# Cap Vibes

#### Right to

#### role of the ballot is to decide if the resolution is true or not

#### what makes just gov is where cap is rejected and right to strike would be rendered irrelevant—their version of a just government is one in which workers have the right to strike ie the right of workers to negotiate against corporations for better wages and working conditions—this premise is inherently capitalist because it assumes a world in which corporations are in control—and workers attempt to use strikes to level out the playing field—this is a system of oppression that enivitably fails—pacifies workers and prevents political revolution—instead a just government would be one in which workers owned the means of production

#### Right to Strike Unnecessary Under Communism

**Caute 88**

(“The Fellow Travelers: Intellectual Friends of Communism, <https://books.google.com/books?id=zZ6YqBm3O2wC&pg=PA351&lpg=PA351&dq=%22the+right+to+strike?+there+was+no+need+for+that%22&source=bl&ots=4iBWCyaO5X&sig=ACfU3U0Y1gsZfLXdlP8fgiwwLnBQxp96BA&hl=en&sa=X&ved=2ahUKEwjy3vTy96X0AhWwTTABHQeTAEoQ6AF6BAgCEAM#v=onepage&q=%22the%20right%20to%20strike%3F%20there%20was%20no%20need%20for%20that%22&f=false>)

“The right to strike? There was no need for that, Davidson thought, in a society possessed by a spirit of unity and harmony. Communism was about unselfishness: Liu Shao-ch’I had said as much in lectures delivered in 1939, entitled “How to be a Good Communist”. (Who was to know that Lie would turn out to be a bad communist – the root of all evil, according to the Great Helmsman?) And what of intellectual freedom? Davidson was impressed: “. . . most of the intellectuals you meet. . .are manifestly at their ease, full of projects for the future, and unobsessed by fear of sudden sanctions or some shadow-like terror in the background.”

#### Unions and Right to Strike Fail, Entrench Capitalism & Class Domination, Prevent Needed Political Change

Garvey 11

http://insurgentnotes.com/2011/12/the-1-of-the-99-and-an-anti-capitalist-alternative/

In the current economic and social crisis, the ability for workers to effectively make gains through the structures of our unions is almost non-existent. In fact, for the past two months of the occupation movement here in the United States, union leaders have either scrambled to play catch-up with the social needs of the working class, undermined the movement’s grassroots efforts at contesting these attacks by moving to the right of them, or acted its own policing force against not only its official members, but political activity in general.

But if we look historically, these union strategies are consistent with their historical role within capitalist society as the mediation between management and workers. The primary activity of the trade union—through the means of a group of people in leadership positions, or the bureaucracy–is to negotiate a contract for the benefits, wages, and (sometimes) specific working conditions of labor in their exploitative relation with their employers. In order to accomplish this, they operate as an organization over and above rank and file workers in order to maintain an exclusive and specialized relationship with management, thereby perpetuating a relationship of dominance over their members despite occasionally, and partially, allowing them to express their dissent. In fact, this dissent can help negotiations as well: “If you don’t promise X, Y, or Z, we cannot be held responsible for what these crazy workers might do! However, if you do promise [which doesn’t mean carry out] we can most likely keep them working productively for you.” Additionally, and within the context of the current crisis, trade unions are able to achieve less and less, and as a result, the rank and file are left without any means to struggle through the union. And because the results of negotiations which, for example, bargained away the “right” to strike, are carried forward into a time when it is structurally impossible for capitalism to make concessions, struggles beyond bureaucracy are more and more of a necessity. To hope that the union bureaucracy will respond to the needs of the working class is to circumscribe hope as the leash of submission.

This position does not come from the individual politics of trade union bureaucrats themselves, from their personalities, or even from a particular caucus that has leadership. It is instead the historical role of unions as the mediators between labor, that is, the workers who produce the profit, goods, education, etc. for society as a whole, and capital. The union bureaucracy cannot imagine a world without capitalism, because their existence is predicated upon negotiations within its mechanisms and enforcements.

If we look at the activities of the unions in New York over the last month alone, for example, we can see this clearly. For many of those involved in the occupation movement, who have remarked that Occupy Wall Street itself has shifted the unions towards a more left position, there is a surprise when the first signs militancy within the protests brings with it derailment as the union leaders transform the anger of the working class into platforms for the Democratic Party. Let us take a closer look at some recent events.

