#### **I value morality as ought implies a moral obligation**

**The standard is minimizing material and structural violence. Prefer: because**

# **3] Rejecting positive material change in favor of academic theorization is unethical and paternalistic— case outweighs.**

### **Delgado 9 – Chair of Law at the University of Alabama Law School, J.D. from the University of California, Berkeley, his books have won eight national book prizes, including six Gustavus Myers awards for outstanding book on human rights in North America, the American Library Association’s Outstanding Academic Book, and a Pulitzer Prize nomination. Professor Delgado’s teaching and writing focus on race, the legal profession, and social change, 2009, “Does Critical Legal Studies Have What Minorities Want, Arguing about Law”, p. 588-590**

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### **The CLS critique of piecemeal reform Critical scholars reject the idea of piecemeal reform. Incremental change, they argue, merely postpones the wholesale reformation that must occur to create a decent society. Even worse, an unfair social system survives by using piecemeal reform to disguise and legitimize oppression. Those who control the system weaken resistance by pointing to the occasional concession to, or periodic court victory of, a black plaintiff or worker as evidence that the system is fair and just. In fact, Crits believe that teaching the common law or using the case method in law school is a disguised means of preaching incrementalism and thereby maintaining the current power structure” To avoid this, CLS scholars urge law professors to abandon the case method, give up the effort to ﬁnd rationality and order in the case law, and teach in an unabashedly political fashion. The CLS critique of piecemeal reform is familiar, imperialistic and wrong. Minorities know from bitter experience that occasional court victories do not mean the Promised Land is at hand. The critique is imperialistic in that it tells minorities and other oppressed peoples how they should interpret events affecting them. A court order directing a housing authority to disburse funds for heating in subsidized housing may postpone the revolution, or it may not. In the meantime, the order keeps a number of poor families warm. This may mean more to them thanit does to a comfortable academic working in a warm office. It smacks of paternalism to assert that the possibility of revolution later outweighs the certainty of heat now, unless there is evidence for that possibility. The Crits do not offer such evidence. Indeed, some incremental changes may bring revolutionary changes closer, not push them further away. Not all small reforms induce complacency; some may whet the appetite for further combat. The welfare family may hold a tenants’ union meeting in their heated living room. CLS scholars’ critique of piecemeal reform often misses these possibilities, and neglects the question of whether total change, when it comes, will be what we want.**

**Prioritize structural violence – Existential threats distort moral reasoning and ignore ongoing and urgent violence.**

**Olson ‘15** – prof of geography @ UNC Chapel Hill (Elizabeth, ‘Geography and Ethics I: Waiting and Urgency,’ Progress in Human Geography, vol. 39 no. 4, pp. 517-526)

