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WHO OWNS YOUR POLITICS? THE EMERGENCE OF EMPLOYEE MOBILIZATION AS A SOURCE OF CORPORATE POLITICAL INFLUENCE

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WHO OWNS YOUR POLITICS?

INTRODUCTION

A common piece of advice for new hires is to avoid talking about politics, sex, and religion in the workplace. But it may be increasingly difficult for workers to keep their politics to themselves. Thanks to the *Citizens United v. FEC* Supreme Court decision from 2010, as well as new organizational infrastructure developed over the past decade, employers now have broad legal rights and the technical means to campaign for political candidates in the workplace. Managers and supervisors can even require that their workers participate in politics as a condition of employment. For instance, in most states managers have the legal right to mandate worker attendance at a political rally for a favored candidate – and fire or punish workers who decline to participate. Consider the following real examples of employers engaging their workers in politics from recent years:

- An Ohio coal-mining firm invited Republican presidential candidate Mitt Romney for a rally at their plant (Eaton 2012). Miners were told that they would be required to attend the rally, and that they would not be paid for their participation.
- Executives at Cintas, a provider of uniforms and other workplace supplies, and Georgia Pacific, a major paper product manufacturer, sent letters to their respective workforces expressing clear partisan stances during the 2012 election (Greenhouse 2012). In the case of Georgia Pacific, executives distributed a flyer that indicated all of the candidates that the firm had endorsed, ranging from races for the presidency down to state government. These flyers also included warnings that workers “may suffer the consequences” if the company’s favored candidates were not elected (Elk 2012).
- A renewable energy company encouraged its workers to contact their members of Congress in an effort to renew a federal tax credit for wind energy, warning its workers of the decline in sales of their products if the credit were to expire.¹
- In the wake of a number of highly publicized episodes of racial violence, Starbucks executives launched a campaign for their baristas to start conversations with their patrons about race relations in America (Starbucks 2015). Baristas would write the words “Race Together” on customers’ coffee cups. Staff was also encouraged to visit a company website with essays and videos about race relations. In an earlier 2013 effort, Starbucks CEO Howard Schultz encouraged the store’s patrons to sign a petition to end a government shutdown, and baristas wrote the words “Come Together” on coffee cups (Kasperkevic 2013).

Beyond these vignettes, there is evidence that employer efforts to recruit workers into politics (what I term employer mobilization) are common in the American labor force. Drawing on the first nationally representative

¹ Author interview with corporate manager.

survey of employer mobilization, this brief shows that one in four employees (or between 29 to 39 million Americans, given the survey margin of error) have been contacted by their managers about voting, political candidates, or public policies and political issues.

Employer mobilization is important to understand because it offers companies an opportunity to shape public policy using a resource already at their disposal: their workforce. As documented through another original national survey of companies, top corporate managers rank employer mobilization as a highly effective means of influencing government. Managers rate mobilization of their workers as being just as effective at changing public policy as lobbying, and even more effective than making campaign contributions through political action committees (PACs). Debates over corporate lobbying and the power of business in politics thus ought to consider employer mobilization just as much as they focus on campaign contributions and lobbyists.

Another reason to focus on employer mobilization is that coercive forms of political recruitment in the workplace pose a serious threat to workers' freedom of expression and belief. Not all employers' efforts in political mobilization are negative. For instance, managers can help workers to register or turn out to vote. According to the surveys described in this brief, this is the norm for most mobilization efforts. But more intimidating varieties of employer mobilization – such as when employers use the threat of layoffs to motivate participation by their workers – force employees to change their political behaviors and attitudes even if they disagree with their employers' positions in order to maintain their economic livelihood. About 4 million to 14 million Americans have experienced these more coercive forms of workplace political contact. State and federal lawmakers need to take action to curb the most intimidating forms of workplace political communication while allowing employers to continue less problematic (and potentially quite useful) contact with their workers.

The remainder of this brief first summarizes the results of original surveys of American workers and top corporate managers, as well as in-depth, qualitative interviews with corporate executives, to characterize the landscape of employer mobilization in the United States. Although journalists have noted employer recruitment of workers in the past, to date there is no empirical work describing the share of workers who experience mobilization, or the number of firms that engage in this practice. This brief thus provides an important contribution to our understanding of the prevalence of employer mobilization and how firms think about mobilization as a political strategy. Subsequent sections document the history of employer mobilization, tracing the social, economic, and political shifts that have made mobilization more appealing to firms in recent decades. The final portion of this brief describes why and how political reformers should take action to end the most coercive forms of employer mobilization, suggesting a range of possible legislative and voluntary actions that would shield workers from political intimidation in the workplace.

WHAT EMPLOYER MOBILIZATION LOOKS LIKE IN PRACTICE

Employer mobilization encompasses any effort by corporate managers to change the political attitudes or behaviors of their workers as part of company policy. This could include efforts to help employees to register to vote, such as at the firms participating in the “Employees Vote Registration Week”. According to the website for that initiative, “Employee Voter Registration Week is an effort to make a dent in the number of unregistered citizens across the country. During this week, companies and associations will join together in an effort to

encourage voter registration among private sector employees”.² Mobilization could also include more intensive efforts, such as at Georgia Pacific and Koch Industries, where managers endorse specific candidates that their workers ought to support. Figure 1 below shows a sample of the material distributed to Georgia Pacific’s workers describing the specific politicians the firm favored in 2012 from the presidency on down to positions in state government. And lastly, employer mobilization could include efforts by managers to get their employees to contact their legislators about a pending piece of legislation or regulation, as in the example cited in the introduction about expiring renewable energy tax credits.