November 17th: Upwards of 50,000 people protested in the streets of New York. There were marches and mobilizations all over the city, at least one of which avoided police intervention all the way from Union Square to Foley Square, as well as an occupation of a university space to provide free anti-capitalist education for both students and non-students alike. Later in the evening, at least 32,000 people attempted to take the Brooklyn Bridge in an effort at direct action. People were bewildered and dismayed when they tried to go onto the street itself to block traffic, they instead witnessed a number of trade union leaders funneling people onto the walkways. When the march got to Brooklyn, it was again confounded when a series of political leaders and bureaucrats were arrested peacefully in a clearly pre-negotiated “planned civil disobedience”, which was much more of a performance than anything that stopped the movement of capital.

November 21st and 28th: Several hundred protested at a CUNY Board of Trustees public hearing at Baruch College. The college has high levels of security and turnstiles. When students attempted to hold a forum in the lobby, which is open to the public, a combination of police and campus security officers beat and arrested several students. The following week, another protest was held. This time, a coalition of the PSC (an AFT local that represents faculty and staff at CUNY), city council-members including Charles Barron, and other union and non-profit groups held a barricaded protest and with the assistance of members of various “left” political parties, as well as progressive students, directed protestors into the barricades. Protesters were visibly dispirited to move from a boisterous protest in the streets of midtown Manhattan, into a police corral and subjected to speeches on the importance of voting. A week later, the PSC held a teach-in where they valorized the arrests of the 21st; this was exploitative and hypocritical.

MTA Contract Negotiations: Regarding the ongoing contract negotiations of the Transport Workers Union (TWU), due to expire early next year, the Local 100 leadership has demonstrated explicitly that it has no plans for combating the MTA’s proposed cutbacks in jobs, wages, benefits, services, as well as a 3- year wage freeze for transit workers. It is assumed that any grassroots efforts at striking will be met with the same union response in 2005: openly bringing in scabs as well arguing in court for the illegality of any walk-out.

Those are just a few examples of the practical activity of trade unions, and their structural inability to do what’s necessary: to actually confront and overthrow capitalism itself.

What we need right now is for autonomous political organizing in both unionized and non-unionized workplaces, schools,and in the streets. These are the efforts that made the November 2nd Port Shutdown on the west coast possible. It was not the arbitration of the bureaucracy through its attempts at domesticating class struggle, but instead the participation of multiple fractions of the proletariat, both unionized, non-unionized, and the unemployed, which took the initiative to construct the blockades. On December 12th, again there are plans to shut down shipping ports all along the west coast, including that of Los Angeles, San Diego, Portland, Tacoma, Seattle, Vancouver and Anchorage, without official union authorization. As is to be expected, the ILWU leadership stands opposed to such an action that practically calls into question the circulation of capital and commodities. Despite this however, both longshoremen and other unionized, non-unionized, and unemployed workers will participate on December 12th, and in doing so, will demonstrate the increasing antiquated forms of the hierarchical union bureaucracies for expressing the needs and desires of the proletariat itself.

These events have certainly shown that union bureaucrats are not ignoring struggles beyond their shops. However, their responses to the crisis remain profoundly uncritical in confronting the severity of developing conditions. There can be no illusions that in the external management of the class as a whole, this representation (that is, the unions) radically opposes itself to the working class itself. A bureaucracy which directs the workers and pacifies an inherently antagonistic relationship between capital and labor cannot help but be the enforcers of class domination. However, when we discover the unions collaborate in the constant reinforcement of class domination, not only in the form of its labor as commodity to be bought and sold, but also in the form of unions and parties, we also discover that we are as opposed to the parties and union bureaucrats as the bosses themselves. We contain a revolution that will not leave anything outside ourselves!

#### Independently, them saying that strikes are failing/going down now and absent of the aff people wont be able to strike—means that workers wont revolte and overthrow capatilism to put the power back in their hands—they uniquely destroy what will lead to the political revolution--

#### Capitalism generates a present of differentially distributed mass violence, environmental destruction and extinction—turns case

**Robinson 14** (William Robinson – Prof. of Sociology, Global and International Studies, and Latin American Studies @ UC-Santa Barbara – “Global Capitalism: Crisis of Humanity and the Specter of 21st Century Fascism” The World Financial Review – June 2014 - http://www.soc.ucsb.edu/faculty/robinson/Assets/pdf/Crisis%20of%20Humanity.pdf//Gavsie)

