## 1

#### [A just government ought of Nigeria] request the International Court of Justice issue an advisory opinion over whether they ought to [establish an unconditional right to strike]. [A just government of Nigeria ought to abide by the outcome of the advisory opinion.

#### Solves – the ICJ will rule in favor of an unconditional right to strike.

Seifert ’18 (Achim; Professor of Law at the University of Jena, and adjunct professor at the University of Luxembourg; December 2018; “The protection of the right to strike in the ILO: some introductory remarks”; CIELO Laboral; http://www.cielolaboral.com/wp-content/uploads/2018/12/seifert\_noticias\_cielo\_n11\_2018.pdf; Accessed: 11-3-2021; AU)

The **recognition of a right to strike** in the legal order of the **International Labour Organization** (ILO) is probably one of the most controversial questions in international labor law. Since the foundation of the ILO in the aftermath of World War I, the recognition of the right to strike as a **core element** of the principle of freedom of association has been discussed in the International Labour Conference (ILC) as well as in the Governing Body and the International Labour Office. As is well known, the ILO, in its long history spanning almost one century, has not explicitly recognized a right to strike: neither Article 427 of the Peace Treaty of Versailles (1919), the Constitution of the ILO, including the Declaration of Philadelphia (1944), nor the Conventions and Recommendations in the field of freedom of association - namely Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948) - have explicitly enshrined this right. However, the Committee on Freedom of Association (CFA), established in 1951 by the Governing Body, recognized in 1952 that Convention No. 87 guarantees also the **right to strike** as an **essential element of trade** union rights enabling workers to collectively defend their economic and social interests1. It is worthwhile to note that it was a complaint of the World Federation of Trade Unions (WFTU), at that time the Communist Union Federation on international level and front organization of the Soviet Union2, against the United Kingdom for having dissolved a strike in Jamaica by a police operation; since that time the controversy on the right to strike in the legal order of the ILO was also embedded in the wider context of the Cold War. In the complaint procedure initiated by the WFTU, the CFA **recognized** a **right to strike** under Convention No. 87 but considered that the police operation in question was lawful. In the more than six following decades, the CFA has elaborated a **very detailed case law** on the right to strike dealing with many concrete questions of this right and its limits (e.g. in essential services) and manifesting an even more complex structure than the national rules on industrial action in many a Member State. This case law of the CFA has been compiled in the “Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO”3. In 1959, i.e. seven years after case No. 28 of the CFA, the Committee of Experts for the Application of Conventions and Recommendations (CEACR) also recognized the right to strike as **a core element of freedom** of association under Article 3 of Convention No. 874. Since then, the CEACR has **reconfirmed** its view on many occasions. Both CFA and CEACR coordinate their interpretation of Article 3 of Convention No. 875. Hence there is one single corpus of rules on the right to strike developed by both supervisory Committees of the Governing Body. Moreover, the ILC also has made clear in various Resolutions adopted since the 1950s that it considers the **right to strike** as an **essential element of freedom of association6**. On the whole, the recognition of the right to strike resulted therefore from the interpretative work of CFA and CEACR as well as of the understanding of the principle of freedom of association the ILC has expressed on various occasions. It should not be underestimated the wider political context of the Cold War had in this constant recognition of a right to strike under ILO Law. Although the very first recognition of the right to strike -as mentioned above- went back to a complaint procedure before the CFA, initiated by the Communist dominated WFTU, it was the Western world that particularly emphasized on the right to strike in order to blame the Communist Regimes of the Warsaw Pact that did not explicitly recognize a right to strike in their national law or, if they legally recognized it, made its exercise factually impossible; to this end, unions, employers’ associations but also Governments of the Western World built up an alliance in the bodies of the ILO7. In accomplishing their functions, CFA and CEACR necessarily have to interpret the Conventions and Recommendations of the ILO whose application in the Member States they shall control. In so doing, they need to concretize the principle of freedom of association that is only in general terms guaranteed by the ILO Conventions and Recommendations on freedom of association. But as supervisory bodies, which the Governing Body has established and which are not foreseen in the ILO Constitution, both probably do not have the power to interpret ILO law with binding effect8. This is also the opinion that the CEACR expresses itself in its yearly reports to the ILC when explaining that, “its opinions and recommendations are non-binding”9. As a matter of fact, the Governing Body, when establishing both Committees, could not delegate to them a power that it has never possessed itself: nemo plus iuris ad alium transferre potest quam ipse haberet10. According to Article 37(1) of the ILO Constitution, it is within the **competence of the International Court of Justice** to decide upon “any question or dispute relating to the **interpretation of this Constitution** or of any subsequent Convention concluded by the Members in pursuance of the provisions of this Constitution.” Furthermore, the ILC has not established yet under Article 37(2) of the ILO Constitution an ILO Tribunal, competent for an authentic interpretation of Conventions11. However, it **cannot be denied** that this constant interpretative work of CFA and CEACR possesses an **authoritative character** given the high esteem the twenty members of the CEACR -they are all internationally renowned experts in the field of labor law and social security law- and the nine members of the CFA with their specific expertise have. As the CEACR reiterates in its Reports, “[the opinions and recommendations of the Committee] derive their persuasive value from the legitimacy and rationality of the Committee’s work based on its impartiality, experience and expertise”12. Already this interpretative authority of both Committees justifies that **national legislators or courts take into consideration** the views of these supervisory bodies of the ILO when implementing ILO law. Furthermore, the long-standing and uncontradicted interpretation of the principle of freedom of association by CFA and CEACR as well as its recognition by the Member States may be considered as a **subsequent practice** in the application of the ILO Constitution under Article 31(3)(b) of the Vienna Convention on the Law of Treaties (1968): such subsequent practices shall be taken into account when interpreting the Agreement. Their constant supervisory practice probably reflects a volonté ultérieure, since other bodies of the ILO also have **recognized a right to strike** as the two above-mentioned Resolutions of the ILC of 1957 and 1970 as well as the constant practice of the Conference Committee on the Application of Standards to examine **cases of violation** of the right to strike as **examples for breaches of the principle of freedom of association** demonstrate. As this constant practice of the organs of the ILO has not been contradicted by Member States, there is a **strong presumption** for recognition of a right to strike as a subsequent practice of the ILO under Article 31(3)(b) of the **Vienna Convention** on the Law of Treaties.