III The body and the emergency Though the body is often presumed to be the most basic unit where urgency might be detected, only some dictionaries link urgency and the body through a ‘medical’ reference to the compelling need to defecate or urinate.5 Focusing on the different meanings of urgency runs the risk of obscuring language categories, but pushing together the two definitions – urgency as the need to defecate and urinate, and urgency as overwhelming force – is useful here, because my aim is to illustrate that the ethical work of urgency has been hijacked by an hierarchical organization of scales of moral deliberation. Specifically, our research suggests that the urgent body is cast as subjective and impulsive, while larger scales, such as the region, state or society, emerge as the scale of a rational ethics. While these are not new arguments about states (Scott, 1998) and their institutions (Foucault, 1995), geographic insights into toileting and securitizations suggest that **technocratic practices both require and perpetuate an ethical distinction between the body and the large-scale future event**, **with the latter emerging as the only legitimate site of urgent claims and thus the dominant subject of moral reasoning**.In research related to contemporary global toileting, the defecating body’s status as a legitimate ethical concern is more likely to be acknowledged when **threatening the sanitation aims of cities and states**. This is perhaps most evident in large metropolitan areas where uneven access to toilets amplifies social inequalities and human suffering (McFarlane, 2013). Jewitt’s (2011) examination of waste management in India and other countries in the Global South reveals that taboos around feces often justify inequality in two ways; first, by creating conditions of precarity through taboos in discussing personal sanitation and toilet practices, and second, by justifying social exclusion on the basis of inferior sanitation practices. The lack of access to sanitation infrastructure can also provide reasons for excluding informally settled populations from ambitiously modernizing cities. In cities like Kampala, Uganda, planners, development workers, and community organizers frame those who cannot use modern toilet facilities as threatening (Terreni-Brown, 2014a). Terreni-Brown (2014b) describes a group of female migrants selling goods outside of a large, upscale mall in Kampala, and their strategies for balancing the lack of access to a toilet with the danger and humiliation of going in the area behind their street-side location. Their desperate pain, induced by waiting hours until they can finally return to a more private location, contrasts with complaints of city planners and NGO workers who point to moral lethargy in the informal settlements that puts the city at risk. The poor, illegal, marginalized body is not a reasonable scale of urgency, nor is it the product of a thoughtful weighing of circumstances; in the face of a morally rational prioritization of a future Kampala, these bodily urgencies literally have no place in the modern city. Though toileting might be thought of as a special case of bodily urgency, geographic research suggests that the body is increasingly set at odds with larger scale ethical concerns, especially **large-scale future events of forecasted suffering**. Emergency planning is a particularly good example in which the large-scale threats of future suffering can **distort moral reasoning**. Žižek (2006) lightly develops this point in the context of the war on terror, where in the presence of fictitious and real ticking clocks and warning systems, the urgent body must be **bypassed** because there are **bigger scales to worry about**:¶ What does this all-pervasive sense of urgency mean ethically? The pressure of events is so overbearing, the stakes are so high, that they necessitate a suspension of ordinary ethical concerns. After all, displaying moral qualms when the lives of millions are at stake plays into the hands of the enemy. (Žižek, 2006)¶ In the presence of large-scale future emergency, the urgency to secure the state, the citizenry, the economy, or the climate creates new scales and new temporal orders of response (see Anderson, 2010; Baldwin, 2012; Dalby, 2013; Morrissey, 2012), many of which treat the urgent body as impulsive and thus requiring management. McDonald’s (2013) analysis of three interconnected discourses of ‘climate security’ illustrates how bodily urgency in climate change is also recast as a menacing impulse that might require exclusion from moral reckoning. The logics of climate security, especially those related to national security, ‘can encourage perverse political responses that not only fail to respond effectively to climate change but may present victims of it as a threat’ (McDonald, 2013: 49). **Bodies that are currently suffering cannot be urgent**, because they are **excluded from the potential collectivity** that could be **suffering everywhere in some future time**. Similar bypassing of existing bodily urgency is echoed in writing about violent securitization, such as drone warfare (Shaw and Akhter, 2012), and also in **intimate scales** like the street and the school, especially in relation to race (Mitchell, 2009; Young et al., 2014).¶ As **large-scale urgent concerns are institutionalized**, the urgent body is increasingly **obscured through technical planning and coordination** (Anderson and Adey, 2012). The predominant characteristic of this institutionalization of large-scale emergency is a ‘**built-in bias for action’** (Wuthnow, 2010: 212) **that circumvents contingencies**. The urgent body is at best an assumed eventuality, one that will likely require another state of waiting, such as **triage** (e.g. Greatbach et al., 2005). Amin (2013) cautions that in much of the West, governmental need to provide evidence of laissez-faire governing on the one hand, and assurance of strength in facing a threatening future on the other, produces ‘just-in-case preparedness’ (Amin, 2013: 151) of neoliberal risk management policies. In the US, ‘personal ingenuity’ is built into emergency response at the expense of the poor and vulnerable for whom ‘[t]he difference between abjection and bearable survival’ (Amin, 2013: 153) will not be determined by emergency planning, but in the material infrastructure of the city.¶ In short, the urgencies of the body provide justifications for social exclusion of the most marginalized based on impulse and perceived threat, while **large-scale future emergencies effectively absorb the deliberative power of urgency into the institutions of preparedness and risk avoidance**. Žižek references Arendt’s (2006) analysis of the banality of evil to explain the current state of ethical reasoning under the war on terror, noting that people who perform morally reprehensible actions under the conditions of urgency assume a ‘tragic-ethic grandeur’ (Žižek, 2006) by sacrificing their own morality for the good of the state. But his analysis fails to note that bodies are today so rarely legitimate sites for claiming urgency. In the context of the **assumed priority of the large-scale future emergency**, the urgent body becomes **literally nonsense, a non sequitur** within societies, states and worlds that will **always be more urgent**.¶ If the important ethical work of urgency has been to identify that which must not wait, then the capture of the power and persuasiveness of urgency by large-scale future emergencies has consequences for the kinds of normative arguments we can raise on behalf of urgent bodies. How, then, might waiting compare as a normative description and critique in our own urgent time? Waiting can be categorized according to its purpose or outcome (see Corbridge, 2004; Gray, 2011), but it also modifies the place of the individual in society and her importance. As Ramdas (2012: 834) writes, ‘waiting … produces hierarchies which segregate people and places into those which matter and those which do not’. The segregation of waiting might produce effects that counteract suffering, however, and Jeffery (2008: 957) explains that though the ‘politics of waiting’ can be repressive, it can also engender creative political engagement. In his research with educated unemployed Jat youth who spend days and years waiting for desired employment, Jeffery finds that ‘the temporal suffering and sense of ambivalence experienced by young men can generate cultural and political experiments that, in turn, have marked social and spatial effects’ (Jeffery, 2010: 186). Though this is not the same as claiming normative neutrality for waiting, it does suggest that waiting is more ethically ambivalent and open than urgency.¶ In other contexts, however, our descriptions of waiting indicate a strong condemnation of its effects upon the subjects of study. Waiting can demobilize radical reform, **depoliticizing ‘the insurrectionary possibilities of the present by delaying the revolutionary imperative to a future moment that is forever drifting towards infinity’** (Springer, 2014: 407). Yonucu’s (2011) analysis of the self-destructive activities of disrespected working-class youth in Istanbul suggests that this sense of infinite waiting can lead not only to depoliticization, but also to a disbelief in the possibility of a future self of any value. Waiting, like urgency, can **undermine the possibility of self-care** two-fold, first by making people wait for essential needs, and again by reinforcing that waiting is ‘[s]omething to be ashamed of because it may be noted or taken as evidence of indolence or low status, seen as a symptom of rejection or a signal to exclude’ (Bauman, 2004: 109). This is why Auyero (2012) suggests that waiting creates an ideal state subject, providing ‘temporal processes in and through which political subordination is produced’ (Auyero, 2012: loc. 90; see also Secor, 2007). Furthermore, Auyero notes, it is not only political subordination, but the subjective effect of waiting that secures domination, as citizens and non-citizens find themselves ‘waiting hopefully and then frustratedly for others to make decisions, and in effect surrendering to the authority of others’ (Auyero, 2012: loc. 123).¶ Waiting can therefore function as a potentially important spatial technology of the elite and powerful, mobilized not only for the purpose of **governing individuals**, but also to **retain claims over moral urgency**. But there is **growing resistance** to the capture of claims of urgency by the elite, and it is important to note that even in cases where the material conditions of containment are currently impenetrable, arguments based on human value are at the forefront of **reclaiming urgency for the body**. In **detention centers, clandestine prisons, state borders and refugee camps**, geographers point to ongoing struggles against the ethical impossibility of bodily urgency and a rejection of states of waiting (see Conlon, 2011; Darling, 2009, 2011; Garmany, 2012; Mountz et al., 2013; Schuster, 2011). Ramakrishnan’s (2014) analysis of a Delhi resettlement colony and Shewly’s (2013) discussion of the enclave between India and Bangladesh describe people who refuse to give up their own status as legitimately urgent, even in the context of larger scale politics. Similarly, Tyler’s (2013) account of desperate female detainees stripping off their clothes to expose their humanness and suffering in the Yarl’s Wood Immigration Removal Centre in the UK suggests that demands for recognition are not just about politics, but also about the acknowledgement of humanness and the irrevocable possibility of being that which cannot wait. The continued existence of places like Yarl’s Wood and similar institutions in the USA nonetheless points to the challenge of exposing the urgent body as a moral priority when it is so easily hidden from view, and also reminds us that our research can help to explain the relationships between normative dimensions and the political and social conditions of struggle.¶ In closing, geographic depictions of waiting do seem to evocatively describe otherwise obscured suffering (e.g. Bennett, 2011), but it is striking how rarely these descriptions also use the language of urgency. Given the discussion above, what might be accomplished – and risked – by incorporating urgency more overtly and deliberately into our discussions of waiting, surplus and abandoned bodies? Urgency can clarify the implicit but understated ethical consequences and normativity associated with waiting, and encourage explicit discussion about harmful suffering. Waiting can be productive or unproductive for radical praxis, but urgency compels and requires response. Geographers could be instrumental in reclaiming the ethical work of urgency in ways that leave it open for critique, clarifying common spatial misunderstandings and representations. There is good reason to be thoughtful in this process, since moral outrage towards inhumanity can itself obscure differentiated experiences of being human, dividing up ‘those for whom we feel urgent unreasoned concern and those whose lives and deaths simply do not touch us, or do not appear as lives at all’ (Butler, 2009: 50). But when the urgent body is rendered as only waiting, both materially and discursively, it is just as easily cast as impulsive, disgusting, animalistic (see also McKittrick, 2006). Feminist theory insists that the urgent body, whose encounters of violence are ‘usually framed as **private, apolitical and mundane’** (Pain, 2014: 8), are as deeply **political, public, and exceptional** as other forms of violence (Phillips, 2008; Pratt, 2005). Insisting that **a suffering body, now, is that which cannot wait**, has the **ethical effect of drawing it into consideration alongside the political, public and exceptional scope of large-scale futures**. It may help us insist on the body, both as a single unit and a plurality, as a legitimate scale of normative priority and social care.¶ In this report, I have explored old and new reflections on the ethical work of urgency and waiting. Geographic research suggests a contemporary popular bias towards the urgency of large-scale futures, institutionalized in ways that further **obscure and discredit the urgencies of the body**. This bias also justifies the production of new **waiting places** in our material landscape, **places like the detention center** and the waiting room. In some cases, waiting is normatively neutral, even providing opportunities for alternative politics. In others, the technologies of waiting serve to manage potentially problematic bodies, leading to suspended suffering and even to extermination (e.g. Wright, 2013). One of my aims has been to suggest that **moral reasoning is important** both because it **exposes normative biases against subjugated people**, and because it potentially **provides routes toward struggle where claims to urgency seem to foreclose** the **possibilities** of alleviation of suffering. **Saving the world still should require a debate about whose world is being saved, when, and at what cost – and this requires a debate about what really cannot wait**. My next report will extend some of these concerns by reviewing how feelings of urgency, as well as hope, fear, and other emotions, have played a role in geography and ethical reasoning.¶ I conclude, however, by pulling together past and present. In 1972, Gilbert White asked why geographers were not engaging ‘the truly urgent questions’ (1972: 101) such as racial repression, decaying cities, economic inequality, and global environmental destruction. His question highlights just how much the discipline has changed, but it is also unnerving in its echoes of our contemporary problems. Since White’s writing, our moral reasoning has been stretched to consider the future body and the more-than-human, alongside the presently urgent body – topics and concerns that I have not taken up in this review but which will provide their own new possibilities for urgent concerns. My own hope presently is drawn from an acknowledgement that the **temporal characteristics of contemporary capitalism** can be interrupted in creative ways (Sharma, 2014), with the possibility of squaring the urgent body with our large-scale future concerns. **Temporal alternatives already exist in ongoing and emerging revolutions** and the disruption of claims of cycles and circular political processes (e.g. Lombard, 2013; Reyes, 2012). Though **calls for urgency will certainly be used to obscure evasion of responsibility** (e.g. Gilmore, 2008: 56, fn 6), they may **also serve as fertile ground for radical critique**, a truly fierce **urgency for now.**