Cyclical, Structural, and Systemic Crises ¶ Most commentators on the contemporary crisis refer to the “Great Recession” of 2008 and its aftermath. Yet the causal origins of global crisis are to be found in over-accumulation and also in contradictions of state power, or in what Marxists call the internal contradictions of the capitalist system. Moreover, because the system is now global, crisis in any one place tends to represent crisis for the system as a whole. The system cannot expand because the marginalisation of a significant portion of humanity from direct productive participation, the downward pressure on wages and popular consumption worldwide, and the polarisation of income, has reduced the ability of the world market to absorb world output. At the same time, given the particular configuration of social and class forces and the correlation of these forces worldwide, national states are hard-pressed to regulate transnational circuits of accumulation and offset the explosive contradictions built into the system. ¶ Is this crisis cyclical, structural, or systemic? Cyclical crises are recurrent to capitalism about once every 10 years and involve recessions that act as self-correcting mechanisms without any major restructuring of the system. The recessions of the early 1980s, the early 1990s, and of 2001 were cyclical crises. In contrast, the 2008 crisis signaled the slide into a structural crisis*. Structural crises* reflect deeper contra- dictions that can only be resolved by a major restructuring of the system. The structural crisis of the 1970s was resolved through capitalist globalisation. Prior to that, the structural crisis of the 1930s was resolved through the creation of a new model of redistributive capitalism, and prior to that the struc- tural crisis of the 1870s resulted in the development of corpo- rate capitalism. A systemic crisis involves the replacement of a system by an entirely new system or by an outright collapse. A structural crisis opens up the possibility for a systemic crisis. But if it actually snowballs into a systemic crisis – in this case, if it gives way either to capitalism being superseded or to a breakdown of global civilisation – is not predetermined and depends entirely on the response of social and political forces to the crisis and on historical contingencies that are not easy to forecast. This is an historic moment of extreme uncertainty, in which collective responses from distinct social and class forces to the crisis are in great flux. ¶ Hence my concept of global crisis is broader than financial. There are multiple and mutually constitutive dimensions – economic, social, political, cultural, ideological and ecological, not to mention the existential crisis of our consciousness, values and very being. There is a crisis of social polarisation, that is, of *social reproduction.* The system cannot meet the needs or assure the survival of millions of people, perhaps a majority of humanity. There are crises of state legitimacy and political authority, or of *hegemony* and *domination.* National states face spiraling crises of legitimacy as they fail to meet the social grievances of local working and popular classes experiencing downward mobility, unemployment, heightened insecurity and greater hardships. The legitimacy of the system has increasingly been called into question by millions, perhaps even billions, of people around the world, and is facing expanded counter-hegemonic challenges. Global elites have been unable counter this erosion of the system’s authority in the face of worldwide pressures for a global moral economy. And a canopy that envelops all these dimensions is a crisis of sustainability rooted in an ecological holocaust that has already begun, expressed in climate change and the impending collapse of centralised agricultural systems in several regions of the world, among other indicators. By a crisis of humanityI mean a crisis that is approaching systemic proportions, threatening the ability of billions of people to survive, and raising the specter of a collapse of world civilisation and degeneration into a new “Dark Ages.”2 ¶ This crisis of humanity shares a number of aspects with earlier structural crises but there are also several features unique to the present: ¶ 1. The system is fast reaching the ecological limits of its reproduction. Global capitalism now couples human and natural history in such a way as to threaten to bring about what would be the sixth mass extinction in the known history of life on earth.3 This mass extinction would be caused not by a natural catastrophe such as a meteor impact or by evolutionary changes such as the end of an ice age but by purposive human activity. According to leading environmental scientists there are nine “planetary boundaries” crucial to maintaining an earth system environment in which humans can exist, four of which are experiencing at this time the onset of irreversible environmental degradation and three of which (climate change, the nitrogen cycle, and biodiversity loss) are at “tipping points,” meaning that these processes have already crossed their planetary boundaries. ¶ 2. The magnitude of the means of violence and social control is unprecedented, as is the concentration of the means of global communication and symbolic production and circulation in the hands of a very few powerful groups. Computerised wars, drones, bunker-buster bombs, star wars, and so forth, have changed the face of warfare. Warfare has become normalised and sanitised for those not directly at the receiving end of armed aggression. At the same time we have arrived at the panoptical surveillance society and the age of thought control by those who control global flows of communication, images and symbolic production. The world of Edward Snowden is the world of George Orwell; *1984 has arrived;* ¶ 3. Capitalism is reaching apparent limits to its extensive expansion. There are no longer any new territories of significance that can be integrated into world capitalism, de-ruralisation is now well advanced, and the commodification of the countryside and of pre- and non-capitalist spaces has intensified, that is, converted in hot-house fashion into spaces of capital, so that *intensive* expansion is reaching depths never before seen. Capitalism must continually expand or collapse. How or where will it now expand? ¶ 4. There is the rise of a vast surplus population inhabiting a “planet of slums,”4 alienated from the productive economy, thrown into the margins, and subject to sophisticated systems of social control and to destruction - to a mortal cycle of dispossession-exploitation-exclusion. This includes prison-industrial and immigrant-detention complexes, omnipresent policing, militarised gentrification, and so on; ¶ 5. There is a disjuncture between a globalising economy and a nation-state based system of political authority. Transnational state apparatuses are incipient and have not been able to play the role of what social scientists refer to as a “hegemon,” or a leading nation-state that has enough power and authority to organise and stabilise the system. The spread of weapons of mass destruction and the unprecedented militarisation of social life and conflict across the globe makes it hard to imagine that the system can come under any stable political authority that assures its reproduction. ¶ Global Police State ¶ How have social and political forces worldwide responded to crisis? The crisis has resulted in a rapid political polarisation in global society. Both right and left-wing forces are ascendant. Three responses seem to be in dispute. ¶ One is what we could call “reformism from above.” This elite reformism is aimed at stabilising the system, at saving the system from itself and from more radical re- sponses from below. Nonetheless, in the years following the 2008 collapse of the global financial system it seems these reformers are unable (or unwilling) to prevail over the power of transnational financial capital. A second response is popular, grassroots and leftist resistance from below. As social and political conflict escalates around the world there appears to be a mounting global revolt. While such resistance appears insurgent in the wake of 2008 it is spread very unevenly across countries and regions and facing many problems and challenges. ¶ Yet another response is that I term *21st century fascism*.5 The ultra-right is an insurgent force in many countries. In broad strokes, this project seeks to fuse reactionary political power with transnational capital and to organise a mass base among historically privileged sectors of the global working class – such as white workers in the North and middle layers in the South – that are now experiencing heightened insecurity and the specter of downward mobility. It involves militarism, extreme masculinisation, homophobia, racism and racist mobilisations, including the search for scapegoats, such as immigrant workers and, in the West, Muslims. Twenty-first century fascism evokes mystifying ideologies, often involving race/culture supremacy and xenophobia, embracing an idealised and mythical past. Neo-fascist culture normalises and glamorises warfare and social violence, indeed, generates a fascination with domination that is portrayed even as heroic.