Figure 1: Example of Employer Mobilization from Georgia Pacific

AS REPORTED BY IN THESE TIMES

state: **OREGON**

10.16.12 TUESDAY
REG. DEADLINE

11.06.12 TUESDAY
ELECTION DAY

GENERAL EARLY VOTING

10.18 THURSDAY
IN PERSON BEGINS
BALLOTS ARE MAILED
TO ALL REG. VOTERS

11.06 TUESDAY
APPLICATION DUE

The following candidates in your state are among the candidates who have received support from a Koch company or KOCHPAC, the employee political action committee of Koch companies.

KOCHVOTES.COM

PRESIDENT / VICE PRESIDENT
Mitt Romney / Paul Ryan

U.S. HOUSE OF REPRESENTATIVES

	DISTRICT
Greg Walden	2

STATE SENATE

	DISTRICT
Brian Boquist	12
Tim Knopp	27
Doug Whitsett	28
Ted Ferrioli	30

STATE HOUSE

	DISTRICT
Bruce Hanna	7
Andy Olson	15
Vic Gilliam	18
Kevin Cameron	19
Jim Thompson	23
Julie Parrish	37
Bill Kennemer	39
Gene Whisnant	53
Mike McLane	55

Paid for by Koch Industries, Inc., 316.828.5500, www.kochind.com, and not authorized by any candidate or candidate's committee or ballot issue committee.

Source: Elk 2012.

How many American workers actually experience these different forms of political contact with their managers? This brief uses two original national surveys to answer this question. One survey, conducted by SSRS Inc., polled a nationally representative sample of 1,032 non-self employed workers in April 2015 by telephone (margin of error:

² <http://www.employeesvote.org/page.asp?content=startpage&g=employeesvote>.

3.6%). The other survey, fielded by YouGov America, polled a sample of 513 top corporate managers in December 2014 to January 2015 by Internet. Together, these surveys provide the most extensive set of data about employer mobilization to date. Eight main conclusions emerge from these surveys:

1) EMPLOYER MOBILIZATION IS RELATIVELY COMMON ACROSS THE LABOR FORCE

The worker survey revealed that about one in four employees – or between 29 and 39 million Americans – reported political contact with their bosses. On the firm side, about half (46%) of the companies in the online sample reported attempting to engage their workers in politics.

By comparison, about 100 million Americans reported being contacted by a political party about the 2012 election and about 45 million Americans reported contact from someone other than a party about candidates in that election.³

2) EMPLOYER POLITICAL MESSAGES GREATLY OUTNUMBER UNION MESSAGES

The worker survey indicates that about half as many workers (12%) reported hearing from their union as compared to their employer. Unions are clearly not an equal player relative to employers in the workplace, which should come as no surprise given the dramatic decline in private sector union density over the past five decades. In some cases, employers coordinate with unions on mobilization efforts. This is especially true for regulatory and trade issues. But interview evidence indicated that this was relatively uncommon. Most workers who reported union mobilization on the survey did not also report firm mobilization (68% of the workers who reported union contact reported no employer contact).

3) CORPORATE MANAGERS DESCRIBE EMPLOYER MOBILIZATION AS BEING A HIGHLY EFFECTIVE STRATEGY FOR CHANGING PUBLIC POLICY

Politicians, pundits, and journalists regularly discuss campaign contributions as the main way that companies influence the policymaking process. But firms reported that employer mobilization is an even more effective strategy for influencing legislation and regulation.

Managers responding to my survey of employers reported that mobilization of workers was about as effective at changing public policy as hiring lobbyists, and that mobilization was even more effective than giving PAC contributions, buying campaign ads, and participating in the US Chamber of Commerce. For instance, of those firms that reported donating to political candidates and that mobilized their workers, 25% reported that mobilization was their most effective political strategy, while only 17% ranked donations as being most effective.

At the same time, however, the firm survey indicates that companies view mobilization as being a complement to other forms of political participation. Companies that reported more traditional political activities – like lobbying or donating to candidates – were much more likely to report engaging in worker mobilization compared to less politically active firms. 61% of firms that reported using lobbyists also reported mobilizing their workers (compared to 37% of firms that did not lobby); similarly, 62% of firms

³ Tabulations from 2012 National Election Study.

that reported donating to political candidates reported mobilizing workers (compared to 35% of firms that did not donate).

Interviews with corporate managers revealed that mobilization can be useful as a political strategy in several ways. First, mobilization can directly change the preferences of voters in important races, especially on issues that are of great importance for companies' bottom lines or that are at the state level (such as state legislative races, and referenda or ballot initiatives), where changes of a few percentage points in turnout can have major consequences for policy outcomes. Mobilization can also provide political resources that firms can exploit in later lobbying efforts, in conjunction with other traditional strategies. A firm attempting to change the votes of several key legislators in Congress might mobilize workers who live in those legislators' districts, encouraging workers to write in letters to their representatives and Senators. Firm lobbyists might then bring up the mobilized voters in subsequent meetings with the members (with whom they have a relationship because of PAC contributions), noting the importance of their workers for members' reelection prospects. In this way, mobilization bolsters existing political strategies, rather than substituting for PAC contributions or lobbying efforts.

4) EMPLOYER POLITICAL MESSAGES ARE GENERALLY PERCEIVED TO BE IDEOLOGICALLY CONSERVATIVE BY WORKERS

According to the worker survey, employees were most likely to report that their employers' messages were conservative (43% of contacted workers reported such an ideology), compared to 27% of workers who reported liberal messages, and 30% of workers who reported moderate messages.

Given that employer mobilization is most frequently in service of specific policies or issues that improve a firm's bottom line, it makes sense that workers identify the messages as being ideologically conservative. In a typical example, ConocoPhillips brought managers to its oilfields in Alaska to mobilize construction workers against a ballot initiative that would have repealed a tax cut for oil companies in the state (Woodman 2014). Interviews with top corporate managers reveal that mobilization often relates to reducing taxes or regulations on a firm, as in this example.