**“1% doctrine” makes us bad policymakers creating a policy freeze**

**Meskill 9** (David, professor at Colorado School of Minds and PhD from Harvard, “The "One Percent Doctrine" and Environmental Faith,” Dec 9, http://davidmeskill.blogspot.com/2009/12/one-percent-doctrine-and-environmental.html)

Tom Friedman's piece today in the Times on the environment (http://www.nytimes.com/2009/12/09/opinion/09friedman.html?\_r=1) is one of the flimsiest pieces by a major columnist that I can remember ever reading. He applies Cheney's "one percent doctrine" (which is similar to the environmentalists' "precautionary principle") to the risk of environmental armageddon. But this doctrine is both intellectually **incoherent** and practically irrelevant. It is intellectually incoherent because it cannot be applied consistently in a world with many potential disaster scenarios. In addition to the global-warming risk, there's also the asteroid-hitting-the-earth risk, the terrorists-with-nuclear-weapons risk (Cheney's original scenario), the super-duper-pandemic risk, etc. Since each of these risks, on the "one percent doctrine," would deserve all of our attention, we cannot address all of them simultaneously. That is, **even within the one-percent mentality, we'd have to begin prioritizing**, making choices and trade-offs. But why then should we only make these trade-offs between responses to disaster scenarios? Why not also choose between them and other, much more cotidien, things we value? Why treat the unlikely but cataclysmic event as somehow fundamentally different, something that cannot be integrated into all the other calculations we make? And in fact, this is how we behave all the time. We get into our cars in order to buy a cup of coffee, even though there's some chance we will be killed on the way to the coffee shop. We are constantly risking death, if slightly, in order to pursue the things we value. Any creature that adopted the "precautionary principle" would sit at home - no, not even there, since there is some chance the building might collapse. That creature would **neither be able to act, nor not act**, since it would nowhere discover perfect safety. Friedman's approach reminds me somehow of Pascal's wager - quasi-religious faith masquerading as rational deliberation (as Hans Albert has pointed out, Pascal's wager itself doesn't add up: there may be a God, in fact, but it may turn out that He dislikes, and even damns, people who believe in him because they've calculated it's in their best interest to do so). As my friend James points out, it's striking how descriptions of the environmental risk always describe the situation as if it were five to midnight. It must be near midnight, since otherwise there would be no need to act. But it can never be five \*past\* midnight, since then acting would be pointless and we might as well party like it was 2099. Many religious movements - for example the early Jesus movement - have exhibited precisely this combination of traits: the looming apocalypse, with the time (just barely) to take action.

