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How Union Card Checks Block Workers' Free Choice

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Union activists argue that government-supervised secret-ballot organizing elections are “inherently and intensely coercive” and that publicly signing a union membership card in the presence of union organizers, known as card-check organizing, is the only way that workers can freely choose to unionize.¹ But due to union organizers’ techniques, card checks often do not reflect workers’ free and considered choice about union membership.

Even when organizers do not illegally threaten workers, card checks expose workers to organizers’ psychological manipulations and give them only one side of the story. Card checks lead many workers to make impulse decisions and expose workers who wish time to consider their decision to harassment by union organizers. Cards signed in public simply do not represent workers’ free and considered choice.

The privacy of the voting booth, however, protects workers from these abuses. Government-supervised elections ensure that workers can express their true decision after time for reflection and without pressure or fear of harassment.

Threats and Intimidation. Private ballots ensure that workers’ decisions to join or not to join a union remain private so that no one can threaten them for making the “wrong” choice. With card checks, both the company and the union know how workers voted, and this exposes workers to the possibility of retaliation. Though threats are illegal, they still occur, and not all of them are made by employers.

A union has a direct financial stake in the outcome of an organizing drive. If the workers organize, the union will collect 1 to 2 percent of their wages in dues. These high stakes lead some organizers to cross the line and threaten workers who refuse to sign union cards.

Two examples illustrate this problem. During a card-check campaign at the MGM Grand in Las Vegas, union organizers threatened that workers who did not sign union cards would lose their jobs when the union was recognized.² In 2002, a long-time organizer for the United Steelworkers felt compelled to quit his job after “a senior Steelworkers union official asked me to threaten migrant workers by telling them they would be reported to federal immigration officials if they refused to sign check-off cards.”³ Forcing workers to express their beliefs in public leaves them vulnerable to threats and can discourage them from exercising free choice.

Psychological Manipulation. Even when union organizers do not threaten workers, card checks may not reveal workers’ free and considered choice about joining a union.

In a card-check campaign, groups of organizers meet with individual workers at their homes or else-

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where outside of the workplace and persuade them to sign a union authorization card. Organizers do not simply present the arguments for and against joining the union and then ask for workers' support. Instead, they employ psychological manipulation to induce workers' to sign. One former union organizer described the process in congressional testimony:

They [organizers] are trained to perform a five-part house call strategy that includes: Introductions, Listening, Agitation, Union Solution, and Commitment. The goal of the organizer is to quickly establish a trust relationship with the worker, move from talking about what their job entails to what they would like to change about their job, agitate them by insisting that management won't fix their workplace problems without a union and finally convincing the worker to sign a card....

Typically, if a worker signed a card, it had nothing to do with whether a worker was satisfied with the job or felt they were treated fairly by his or her boss.... [I]f someone told me that she was perfectly contented at work, enjoyed her job and liked her boss, I would look around her house and ask questions based on what I noticed: "wow, I bet on your salary, you'll never be able to get your house remodeled," or, "so does the company pay for day care?" These were questions to which I knew the answer and could use to make her feel that she was cheated by her boss. Five minutes earlier she had just told me that she was feeling good about her work situation.⁴

Signing a card after this kind of manipulation does not reflect an employee's truly unfettered and considered choice.

Only One Side of the Story. Organizers have a job to do: recruit new dues-paying members to their union. They are not paid to inform workers of the downsides of unionizing. Instead, they make the strongest case they can for joining a union and ask workers to sign their card right then. A former union organizer explained the process:

We rarely showed workers what an actual union contract looked like because we knew that it wouldn't necessarily reflect what a worker would want to see. We were trained to avoid topics such as dues increases, strike histories, etc. and to constantly move the worker back to what the organizer identified as his or her "issues" during the first part of the house call.⁵

Union organizers understandably boast about the benefits unions bring members, but they do not bring up the six-figure salaries that union bosses pay themselves from members' dues, the fact that hundreds of union officials have been convicted of racketeering in the past five years, or the role that unions' inflexibility has played in driving some companies into bankruptcy. Workers should have the chance to hear the arguments for and against unionization so that they can make an informed decision. That seldom happens in a card-check campaign, where union organizers make their pitch and then ask workers to sign their cards immediately.