5) EMPLOYER MOBILIZATION VARIES IN ITS POLITICAL INTENSITY

At one end are efforts to engage workers that consist of relatively non-partisan activities, such as helping workers to register to vote or turn out to vote on Election Day, while at the other end are more explicitly partisan activities that urge workers to support specific candidates or issues. Table 1 summarizes the share of American workers experiencing each of these different varieties of mobilization. 11% of workers experienced "get out the vote" type mobilization that only discussed voter registration and turnout. Another 6% of workers experienced mobilization that discussed specific political issues (such as bills under debate in a legislature), but not political candidates. The final 7% of workers experienced mobilization that went beyond political issues to discuss specific political candidates or lawmakers.

Table 1: Describing the Intensity of Employer Mobilization

Type of Mobilization	Share of Employees Reporting Mobilization
No mobilization	75%
Only voter registration and turnout	11%
Political issues, but not candidates	6%
Political candidates or lawmakers	7%

Source: 2015 Worker Survey. Shares do not add to 100% due to rounding.

Policy-related mobilization might include background information on a bill being considered by Congress, how a particular policy debate affects a firm and its employees, or arguments that workers could use in their own letters to legislators about a particular proposal. Such information could be delivered through emails, newsletters, or posted on company intranets.

One example of mobilization based on specific policy issues came from an interview I conducted with a food manufacturer. That company described a campaign to educate the firms’ workers about the negative consequences of a state ballot initiative mandating GMO labeling. The anti-labeling campaign involved emails, postings on an internal company website, and information booths set up in company break rooms.

An example of the most intensive and partisan mobilization is the information provided by Koch Industries and Georgia Pacific in Figure 1 to their workers endorsing specific candidates for a range of political offices.

6) EMPLOYER MOBILIZATION VARIES IN ITS COERCIVENESS

The survey also revealed extensive variation across firms in the degree employer information was coercive and uncomfortable for workers. Table 2 summarizes the coerciveness of mobilization based on workers’ description of employer messages. About 11% of workers (or 44% of all mobilized workers) reported mobilization that was plainly not coercive. This category includes messages with which workers agreed, that workers found comfortable, and that did not include warnings about job loss, plant closures, or changes to wages or hours. Another 7% of employees (or 28% of mobilized workers) received messages with which they disagreed but still did not report as uncomfortable, and which did not include warnings about job loss or other economic threats. I label this mobilization as being “somewhat coercive” given that workers were being exposed to political messages and requests with which they disagreed and that they could not avoid. A final 7% of workers (or 28% of mobilized workers) reported employer messages that either made them uncomfortable or included threats of economic retaliation, such as job loss, changes to hours and wages, and plant closures. I classify these messages as being strongly coercive.

Table 2: Describing the Coerciveness of Employer Mobilization Amongst Mobilized Workers

Type of Mobilization	Share of Mobilized Employees Reporting Mobilization
Not coercive	44%
Somewhat coercive	28%
Strongly coercive	28%

Source: 2015 Worker Survey. Denominator is all workers who reported mobilization.

Examples of the most strongly coercive forms of mobilization can be found in the material that Georgia Pacific and Cintas provided to their workers during the 2012 election, which included warnings that the firms might need to lay off workers if particular politicians were not elected. Table 3 includes excerpts from both of these messages.

Table 3: Examples of Employer Messages with Threats of Job or Wage Loss

Cintas	Georgia Pacific/Koch Industries
<p>“The upcoming Election on November 6th is one of the most important Elections of our time...It’s important for each of our voices to be heard this Election because the decisions that are made and the policies that are set by our government impact each of us personally as individuals...These decisions and policies could also have a significant impact on Cintas -- on our ability to run our business effectively and efficiently, on our ability to attract and retain customers and on our ability to provide the level of benefits, opportunities, and development we believe our partners want, need and deserve...According to the Supreme Court, the new health care law amounts to the single largest tax on Americans and business in history. We have spent a lot of time over the past months trying to understand the impact that the new law will have on our company...Under the new law, we estimate that our health care costs will increase by over \$50 million.”</p>	<p>“While we are typically told before each Presidential election that it is important and historic, I believe the upcoming election will determine what kind of America future generations will inherit...If we elect candidates who want to spend hundreds of billions in borrowed money on costly new subsidies for a few favored cronies, put unprecedented regulatory burdens on businesses, prevent or delay important new construction projects, and excessively hinder free trade, then many of our more than 50,000 U.S. employees and contractors may suffer the consequences, including higher gasoline prices, runaway inflation, and other ills.”</p>

Source: Elk 2012; Jamieson 2012.

7) MORE INTENSIVE AND PARTISAN MOBILIZATION EFFORTS WERE ALSO GENERALLY MORE COERCIVE

Workers were more likely to indicate that employer messages that were more partisan and intensive made them uncomfortable. These sorts of messages also tended to include threats about job loss or other forms of economic retaliation. Only 19% of the workers who received the least partisan messages experienced strong coercion, while 43% of the workers who received the most partisan messages experienced strong coercion.

8) EMPLOYER MOBILIZATION VARIES GREATLY ACROSS FIRMS

According to the firm survey, mobilization was most frequent in the financial services, business services, mining and extractive resources, and agricultural sectors, and was least frequent in the leisure and hospitality, retail trade, wholesale trade, and manufacturing sectors. Unlike industry, there was not much variation in mobilization by firm size. Mobilization was frequent in mid-size firms (200-249 workers), but also frequent in very large firms (with 1,000 or more workers).