#### US compliance ensures faith in global democratic institutions – solves nuclear war.

Hawksley ’16 [Humphrey; formerly the BBC’s Beijing Bureau Chief and author of The Third World War: A Novel of Global Conflict and Asian Waters: American, China, and the Global Paradox; 11-19-2016; "Trump makes International Law Crucial for Peace"; Humphrey Hawksley; https://www.humphreyhawksley.com/trump-makes-international-law-crucial-for-peace/; Accessed 4-1-2020; AH]

Major powers tend to reject international law when rulings run counter to their interests insisting that the distant courts carry no jurisdiction. China rejected a Permanent Court of Arbitration’s ruling in July and clings to expansive claims in the South China Sea, including Scarborough Shoal near the Philippines. China’s response mirrored US rejection of a 1986 International Court of Justice ruling against US support for rebels in Nicaragua. “With these stands, both China and the United States weakened a crucial element of international law – consent and recognition by all parties,” writes journalist Humphrey Hawksley for YaleGlobal Online. Disregard for the rule of law weakens the legal system for all. Hawksley offers two recommendations for renewing respect for international law: intuitional overhaul so that the all parties recognize the courts, rejecting decisions only as last resort, and governments accepting the concept, taking a long-term view on balance of power even when rulings go against short-term strategic interests. Reforms may be too late as China organizes its own parallel systems for legal reviews and global governance, Hawksley notes, but international law, if respected, remains a mechanism for ensuring peace. – YaleGlobal LONDON: Flutter over the surprise visit to China by Philippines President Rodrigo Duterte may soon fade. But his abrupt and public dismissal of the United States in favor of China has weakened the argument that international rule of law could underpin a changing world order. The issue in question was the long-running dispute between China and the Philippines over sovereignty of Scarborough Shoal, situated 800 kilometers southeast of China and 160 kilometers west of the Philippines mainland, well inside the United Nations–defined Philippines Exclusive Economic Zone. Despite a court ruling and Duterte’s cap in hand during his October mission to Beijing, Philippine fishing vessels still only enter the waters around Scarborough Shoal at China’s mercy. The dispute erupted in April 2012, when China sent ships to expel Filipino fishing crews and took control of the area. The standoff became a symbol of Beijing’s policy to lay claim to 90 percent of the South China Sea where where it continues to build military outposts on remote reefs and artificially created islands in waters claimed by other nations. Lacking military, diplomatic or economic muscle, the Philippines turned to the rule of law and the Permanent Court of Arbitration in the Hague. A panel of maritime judges ruled China’s claim to Scarborough Shoal invalid in July this year. China refused to recognize the tribunal from the start and declared the decision “null and void,” highlighting the complex balance in the current world order between national power and the rule of law. Beijing’s response mirrored a 1986 US response to Nicaragua’s challenge in the International Court of Justice. The court ruled against the United States for mining Nicaragua’s harbors and supporting right-wing Contra rebels. The United States claimed the court had no jurisdiction. China’s response on the South China Sea ruling mirrors a 1986 US response.With these stands, both China and the United States weakened a crucial element of international law – consent and recognition by all parties. The Western liberal democratic system is being challenged, and confrontations in Asia and Europe, as in Crimea and Ukraine, replicate the lead-up to the global conflicts of last century’s Cold War. As Nicaragua and Central America were a flashpoint in the 1980s, so Scarborough Shoal and South China Sea are one now. Other flashpoints are likely to emerge as China and Russia push to expand influence. Western democracies being challenged by rising powers have a troubled history. The 1930s rise of Germany and Japan; the Cold War’s proxy theaters in Vietnam, Nicaragua and elsewhere; and the current US-Russian deadlock over Syria are evidence that far more thought must be given in the deployment of international law as a mechanism for keeping the peace The view is supported, on the surface at least, by Russia and China who issued a joint statement in June arguing that the concept of “strategic stability” being assured through nuclear weapons was outdated and that all countries should abide by principles stipulated in the “UN Charter and international law.” Emerging power India, with its mixed loyalties, shares that view. “The structures for international peace and security are being tested as never before,” says former Indian ambassador to the UN, Hardeep Singh Puri, author of Perilous Interventions: The Security Council and the Politics of Chaos. “It is everyone’s interest to re-establish the authority of the Security Council and reassert the primacy of law.”

## 2

#### Capitalism is unsustainable and plunging the world into a global civil war – ramping up tensions with Russia and China to distract from crises accelerates the tendency to over-accumulate, causing extinction through nuclear war, climate change, super-viruses, the rise of fascism, and rampant inequality.

Robinson, 21

[William I., prof. sociology and global studies @ UCSB: "What are the real reasons behind the New Cold War?" ROAR Magazine, published 5-6-21, https://roarmag.org/essays/new-cold-war-crisis-capitalism/?fbclid=IwAR2RzXn0SMlPSiLfXcXNtTcDIybQa6GxH\_eodUmyEww2i59lh5qHpZpcwhk]//AD

The US is launching a New Cold War against Russia and China in an attempt to deflect our attention from the escalating crisis of global capitalism.

The announcement on April 15 by President Biden that this administration was expelling 10 Kremlin diplomats and imposing new sanctions for alleged Russian interference in the 2020 US elections — to which Russia replied with a tit for tat — came just days after the Pentagon conducted military drills in the South China Sea. These actions were but the latest escalation of aggressive posturing as Washington ramps up its “New Cold War” against Russia and China, pushing the world dangerously towards international political and military conflagration.

Most observers attribute this US-instigated war to rivalry and competition over hegemony and international economic control. These factors are important, but there is a bigger picture that has been largely overlooked of what is driving this process: the crisis of global capitalism.

This crisis is economic, or structural. One of chronic stagnation in the global economy. But it is also political: a crisis of state legitimacy and capitalist hegemony. The system is moving towards what we call “a general crisis of capitalist rule” as billions of people around the world face uncertain struggles for survival and question a system they no longer see as legitimate.

In the United States, the ruling groups must channel fear over tenuous survival away from the system and towards scapegoated communities, such as immigrants or Asians blamed for the pandemic, and towards external enemies such as China and Russia. At the same time, rising international tensions legitimate expanding military and security budgets and open up new opportunities for profit making through war, political conflict and repression in the face of stagnation in the civilian economy.