#### ALSO, AN INDEPENT ALT

Foster & Pedregal 20

(John Bellamy Foster & Alejandro Pedregal, “The Return of Nature and Marx’s Ecology”, https://monthlyreview.org/2020/12/01/the-return-of-nature-and-marxs-ecology/

JBF: Marx’s ecology is a starting point and a set of foundations, not an end point. It is in Marx’s thought above all that we find the foundations of the critique of political economy that was also a critique of capitalism’s ecological depredations. This was no accident, since Marx dialectically presented the labor process as the social metabolism (the mediation) of nature and society. In Marx, capitalism, in alienating the labor process, also alienated the metabolism between humanity and nature, thereby generating a metabolic rift. Marx took this to its logical conclusions, arguing that no one owns the earth, not even all the people in all the countries of the world own the earth, that they simply have the responsibility to care for it and, if possible, improve it for the chain of future generations as good heads of the household. He defined socialism as the rational regulation of the metabolism of humanity and nature, so as to conserve as much as possible on energy and promote full human development. There is nothing in conventional or even left green theory—however much capitalism may be questioned in part—that has this unity between ecological and economic critique, or as comprehensive a historical synthesis. Consequently, in our planetary emergency, ecosocialism has come to rest inevitably on Marx’s foundational conception. The environmental movement, if it is to matter at all, has to be ecosocialist.

But, of course, I would not have written *The Return of Nature*, which focuses on the century following Marx and Darwin’s deaths, if socialist ecology simply began and ended with Marx. It is crucial to understand how socialist dialectical, materialist, and ecological perspectives developed from the late nineteenth to the late twentieth century in order to grasp the historical theory and practice that feeds into today’s struggles. Our task now is not simply to linger on the past, but to pull all of this together to engage with the challenges and burdens of our historical time. Marx serves to demonstrate the essential one-ness of our political-economic-ecological contradictions and their basis in the present alienated social and ecological order. This helps us unmask the contradictions of the present. But to carry out the necessary change, we need to do so with an eye to how the past informs the present and allows us to envision necessary revolutionary action.