These results indicate that employer mobilization affects a significant portion of the American labor force, and that the content of employer messages varies greatly across workers. In some cases, employers merely seek to encourage greater voter turnout amongst their employee base. But in other instances, employers are providing much more explicitly partisan material to their workers, and workers are indicating that the material contains threats of potential economic retaliation.

THE CHANGING CONTEXT OF EMPLOYER MOBILIZATION

Historically, nineteenth century employers, along with party bosses and other political leaders, frequently coerced voters into supporting particular candidates through threats of violence and economic retaliation, as well as bribes of money, whiskey, and even employment (Bensel 2004; Keyssar 2009). These forms of voter intimidation and corruption declined with the introduction of a standardized secret ballot, as well as laws to curb political patronage (Bensel 2004; Keyssar 2009). Later, during the early and mid-twentieth century, many large employers sought to influence their workers' political preferences for economic policy. Historian Kim Phillips-Fein, for instance, has documented how General Electric executives, driven by the specter of socialism, launched an extensive internal campaign to educate their 190,000 workers on the virtues of the free market (Phillips-Fein 2009, 101). To that end, GE distributed a special textbook to workers and managers, and the company further encouraged supervisors to host reading groups in their homes to discuss the many readings that workers were given. All new employees, moreover, were expected to participate in a course on free market economics. In a similar vein, executives at Union Carbide, Bell Telephone, Chase Bank, and Prudential Insurance followed GE's lead and began using their corporate publications to take stances on political issues and report on the exemplary political activities of their workers (Phillips-Fein 2009, 107).

Following those historical cases, however, it is difficult to establish much evidence of extensive employer recruitment of workers after mid-century, outside of a few isolated episodes (e.g. Sheehan 2010). This may be indicative of an economic environment in which firms faced strong labor unions and workers possessed relatively more bargaining power (Lichtenstein 2002), as well as a corporate culture that discouraged more aggressive forms of corporate political engagement (Drutman 2015; Vogel 1989).

That employer mobilization has a lengthy history in American politics is evident. Yet, at the same time there is a new context for employer mobilization activities in contemporary politics. Employers now enjoy many more legal rights to recruit their workers to participate in politics than they did even a decade ago. These rights are further reinforced by a supportive economic climate in which the typical American worker has lost significant bargaining power relative to her managers, as well as technological advances that enable employers to disseminate their opinions more broadly and to monitor their workers' political preferences and activities more closely.

THE NEW LEGAL AND POLITICAL ENVIRONMENT

The Supreme Court's decision in the 2010 *Citizens United* case ushered in a new legal regime for employer mobilization. Most of the attention to that case has focused on how the decision permits companies to spend unlimited amounts from their own treasuries on politics. But in permitting companies to spend directly from their coffers on political activities, *Citizens United* also allows managers to use employees' time (a corporate resource) towards campaigning or politics – so long as those activities are not coordinated with a candidate's campaign (Harvard Law Review 2014; Secunda 2010).⁴ What is more, there are no federal legal protections for employees who are fired or retaliated against for refusing to participate in politics. Because the vast majority of employees are employed "at-will", they can have their hours or wages changed, or can even be fired, without cause, as long as it is not for a narrowly-defined set of legally protected reasons, like religion, race, or gender. While some states have limited protections in place for private employee speech or political activity, not all do (Volkh 2011-2012). Moreover, many of the state-level political freedom laws only protect an employee's own speech or activities during off-work hours, rather than political coercion from a manager on the job.

Table 4 summarizes the major changes in the laws governing employer mobilization before and after *Citizens United*. Here, "explicitly partisan" refers to firm activities in support of particular candidates or parties – the sort of activities that companies could not fund directly from their coffers in the era before the *Citizens United* decision. As Table 4 indicates, while employers could fire or retaliate against workers for political activities even before *Citizens United*, that decision opened the door for explicitly partisan recruitment of workers. In conjunction with the lack of federal or state protections for firing or punishing workers on political grounds, *Citizens United* permits firms to require their workers to participate in partisan politics in particular ways on pain of dismissal or other punishments.

⁴ These effects characterize private, rather than public, employment. Most federal workers are barred from political activities at work, in part out of concerns of coercion. Most states have similar protections in place for state and local workers.

Table 4: Summary of Employer Mobilization Law Before and After *Citizens United*

Tactic	Pre- <i>Citizens United</i>	Post- <i>Citizens United</i>
1) Intimidating employees in the voting process	Illegal	Illegal
2) Sending explicitly partisan messages to rank-and-file workers	Generally limited	Permitted
3) Compelling workers to participate in explicitly partisan activities	Illegal	Permitted in many states
4) Retaliating against workers who do not comply with employers’ explicitly partisan requests	Not possible	Permitted in many states
5) Retaliating against workers for their political views or partisan affiliations	Permitted in many states	Permitted in many states

Source: Author’s analysis.

It is worth noting, however, that even before *Citizens United* employers had already begun to engage in practices that resembled those that would be legalized after 2010. For instance, companies have long used so-called “captive audience” mandatory workplace meetings to discourage workers from supporting labor unions (Bronfenbrenner 2009; Secunda 2008, 2010). Leading companies and business associations had even started to hold captive audience meetings about a broader range of political issues, including some related to political candidates, in the early 2000s (Secunda 2010, 20). Both the First Amendment and the National Labor Relations Act – which governs private sector labor organizing – permit captive audiences on labor-related issues, and offer no protections for employees who are disciplined or fired for refusing to attend, leaving early, or asking questions (Secunda 2010, 22).