**The structural violence of inequality outweighs other impacts—there is an ethical obligation to address it**

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### **C1: Racial Inequality**

**The current conditional system allows coercion and job loss to disincentivize a right to strike**

**Lafer and Loustaunau 20** Report • By Gordon Lafer and Lola Loustaunau • July 23. “Fear at Work: An inside Account of How Employers Threaten, Intimidate, and Harass Workers to Stop Them from Exercising Their Right to Collective Bargaining.” Economic Policy Institute, July 2020, www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/.

Most American workers want a union in their workplace but very few have it, because the right to organize—supposedly guaranteed by federal law—has been effectively cancelled out by a combination of legal and illegal employer intimidation tactics. This report focuses on the legal tactics—heavy-handed tactics that would be illegal in any election for public office but are regularly deployed by employers under the broken National Labor Relations Board’s union election system. Under this system, employees in workplace elections have no right to free speech or a free press, are threatened with losing their jobs if they vote to establish a union, and can be forced to hear one-sided propaganda with no right to ask questions or hear from opposing viewpoints. Employers—including many respectable, name-brand companies—collectively spend $340 million per year on “union avoidance” consultants who teach them how to exploit these weakness of federal labor law to effectively scare workers out of exercising their legal right to collective bargaining.Inside accounts of unionization drives at a tire manufacturing plant in Georgia and at a pay TV services company in Texas illustrate what those campaigns look like in real life. Below are some of the common employer tactics that often turn overwhelming support for unions at the outset of a campaign into a “no” vote just weeks later. All of these are legal under current law: Forcing employees to attend daily anti-union meetings where pro-union workers have no right to present [and]alternative views and can be fired on the spot if they ask a question.Plastering the workplace with anti-union posters, banners, and looping video ads—and denying pro-union employees access to any of these media. Instructing managers to tell employees that there’s a good chance they will lose their jobs if they vote to unionize. Having supervisors hold multiple one-on-one talks with each of their employees, stressing why it would be bad for them to vote in a union. Having managers tell employees that pro-union workers are “the enemy within.” Telling supervisors to [and]grill[ing] subordinates about their views on unionization, effectively destroying the principle of a secret ballot. At the heart of management’s campaign was the threat that workers would lose their jobs if they voted to unionize. Under the NLRA, it is legal for employers to “predict” that they will shut down if workers organize, but illegal to “threaten” closure. Insofar as they scare workers out of organizing, there is no significant difference between these, and employers often issue a combination of illegal threats and technically legal predictions. In Kumho’s case, an administrative law judge of the NLRB ultimately determined that 12 different managers (including the company’s CEO) issued illegal [and] threat[en] to close the plant or lay off employees.[48](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note48)

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#### **PoC are already unequal in the economy. Bahn et. al. 20**

Bahn et. al. “Wage discrimination and the exploitation of workers in the U.S. labor market.” Washington Center for Equitable Growth, 15 Sep. 2020,<https://equitablegrowth.org/research-paper/wage-discrimination-and-the-exploitation-of-workers-in-the-u-s-labor-market/>. **Kate Bahn** is the director of labor market policy and economist at the Washington Center for Equitable Growth. Her areas of research include gender, race, and ethnicity in the labor market, care work, and monopsonistic labor markets. //ech