All around the world a “people’s spring” has taken off. From Chile to Lebanon, Iraq to India, France to the United States, Haiti to Nigeria and South Africa to Colombia, waves of strikes and mass protests have proliferated and, in many instances, appear to be acquiring a radical anti-capitalist character. The ruling groups cannot but be frightened by the rumbling from below. If left unchallenged, the New Cold War will become a cornerstone in the arsenal of US rulers and transnational elites to maintain a grip on power as the crisis deepens.

THE CRISIS OF GLOBAL CAPITALISM

Economically, global capitalism faces what is known in technical language as “overaccumulation”: a situation in which the economy has produced — or has the capacity to produce — great quantities of wealth but the market cannot absorb this wealth because of escalating inequality. Capitalism by its very nature will produce abundant wealth yet polarize that wealth and generate ever greater levels of social inequality unless offset by redistributive policies. The level of global social polarization and inequality now experienced is without precedent. In 2018, the richest one percent of humanity controlled more than half of the world’s wealth while the bottom 80 percent had to make do with just five percent.

Such inequalities end up undermining the stability of the system as the gap grows between what is — or could be — produced and what the market can absorb. The extreme concentration of the planet’s wealth in the hands of the few and the accelerated impoverishment and dispossession of the majority means that the transnational capitalist class, or TCC, has increasing difficulty in finding productive outlets to unload enormous amounts of surplus it accumulated.

The more global inequalities expand, the more constricted the world market becomes and the more the system faces a structural crisis of overaccumulation. If left unchecked, expanding social polarization results in crisis — in stagnation, recessions, depressions, social upheavals and war — just what we are experiencing right now.

Contrary to mainstream accounts, the coronavirus pandemic did not cause the crisis of global capitalism, for this was already upon us. On the eve of the pandemic, growth in the EU countries had already shrunk to zero, much of Latin America and sub-Sahara Africa was in recession, growth rates in Asia were steadily declining, and North America faced a slowdown. The writing was on the wall. The contagion was but the spark that ignited the combustible of a global economy that never fully recovered from the 2008 financial collapse and had been teetering on the brink of renewed crisis ever since.

Even if there is a momentary recovery as the world slowly emerges from the pandemic, global capitalism will remain mired in this structural crisis of overaccumulation. In the years leading up to the pandemic there was a steady rise in underutilized capacity and a slowdown in industrial production around the world. The surplus of accumulated capital with nowhere to go expanded rapidly. Transnational corporations recorded record profits during the 2010s at the same time that corporate investment declined.

The total cash held in reserves of the world’s 2,000 biggest non-financial corporations increased from $6.6 trillion in 2010 to $14.2 trillion in 2020 — considerably more than the foreign exchange reserves of the world’s central governments — as the global economy stagnated. Wild financial speculation and mounting government corporate, and consumer debt drove growth in the first two decades of the 21st century, but these are temporary and unsustainable solutions to long-term stagnation.

THE GLOBAL WAR ECONOMY

As I showed in my 2020 book, The Global Police State, the global economy has become ever more dependent on the development and deployment of systems of warfare, social control and repression simply as a means of making profit and continuing to accumulate capital in the face of chronic stagnation and saturation of global markets. This is known as “militarized accumulation” and refers to a situation in which a global war economy relies on perpetual state organized war making, social control and repression — driven now by new digital technologies — in order to sustain the process of capital accumulation.

The events of September 11, 2001 marked the start of an era of a permanent global war in which logistics, warfare, intelligence, repression, surveillance and even military personnel are more and more the privatized domain of transnational capital. The Pentagon budget increased 91 percent in real terms between 1998 and 2011, while worldwide, total state military budgets outlays grew by 50 percent from 2006 to 2015, from $1.4 trillion to more than $2 trillion, although this figure did not take into account the hundreds of billions of dollars spent on intelligence, contingency operations, policing, bogus wars against immigrants, terrorism and drugs, and “homeland security.” During this time, military-industrial complex profits quadrupled.

But focusing just on state military budgets only gives us a part of the picture of the global war economy. The various wars, conflicts and campaigns of social control and repression around the world involve the fusion of private accumulation with state militarization. In this relationship, the state facilitates the expansion of opportunities for private capital to accumulate through militarization, such as by facilitating global weapons sales by military-industrial-security firms, the amounts of which have reached unprecedented levels. Global weapons sales by the top 100 weapons manufacturers and military service companies increased by 38 percent between 2002 and 2016.

By 2018, private for-profit military companies employed some 15 million people around the world, while another 20 million people worked in private security worldwide. The private security (policing) business is one of the fastest growing economic sectors in many countries and has come to dwarf public security around the world. The amount spent on private security in 2003, the year of the invasion of Iraq, was 73 percent higher than that spent in the public sphere, and three times as many persons were employed in private forces as in official law enforcement agencies. In half of the world’s countries, private security agents outnumber police officers.

These corporate soldiers and police were deployed to guard corporate property, provide personal security for TCC executives and their families, collect data, conduct police, paramilitary, counterinsurgency and surveillance operations, carry out mass crowd control and repression of protesters, run private detention and interrogation facilities, manage prisons and participate in outright warfare.

In 2018, President Trump announced with much fanfare the creation of a sixth military service, the “space force.” The corporate media duly towed the official line that this force was needed to face expanding threats to the United States. What went less reported is that a small group of former government officials with deep ties to the aerospace industry had pushed behind the scenes for its creation as a way to hype military spending on satellites and other space systems.

In February of this year, the Federation of American Scientists reported that military-industrial complex lobbying is responsible for the decision by the US government to invest at least $100 billion to beef up its nuclear stockpile. The Biden administration announced in early April to much acclaim that it would pull all US troops out of Afghanistan. While US service troops in that country number 2,500, these pale in comparison with the more than 18,000 contractors that US government has hired to do its bidding in the country, including at least 5,000 corporate soldiers that will remain.

The so-called wars on drugs and terrorism, the undeclared wars on immigrants, refugees and gangs — and poor, dark-skinned and working-class youth more generally — the construction of border walls, immigrant detention centers, prison-industrial complexes, systems of mass surveillance and the spread of private security guard and mercenary companies, have all become major sources of profit-making and they will become more important to the system as stagnation becomes the new normal. In sum, the global police state is big business at a time when other opportunities for transnational corporate profit-making are limited.

But if corporate profit, and not an external threat, is the reason for expanding the US state and corporate war machine and the global police state, this must still be justified to the public. The official state propaganda narrative about the “New Cold War” serves this purpose.