Apart from these changes in the legal context, the rise of employer mobilization is also consistent with a more general tendency of corporate executives to ramp up their political participation since the 1970s. As Lee Drutman describes: “In 1971, a leading corporate lawyer could write credibly that: “As every business executive knows, few elements of American society today have as little influence in government as the American businessman.” ... But starting in the early 1970s, corporate America began to devote attention and meaningful resources to politics (Drutman 2015, 9)”. Just as business has become much more involved in politics through lobbying and campaign contributions, so too have firms invested in new methods of mobilizing the public around their favored policies and candidates through “grassroots” engagement (Walker 2014), including eventually recruiting their own workers into politics.

THE CHANGING ECONOMIC CLIMATE

Aside from *Citizens United* and the overall political climate, there are several other changes in the American workplace that have facilitated greater political recruitment of workers by managers. Perhaps most centrally, American workers have lost much of the voice and bargaining power that they possessed a generation ago. One clear manifestation of this imbalance in workplace power is the stagnation of workers’ wages relative to the

productivity of the overall economy. Figure 2 traces the evolution of wages for rank-and-file production workers and productivity from 1948 to 2013, showing that while the economy as a whole became much more productive (growing by 240% over this period), wages for the typical production worker grew only by 108%. Another sign of reduced worker bargaining power is the declining quality of working conditions for many employees, such as record levels of wage theft by managers, misclassification of workers to evade regulation, and the rise of on-call positions where employees are not notified of their schedules until just before they are required to report for work (Lambert, Fugiel, and Henly 2014; Weil 2014).



Source: The Economic Policy Institute’s State of Working America: “Cumulative change in total economy productivity and real hourly compensation of production/nonsupervisory workers, 1948–2013.”

A range of factors is implicated in the decline of workplace power, including the collapse of the labor movement, competition with lower-wage economies overseas, the failure to update relevant labor protections, and greater pressures on firms to generate high returns for their shareholders (Lichtenstein 2002; Mishel et al. 2012; Weil 2014). But the upshot of all of these trends is that workers are in a far weaker position to resist demands that their employers place upon them. In previous decades, workers might have been comfortable refusing to participate in employer-led political activities given that they felt secure in their employment. When faced with an employer political request with which she disagreed, a worker might go to her union representative to complain, knowing that she would be shielded by the union’s grievance procedures. And even if that worker were not in a unionized firm, she might still feel confident in challenging management’s political demands, given non-unionized executives’ fears of inviting labor unrest (for similar arguments in other, very different contexts, see Ardanaz and Mares 2014; Baland and Robinson 2008; Frye, Reuter, and Szakonyi 2014; Ziblatt 2009). In contrast, it is much less likely that workers today would feel as comfortable resisting employers’ political demands. Not only are

unions now virtually absent from the private sector, but employees recognize full well that if they protest workplace conditions, they will simply be replaced with another worker who is willing to comply with managers' demands. The insecurity faced by the contemporary American workforce thus ought to amplify the pressures that employees face to comply with employers' political requests, and in turn, ought to increase the likelihood that employer mobilization will succeed in shifting workers towards managers' favored positions and candidates.

THE IMPORTANCE OF NEW TECHNOLOGY IN THE WORKPLACE

Apart from diminished voice and power at work, employer mobilization efforts have also been facilitated by advances in technology. In the 1950s, GE had to print tens of thousands of free-market brochures and hold in-person reading groups and courses to disseminate its ideological messages. The same sort of corporate campaigns are now much easier and less expensive. Top corporate managers acknowledge in interviews that a company might now launch a mobilization effort around a particular policy goal first with a series of emails to workers, then with online town halls, and finally with requests for workers to visit a website that helps them to send messages to their elected officials (the email text might already be pre-written, too).

Because companies possess digitized human resources records for their workers, managers additionally report that they can create political content that is highly tailored to individual workers (for instance, a firm might only be interested in reaching its sales team on a given political campaign), and workers' geographic locations, which means that employers can target employees who reside in districts with especially pivotal legislators. One such service is sold to firms by the Business-Industry Political Action Committee (or BIPAC), which has been helping firms to engage their workers in politics since the 2000 election cycle through its Prosperity Project initiative. According to its website, BIPAC "provides the tools needed to engage with employees and help them take action and stay informed, featuring custom toolkits, voter engagement tools, websites, an integrated database, action alerts, new media tools and more".⁵

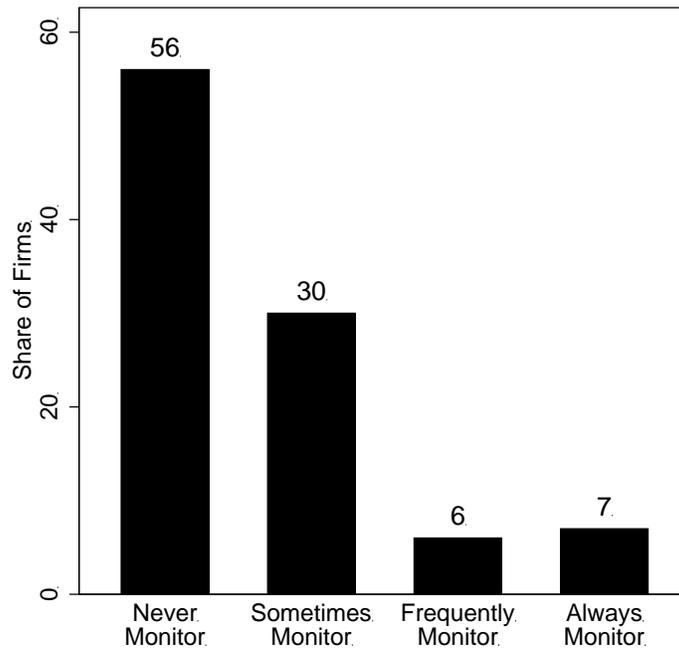
All of these technologies permit firms to deliver more messages and richer content (such as videos or presentations) to a broader array of workers at a very low cost. Of course, more traditional methods of reaching workers are still relevant, too. In interviews, corporate managers emphasized that they would still use in-person meetings, booths or tables in break rooms, and posters to reach workers during especially intensive campaigns. But technological innovations afford managers the opportunity to mobilize their workers much more regularly than in previous eras.