The purpose of Marxian ecological thought is not merely to understand our present social and ecological contradictions, but to transcend them. Given that humanity is facing greater dangers than ever before and is on a runaway capitalist train headed over the cliff, this has to be our chief concern. Facing up to the planetary ecological emergency means we must be more revolutionary than ever before, and not be afraid to raise the question of altering society, as Marx said, “from top to bottom,” starting from where we are. The piecemeal and reformist approach of most environmentalism, which puts faith in the market and technology, while making its peace in large part with the prevailing system, with its unceasing, totalizing ecological destruction, will not work, even in the short run. There is now more than a century of socialist critique of the ecological contradictions of capitalism, which has enormous theoretical power and points to a different philosophy of praxis. In our current growing recognition that there is no choice but to leave capitalism’s burning house, we need the deeper theoretical understanding of human, social, and ecological possibility, of freedom as necessity, offered by ecological Marxism. As Doris Lessing, who appears briefly in *The Return of Nature*, stated in her introduction to *The Golden Notebook*: “Marxism looks at things as a whole and in relation to each other.” This is the revolutionary capacity we most need today.

#### Exploitation of Nature Tied to Capitalist Labor Practices

Foster & Pedregal 20

(John Bellamy Foster & Alejandro Pedregal, “The Return of Nature and Marx’s Ecology”, https://monthlyreview.org/2020/12/01/the-return-of-nature-and-marxs-ecology/

The important thing about Marx’s ecological critique is that it is unified with his political-economic critique of capitalism. Indeed, it can be argued that neither makes any sense without the other. Marx’s critique of exchange value under capitalism has no significance outside of his critique of use value, which related to natural-material conditions. The materialist conception of history has no meaning unless it is seen in relation to the materialist conception of nature. The alienation of labor cannot be seen apart from the alienation of nature. The exploitation of nature is based on capital’s expropriation of the “free gifts of nature.” Marx’s very definition of human beings as the self-mediating beings of nature, as István Mészáros explained in *Marx’s Theory of Alienation*, is based on a conception of the labor process as the *metabolism of human beings and nature*. Science as a means of enhancing the exploitation of labor can’t be separated from science conceived as the domination of nature. Marx’s notion of social metabolism cannot be divided off from the question of the metabolic rift. And so on. These things were not actually separated in Marx, but were removed from each other by later left thinkers, who generally ignored ecological questions, or who employed idealist, mechanist, or dualist perspectives and thus robbed the critique of political economy of its real material basis.

#### Independently they ruin a political revolution by pacifying women—gives them a little more wagrs or a little more health care but still

# Case Turn

#### Feminist critique of the state and emphasis on empowerment dovetails perfectly with neoliberal ethos – turns the entire case since neoliberalism advances exploitive, heiararchial social relations

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As a feminist, I've always assumed that by fighting to emancipate women I was building a better world – more egalitarian, just and free. But lately I've begun to worry that ideals pioneered by feminists are serving quite different ends. I worry, specifically, that our critique of sexism is now supplying the justification for new forms of inequality and exploitation.

In a cruel twist of fate, I fear that the movement for women's liberation has become entangled in a dangerous liaison with neoliberal efforts to build a free-market society. That would explain how it came to pass that feminist ideas that once formed part of a radical worldview are increasingly expressed in individualist terms. Where feminists once criticised a society that promoted careerism, they now advise women to "lean in". A movement that once prioritised social solidarity now celebrates female entrepreneurs. A perspective that once valorised "care" and interdependence now encourages individual advancement and meritocracy.

What lies behind this shift is a sea-change in the character of capitalism. The state-managed capitalism of the postwar era has given way to a new form of capitalism – "disorganised", globalising, neoliberal. Second-wave feminism emerged as a critique of the first but has become the handmaiden of the second.

With the benefit of hindsight, we can now see that the movement for women's liberation pointed simultaneously to two different possible futures. In a first scenario, it prefigured a world in which gender emancipation went hand in hand with participatory democracy and social solidarity; in a second, it promised a new form of liberalism, able to grant women as well as men the goods of individual autonomy, increased choice, and meritocratic advancement. Second-wave feminism was in this sense ambivalent. Compatible with either of two different visions of society, it was susceptible to two different historical elaborations.

As I see it, feminism's ambivalence has been resolved in recent years in favour of the second, liberal-individualist scenario – but not because we were passive victims of neoliberal seductions. On the contrary, we ourselves contributed three important ideas to this development.