Not only do *Black and Latinx workers experience high levels of income inequality in the United States, they also face an* [*even wider wealth divide*](https://equitablegrowth.org/reconsidering-progress-this-juneteenth-eight-graphics-that-underscore-the-economic-racial-inequality-black-americans-face-in-the-united-states/) *with their White peers*.[27](https://equitablegrowth.org/research-paper/wage-discrimination-and-the-exploitation-of-workers-in-the-u-s-labor-market/?longform=true#footnote-27) In [2016](https://equitablegrowth.org/the-distribution-of-wealth-in-the-united-states-and-implications-for-a-net-worth-tax/), White families had median wealth of $171,000, while Black families’ median wealth was just $17,000—or almost 90 percent less—and Latinx families’ median wealth was $21,000.[28](https://equitablegrowth.org/research-paper/wage-discrimination-and-the-exploitation-of-workers-in-the-u-s-labor-market/?longform=true#footnote-28) (See Figure 1.) *This gap simply cannot be explained by differing levels of education or income: The wealth divide in the United States has not decreased over time, even as Black Americans have achieved higher levels of education and income.* (See Figure 1.) One contributor to the racial wealth divide is the [lower rates of homeownership](https://equitablegrowth.org/reconsidering-progress-this-juneteenth-eight-graphics-that-underscore-the-economic-racial-inequality-black-americans-face-in-the-united-states/) among Black Americans.[29](https://equitablegrowth.org/research-paper/wage-discrimination-and-the-exploitation-of-workers-in-the-u-s-labor-market/?longform=true#footnote-29) This divide in large part is due to the systematic blocking of Black homeownership through federal policies that fostered redlining and discrimination in housing, among other barriers to access—discrimination that began to diminish only beginning in the late 1970s and well after the wealth-creating housing boom of the previous three decades that accrued to White homeowners. And even today, while discrimination and prevention of homeownership based on race is technically illegal, the reality is that those Black and Latinx Americans who are able to purchase homes face [higher property tax burdens](https://equitablegrowth.org/misvaluations-in-local-property-tax-assessments-cause-the-tax-burden-to-fall-more-heavily-on-black-latinx-homeowners/) than their White neighbors, even within the same local property tax jurisdictions. Black Americans also face [lower rates of intergenerational mobility](https://equitablegrowth.org/research-paper/are-todays-inequalities-limiting-tomorrows-opportunities/), or the likelihood that a child will earn more than their parents when they are adults.[31](https://equitablegrowth.org/research-paper/wage-discrimination-and-the-exploitation-of-workers-in-the-u-s-labor-market/?longform=true#footnote-31) And, of course, the [disproportionate incarceration of Black Americans](https://equitablegrowth.org/overcoming-social-exclusion-addressing-race-and-criminal-justice-policy-in-the-united-states/) contributes to racial economic disparities, not only keeping a higher proportion of Black people out of the labor force for longer and more periods of time, but also [lowering their credit scores](https://equitablegrowth.org/the-never-ending-cycle-incarceration-credit-scores-and-wealth-accumulation-in-the-united-states/) and reducing their wealth-accumulation opportunities.[32](https://equitablegrowth.org/research-paper/wage-discrimination-and-the-exploitation-of-workers-in-the-u-s-labor-market/?longform=true#footnote-32) *All of these systemic hurdles put Black workers at a disadvantage in the labor market by lowering their access to wealth and wealth-building opportunities*. Our new theoretical model shows that *wealth is an important factor in a worker’s ability to change jobs and weather the potential income shocks that come with searching for and switching to new jobs.* These shocks can be as small as the lost wages from taking time off to interview or a delay in pay when transitioning to a new role, or as large as a longer period of time off resulting from an unexpected delay or issue with the transition to a new job*. As the persistent racial wealth gap in the United States indicates, Black and Latinx workers—who have less access to wealth—are less able to get through potential household financial crises than their otherwise-identical White peers. This means that similar workers of different races and ethnicities have different ease and ability to navigate the labor market, making Black and Latinx workers less sensitive to wage differences between their job and others when the cost and risk of leaving their job is too high. If an employer recognizes this disparity (or holds racist views, which leads to a similar low-wage outcome), then the employer will exploit Black and Latinx workers more by offering them lower wages than their White colleagues, expanding the racial wage divide.*

#### **The RTS is the fundamental right for union negotiation**

Myall, James. “Right to Strike Would Level the Playing Field for Public Workers, with Benefits for All of Us.” Maine Center for Economic Policy, 17 Apr. 2019, https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/.[James Myall](https://www.mecep.org/author/james-myall/) is a Policy analyst for [@MECEP1](https://twitter.com/MECEP1) . Member, Maine Permanent Commission on Racial, Indigenous & Tribal Pops. British. Recovering historian. //ear

All of us have a stake in the success of collective bargaining. *But a union without the right to strike loses much of its negotiating power*. *The right to withdraw your labor is the foundation of collective worker action.* When state employees or teachers are sitting across the negotiating table from their employers, how much leverage do they really have when they can be made to work without a contract? *It’s like negotiating the price of a car when the salesman knows you’re going to have to buy it — whatever the final price is*. *Research confirms that public-sector unions are less effective without the right to strike.* Public employees with a right to strike earn between 2 percent and 5 percent more than those without it.[[ii]](https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/#_edn2) While that’s a meaningful increase for those workers, *it also should assuage any fears that a right to strike would lead to excessive pay increases or employees abusing their new right.* LD 900, “An Act to Expand the Rights of Public Employees Under the Maine Labor Laws,” ensures that Maine’s public-sector workers will have the same collective bargaining rights as other employees in Maine. The bill would strengthen the ability of Maine’s public-sector workers to negotiate, resulting in higher wagers, a more level playing field, and a fairer economy for all of us. Notes [[i]](https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/#_ednref1) MECEP analysis of US Census Bureau, Current Population Survey, Outgoing Rotation Group data, 1998-2017 via the Integrated Public Use Microdata System. [[ii]](https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/#_ednref2) Jeffrey Keefe, “Laws Enabling Public-Sector Collective Bargaining Have Not Led to Excessive Public-Sector Pay,” Economic Policy Institute, Oct 16, 2015. Web. Available at<https://www.epi.org/publication/laws-enabling-public-sector-collective-bargaining-have-not-led-to-excessive-public-sector-pay/>

#### **Unions create the multiracial solidarity society workers need to overcome racism**

Day, Meagan. “Unions Are Essential for Eliminating Racism.” Jacobin, July 2020,<https://www.jacobinmag.com/2020/07/multiracial-solidarity-unions>. Meagan Day is a staff writer at Jacobin. She is the coauthor of [Bigger than Bernie: How We Go from the Sanders Campaign to Democratic Socialism](https://www.versobooks.com/books/3167-bigger-than-bernie). //ear

*There are a number of different mechanisms by which unions might decrease racism*, and Frymer and Grumbach present cases for several in their paper, *ranging from structural incentives for union leadership to promote racial equality to the labor movement’s institutional ties to the comparatively less racist Democratic Party*. *But I’ll stress one in particular: unions provide opportunities for people of different racial backgrounds and identities to not merely work side by side — which may itself relax prejudice through sheer exposure — but to work toward a common goal together, promoting cooperation, and enhancing respect and mutuality across racial lines*. In many workplaces, that goal of building a strong union cannot be achieved without workers joining together.

*Organizations of all kinds shape their members’ political views, broadly speaking, but unions are unique among organizations, as Frymer and Grumach note, due to the fact that they represent people based on where they work*. *Work is compulsory for most people of all racial backgrounds, which means that union membership can and often does (though not as a rule) feature a degree of diversity that’s higher than in other types of community formations.* For example, a white Indiana warehouse worker may live in a mostly white neighborhood, and perhaps attend a mostly white church, but his or her employer hires people of all racial backgrounds, and therefore their union is likely to be more racially diverse.