Importantly, these technological advances also permit employers to closely track the workers who read and respond to political requests. Employers can easily see, for instance, whether a given worker opened a particular email about politics, clicked through to websites with additional information, and followed their manager's request to write a letter to a given legislator. This sort of tracking carries two relevant consequences for managers. First, it helps employers to design the sort of recruitment campaigns that will be most likely to garner a high success rate, as employers deploy experiments and draw from past experiences to design messages to which workers will respond. Second, and perhaps more problematically in the post-*Citizens United* era, firms can also

⁵ www.bipac.net/bipacorg/prosperity-project/

keep tabs on which employees are their strongest political supporters. Given the lack of protections for employee political speech or activity on the job in most states, employers could use tracking information to reward workers who most frequently support a company’s political priorities, or punish those who do not toe the company line. Indeed, one corporate manager reported that his firm kept track of the firm’s “champions”, or those workers with the highest participation rates in the firm’s political campaigns. Champions were then invited to become political ambassadors for the firm.

Figure 3: Firm Monitoring of Employee Internet, Social Media, and Email Usage



Source: 2014 Firm Survey. Shares do not sum to 100% due to rounding.

Firms are also simply in a better position to monitor their workers’ personal preferences and behaviors than they once were given the preponderance of computer usage (see also American Management Academy 2014). Even if a firm does not track responses to its political campaigns, it could still discern the political behavior or attitudes of its workforce by monitoring workers’ email, social media, and other Internet usage. In the firm survey described in the earlier section, nearly half of all firms (44%) reported monitoring their workers’ Internet usage at least some of the time, and 13% reported monitoring their workers always or frequently (see Figure 3). Indeed, on the firm survey, one of the best predictors of whether or not a firm reported mobilizing its workers was whether the firm also reported monitoring its workers’ online behavior. Table 5 shows the share of firms that reported mobilizing their workers in politics by the level of technological surveillance that firms employed. We can see a clear increase in the share of firms mobilizing their workers as managers report more intensive monitoring.

Table 5: Employer Mobilization by Employee Electronic Monitoring

Electronic Monitoring	Share of Firms Reporting Mobilization
Never monitor employees	42%
Sometimes monitor employees	48%
Frequently monitor employees	59%
Always monitor employees	64%
<i>All Firms</i>	46%

Source: 2014 Firm Survey. Denominator is all firms in a particular category of employee monitoring.

Troublingly, there is evidence that such monitoring may have consequences for workers whose political speech is not supported by their employers. One worker at the papermaker Georgia Pacific was told by his supervisors that he was passed over for a promotion because his online social media presence was “too political” (Elk 2012). That worker further explained that “it wasn’t hard to deduce what they meant” – he was on record as criticizing the politics of the conservative Koch family, who own Georgia Pacific (Elk 2012).

Together, all of these broad shifts have added up to a more favorable environment for employer recruitment of workers in politics. While we lack good over-time survey data on employer recruitment, there is suggestive evidence that mobilization is more common now than in previous years. For instance, the Business Roundtable – an association of about 150 of the largest and most prominent firms in the country – estimates that the share of its members contacting workers about politics has increased from 18% in 2002 to 66% in 2004 (Birnbaum 2004). And using their own polling of American workers, BIPAC estimates that the share of employees hearing from their bosses in politics has risen from 7% of employees in 2000 to 31% in 2014 (BIPAC 2014).

WHY AND HOW WE SHOULD CURB COERCIVE EMPLOYER MOBILIZATION

Before discussing the risks of more intimidating political messages, it is worth reiterating that most mobilization efforts do not appear to be coercive and unwanted by workers. For the most part, workers are either untroubled or supportive of the political messages they have received from their employers. While some workers may disagree with the content of their employers’ communications, they do not consider those messages to be intimidating or intrusive. At the same time, coercive mobilization does present a challenge to the political freedom of individual workers. When employers make political requests of workers to support a particular bill, candidate, or issue, and incorporate implicit or explicit warnings about job loss or cuts to wages and hours, workers may feel unduly pressured to support their employers’ positions – even if their employers’ preferences run contrary to their own. In a context where employees depend heavily on their employers for their income, health benefits, and retirement savings, there is a strong incentive for workers to toe the company line, even if it means suppressing their own political preferences. But this kind of mobilization poses a serious threat to the right of workers, as citizens, to arrive at their political preferences and decisions free from the undue influence of others. Coercive mobilization also violates individual workers’ rights to free speech, as they are pressured into making political statements that they may not believe, but feel are necessary to appease their employers.

More generally, intimidating forms of mobilization pose a challenge to the quality of our democratic institutions and processes. Coercive mobilization may grant undue political influence to corporations, for instance, as firms are able to change worker preferences and behaviors, and thus electoral and legislative outcomes. Although only 7% of American employees have experienced coercive mobilization, this share might well be enough to swing a close election in favor of a particular firm or industry. The worker survey asked respondents whether their employers' messages made them change their support for a candidate. In all, up to 3% of employees experienced coercive mobilization *and* reported that those messages made them more likely to support their employers' favored candidates in an election. According to this vote margin, national rates of employer coercion could have flipped the election results in 2012 of up to two Senate races, one gubernatorial race, and one state in the presidential race between Mitt Romney and Barack Obama.⁶ Such margins could make an even bigger difference in low turnout races, such as for state ballot initiatives or referenda, which are an important priority for many businesses as we have seen in earlier sections.

