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AN INJURY TO ONE IS AN INJURY TO ALL!

¡UNA HERIDA PARA UNO ES UNA HERIDA PARA TODOS!

ENGLISH ~ ESPAÑOL ~ PORTUGUÊS ~ FRANÇAIS ~ ITALIANO

ENGLISH

Trade Unions in 2021

(Part I)

This is the pivotal year for workers and their unions. Coming out of a challenging year of "natural catastrophes" and the global pandemic COVID-19, where they have them, workers and their unions will be facing enormous struggles in every aspect of their lives.

Labor Today's 2021 program is intended help trade union rank and file activists and elected unionists to achieve their necessary responsibilities in protecting its members and significantly increasing its numbers and winning victories for the full working class. To be successful, the reduction and elimination of systemic racism must be fully and openly integral into all policy proposals; not assumed.

The incalculable devastation brought on by Climate Change in the past 12 months has deep working class fall out. This is Coupled with neoliberalism's anti regulations and anti-government privatizations.

Fires, wind, and smoke from the preventable electrical power grid fires in states in the Western U.S.

Floods, tornadoes, and hurricane force winds in and around Louisiana and the Gulf.

The preventable devastation brought on by snow and freezing temperatures and electrical grid failures in Texas.

The COVID19 pandemic, starting in February 2020 and continuing today has deep national and international implications.

This *Labor Today* program is not business as usual. Radical policies with militant on-the-street actions will be required.

We Can't Assume Anything based on the words of the Politicians!

Putting aside, but not forgetting, the broken promises and ineptitude of the Democratic Party's labor policies between 2008-2016, 8 years of missed opportunities; and, the expected anti working class and anti-trade union policies of the last 4 years of Republican governance, organized labor mostly through the official AFLCIO channels, has delivered its demands to the Biden Administration.

Campaigning and now in post-election mode, President Joe Biden is saying mostly all the right things.

The Labor Today 2021 policy and militant action program will feature an analysis of the AFLCIO PRO Act but, of course, add items that a class-oriented approach demands.

The PRO act is the latter day EFCA act that the OBAMA administration openly and regrettably scuttled.

Both were and are meant to increase workers' rights and the size of the trade union membership. In the 2020 campaign Elizabeth Warren openly advocated the total repeal of the Taft Hartley act. The Sanders campaign's domestic demands were largely very pro working class.

This LT program is a uniquely US trade union response to years of abuse from both mainstream parties. The following analysis of the PRO act may not make much sense for our international readers. But, we're sure elements will be useful.

Organized Labor's 2021 Agenda

By Blair F. Bertaccini

This year presents organized labor and its allies with a dramatically different arena of struggle compared with the last four years of the Trump administration. President Biden pledged that he would institute a union agenda once in office and had a labor plank that certainly appeared to be written by the AFL-CIO. The Democratic Party now has a slim majority in the House of Representatives and a one vote majority in the Senate if all 50 Democrats vote together. That said, the labor movement should not let its agenda be driven by politics and parliamentary rules of the US Congress. In 2020 the House passed the PRO Act (Protecting the Right to Organize Act) and the legislation has been reintroduced this year. For once the AFL-CIO and its allies in Congress have not been timid in presenting a legislative agenda.

This legislation goes much further in advancing organized labor's agenda than the Employee Free Choice Act (EFCA). If the PRO Act were to become law as presently written it would profoundly change the National Labor Relations Act and almost completely overturn the Taft-Hartley [Slave Labor] Act, as it was described by unions in 1947 when it was passed. Among the pro-labor laws it would enact, are the following:

-It would codify the expanded joint employer rule implemented by regulation by the Obama DOL and then overturned by the Trump Administration.

-Allow access to workplace email systems by unions for organizing and require employers to turn over contact information for all workers in the bargaining unit.

-Make the ABC test* a federal requirement for determining who is an independent contractor vs an employee, which would make most workers doing work via software (Lyft, Uber, Door Dash etc.) employees.

-Right to work would be banned for private sector workers.

-Forbid permanent replacement of striking workers.

-Expedited union certification election rules would be codified, reducing time between filing for an election and the actual election.

-Frontline supervisors (ex. assistant managers) could be more easily included in bargaining units, often the true management duties of these workers are few or non-existent.

-End the prohibition of secondary boycotts by unions.

-Give the NLRB the right to award liquidation up to twice the value of actual liquidated damages in awards to workers when employers violate the NLRB (back pay, front pay, consequential damages etc.)