CONJURING UP EXTERNAL ENEMIES

There is another dynamic at work in explaining the New Cold War: the crisis of state legitimacy and capitalist hegemony. International tensions derive from the acute political contradiction in global capitalism in which economic globalization takes places within a nation-state-based system of political authority. To put this in technical terms, there is a contradiction between the accumulation function and the legitimacy function of states. That is, states face a contradiction between the need to promote transnational capital accumulation in their individual national territories and their need to achieve political legitimacy and stabilize the domestic social order.

Attracting transnational corporate and financial investments to the national territory requires providing capital with all the incentives associated with neoliberalism, such as downward pressure on wages, union busting, deregulation, low or no taxes, privatization, investment subsidies, fiscal austerity and on so. The result is rising inequality, impoverishment and insecurity for working and popular classes; precisely the conditions that throw states into crises of legitimacy, destabilize national political systems and jeopardize elite control.

International frictions escalate as states, in their efforts to retain legitimacy, seek to sublimate social and political tensions and to keep the social order from fracturing. In the US, this sublimation has involved channeling social unrest towards scapegoated communities such as immigrants — this is one key function of racism and was a core component of the Trump government’s political strategy — or towards an external enemy such as China or Russia, which is clearly becoming a cornerstone of the Biden government’s strategy.

While the Chinese and Russian ruling classes must also face the economic and political fallout of global crisis, their national economies are less dependent on militarized accumulation and their mechanisms of legitimization rest elsewhere — not on conflict with the US. It is Washington that is conjuring up the New Cold War, based not on any political or military threat from China and Russia, much less from economic competition, as US- and Chinese-based transnational corporations are deeply cross-invested, but on the imperative of managing and sublimating the crisis.

The drive by the capitalist state to externalize the political fallout of the crisis increases the danger that international tensions will lead to war. Historically wars have pulled the capitalist system out of crisis while they serve to deflect attention from political tensions and problems of legitimacy. The so-called “peace dividend” that was to result in demilitarization when the original Cold War ended with the 1991 collapse of the Soviet Union evaporated almost overnight with the events of September 2001, which legitimated the sham “War on Terror” as a new pretext for militarization and reactionary nationalism. US presidents historically reach their highest approval ratings when they launch wars. George W. Bush reached an all-time-high of 90 percent in 2001 as his administration geared up to invade Afghanistan, and his father George H. W. Bush achieved an 89 percent approval rating in 1991, right as the US declared the end of its (first) invasion of Iraq and the “liberation of Kuwait.”

THE BATTLE FOR THE POST-PANDEMIC WORLD

We are currently witnessing a radical restructuring and transformation of global capitalism based on a much more advanced digitalization of the entire global economy and society. This process is driven by so-called fourth industrial revolution technologies, including artificial intelligence and machine learning, Big Data, autonomously driven land, air and sea vehicles, quantum and cloud computing, 5G bandwidth, bio- and nanotechnology and the Internet of Things, or IoT.

The crisis is not only economic and political, but also existential because of the threats of ecological collapse and nuclear war, to which we must add the danger of future pandemics that may involve much deadlier microbes than coronaviruses. The pandemic lockdowns served as dry runs for how digitalization may allow the dominant groups to step up restructuring time and space and to exercise greater control over the global working class. The system is now pushing towards expansion through militarization, wars and conflicts, through a new round of violent dispossession and through further plunder of the state.

The ruling classes are also using the health emergency to legitimate tighter control over restive populations. The changing social and economic conditions brought about by the pandemic and its aftermath are accelerating the process. These conditions have helped a new bloc of transnational capital, led by the giant tech companies, interwoven as they are with finance, pharmaceuticals and the military-industrial complex, to amass ever greater power and to consolidate its control over the commanding heights of the global economy. As restructuring proceeds, it heightens the concentration of capital worldwide, worsens social inequality and also aggravates international tensions and the dangers of military conflagration.

In 2018, just seventeen global financial conglomerates collectively managed $41.1 trillion dollars — more than half the GDP of the entire planet. That same year, to reiterate, the richest one percent of humanity led by 36 million millionaires and 2,400 billionaires controlled more than half of the world’s wealth while the bottom 80 percent — nearly six billion people — had to make do with just five percent of this wealth. The result is devastation for the poor majority of humanity.

Worldwide, 50 percent of all people live on less than $2.50 a day and a full 80 percent live on less than $10 per day. One in three people on the planet suffer from some form of malnutrition, nearly a billion go to bed hungry each night and another two billion suffer from food insecurity. Refugees from war, climate change, political repression and economic collapse already number into the hundreds of millions. The New Cold War will further immiserate this mass of humanity.

Capitalist crises are times of intense social and class struggles. There has been a rapid political polarization in global society since 2008 between an insurgent far-right and an insurgent left. The ongoing crisis has incited popular revolts. Workers, farmers and poor people have engaged in a wave of strikes and protests around the world. From Sudan to Chile, France to Thailand, South Africa to the United States, a “people’s spring” is breaking out everywhere. But the crisis also animates far-right and neofascist forces that have surged in many countries around the world and that sought to capitalize politically on the health calamity and its aftermath. Neofascist movements and authoritarian and dictatorial regimes have proliferated around the world as democracy breaks down.

Such ~~savage~~ inequalities are explosive. They fuel mass protest by the oppressed and lead the ruling groups to deploy an ever more omnipresent global police state to contain the rebellion of the global working and popular classes. Global capitalism is emerging from the pandemic in a dangerous new phase. The contradictions of this crisis-ridden system have reached the breaking point, placing the world into a perilous situation that borders on global civil war.

The stakes could not be higher. The battle for the post-pandemic world is now being waged. Part of that battle is to expose the New Cold War as a ruse by the dominant groups to deflect our attention from the escalating crisis of global capitalism. The US is launching a New Cold War against Russia and China in an attempt to deflect our attention from the escalating crisis of global capitalism.

#### The affirmation of the right to strike as something to be recognized places the energy that drives class struggle into containment, rendering the right conditional.