Even before *Citizens United*, many citizens and politicians from the left and the right worried about the disproportionate power that business possessed in the electoral and policymaking process. Thus, to the extent that we worry about the balance of power between business and other interests in politics, we ought to worry about the ability of employers to leverage this mechanism for shaping policy and elections. Given the risks that more coercive mobilization engenders, how might we curb such practices? There are a variety of promising proposals that could either directly or indirectly restrict political intimidation of workers while still permitting employers to provide helpful political information to their workforces.

1) FEDERAL LEGISLATION TO PREVENT COERCIVE POLITICAL MOBILIZATION

One alternative, described in a recent Harvard Law Review article, is for the federal government to extend the same sort of limits imposed on PAC activities to companies (and unions, by extension; Harvard Law Review 2014). Currently PACs are restricted from collecting anything of value through “physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal...or as a condition of employment”. Congress could alter the relevant statute to extend these regulations from PACs to corporations themselves. This straightforward change in language would shield workers from being required to contribute anything of value (such as their money, time, or political voice) to corporate political activities (Harvard Law Review 2014). Companies could thus no longer use the threat of job loss or plant closures to compel worker political activity. Certain classes of employees would need to be exempted from this protection, however, such as any employee whose occupation is inherently focused on political work (such as a lobbyist). Congress might exempt certain employers from this regulation as well, such as non-profits that are governed by a specific ideological perspective, like a think tank, religious institution, or advocacy group.

Federal legislation that changed the system of political contributions might also curb the possibilities for highly coercive mobilization. For instance, a new framework for political giving that treated corporations

⁶ These estimates assume that an equal share of American adults (up to 2%) are affected by coercive mobilization in all states; clearly in practice these shares will vary across different localities.

and individuals as distinct types of donors might limit the sort of political resources that companies could deploy in elections. Indeed, the prevalence of employer mobilization itself offers evidence that companies should not be treated in the same way as individuals when it comes to political participation in the electoral process. Not only do companies have access to far more financial capital to invest in elections than do individuals, but managers also can now mobilize their workforce to support particulate candidates, parties, and issues in a way that ordinary citizens cannot.

2) STATE LEGISLATION TO PREVENT COERCIVE POLITICAL MOBILIZATION

Barring federal action, the states could act to prevent coercive recruitment in the workplace. For instance, states might follow the lead of New Jersey and Oregon, which both passed versions of the “Worker Freedom Act” in 2006 and 2009, respectively (Secunda 2010).⁷ That law prohibits employers from discharging, disciplining, or penalizing employees who decline to participate in employer-sponsored activities or communications about religious or political issues, enabling employees to pursue civil remedies for violations of this law. Importantly, the measure creates exemptions for religious or political organizations, and for legally required meetings or communications. The Oregon law also exempts meetings of a firm’s executive or administrative staff that might be related to the firm’s interests.

States could also pass laws to shore up the rights of employees to exercise their political rights without fear of reprisal from their employers. For instance, the California labor code forbids employers from preventing employees from engaging or participating in politics, and from controlling or directing the political activities and affiliations of their employees (Volokh 2014). This is similar to the Oregon legislation, except it protects employees not only from coercive efforts by an employer to engage the employee in politics, but also from retaliation for workers’ own political activities off the clock. Even so, the worker survey indicates that bills to strengthen employee free speech rights are not enough, on their own, to end coercive political recruitment in the workplace. The overall rate of employer political recruitment was 24% in states without employee free speech laws, and 26% in states with such laws, and the rate of coercive recruitment was 6% in states without protective laws, and 9% in states with laws.⁸ This evidence suggests that if we want to curb the most coercive recruitment practices, states are going to have to institute more vigorous protections, like those in Oregon and New Jersey.

An important concern with state and federal bills to curb coercive recruitment is whether they would withstand scrutiny by the courts, especially given that this legislation would be limiting employer speech. Other legal analysts have concluded, however, that efforts to protect workers against coercive mobilization would not run afoul of current judicial doctrines (Hartley 2014; Harvard Law Review 2014; Secunda 2008, 2010). For instance, one analysis emphasizes that protective regulation would be limiting

⁷ According to legal analysts, the New Jersey provision is narrower than the one in Oregon, because it excludes from political meetings anything related to union representation (Hartley 2014; Secunda 2008). In all, I was able to identify at least seven states where “Worker Freedom Act” legislation was introduced between 2005 and 2014.

⁸ It is possible that employer political recruitment would be even higher without such laws. But we can plainly say that employer mobilization (whether coercive or not) is no less frequent in states with employee speech protections than in states without such protections.

employers' conduct, rather than their speech (Harvard Law Review 2014). Employers would still be free to communicate to their workers about political issues, including helping employees to register to vote and informing workers about important policy proposals pending in legislatures. But employers' ability to reprimand workers for political action (or inaction) would now be limited. Although the right to hire and fire workers could theoretically be construed as a free speech issue, the Supreme Court has upheld the right of the government to limit the discretion employers have in hiring and firing workers. For instance, the federal government has the ability to restrict discriminatory recruitment practices and to protect workers from being fired based on their race, religious affiliation, disability, or sex.

The same analysis also highlighted the similarities between legislation to protect workers against coercive employer recruitment and existing judicial doctrines that limit the ability of labor unions to compel workers to pay dues that go towards political speech (Harvard Law Review 2014). The Supreme Court has ruled that workers must only pay union dues for the collective bargaining functions that unions provide, and that workers cannot be compelled to support unions' political activities. The logic here is similar to that of employer mobilization: workers should not be required to support political issues or candidates if they do not agree with those positions.