One contribution was our critique of the "family wage": the ideal of a male breadwinner-female homemaker family that was central to state-organised capitalism. Feminist criticism of that ideal now serves to legitimate "flexible capitalism". After all, this form of capitalism relies heavily on women's waged labour, especially low-waged work in service and manufacturing, performed not only by young single women but also by married women and women with children; not by only racialised women, but by women of virtually all nationalities and ethnicities. As women have poured into labour markets around the globe, state-organised capitalism's ideal of the family wage is being replaced by the newer, more modern norm – apparently sanctioned by feminism – of the two-earner family.

Never mind that the reality that underlies the new ideal is depressed wage levels, decreased job security, declining living standards, a steep rise in the number of hours worked for wages per household, exacerbation of the double shift – now often a triple or quadruple shift – and a rise in poverty, increasingly concentrated in female-headed households. Neoliberalism turns a sow's ear into a silk purse by elaborating a narrative of female empowerment. Invoking the feminist critique of the family wage to justify exploitation, it harnesses the dream of women's emancipation to the engine of capital accumulation.

Feminism has also made a second contribution to the neoliberal ethos. In the era of state-organised capitalism, we rightly criticised a constricted political vision that was so intently focused on class inequality that it could not see such "non-economic" injustices as domestic violence, sexual assault and reproductive oppression. Rejecting "economism" and politicising "the personal", feminists broadened the political agenda to challenge status hierarchies premised on cultural constructions of gender difference. The result should have been to expand the struggle for justice to encompass both culture and economics. But the actual result was a one-sided focus on "gender identity" at the expense of bread and butter issues. Worse still, the feminist turn to identity politics dovetailed all too neatly with a rising neoliberalism that wanted nothing more than to repress all memory of social equality. In effect, we absolutised the critique of cultural sexism at precisely the moment when circumstances required redoubled attention to the critique of political economy.

Finally, feminism contributed a third idea to neoliberalism: the critique of welfare-state paternalism. Undeniably progressive in the era of state-organised capitalism, that critique has since converged with neoliberalism's war on "the nanny state" and its more recent cynical embrace of NGOs. A telling example is "microcredit", the programme of small bank loans to poor women in the global south. Cast as an empowering, bottom-up alternative to the top-down, bureaucratic red tape of state projects, microcredit is touted as the feminist antidote for women's poverty and subjection. What has been missed, however, is a disturbing coincidence: microcredit has burgeoned just as states have abandoned macro-structural efforts to fight poverty, efforts that small-scale lending cannot possibly replace. In this case too, then, a feminist idea has been recuperated by neoliberalism. A perspective aimed originally at democratising state power in order to empower citizens is now used to legitimise marketisation and state retrenchment.

In all these cases, feminism's ambivalence has been resolved in favour of (neo)liberal individualism. But the other, solidaristic scenario may still be alive. The current crisis affords the chance to pick up its thread once more, reconnecting the dream of women's liberation with the vision of a solidary society. To that end, feminists need to break off our dangerous liaison with neoliberalism and reclaim our three "contributions" for our own ends.

#### AND They can never truly solve because they reinforce a system of oppression—at best they allow women to have the same wage as men but they are still not earning the true fruits of their labor and continue to be oppressed

# Strikes Fail

#### Strikes fail because companies suppress it

{Gordon **Lafer,** PHD, Jobs With Justice, 7-10-20**07**, "Neither Free Nor Fair – Jobs With Justice," https://www.jwj.org/neither-free-nor-fair//ZR}