Marc Crépon & Micol Bez 19; Marc Crépon is a French philosopher and academic who writes on the subject of languages and communities in the French and German philosophies and contemporary political and moral philosophy. Micol Bez @ CPES (Cycle Pluridisciplinaire d’Études Supérieures) at the University of Paris Sciences and Letters. The Right to Strike and Legal War in Walter Benjamin's “Toward the Critique of Violence”. Critical Times 1 August 2019; 2 (2): 252–260. <https://read.dukeupress.edu/critical-times/article/2/2/252/141479/The-Right-to-Strike-and-Legal-War-in-Walter> brett

In other words, nothing would endanger the law more than the possibility of its authority being contested by a violence over which it has no control. The function of the law would therefore be, first and foremost, to contain violence within its own boundaries. It is in this context that, to demonstrate this surprising hypothesis, Benjamin invokes two examples: the right to strike guaranteed by the state and the law of war.

Let us return to the place that the right to strike occupies within class struggle. To begin with, the very idea of such a struggle implies certain forms of violence. The strike could then be understood as one of the recognizable forms that this violence can take. However, this analytical framework is undermined as soon as this form of violence becomes regulated by a “right to strike,” such as the one recognized by law in France in 1864. What this recognition engages is, in fact, the will of the state to control the possible “violence” of the strike. Thus, the “right” of the right to strike appears as the best, if not the only, way for the state to circumscribe within (and via) the law the relative violence of class struggles. We might consider this to be the perfect illustration of the aforementioned hypothesis. Yet, there are two lines of questioning that destabilize this hypothesis that we would do well to consider

First, is it legitimate to present the strike as a form of violence? Who has a vested interest in such a representation? In other words, how can we trace a clear and unequivocal demarcation between violence and nonviolence? Are we not always bound to find residues of violence, even in those actions that we would be tempted to consider nonviolent? The second line of questioning is just as important and is rooted in the distinction established by Georges Sorel, in his Reflections on Violence, between the “political strike” and the “proletarian general strike,” to which Benjamin dedicates a set of complementary analyses in §13 of his essay. Here, again, we are faced with a question of limits. What is at stake is the possibility for a certain type of strike (the proletarian general strike) to exceed the limits of the right to strike— turning, in other words, the right to strike against the law itself. The phenomenon is that of an autoimmune process, in which the right to strike that is meant to protect the law against the possible violence of class struggles is transformed into a means for the destruction of the law. The difference between the two types of strikes is nevertheless introduced with a condition: “The validity of this statement, however, is not unrestricted because it is not unconditional,” notes Benjamin in §7. We would be mistaken in believing that the right to strike is granted and guaranteed unconditionally. Rather, it is structurally subjected to a conflict of interpretations, those of the workers, on the one hand, and of the state on the other. From the point of view of the state, the partial strike cannot under any circumstance be understood as a right to exercise violence, but rather as the right to extract oneself from a preexisting (and verifiable) violence: that of the employer. In this sense, the partial strike should be considered a nonviolent action, what Benjamin named a “pure means.”

The interpretations diverge on two main points. The first clearly depends on the alleged “violence of the employer,” a predicate that begs the question: Who might have the authority to recognize such violence? Evidently it is not the employer. The danger is that the state would similarly lack the incentive to make such a judgment call. It is nearly impossible, in fact, to find a single instance of a strike in which this recognition of violence was not subject to considerable controversy. The political game is thus the following: the state legislated the right to strike in order to contain class struggles, with the condition that workers must have “good reason” to strike. However, it is unlikely that a state systematically allied with (and accomplice to) employers will ever recognize reasons as good, and, as a consequence, it will deem any invocation of the right to strike as illegitimate. Workers will therefore be seen as abusing a right granted by the state, and in so doing transforming it into a violent means. On this point, Benjamin’s analyses remain extremely pertinent and profoundly contemporary. They unveil the enduring strategy of governments confronted with a strike (in education, transportation, or healthcare, for example) who, after claiming to understand the reasons for the protest and the grievances of the workers, deny that the arguments constitute sufficient reason for a strike that will likely paralyze this or that sector of the economy. They deny, in other words, that the conditions denounced by the workers display an intrinsic violence that justifies the strike. Let us note here a point that Benjamin does not mention, but that is part of Sorel’s reflections: this denial inevitably contaminates the (socialist) left once it gains power. What might previously have seemed a good reason to strike when it was the opposition is deemed an insufficient one once it is the ruling party. In the face of popular protest, it always invokes a lack of sufficient rationale, allowing it to avoid recognizing the intrinsic violence of a given social or economic situation, or of a new policy. And it is because it refuses to see this violence and to take responsibility for it that the left regularly loses workers’ support.

The second conflict of interpretation concerns what is at stake in the strike. For the state, the strike implies a withdrawal or act of defiance vis-à-vis the employer, while for the workers it is a means of pressuring, if not of blackmail or even of “hostage taking.” The diference is thus between an act of suspension (which can be considered nonviolent) and one of extortion (which includes violence). Does this mean that “pure means” are not free of ambiguity, and that there can be no nonviolent action that does not include a residue of violence? It is not clear that Benjamin’s text allows us to go this far. Nevertheless, the problem of pure means, approached through the notion of the right to strike, raises the following question: Could it be that the text “Zur Kritik der Gewalt,” which we are accustomed to reading as a text on violence, deals in fact with the possibility and ambiguity of nonviolence?

The opposition between the aforementioned conflicts of interpretation manifests itself in Benjamin’s excursus on the revolutionary strike, and specifically in the opposition between the political strike and the proletarian general strike, and in the meaning we should attribute to the latter. As previously discussed, the state will never admit that the right to strike is a right to violence. Its interpretative strategy consists in denying, as much as possible, the effective exercise of the right that it theoretically grants. Under these conditions, the function of the revolutionary strike is to return the strike to its true meaning; in other words, to return it to its own violence. In this context, the imperative is to move beyond idle words: a call to strike is a call to violence. This is the reason why such a call is regularly met with a violent reaction from the state, because trade unions force the state to recognize what it is trying to ignore, what it pretends to have solved by recognizing the right to strike: the irreducible violence of class struggles. This means that the previously discussed alternative between “suspension” and “extortion” is valid only for the political strike—in other words, for a strike whose primary vocation is not, contrary to that of the proletarian general strike, to revolt against the law itself. Essentially, the idea of a proletarian general strike, its myth (to borrow Sorel’s words), is to escape from this dichotomous alternative that inevitably reproduces and perpetuates the violence of domination.

