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Ban on the Permanent Replacement of Strikers: The Heritage Foundation 2009 Labor Boot Camp

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What Is a Ban on Permanent Replacement of Strikers?

- Currently, U.S. labor law allows employers to hire replacement workers during a strike on the same terms as last offered to the strikers, including permanent employment.
- A ban on permanent replacement of strikers would prevent employers from offering workers permanent jobs on the same terms, and would require employers to fire any replacement workers whenever the strikers chose to return.

Policy Objections

- Destroy Balance Between the Interests of Labor and Management
  - Current law seeks to achieve a balance between the interests of labor and management during labor negotiations, without favoring one side over the other.
  - Employers are free to hire replacement workers and to continue operations during a strike.
  - If skilled and experienced replacements are not available locally, an employer may recruit workers from other parts of the country. Such workers understandably are reluctant to move for a job that may only last for a few days or weeks.
- Take the Risk Out of Striking
  - Workers would lose pay during the strike, but would not risk losing their jobs.
  - The inevitable result of such legislation would be more strikes.
  - A ban on hiring replacement workers may guarantee an employee's right to reinstatement even when a strike was illegal, or when it violated a "no strike" clause in the employee's contract.

Economic Effects

- American output and production would be interrupted just when the economy has been weakened by recession. Employers would find it difficult to obtain replacement workers during a strike. And by shifting the balance decisively in favor of unions, the legislation would slow new job creation.
- Workers who continue working during a strike would be penalized by prohibiting employers from promoting these workers to positions left vacant by strikers or from counting time worked during a strike toward their seniority.

This paper, in its entirety, can be found at:
www.heritage.org/Research/Labor/wm2207.cfm

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- Employing workers in America will be riskier and more expensive for employers. This in turn will discourage companies from investing. Many operations no doubt would move to countries with more balanced labor laws. This will mean fewer job opportunities available to Americans.
- Labor costs would increase over the long term because companies would have less ability to resist unreasonable labor demands.

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