But lots of workplaces are racially diverse. *The distinct feature of unions is that workers from disparate backgrounds are encouraged to view their interests as bound together. And in many cases, they have opportunities to make collective decisions about how they want their union to be run, and to work together to secure common victories*.

Some unions are more democratic or better at member engagement than others. Indeed this presents a strong argument for building more democratic unions, for it’s in active cooperation that people are most likely to have their inherited prejudices challenged and their worldview transformed.

*Unions give people the opportunity to routinely practice multiracial solidarity. Not only that, but they incentivize it: the more cooperative union members are, the greater unity they will have heading into a workplace struggle, and the greater the eventual reward for all. In that sense, diverse democratic unions can be schools of cross-racial cooperation, which are sorely lacking and desperately needed in our racially stratified society.*

### **C3: Self-Determination**

#### **The unconditional right of workers to strike is guaranteed and found in the constitutional law. Waas 12.** (Dr. Bernd Waas: Goethe University. Frankfurt, Germany. “Strike as a Fundamental Right of the Workers”.<https://www.islssl.org/wp-content/uploads/2013/01/Strike-Waas.pdf>)

**The legal position of trade unions and workers is particularly strong if the right to strike action is provided for both in a statute and if it is guaranteed at the constitutional level. This is the case in Poland, for example. The Polish Constitution acknowledges the right to strike in its second chapter on “The Freedoms, Rights and Obligations of Persons and Citizens” – “Political Freedoms and Rights”. Accordingly, the right to strike is understood as a basic human right (or freedom). The consequences are twofold: First, the right to strike is difficult to restrict. According to Article 31(3) of the Constitution, “any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights”. Second, according to the so-called in dubio pro libertate-rule of construction, any doubts that may arise when interpreting the provisions on strike must be interpreted in favour, not against, the constitutionally protected right to strike. In Colombia, the Constitutional Court has repeatedly stressed that only the legislator can limit the right to strike and only if certain requirements are met. In particular, when setting limitations on the right to strike in the area of “essential public services”, the criteria applied by the legislator must be “objective and reasonable”. Accordingly, the court holds that “essential public services” refers to services whose suspension could affect fundamental rights such as life or physical integrity. Merely invoking “public interest or economic importance” does not suffice to justify restrictions on the right to strike. In** most **countries, the right to strike is founded in constitutional law.** Many **countries** explicitly **guarantee the right to strike.** A case in point is Hungary where both the right to collective bargaining and the right to strike are expressly mentioned in the new Constitution (which was adopted in April 2011). The same applies, for instance, to Argentina. In some countries, the guarantee of a constitutional right to strike is only implicit. Article 28 of the Constitution of Japan, for instance, provides for “the right of workers (...) to act collectively”. This is understood to guarantee so-called “dispute acts” of workers, the right to strike action being the most important of such acts. In Chile, the Constitution is ambivalent with regard to the right to strike, based on a purely literal interpretation of the respective provision. If the Constitution is to explicitly contain a ban on strikes in various sectors, an argumentum e contrario is required to conclude that the right to strike may be exercised outside these sectors. The law in Germany provides an example for an even more “circumlocutory” constitutional guarantee of the right to strike. Under Article 9 of the Constitution, “the right to form associations to safeguard and improve working and economic conditions shall be guaranteed to every individual and to every occupation or profession”. This is interpreted by the courts as meaning that individuals may establish associations and become members but that the associations as such enjoy certain constitutional rights as well. Though **the right to bargain collectively** is not expressly mentioned in Article 9, it **is** generally **understood as forming an essential element of freedom of association.** And though the right to collective action is also not mentioned in Article 9, it is understood as being included in the freedom of association, insofar as such a right is necessary to ensure an effective right to collective bargaining. A similar approach can be found in other jurisdictions. For instance, in Finland, the right to strike is not guaranteed “as such”, but is considered part and parcel of freedom of association.

#### **Unconditional RTS is recognized by just governments as essential to self-determination.**

Bornman, David A. “Contractualism and the Right to Strike.” Res Publica, 18 Apr. 2016,<https://link.springer.com/article/10.1007/s11158-015-9316-8>. **David A. Bornman** works at Department of Political Science, Philosophy, and Economics at Nipissing University. //ech