#### Unions are just capitalism-lite

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How the unions became enemies of the working class

Most of us agree that the unions are an integral part of the capitalist system. Not just the corrupt ones and those with a heavy bureaucratic apparatus but also those who profess a belief in "grass roots democracy" or even in "revolution". The arguments given for that position have been mostly empirical. Indeed, time and time again, the unions have screwed the workers, contained and defanged their struggle, have spread capitalist ideology in the working class and acted as capital's police on the shop floor. But empirical arguments are not enough. Indeed, on the basis of past experience alone, one could very well conclude that global revolution is impossible, as Paul wrote. Some have argued that it's the union's function within the capitalist economy - to manage the sale of labor power- which inevitably ties it to the system and hence opposes it to the class whose fundamental interests are irreconciliable with those of that system. That is true but it's not sufficient either. One could argue that as long as the goals of the struggle don't go beyond obtaining better wages and working conditions, or preventing their deterioration, and as long as those goals are achievable within capitalism, the irreconcilability is not immediate and the existence of permanent institutions to negotiate a better price for variable capital remains in the interests of the workers. In short one could argue, as does Adam [Buick of the Socialist Party of Great Britain], that despite the empirical evidence and despite the integration of the unions in the structure of the capitalist economy, the existing unions are bad but unionism is good.

Moreover, despite the widespread disillusion, many workers still see the unions as their (imperfect) organisations, and sometimes the most combative workers are active in them. And sometimes capitalists fight the unions and try to get rid of them. When they attack a union and the workers rise up to defend "their" organisation, should revolutionaries who understand the real role of the union tell them not to wage that fight, even though the attack is clearly meant to defeat the workers and have a free hand to impose more exploitation? What to do when the workers most willing to fight are shop stewards and others who ardently defend the unions - not the leadership but the organisation? Should we simply call upon workers to leave the unions? And what do we offer as alternative, not just in limes of open struggle but also when the conditions for collective struggle aren't ripe while the pressure from capital continues? Is the 'outside and against' directive more than an empty slogan when the only meetings where workers gather are those organised by the unions?

To answer those and many other questions pertaining to the practical aspects of class struggle and the defense of workers' immediate interests, the question why unions are not just counter- revolutionary but against the working class in their daily practice, must be answered first.

The answer is not that obvious. After all, it is a logical reaction of workers, who are utterly powerless as individuals towards their employers who seek to exploit them as much as possible, to band together in permanent organisations to defend the price of their labor power. The first unions were clearly created by the working class even though many did bear the corporatist imprints of the guilds (professional organisations from the pre-capitalist era). Their existence as permanent organisations was a necessity, not only because of the permanency of capitalist pressure, but also because of the need of permanent preparation for confrontations with the capitalists, confrontations which often look the form of wars of attrition which the workers were doomed to lose without this preparation (the build-up of strike funds etc). Likewise, the growth of unions into bigger organisations, operating on a national scale, reflected the need of workers to increase their power by extending their class solidarity. So the growth of the unions reflected and stimulated class consciousness. Capitalists feared and loathed them and fought them bitterly.

Yet very soon, the permanency of these large organisations posed a problem. The class struggle goes through ups and clowns which reflect the contradictory tendencies to which the workers, as an exploited class, are subjected. The conditions of exploitation push the workers to fight collectively and thereby to assert itself as a class with interests separate and opposed to those of capital; but those same conditions also create competition among workers, atomisation, alienation, passivity, receptiveness to the ideology of the dominant class. Those two tendencies do not neutralize each other but give the class struggle a very non-linear character, with sudden advances and retreats, moments of rising class consciousness and stretches of 'social peace', as one or the other of those tendencies dominate. During those periods of no collective struggle, when atomisation and alienation prevail, these big permanent organisations cannot express what isn't there, a class collectively fighting. It does not mean they immediately become bourgeois but they inevitably acquire an autonomy from the class they are supposed to represent. As autonomous institutions they inevitably develop hierarchical, authoritarian attitudes and relations and come to have interests which are distinct from those of the class as a whole. Thus the source of conflict of interests between the working class and the unions is already potentially present in the permanence of unions as social institutions.

I write 'potentially' because from this does not yet follow that these institutions must side with capital against the workers. For this to happen, these institutions must first become part of capital, absorbed into the social fabric weaved by the law of value. This did not happen immediately because the extension of the law of value throughout society was a slow, gradual process. ln the early stages of this process, the domination of capital over society was only 'formal'. The work process itself was at first not yet intrinsically capitalist, capitalism only squeezed as much surplus value as possible from it by making the working day as long as possible and keeping the wages as measly as possible. It look a long time for a specifically capitalist method of production (based on machinism, which reversed the relation worker-technology: the tool was an extension of the worker's hand but now the worker became an appendage of the machine) to develop and become dominant. The giant leaps in productivity which technology-based production unleashed created mass production and set the stage for capitalism to transform the totality of society in its own image, which meant that the law of value came to determine social relations not just in the sphere of production but also in distribution, education, entertainment, culture, media and every other aspect of human life.

But before that process (called the transition to real domination of capital) amassed critical weight, there remained a large space within society that was not yet penetrated by the law of value. Therein, not only expressions of pre-capitalist classes survived but organisations of the fledging working class too could maintain a relative autonomy. Unions were not the only permanent workers organisations that flourished in that space: there were workers' cooperatives, mutual aid societies, political mass parties, cultural organisations, newspapers, etc. that were genuine expressions of the working class. The modest size of the bourgeois state apparatus also reflected the merely formal control of capital over society. The fact that the state's policy towards the unions was largely repressive shows that capital had not yet developed the means to organically integrate them; the unions were still by and large standing outside the state.

As the real domination of capital progressed and the complexity, technification and interwovenness of the capitalist economy developed, the state gradually fused with the economy and its tentacles spread over civil society. It's striking how this transformation of the economy and the integration of the unions into the structure of capitalist society went hand in hand, in particular towards the end of the 19th and the beginning of the 20th century.

The test of that integration came when the interests of capitalism and those of the working class (and humanity) became diametrically opposed as never before. What was at issue was not the price of variable capital but its survival or destruction. In the first world war, many millions of proletarians were slaughtered and it happened with the active collaboration of the unions. This epochal event signalled a new paradigm in which both crisis and war meant something different than before: they became both catastrophic and global in nature as well as essential to the continuation of capitalist accumulation.