3) PUBLIC SUPPORT FOR LEGISLATIVE ACTION

Employer mobilization may be a rare issue that both conservatives and liberals could agree upon, even in the contemporary era of extreme ideological and partisan polarization. For liberals, this practice represents an instance of unchecked business power. And for conservatives, especially libertarians, workplace political coercion can be seen as a violation of citizens' rights to engage in politics free from outside pressures. Libertarians might also object to the use of coercive mobilization by firms to secure favorable tax and regulatory treatment from the government as a form of regressive rent-seeking (e.g. Teles 2014).

The worker survey confirms that there is broad support for establishing legal guidelines for employer mobilization: 70% of employees reported that they favored such laws, including majorities of both Republicans and Democrats.⁹ Table 6 summarizes the support for such a hypothetical law amongst workers with different partisan affiliations. There is also evidence that such legislation could be supported on a bipartisan basis by legislators, too: Republicans joined Democrats in voting for the anti-coercion measure in New Jersey.

⁹ The question text was: "Currently, employers are permitted to campaign for political candidates in the workplace. That is, employers can send messages to workers, post flyers, and hold mandatory meetings to endorse political candidates for the presidency, Congress, and state government. Do you think that this kind of campaigning by employers in the workplace (should be limited by law), or (should remain unlimited)?" The options in parentheses were rotated.

Table 6: Support for a Law Limiting Employer Mobilization Amongst American Workers

Partisan Affiliation	Share of Employees Supporting Law
Republican	65%
Democrat	77%
Independent	66%
Other	75%
<i>All Workers</i>	<i>70%</i>

Source: 2015 Worker Survey. Denominator is workers with a specific partisan affiliation.

4) VOLUNTARY CODES OF CONDUCT

If the states and the federal government fail to act, it is still possible to reduce coercive political mobilization in the workplace through outside social pressures. Consumers, investors, and unions could help to convince firms to establish guidelines for how firms would deal with political mobilization in the workplace. Those guidelines could include a set of approved activities in which firms could engage, ranging from helping workers to register and turn out to vote to educating workers on important bills pending in Congress. Importantly, the guidelines would include explicit stipulations that employers could not threaten workers with economic retaliation for refusing to comply with corporate political requests.

Firms might also pledge to place a disclaimer on all political communications to workers that states that nothing in the message should be construed by workers to be mandatory, and that managers will not reward or punish workers based on their political participation (or lack thereof). Failure to comply with the code of conduct would result in public backlash from consumers, shareholders, and other corporate watchdog groups. To help with monitoring and to encourage a culture of reporting, companies could establish a hotline where workers could anonymously report violations of the code of conduct to an affiliated non-profit organization.

The advantage to this strategy is that it could be pursued at the same time as a legislative approach. The disadvantage to voluntary tactics is that they depend heavily on continued countervailing pressure from consumers, labor organizations, and investors to stay effective. Voluntary codes of conduct have also had only limited success in other areas of labor policy (Locke et al. 2007; but see McDonnell, King, and Soule 2015 on the power of social activism, and boycotts in particular, to change corporate behavior).

5) STRENGTHEN WORKER BARGAINING POWER

A final, less direct strategy for reducing coercive mobilization in the workplace is to improve the bargaining power of employees. Increasing the degree to which workers feel secure in their jobs will increase the costs of political coercion as employees feel more comfortable resisting such efforts. This ought to both lessen the impact of coercive mobilization in the short run, and decrease the overall incidence of more intimidating forms of mobilization over the longer term.

As we saw earlier, the reasons for declining worker bargaining power are varied, and many are out of the control of government. But there are several concrete steps that the states and the federal government could take to put employees on a leveled playing field with their managers. Most centrally, the government could make it easier for workers to organize and represent themselves formally in the workplace, whether through a union or another organization. Survey evidence finds that while union density has fallen sharply over time, a majority of workers still want to join a union – or something resembling one (e.g. Freeman 2007). Legislation to facilitate the labor organizing process would directly improve the bargaining power of workers. Barring such a policy, however, the government could help shore up workers’ positions by more vigorously enforcing existing labor standards, while establishing new protections that take into account the radically changed landscape of employment (Weil 2014). Lastly, the federal government can improve worker bargaining power by ensuring tighter labor markets, either through fiscal or monetary policy (Bernstein and Baker 2003). Workers are in a much stronger position relative to their employers if they know they can easily find another job if needed (for evidence of the connection between labor market slack and employer intimidation in a very different context, see Ardanaz and Mares 2014).

PREVENTING A POLITICAL WAR AT WORK

Now is the moment to curb the most coercive and troubling employer mobilization practices before they spread further in the labor force. To delay action will only increase the risk of inciting a political war at work. To see what such a war could look like, we need only examine how the process of labor organizing has evolved over the past few decades. According to the best research on these trends, it is now standard practice for workers to be “subjected to threats, interrogation, harassment, surveillance, and retaliation for union activity” (Bronfenbrenner 2009, 1). From 1999 to 2003, employers threatened to close facilities in 57% of union elections, actually discharged workers in 34% of elections, and threatened to cut wages or benefits in 47% of elections. All evidence suggests that the intensity of these practices has increased dramatically over time, too (Bronfenbrenner 2009, 13). Labor drives, in short, are highly divisive, controversial, and pit workers directly against employers, with the latter pursuing a “no holds barred” approach to stopping workers from voicing their support for unions. It is not a stretch to imagine that in our era of deeply polarized politics, the most intensive forms of employer mobilization might resemble something like a union drive if left unchecked. Political coercion in the workplace, in sum, should be a major concern for anyone who cares about the quality of our democracy, both at the ballot box and in the workplace.

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