These changes would give unions a much better opportunity to organize workers and expand the percentage of US workers under union contracts. One provision of the Act, making the ABC test a requirement for determining who is truly an independent contractor is more important than labor activists might realize. After California's state legislature passed a law basically doing the same for their state, corporations using web-based platforms to employ workers fought back successfully with a \$200 million campaign to overturn the law through referendum with Proposition 22. Some states already give companies wide leeway in classifying workers as independent contractors. This abuse was widespread in construction, transportation, janitorial services, beauty salons, landscaping, and house cleaning even before Lyft, Uber, Door Dash, et al. got involved in the racket.

These companies are now taking their campaign to other states to solidify their advantage. Without federal legislation unions and workers' rights advocate will have to fight a state-by-state battle. Nationwide use of the ABC would end most of this misclassification and would make it easier for these workers to organize into unions.

Opposition to the PRO Act's passage will be massive from corporate interests and the GOP and might even include some Democrats. Because of this the only way it could achieve passage in the US Senate would be to end the filibuster otherwise 60 votes will be needed. Even if the Democrats had that many votes passage would not be assured given the corporate orientation of many Democrats. This legislation will need a lot of street action on the part of the AFL-CIO and independent unions. Traditional lobbying and "cronyism" will not turn the tide in favor of workers. When EFCA was the legislation pushed by the AFL-CIO and its allies during the Obama



No hot cargo, St. Johns, New Brunswick, Canada

administration organized labor showed little ability or desire to educate its members on the necessity of organizing and expanding union density and then bringing them into the struggle in their workplaces and the streets. This will be required for passage of the PRO Act. It will be a struggle of many years to accomplish, but without upping the level of struggle now when passage in the Senate seems a mountain too high, we will never reach the summit.

Currently union density is much greater in the public sector than the private sector despite many states still not allowing public sector workers the ability to bargain union contracts. To change this situation union allies in Congress are sponsoring the Public Sector Freedom to Negotiate Act (PSFNA). This legislation if passed would mandate the following in every state in the US:

- Union recognition when supported by a majority of the workers.
- Collective bargaining for wages, hours, and terms of employment.
- Access to a dispute resolution mechanism.

- Voluntary payroll deduction of dues.
- The right to engage in concerted activities related to collective bargaining and material aid.
- End requirements of repeated recertification elections.
- The ability to file suits in court to enforce labor rights.

There is a companion piece of legislation entitled the Public Safety Employer & Employee Cooperation Act which provides for collective bargaining rights for firefighters and law enforcement personnel. The legislation does not give public employees the right to strike which is denied in most states where they can organize into unions. Most unions that represent public employees are reluctant to push for this right and seem content with some type of binding arbitration process which is often stacked against unions and whose awards can be rejected by the employer but not the union.

Binding arbitration and the denial of the right to strike denies workers the most effective weapon they must defend themselves and win good contracts. The teachers' strikes in the right to work states of West Virginia, Arizona, and Oklahoma a few years ago show that the right to strike is usually won by striking not by lobbying to change the law. Rank and file action and solidarity won victories in those strikes which were all illegal.

Unions need to rebuild the ability to win victories at the work site through job actions and organizing rather than depend on grievances, unfair labor practice charges and arbitration. Those methods of challenging the boss demobilize members because the arena of struggle becomes small meetings between union staff and employer representatives with perhaps the involvement of a few members while the rest of the membership awaits a decision. Indeed, they will need these abilities to get both the PSFN and PRO Acts passed. If the labor movement wants to end its slide to oblivion it must learn to truly develop the power of collective action and then get these laws passed so they can regain density and power for workers.

**The ABC test establishes three criteria for determining if a worker is an employee or independent contractor for the hiring entity:*

- A.) The worker must be free from the direction and control from the hiring entity in the performance of work.*
- B.) The work must be outside the usual course of business of the hiring entity.*
- C.) The worker must be customarily in an independent established trade, occupation, or business and of the same nature of the work performed for the hiring entity. In some states in which this test is codified, usually in unemployment law, the worker must pass all three criteria, otherwise they must be classified as an employee.*

The Protect the Right to Organize (PRO) Act as described has a strong public sector workers aspect.

Black Lives Matter is Central!



The heroic and groundbreaking actions of the Black Lives Matter (BLM) movement has made it clear that All Labor Advances must be shared by the entire working class. Documenting the patterns of discrimination is not enough. The BLM is a profoundly working-class, unifying movement.

JOBS! JOBS! JOBS!

The COVID-19 and economic crisis period demonstrated that an *end to systematic and deeply engrained racism* is paramount.