Today more than ever, there cannot exist any large permanent institution outside of the fabric of capital. That is true not just for unions but also for churches, political parties, cultural institutions and so on. The market either absorbs them, accords them a specialized function within its overall operating structure, a niche according to what they can do for the valorisation of capital, or marginalizes them, makes them disappear. When the class struggle heats up , the market shifts, a demand is created for a company of management of 'human resources' that has a more radical market image, which is quickly filled, either by a new union or by a radicalisation of the existing ones. Neither represents a gain for the working class. Today, there are no longer any progressive factions of capital. The unions' interests are inextricably bound to those of capital, to those of the nation. The logic of capital makes them complicit in trying to impose the worst possible fate on the working class. In the revolutionary struggle, which is a defensive struggle, the working class will have to take on the entire capitalist machinery, including the unions.

It is true that this does not mean that every act or every word of the unions are opposed to the immediate interests of the working class. The productivity-increases made possible by the progress of capital's real domination allowed capital to accord improvements of the living standards and to increase exploitation (increase the portion of the labor day that is unpaid) at the same time, at least in period of expansion. It doesn't like to do this, of course, since every wage gain is a profit loss, but over lime it came to realize that this can be in its own interests. The main reason is that the production process under real domination, with its huge assembly lines and increased specialisation and thus interdependency, became more vulnerable to interruptions, to class struggle. That was a powerful incentive, especially in the post-world war two period, to grant better wages and to give the unions a bigger say in the management of the economy.

The unions have their own particular interests. As companies that manage the sale and the smooth exploitation of variable capital, they compete among themselves and have a market image to defend, both in regard to the workers the y seek to represent and in regard to the enterprises with whom they seek to negotiate. Their credibility is their most valuable asset and if it's necessary to protect it, they can sometimes drive a hard bargain with the buyers of labor power. The most intelligent capitalists realize that unions can only fulfil their capitalist function if they have some credibility as defenders of the workers and must do what they have to do to maintain it.

The international waves of class struggle in the '60's and '70's which repeatedly broke through the dykes of unionism and did great damage to capitalist profits and to the myth of unions as defenders of the working class, was a powerful stimulant to the restructuring of the capitalist economy that followed it. The 'post-Fordism' in which it resulted, with its increased automation, the computerization of labor, the decentralisation of production, the explosion of outsourcing, subcontracting and temp work, the increased mobility of capital (vastly expanding the use layoffs and closings, and the threat thereof, as social weapons) decreased the vulnerability of production to industrial action considerably. By decreasing that vulnerability, capital also decreased its dependence on the unions. This allowed for more anti-unionism among capitalists, and led to a marked increase of 'union-busting'. But this also helped the unions to shore up. their credibility in the eyes of the workers somewhat, because the enemy of your enemy can seem to be your friend.

The unions resisted the post-Fordist trend, in part to maintain their credibility in the eyes of the workers and in part because it was and is a threat to their own power. But since the trend reflected not a mere policy choice but the direction in which capitalism, of which they are a part, was going, their resistance was doomed to be ineffective. The alternative of the unions to this trend is conservative, to resist changes in capitalism. As this is impossible, they end up almost invariably defending 'capitalism lite', layouts, but less layoffs than the bosses are demanding, wage cuts, but with a percentage and a half shaved off. But, they need a culprit, a scapegoat for the worker's anger, and since they are tied to national capital, the scapegoat is usually foreign competition (foreign workers really). That makes the unions the most ardent defenders of protectionism. As an economic recipe that is plain stupid and sometimes really annoying to other factions of capital, but politically it is very useful to capital because it makes them work tirelessly to spread the nationalist poison into the working class.

#### The alternative is to reject the aff in favor of a material analysis based on the scientific formulation of Maoist principles

Williams 18 [Carine, 7/30/18, “Why Black People Need Maoism in 2018”, *The Hampton Institute*, <http://www.hamptoninstitution.org/why-black-people-need-maoism.html#.XWwv7ZNKh0s>]

When they hear Maoism, many people think of China, Peru, and the Philippines. They picture peasants "surrounding the cities from the countryside." This is, of course, understandable, but a mistake. Maoism is not simply "everything that Mao did," or "everything that happened in China between 1949 and now." I have spent a great deal of my time writing working to dispel these sorts of myths, some peddled in an unprincipled fashion by anti-Maoists. Maoism is a living, breathing science. By science we mean something with universal principles that can be taken and applied by all who have a material interest in making revolution. In the United States, this is Black people, or the New Afrikan nation. It was not by accident that the original Black Panther Party (BPP) developed close relations with the revolutionary leadership of the People's Republic of China. Huey didn't go to China to play; he went to study and learn things that could be applied back home. Of course, he eventually degenerated in political line and practice, taking a right opportunist course along with Bobby Seale (always a centrist) and Elaine Brown (who guided the party, in his absence, into a mainstream political force that led into the arms of the Democratic Party). This opportunism in the highest expression of revolutionary sentiment, practice, and force in this country to date needs to be studied and ruthlessly criticized, yet we should be careful. We must place things in their historical context and ensure that we are able to divide one into two, meaning see the beneficial as well as the negative aspects of a thing but also realize that one aspect must be primary. The BPP was destroyed by a combination of factors: lack of a really scientific method of analysis and cohesive program of political education, failure to promote and apply the Marxist-Leninist principle of Democratic Centralism (debate inside the party, formation of a political line through this debate, and the upholding of this decision by all party members and organs), and a culture of liberalism that ended with comrades fighting comrades, thus opening the door for external factors (the FBI and other LE agencies) to play havoc and get cadre railroaded into prison and killed. We must study and learn all of these lessons, because when we develop another organization with the prestige, mass base, and power that the Panthers had, and we will, they will come for us all again. So, why do we need Maoism? Because we are against the most brutal, bloody, and vicious empire known to humankind. This country is looting and enslaving our class siblings all over the world. To overturn this order of things, to smash it and rebuild it in the interests of the revolutionary proletariat of the entire world, we must apply the synthesis of 200 years of systematic, organized class struggle, which is Marxism-Leninism-Maoism: the continuity of the revolutionary project that was Marxism-Leninism, with a rupture from the dogmatism and revisionism. Maoists do not uphold "Actually Existing Socialism" because a scientific analysis rooted in the principles laid down by the revolutionary movements and projects that gave us Marx, Engels, Lenin, Stalin, and Mao would demonstrate that stealing food from Filipino fisherfolk, like the People's Republic of China (PRC) has been doing, is 100% non-Marxist. This is in disagreement with many Marxist-Leninist organizations today, which uphold these things and other imperialist depredations carried out under the faded red banner of China. The Maoist argument is that Marxist-Leninist terrain has been spent, and the 21st century must learn from Maoism. "You haven't seized state power yet!" others cry. Indeed, and there has never been a truly Maoist party that has initiated armed struggle in the imperialist metro poles. This doesn't mean that Maoist principles cannot be applied to these countries, this means that we must be ever more creative in our application and ever more disciplined in our party-building efforts. Party building in the USA requires the careful and thorough cultivation of a mass base. Tens of thousands, even hundreds of thousands, of people must depend on and follow this party and participate in mass organizations before it can even begin to call itself a vanguard. This is what many who came out of the New Communist Movement of the mid-late 1970s failed to realize. The days of endless squabbling sects that fight over "mass bases" of a handful of other activists must be put to an end, and we must have a truly mass perspective. There is optimism in the spread of For the People (FTP) organizations and the development of the Organizing Committee for a Maoist Communist Party (MCP-OC) which has a more mass orientation and places primacy on the development of a class analysis and political line in the USA that is based in painstaking investigation and rooted in the aspirations and struggles of the most oppressed, along with a record of seeking to develop international solidarity and prison work. This, I believe, is the best hope for New Afrikan Maoists in the United States and I wholeheartedly encourage Black comrades to develop FTP-type organizations in their own communities under OC guidance. Even if this isn't done, at the very least studies in Maoism, studies in Maoist revolutions, and studies in Maoist theory are beneficial. After and during these studies, think about how it can be applied on your block and in your community. Learn about and be like Fred Hampton. Time is up for spinning our wheels; we must get together, unite on a principled and unshakeable basis, and mount a formidable resistance against decades and centuries-old oppression based in capitalism and white supremacy. I also encourage support and donation to the Hampton Institute as an invaluable resource in promoting revolutionary ideology and practice in the finest Marxist tradition.