*By striking, workers declare their right to self-determination within economic life, the right to cooperatively determine the rules and conditions of labour which affect them in essential ways, materially and psychologically.* This assertion of a right to justification is activated when normative conflict of some kind arises (as reflected in the list of common demands given earlier). As Don Locke argues in his noncontractualist defence of the right to strike, strikers—irrespective of the particular, first-order claims involved (better pay, better hours, etc.)—are thus making, in effect, a certain sort of moral, or quasi-moral, claim: *a strike is not simply a refusal to continue working on the terms currently on offer; it is also, in effect, a claim that those terms are unacceptable [i.e., unjustified or unjustifiable], and it is because they are unacceptable that the strikers refuse to accept them.* (Locke 1984, p. 192)6 This is a normative claim: if it were simply descriptive (‘these terms are unacceptable’), strikers could not legitimately prevent others from coming into take these jobs on those terms (which would constitute an empirical refutation of the descriptive claim) and, if that were the case, there would be no right to strike at all but only a right to quit. *The claim, then, is that no one should perform these jobs under those conditions, even if there are many who for reasons of comparative desperation might consent to do so*. *The actual act of striking is*, therefore, not a punitive boycott aimed strategically at forcing the hand of employers (and therefore a strategy for reaching a compromise between conflicting interests); it is, according to Locke, an ‘exculpatory boycott,’ *in which we refuse to perform an act because it would be wrong (for anyone) to do so* (Locke 1984, p. 193). The strike is therefore one salvo in a process aimed at reaching an agreement regarding justified conditions (and this, whether or not it is pursued in tandem with organized collective bargaining). Of course, workers can be unjustified in their particular or first-order assertions and demands; this is no way alters the fact that, whatever the content of those demands, the making-of-them implies a second-order claim to a right to self-determination which, like the right to freedom of expression, protects even its wrong-headed use. This second-order claim can be taken both as a targeted complaint against a particular employer and, as it has been historically, as a protest against the structural domination of the capitalist labour market. From the point of view of the law within liberal states and of (the relevant sort of) large employers, on the other hand, there is no right on the part of workers to self-determination in labour (for an excellent defence of this position, see Anderson 2015). Consequently, strikes are seen as assertions of interest, to be evaluated along strategic lines: as the political economists taught, and as employers historically argued, the strike is simply a strategic attempt ‘to test the state of the market for labour’ (Marfarlane 1981, p. 46). *The employers’ lockout and the employees’ strike are thus not symmetrical: the former is not an attempt to insist that employees be receptive to good reasons understood in contractualist terms; it is an assertion of power, a reminder of the employers’ legally enshrined unilateral control over the conditions of labour and access to the means of production* (for agreement on the asymmetry, see Macfarlane 1981, pp. 46, 76–77). I suspect that this judgment will strike many readers as polemical and perhaps idealizing, so let me say a little more about why I think it justified. First of all, it is a judgment about the structural position of large employers and of the government as shaped by existing law and by political- and economic-class relationships. No doubt there may still be some Frederick Engels or Robert Owen out there who voluntarily attempts to hold his structural privilege in abeyance (just as some fictional union might voluntarily accept a contract that included unilateral determination of conditions by their employer); but not only are such cases obviously exceptional, to insist upon their relevance is either to deny the significance of the legal and economic structuring of employment relations (for instance, investor and shareholder agreements that make prioritizing profit legally binding), or simply to miss the forest for the trees. *Secondly, it is admittedly easy to imagine an employer attempting to defend his position in apparently moral terms and so denying the asymmetry I have claimed: ‘I have a moral right to dispose over my private property as I deem fit’ he might say (and he did say, historically), ‘and so also to impose terms upon those who seek access to it*.’ Such an argument is demonstrably without merit: the employer cannot reasonably claim a unilateral right to determine the working conditions of other people as a consequence of his or her own selfdetermination.7 But that is not the real point here, in any case: the point is that *even attempting to legitimize this argument would, according to contractualism, require the employer to concede that it is only justified if it is agreed to by all those affected on the basis of generally acceptable reasons. And that concession is fundamentally incompatible with the unilateral nature of the declared right:* he might as well say, ‘I’ll command you, if you’ll agree’. To put the same point differently: *for the contractualist, there can be no unilaterally declared rights*; and so the employer here is abusing the language of rights and is not, after all, making a rights claim which is symmetrical to the claim made by the striking worker. Finally, one might object that nothing in contractualism stipulates that the relevant normative agreement must take place at the level of the individual firm: we might instead have a contractualist justification for a system of self-interested bargaining under which our employer might indeed enjoy the entitlements to which he lays claim. The employer’s lockout would in that case remain an act of power, but so too would the worker’s strike be. It is quite true that we can imagine such a possibility consistent with some kind of contractualism. There are even some indications that Habermas, in his later work, is attracted to a similar view. But so much the worse for Habermas: neither is it the case that the current organization of labour relations is the product of any such agreement—to the contrary, it is transparently the result of force—nor is it even conceivable that workers could have hypothetically and reasonably agreed to a system of self-interested bargaining which is premised on such unequal power. This possibility, then, is pure ideal theory, in the worst possible sense. To summarize: the conflict between labour and capital and government which is made manifest in a strike is not located at the first-order level where a specific schedule of putative rights is to be justified or constrained; instead, it takes place at the more fundamental level where the right to have rights (in this domain), or the salience of normative justification, is itself contested. *In the strike, a demand for justification is confronted with (often, is inspired by) a refusal to justify: implicit or explicit (second-order) moral claims collide with (unjustified) norm-excluding assertions of interest. If this characterization is correct, then non-instrumental contractualism might appear to have advanced no farther than Nielsen, when he awkwardly concludes that the conditions are not yet right for morality*. Although agreements here concern what is right, *contractualists do not exclude consideration of existing interest positions: to the contrary, they argue in one form or another that a norm is to be judged legitimate if it can be reasonably accepted from the point of view of all affected, taking into account the effects the general observance of the norm could be anticipated to have on their interests* (Habermas 1990, p. 65). But if this is so, then the present prospects for justifying a right to strike might be thought bleak indeed. As Nielsen observed, the recognition of such a right is very much in contradiction to the existing interests of employers, so that a consensus on this point ‘would only be possible if the capitalists generally—and not just in isolated instances [ala` Engels and Owen, above]—would in the interests of fairness and humaneness de-class themselves voluntarily. But,’ Nielsen sagely concludes, ‘it is an idle dream to expect this to happen’ (Nielsen 1989, p. 127). Prima facie, given the difficulty just described, hypothetical-agreement-contractualism might seem to have an important advantage over its rival: namely, its willingness to declare that some interests—such as the interest in maintaining positions of asymmetrical power—are not legitimate (Scanlon 1997, p. 278). But for the actual-agreement contractualist, there are two problems with this response. First, it is not clear that there is a defensible point of view from which we are able to distinguish unilaterally and conclusively between legitimate and illegitimate interests on someone else’s behalf—hence Forst’s prohibition of such claims or, better, ‘diagnoses’. Second, even if I am able to carry through the argument that the interests standing in the way of justifying a right to strike—which do so by blocking the communicative orientation or a presupposed right to self-determination in the first place—are such that they may be ‘reasonably rejected’, it is not clear to the actual-agreement contractualist (a position influenced by pragmatism) what the good would be of such a unilateral defence. Typically, the motivational significance of deontological justification is to deprive the would-be violator of rights of all legitimate reasons for their actions (for instance, by proving that there can be no good reason for cheating). But in the case at hand, depriving opponents of their ability to justify their refusal to recognize rights is pointless, since that refusal takes the form of a refusal of justification itself. Put differently: we cannot leap to the question of whether employers would be unreasonable to reject the right to strike, since we must first deal with the question of what types of reasons or considerations are relevant and it is here that the disagreement is stalled. Because the conflict occurs at the fundamental level where the types of reasons that are salient is itself in dispute, the actual-agreement approach seems to fare hardly better: the project of justification as it is described by Forst and Benhabib cannot get off the ground. Workers, by making some purportedly legitimate first order demand, simultaneously assert their right to have rights in the domain of labour; the law and employers refuse to take up that claim in a communicative attitude and insist instead on a compromise-orientation framed by considerations of relative power. Because existing relations of power are so asymmetrical, employers are able today—and at the level of the development of law, have historically been able—to force the orientation toward compromise upon their interlocutors. Of course, the first-order move on the part of employers implies a second-order commitment that the economy operate as a ‘norm-free’ or ‘justification-free’ sphere of the play of interests, money, and power, a commitment which itself calls for justification. But the impasse is simply repeated at the second-order level: as I’ve already argued, there is no genuine effort (nor was there historically) to normatively justify this view in terms acceptable to workers, an effort which would require taking up communicatively, even if critically, the moral-normative claims of workers and so accepting (by presupposition) their right to have rights. Instead, as the dissenting Justices in Saskatchewan continued to argue, the economy is to be regarded as a ‘delicate’, technical system in which competing interest are in a complex balance; the state must have the ‘flexibility’ to intervene as the system requires and because of this the Court, even when faced with a Charter challenge, must ‘demonstrate deference in the field of labour relations’ apparently irrespective of the force of reason (Saskatchewan 2015, paras. 107 and 114).