Harassing Holdouts. With card checks, union organizers know who has and has not signed up to

1. Testimony of Nancy Schiffer, Associate General Counsel, AFL-CIO, before the Subcommittee on Health, Employment, Labor, and Pensions, Committee on Education and Labor, U.S. House of Representatives, February 8, 2007, at www.aflcio.org/joinaunion/voiceatwork/efca/upload/EFCA_Schiffer_20070208.pdf.
2. Testimony of Bruce Esgar, employee, MGM Grand Hotel, Las Vegas, before the Subcommittee on Workforce Protections, Committee on Education and the Workforce, U.S. House of Representatives, July 23, 2002.
3. Written testimony of Ricardo Torres, former organizer, United Steelworkers, before the Subcommittee on Health, Employment, Labor, and Pensions, Committee on Education and Labor, U.S. House of Representatives, February 8, 2007. Full testimony available from the author upon request.
4. Testimony of Jen Jason, former organizer, UNITE-HERE, before the Subcommittee on Health, Employment, Labor, and Pensions, Committee on Education and Labor, U.S. House of Representatives, February 8, 2007, at <http://edworkforce.house.gov/testimony/020807JenniferJason testimony.pdf>.
5. *Ibid.*

join the union. This allows them to repeatedly approach and pressure reluctant workers. With this technique, a worker's decision to join the union is binding, while a decision to opt out only means "not this time."

Moreover, some organizers go beyond pressure to outright harassment. Hotel workers in Los Angeles, for example, had to seek an injunction against union organizers after groups of eight to ten of them harassed employees on their homes' porches late at night.⁶ A labor lawyer explained what happened to Trico Marine employees during another card-check drive:

Some employees, when solicited at their homes by union representatives, said, "No," to signing a card; yet, they reported repeated, frequent home visits by union representatives continuing to try to secure their signatures, and they complained to the company of this harassment. After 8 visits, one vessel officer in southern Louisiana had an arrest warrant issued against a union organizer.... Employees volunteered that they signed cards just to stop the pressure and harassment.⁷

A card signed after union organizers' eighth pitch to a reluctant worker hardly reflects that worker's true opinion. Nor does a card that is signed just to prevent further harassment. Workers should be free to choose whether or not to join a union without having to face repeated harassment if they do not want to join.

Secret Ballots Reveal Workers' True Desires.

Secret-ballot elections protect workers from these abuses and ensure that their decisions to join or not

to join a union reflect their free and considered choice. The government has structured organizing elections so that they create "laboratory" conditions designed to reveal workers' real desires.⁸

With a secret ballot, neither employers nor organizers know who intends to join the union, so they cannot threaten or harass workers who hold the "wrong" view. A short election campaign allows workers to hear both the benefits and costs of joining a union and to make an informed choice after time for reflection. To prevent either side from getting the last word, the government prohibits employers and organizers from making mass speeches at the workplace within 24 hours of the vote. The government also forbids both sides from campaigning at or near the polling place on the day of the vote.⁹ From start to finish, government supervised-elections ensure that workers are free to express their true desires.

Conclusion. Publicly signed union cards do not reveal employees' free and considered choices. They allow unscrupulous organizers to threaten workers who refuse to sign up. Even when organizers obey the law, card-check allows organizers to manipulate workers psychologically, giving them only one side of the story and pushing them to make an impulsive decision to join the union with little time for reflection. Organizers can then return and repeatedly pressure holdouts to change their minds. Card checks reveal little about whether or not workers actually want to join a union, and the government should not take away workers' right to vote in privacy with a secret ballot when deciding to unionize.

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6. Testimony of Ron Kipling, Director of Room Operations, New Ontani Hotel and Garden, Los Angeles, before the Subcommittee on Workforce Protections, Committee on Education and the Workforce, U.S. House of Representatives, July 23, 2002.
7. Testimony of Clyde Jacob, labor lawyer, before the Subcommittee on Employer-Employee Relations, Committee on Education and the Workforce, U.S. House of Representatives, April 22, 2004, at <http://republicans.edlabor.house.gov/archive/hearings/108th/eeer/laborlaw042204/jacob.htm> (February 20, 2007).
8. National Labor Relations Board, Office of the General Counsel, *An Outline of Law and Procedure in Representation Cases*, July 2005, Chapter 24, Section 320, at www.nlr.gov/nlr/legal/manuals/outline_chap24.html.
9. *Ibid.*