#### Planned Economies Solve Everything!

Nieto & Mateo 20 [Maxi Nieto is a PhD is sociology from the University of Elche and writer for Ciber Comunismo and Juan Pablo Mateo is a visiting scholar in the department of Economics at The New School, New York and economics professor at the University of Valladolid (Spain). January 2020, “Dynamic Efficiency in a Planned Economy: Innovation and Entrepreneurship Without Markets”, Science & Society, [https://www.researchgate.net/publication/338327276\_Dynamic\_Efficiency\_in\_a\_Planned\_Economy\_Innovation\_and\_Entrepreneurship\_Without\_Markets //](https://www.researchgate.net/publication/338327276_Dynamic_Efficiency_in_a_Planned_Economy_Innovation_and_Entrepreneurship_Without_Markets%20//)gbs jacobs & majeed]

4.1. Innovation and social property. Innovation occurs as a result of a long and complex accumulation process of knowledge and creativity, where very rarely is a single individual solely responsible. This is an essentially social process in which a plurality of actors and institutions contribute in very different spheres and circumstances. The Austrian School presents an idealized image of innovation in capitalist economies, attributing it exclusively to the figure of the enterprising entrepreneur — whether in a disruptive sense (Schumpeter), or in a strictly coordinating sense (Kirzner). In fact, the entrepreneurial function develops within specific institutional frameworks and organized structures, both at the micro and macro levels. In this sense, a socialist economy has significant advantages for developing technological and business innovation, as opposed to a capitalist economy: i) socialism allows for greater and more efficient allocation of resources to R&D&I activities, thanks to centralized control of the surplus and the absence of sumptuous consumption and a rentier population; ii) there are no obstacles (property rights) to the free dissemination of new products and techniques; iii) the equal distribution of resources (which guarantees that no basic needs go unmet) allows for discovery and fuller development of talent, which likewise occurs when work is undertaken through tasks that are more balanced for the majority and less routine; iv) in allocating investment, more information is available and the criteria are more varied than mere expectation of profit; v) social ownership is more inclusive and participatory than capitalist enterprise in terms of generating and mobilizing knowledge (tacit or not) and encouraging innovation; vi) socialism does not impose short-term innovation cycles looking to generate products that can be commercialized in, say, four to six months, as is typical in capitalist economies. Under these favorable general conditions, the development of innovation in a socialist economy would unfold in three fundamental areas: i) Strategic planning: this traces the main lines of scientific, technological, and innovation research. Here would enter programs for the development of new technologies and infrastructures, as well as visionary projects that explore eventualities and future scenarios. This sort of research is carried out in universities, scientific academies, technological institutes, and other specialized centers in coordination with the business world. The process would consist in testing different alternative productive projects or techniques in order to verify results, in connection with the companies and sectors being served. ii) Companies: research, design, and innovation departments. iii) Business entrepreneurship: individuals and teams put forward proposals in hopes of securing financing. For any of these three areas, material incentives would exist that reward the degree to which the freely programmed objectives are achieved, in addition to purely social or moral incentives such as social recognition or professional and personal fulfilment. In the next section, we focus on how socialist entrepreneurship — something that the Austrian School considers impossible — would ostensibly work. 4.2. Ecosystems for innovation and entrepreneurship. In today’s most dynamic capitalist economies, entrepreneurship and business innovation are developed mainly in the so-called innovation ecosystems, which are institutional environments dedicated to promoting symbiotic interaction among the different actors involved in the process of creating and transforming companies and industries. This sort of institutional framework represents the antithesis of the liberal mythology where the individual capitalist–entrepreneur operates in a purely commercial environment, since these ecosystems are based on public institutions and resources as well as procedures that are not strictly mercantile.9 An efficient and dynamic socialist economy needs institutional environments capable of fostering and channeling the initiative of individuals with special talents to translate innovative ideas into business projects. It must be clear that an ecosystem of socialist innovation does not substitute for, but instead complements, the innovations developed by particular state institutions and programs (such as the transition to a new source of energy, new materials, etc.) as well 9 In the case of Spain, think tanks and capitalist consultants openly admit that “there is not enough private capital to invest in new companies, either through individual investment or through venture capital funds” (Price Waterhouse Coopers, 2015, 32). as innovations taking place in the industrial design departments of businesses. The actors involved in such an ecosystem are essentially the same as those participating in the equivalent ecosystems of the current capitalist economies. Principal differences would lie in the form of interaction among them (in the absence of mercantile links), their decision-making capacity (since no private property rights adhere), and the types of rules in force (including the incentive system). Among the main actors would be the following: