories with many workers at a single site, smaller service industry locations, like retail stores or restaurants, require enormous investments by unions just to unionize a handful of workers. Without a change in our laws, it is difficult to imagine how unions will be able to organize widely in the service sector.

As a result of these factors, the decline of America's unions has reached a crisis point. One out of every three workers in the private sector was a union member in the late 1950s, a time when America enjoyed a growing middle class. Today, fewer than one in twelve workers in the private sector are union members.⁷ Unions, more than ever before, stand ready to organize fields with large concentrations of minority workers. However, weaknesses in our labor laws and an all-out attack by the business community on labor unions have prevented unions from being a far greater force for economic opportunity than they might otherwise be.

For these reasons, the Employee Free Choice Act is one of the most significant pieces of civil rights legislation in many years. This bill will prevent employers from using the many unfair tactics currently at their disposal to frustrate the desire of their workers to join unions. The Employee Free Choice Act will, among other things, provide for union representation as soon as a majority of workers express their desire to be represented, rather than allowing employers to use tactics of delay and intimidation during the lengthy NLRB election process to coerce workers into rejecting a union. The bill will also enhance penalties for anti-union retaliation and will prevent employers from dragging their feet on first contract negotiations, a tactic frequently used to erode confidence and support for the union.

Unions Can Help Protect Vulnerable Workers and Improve the Economy During Economic Downturns

The women and minority workers who can least afford pay and benefit cuts or layoffs will be the most adversely affected by the current economic downturn. Notably, while the jobless rate last month was a very high 7.3 percent for white Americans, it was far worse for African Americans (13.4 percent), and Latinos (10.9 percent).⁸ Large numbers of women and minority workers, who lack personal savings and other resources to weather the crisis, will face enormous economic setbacks that will threaten their families' livelihood.

Unions provide a buffer in difficult economic times. They help preserve economic benefits and maintain job security. Moreover, unions do so in a manner that is sensitive to the needs of business. It is certainly not in the interest of unions to see the companies their members work for go out of business. Thus, unions may work out arrangements where hardship is shared among workers, so that layoffs are avoided. Or they can ensure that, when wage and benefit cuts are required, those cuts occur in a way that preserves the items that workers need the most, and that employers don't use bad economic news as an excuse to unnecessarily slash worker payroll.

⁷ Barry T. Hirsch and Jeffrey M. Hirsch, Remarks for Allied Social Science Association Meetings: *The Rise and Fall of Private Sector Unionism: What Comes Next?*, Dec. 2005.

⁸ Bureau of Labor Statistics, Employment Situation Summary, Feb. 2009, at <http://www.bls.gov/news.release/empstat.nr0.htm>.

The notion that pro-worker measures are somehow bad for the economy and should be avoided during difficult economic times is misguided. There are many ways unions help the economy, and I now list but a few of them. Economic security for workers will increase consumer demand, which in turn will spur economic recovery. Better wages and benefits, along with the ability to speak out at work about one's workplace concerns, make workers more content and therefore more productive. Improved wages and benefits will lead to more stable households where children receive the benefit of a good education, and will enter the labor market as better workers. Union-negotiated benefits like sick leave will allow workers to stay home and recover rather than go to work day-in and day-out in a debilitated state, or expose colleagues to illness.

The current foreclosure crisis gives us a very timely example of how pro-worker policies can help the economy. The current economic downturn was precipitated in good part by the foreclosure crisis in which many home purchasers could not afford to continue payments on their homes. Many of these home purchasers were minority workers who were steered into subprime loans, whose unforgiving terms made it impossible for them to keep up their payments. If more workers were in unions, far more would have had the resources to continue payments on their mortgages – and many would have had the credit rating and financial acumen that would have prevented them from being steered into subprime loans in the first place.

Unions are most certainly not a drag on the economy: they protect our most vulnerable workers and make our economy stronger. Our economy sustained remarkable growth over the many decades when unions represented large segments of the American workforce. This is because unions fostered happier, more productive workers, and helped sustain consumer demand. And I reiterate that, in times of economic downturn, civil rights gains are very much at risk as the souring economy takes the greatest toll on women and minority workers. Unions can play a critical role in preventing such a setback for the civil rights movement.

Conclusion

As Martin Luther King said when he addressed the striking Memphis sanitation workers, “Memphis Negroes are almost entirely a working people. Our needs are identical with labor's needs — decent wages, fair working conditions, livable housing, old age security, health and welfare measures, conditions in which families can grow, have education for their children and respect in the community.”⁹ King's words haunt us today as many women and minorities toiling at low wage jobs still have little chance of achieving these very aspirations. The Employee Free Choice Act will restore fairness to the process by which workers choose a union. It is one of the most important steps we as a nation can take to address the remaining hurdles we face on our path to becoming a society where all our people enjoy the opportunity to succeed and to expand our children's horizons.

Thank you for inviting me to address the Committee. I look forward to your questions.

⁹ Peter Dreier, Why He Was in Memphis, American Prospect Online, Feb. 15, 2007, at http://www.prospect.org/cs/articles?article=why_he_was_in_memphis.