Denial of free speech At the heart of American democracy is the principle that both voters and candidates must be guaranteed the right to free speech, including equal access to information from all sides of a political debate. But this most fundamental principle is ignored by the NLRB. While management is permitted to plaster the workplace with anti-union posters, leaflets, and banners, pro-union employees are prohibited from doing likewise. Union organizers are banned from ever entering the workplace – or even publicly-used but company-owned spaces such as parking lots – at any time, for any reason. Employees of the company are banned from talking about forming a union while they are on work time, and are banned from distributing pro-union information except when they are both on break time and in a break room. Management consultants typically advise employers on how to maximize the impact of these one-sided advantages, resulting in an election environment that more closely resembles the sham “elections” of one-party states than anything we would call American democracy. Economic coercion and intimidation When employers speak out, employees always listen carefully for even the subtlest hints as to what kind of behavior will be rewarded or punished. This is all the more true in an economy where so many Americans feel insecure about their economic future. For this reason, federal election law maintains a blanket prohibition on private companies telling their employees which candidate they should support. Even making more nuanced statements – such as suggestions that if one party or the other triumphs, business may suffer and workers may have to be laid off – is illegal under federal law. However, under standard “union avoidance” strategy, supervisors are forced, on pain of termination, to engage each of the people under them in intimidating one-on-one anti-union conversations. Workers commonly report illegal threats being made in these meetings, since there are no witnesses present. But even without illegal threats, supervisor one-on-one meetings undermine democracy. In these conversations, the person who has the most immediate control over your hiring and firing, promotion or demotion, scheduling, duties, hours, and all other aspects of your work life, explains why they believe so strongly that a union would be destructive to the workplace. Because such conversations are inherently coercive, they are completely banned in elections to Congress or the President. But what is prohibited in federal elections is standard practice under the NLRB and at the heart of employer’s anti-union campaigns. Ostracism and defamation of union supporters The NLRB allows employers to make almost any type of threatening or derogatory statement to employees, as long as it doesn’t contain an explicit quid pro quo threat. Workers who have earned their way to good standing with the company are often ostracized and belittled by management after publicly asserting their support for the union. In one example, a worker was followed to restaurants on days off by security guards with walkie-talkies. A member of management was assigned to work with her eight hours a day, five days a week, and was told he was there solely to work on her to change her ideas about unions. She was timed going to the bathroom. Other employers have referred to pro-union employees as “the enemy within,” publicly questioned their personal morality, or isolated them with heavy-handed and heavily-visible security forces. If we imagine a workplace where all Democrats or all Republicans were singled out for such treatment, we would correctly view such tactics as un-American. There is no such thing as a secret ballot under NLRB elections Much has been made about the importance of the secret ballot in NLRB elections. But, as this report documents, the NLRB safeguards the secret ballot in name only. The principle of the secret ballot in the American democratic tradition encompasses more than the fact of casting one’s ballot in a private booth on election day. More broadly, it is the principle that voters have the right to keep their political opinions to themselves, and that they cannot be forced to reveal which party they’re supporting before, during or after election day. But this principle has been eviscerated by the NLRB. Federal law allows anti-union managers to force individual employees into repeated, intimidating one-on-one conversations with their personal supervisors that are designed to make employees reveal their political leanings long before election day. “Union avoidance” consultants typically script supervisors’ conversations, train them how to read employees verbal and non-verbal reactions, and have them ask indirect questions without explicitly asking employees how they will vote. Supervisors often adopt a sophisticated grading system to mark the political tendencies of each of their subordinates; for those whose leanings are unclear, consultants require that supervisors go back for repeated conversations until employees’ political sentiments have been flushed to the surface. Unlike political elections, employee voters have no right to walk away from such conversations or to insist that they don’t want to discuss union-related issues with their supervisor. They can be forced to engage in such conversations daily, or multiple times a day, in an atmosphere of dramatically increasing pressure. Unsurprisingly, all but the most skilled actors end up revealing their union preferences in these conversations with supervisors. One management consultant recalls that he would commonly initiate a pool among managers, in which each supervisor would predict the number of anti-union votes, with a $100 prize for the closest guess. “It was amazing,” he reports. “In pool after pool the supervisors were astonishingly accurate.” To the extent that such tactics are effective, the technically secret ballot has ceased to provide any meaningful protection to voters subject to the intense scrutiny of those who control their work lives. Lack of meaningful enforcement results in pervasive lawlessness Because labor law lacks any punitive sanctions – no fines, no loss of license, no possibility of prison time – employers are free to break the law with near-total impunity. Over the period of 2000-05, there were an average of just over 19,000 charges filed per year alleging employer violations of federal labor law; of these, 40% – or 8,500 cases per year – presented sufficiently strong evidence that the Labor Board either issued a complaint or oversaw an informal settlement between the parties (NLRB complaints are the equivalent of criminal indictments, and both complaints and settlements represent cases in which the Board judges a charge to have merit). While both unions and employers violate the law, the vast majority of charges stem from employer behavior. In 2004, for example, 88.5 percent of all complaints issued by the Board, and over 90 percent of all cases tried in hearings of the full Board, addressed illegal behavior by employers. The most egregious form of illegal behavior is the firing, suspension, or demotion of employees. On average over the past 10 years, nearly 23,000 workers per year received backpay from employers after accusing them of violating labor law – and this only includes the cases adjudicated to the point that employers were forced to provide backpay to their victims.