#### **The subjectivity of definitions of “minority” and the denial of self-determination in previous times to minorities perpetuates discrimination.**

Saladin, Claudia “Self-Determination, Minority Rights, and Constitutional Accommodation: The Example of the Czech and Slovak Federal Republic” Michigan Journal of International Law, Vol. 13, Issue 1, 15 Sep. 1991,<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1612&context=mjil> . **Claudia Saladin works at** University of Michigan Law School Scholarship Repository and was educated at University of Michigan Law School.

*The right to self-determination is generally held to belong to "peoples" and not to "minorities."* Whether a group is considered a people or a minority is significant in determining what rights can be attributed to the group under international law. Modern international law recognizes three collective human rights of peoples:12 the right to physical existence,' 3 the right to self-determination,' 4 and the right to natural resources.' 5 Minorities have two collective human rights under international law:' 6 the right to physical existence' 7 and the right to preserve a separate identity.' 8 *A crucial difference, then, between peoples and minorities is the right to self-determination*. *As set forth in the International Covenant on Civil and Political Rights, self-determination refers to full rights in the cultural, economic, and political spheres, with political control being the most essential aspect of the right*.' 9 *Minority rights as set forth in the Covenant do not include political control.* 20 *Despite the importance of the difference between the two groups there is no official definition of either minority or people*. Francesco Capotorti, the special rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, defines minority as: A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members-being nationals of the Statepossess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly a sense of solidarity, directed towards preserving their culture, traditions, religion or language.21 *This definition includes* both objective criteria (groups with distinct characteristics, numerical inferiority, nondominant position) and *subjective criteria (a group perception of distinctiveness and a desire to preserve that distinctiveness).* Definitions of "peoples" given by scholars have similar criteria. Yoram Dinstein, for example, argues that "peoplehood" is contingent on two separate elements: the objective element of the existence of an ethnic group linked by a common history and the subjective element of the state of mind of the group. 22 Aureliu Critescu, also a special rapporteur of the Sub-commission on Prevention of Discrimination and Protection of Minorities, lays out the following criteria as crucial in defining a people for the purpose of affording them the right of self-determination: (a) The term "people" denotes a social entity possessing a clear identity and its own characteristics, (b) It implies a relationship with a territory, even if the people in question have been wrongfully expelled from it and artificially replaced by another population. 23 Thus the crucial element distinguishing a people from a minority is the concept of territory, but scholars seem hard pressed to articulate further the difference between peoples and minorities*. Despite the different rights attributed to "minorities" and "peoples," international law provides neither a practical nor a legal means of distinguishing between the two*. While *the Hungarians are obviously a people, possessing their own territory and nation state, and sharing a common history, Hungarians living in Czechoslovakia are a minority*. Such a group, which represents a portion of a people separated from the territorial nation state of their larger group, is clearly, a minority in some sense of the word. But when one considers ethnic groups that do not possess a nation state of their own, defining the difference between a minority and a people becomes more problematic. Take *the Kurds as an example: they are a distinct group possessing distinct ethnic and linguistic characteristics as well as a subjective group identity and a territorial base, yet within each nation state that they occupy (Iraq, Turkey, the USSR, and Iran) they are treated as a minority, although they appear to meet all the criteria of a people.* Unlike the Hungarians living in Czechoslovakia, they have no nation state of their own to which they could emigrate or which is in a position to petition other States for their protection. The Slovaks are problematic in a similar way, although, as a group, they have the comparative advantage over the Kurds of being within one State. They possess a history and language separate from, although related to, that of the Czechs. They also possess a distinct territorial base. They have existed, briefly, as a nation state and have also been a distinct territorial and administrative unit within Czechoslovakia since 1968. In a large part the difficulty in arriving at, or deriving from practice, meaningful definitions of these two categories, demonstrates the confusion surrounding these concepts and the artificiality of the distinction between them. Instead, the concepts might be conceived of as points on a continuum, or different manifestations of a single problem, rather than as distinct categories. 24 Professor Ian Brownlie has asserted that *"the issues of self-determination, the treatment of minorities and the status of indigenous populations, are the same, and the segregation of topics is an impediment to fruitful work*."'25 He goes on to argue that the *recognition of group rights, that is, minority rights, represents the practical and internal working of the concept of self-determination, 26 providing a link between the concepts of self-determination and minority rights.* *Brownlie contends that the core of the principle of self-determination consists of the right of a community that has a distinct character to have this character reflected in the institutions under which it lives.*27 The eclectic terminology used in discussing self-determination- "nationalities," "peoples," and "minorities"-all involve the same concept