# Cruel Optimism

#### Right to Strike Inherently Ineffective

Ahmed **White**, 20**18**, University of Colorado Law School https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=2369&context=articles

As this all played out, it left in its wake a right to strike, but one whose power consists almost entirely of the ability of workers to pressure employers by withholding labor, while also maybe publicizing the workers’ issues and bolstering their morale. But while publicity and morale are not irrelevant, in the end they are not effective weapons in their own right. Nor are they generally advanced when strikes are broken. Moreover, the withholding of labor, unless it could be managed on a very large scale—something the law also tends to prohibit by its restrictions on secondary boycotts, by barring sympathy strikes and general strikes—is inherently ineffective in all but a small number of cases where workers remain irreplaceable. Of course, striking in such a conventional way accords with liberal notions of property and social order; but precisely because of this it is simply not coercive enough to be effective. And it is bound to remain ineffective, particularly in a context where workers far outnumber decent jobs, where mechanization and automation have steadily eaten away at the centrality of skill, where the perils that employers face in the course of labor disputes are as impersonal as the risks to workers are not, where employers wield overwhelming advantages in wealth and power over workers, where the state’s machinery for enforcing property rights and social order have never been more potent—where, in fact, capital is capital and workers are workers.

#### Right to Strike is Fantasy that Keeps Workers from Achieving True Political Change

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From this perspective, the quest for an effective right to strike emerges as a fantasy—an appealing fantasy for many, but a fantasy no less, steeped in a misplaced and exaggerated faith in the law and a misreading of the class politics of modern liberalism. The campaign to resurrect such a right appears, too, not only as a dead-end and a distraction, but an undertaking that risks blinding those who support viable unionism and the interests of the working class to the more important and fundamental fact that liberalism and the legal system are, in the end, antithetical to a meaningful system of labor rights. It is for this reason that the call for an effective right to strike should be set aside in favor of more direct endorsement of militancy and a turn away from the law and instead towards a political program that might advance the interests of the working class regardless of what the law might hold.

#### Encouraging Workers To Improve Conditions Leads to Cruel Optimism, Prevents Meaningful Change

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To see insecurity at the heart of wage labor (rather than a condition of its absence) is to complicate the current denunciatory discourse of precarity. Critiques of precarity—whether explicitly or as another element of what Thorkelson (2016) describes as its political unconscious—uphold full‐time, wage‐labor employment as an ideal. One problem with this politics of precarity is that it ignores how wage labor can itself be an experience of insecurity, degradation, exploitation, and abuse. For example, Franco Barchiesi (2011) makes this argument through his study of wage labor as a technique of governance in both colonial and postcolonial South Africa. He shows how colonial administrators emphasized the “dignity of work” as a way to use wage labor to discipline African populations seen as “uncivilized” and “unruly.” Many African workers refused waged employment, instead opting for various forms of subsistence labor or self‐employment that, while insecure, allowed them to avoid the discipline and indignity experienced when working in factories and mines. In this historical context, Barchiesi argues, “precarious employment was not a condition of disadvantage but enabled opposition to the labor‐centered citizenship of Western modernity” (15). Barchiesi goes on to show how today, the continued emphasis on “decent jobs” and “job creation” in postapartheid South Africa fuels the precariousness of workers by continuing to link social citizenship to full‐time wage labor at the same time that stable employment is increasingly scarce (see also Barchiesi, 2012b). The emphasis on decent jobs also reinforces forms of masculinity, nationalism, and inequality that a social order structured around wage labor produced. In short, the demand for decent jobs, as a solution to precarity, generates a conservative politics attached to the valorization of wage labor. It also precludes the “political potentials of precarity” (Barchiesi, 2012b, 248) or what I have described elsewhere as the possibility that forms of work beyond wage labor might open up other ways of fashioning work and life (Millar, 2014).

This brings me back to the question that began this article: what are we holding onto through the ubiquitous, denunciatory discourse of precarity? One answer to this question is certainly wage labor. Or more precisely, many critiques of precarity remain attached to what Kathi Weeks (2011) has described as the taken‐for‐granted valorization of waged work as an economic necessity, social duty, and moral practice. This attachment to waged work is part of a broader response to precarity that has reaffirmed normative modes of life. For example, Lauren Berlant (2011) argues that conditions of precarity have led to deepened aspirations for and reinvestments in the normative good life—a stable job, middle‐class home, guaranteed rewards for hard work, and the promise of upward mobility. These forms of attachment, she suggests, paradoxically become obstacles to fulfilling the very desires that are wrapped up with the aspiration for a good life. This produces what Berlant calls a “relation of cruel optimism” (170).