## 1NC – Off

### 1NC – 1

#### The aff can't defend a subset of workers that have an unconditional right to strike recognized by the government.

Leslie 16 Leslie, Sarah-Jane [Sarah-Jane Leslie (Ph.D., Princeton, 2007) is the dean of the Graduate School and Class of 1943 Professor of Philosophy. She has previously served as the vice dean for faculty development in the Office of the Dean of the Faculty, director of the Program in Linguistics, and founding director of the Program in Cognitive Science at Princeton University. She is also affiliated faculty in the Department of Psychology, the University Center for Human Values, the Program in Gender and Sexuality Studies, and the Kahneman-Treisman Center for Behavioral Science and Public Policy], 4-24-2016, "Generic Generalizations (Stanford Encyclopedia of Philosophy)," <https://plato.stanford.edu/entries/generics/> SM

Isolating the Generic Interpretation Consider the following pairs of sentences: (1) a. Tigers are striped. b. Tigers are on the front lawn. (2) a. A tiger is striped. b. A tiger is on the front lawn. (3) a. The tiger is striped. b. The tiger is on the front lawn. The sentence pairs above are prima facie syntactically parallel—both are subject-predicate sentences whose subjects consist of the same common noun coupled with the same, or no, article. However, the interpretation of first sentence of each pair is intuitively quite different from the interpretation of the second sentence in the pair. In the second sentences, we are talking about some particular tigers: a group of tigers in (1b), some individual tiger in (2b), and some unique salient or familiar tiger in (3b)—a beloved pet, perhaps. In the first sentences, however, we are saying something general. There is/are no particular tiger or tigers that we are talking about. The second sentences of the pairs receive what is called an existential interpretation. The hallmark of the existential interpretation of a sentence containing a bare plural or an indefinite singular is that it may be paraphrased with “some” with little or no change in meaning; hence the terminology “existential reading”. The application of the term “existential interpretation” is perhaps less appropriate when applied to the definite singular, but it is intended there to cover interpretation of the definite singular as referring to a unique contextually salient/familiar particular individual, not to a kind. There are some tests that are helpful in distinguishing these two readings. For example, the existential interpretation is upward entailing, meaning that the statement will always remain true if we replace the subject term with a more inclusive term. Consider our examples above. In (1b), we can replace “tiger” with “animal” salva veritate, but in (1a) we cannot. If “tigers are on the lawn” is true, then “animals are on the lawn” must be true. However, “tigers are striped” is true, yet “animals are striped” is false. (1a) does not entail that animals are striped, but (1b) entails that animals are on the front lawn (Lawler 1973; Laca 1990; Krifka et al. 1995). Another test concerns whether we can insert an adverb of quantification with minimal change of meaning (Krifka et al. 1995). For example, inserting “usually” in the sentences in (1a) (e.g., “tigers are usually striped”) produces only a small change in meaning, while inserting “usually” in (1b) dramatically alters the meaning of the sentence (e.g., “tigers are usually on the front lawn”). (For generics such as “mosquitoes carry malaria”, the adverb “sometimes” is perhaps better used than “usually” to mark off the generic reading.) 1.2 Stage Level and Individual Level Predicates Having distinguished two quite different meanings of these seemingly similar sentence pairs, the question arises: what is the basis of these two interpretations? This is of course a matter of debate, but one important thesis is that it is the predicate that determines which of the two readings the subject will receive, particularly in the case of bare plural generics. In his 1977 dissertation, Greg Carlson argued that the distinction between “stage level” and “individual level” predicates is key here, and proposed that stage level predications give rise to existential readings of bare plurals and indefinite singulars, while individual level ones give rise to generic readings. The distinction between the two types of predicates can be drawn intuitively, and also on the basis of linguistic patterns (Milsark 1974; Carlson 1977; Stump 1985). Semantically, individual level predicates express properties that normally are had by items for quite extended periods, often comprising the items’ whole existence. Stage-level predicates, on the other hand, express properties normally had by items for relatively short time intervals. Some examples of both types are as follows: Individual level predicates “is tall”; “is intelligent”; “knows French”; “is a mammal”; “is female”; “is a singer”; “loves Bob”; “hates Bob” Stage level predicates “is drunk”; “is barking”; “is speaking French”; “is taking an exam”; “is sober”; “is sick”, “is sitting”; “is on the lawn”, “is in the room”. Clearly the semantic distinction is not hard and fast: a teetotaler may be sober for the entire course of his existence, and the chronically ill may be sick for the entire course of theirs, and Alice in Wonderland is tall at some times but short at others. In the normal course of affairs, individual level predicates express more stable and less temporally intermittent properties than stage level ones do. The distinction also manifests itself linguistically. Stage level predicates are permissible in the following constructions, while individual level ones are not: (4) John saw Bill drunk/sober/sick/naked. (5) John saw Bill speaking French/taking an exam/smoking cigarettes. (6) John saw Bill on the lawn/in the room. (7) \*John saw Bill intelligent/tall/a mammal/male. (8) \*John saw Bill knowing French/hating Bob. There-insertion constructions behave similarly: (9) There are men drunk/sober/sick/naked. (10) There are men speaking French/taking an exam/smoking cigarettes. (11) There are men on the lawn/in the room. (12) \*There are men intelligent/tall/mammals/male. (13) \*There are men knowing French/hating Bob. Stage level predicates can be modified by locatives, while individual level ones cannot: (14) John is drunk/speaking French/smoking in 1879 Hall. (15) \*John is a mammal/intelligent/male in 1879 Hall. (16) \*John knows French/hates Bob in 1879 Hall. Carlson noted the difference in syntactic behavior between individual and stage level predicates, and proposed that the distinction between the classes of predicates underlies the distinction between existential and generic readings of bare plurals: (17) Students are drunk/speaking French/on the lawn. (existential) (18) Students are intelligent/mammals/tall/male. (generic) (19) Students know French/hate Bob. (generic) Stage level predicates appear to give rise to the existential reading of bare plurals, while individual level ones give rise to generic readings. Carlson also took the distinction to underwrite the difference between existential and generic readings of the indefinite singular:

#### It applies to “workers” – 1] upward entailment test – “governments ought to recognize the right of workers to strike” doesn’t entail that governments ought to recognize the right of everybody to strike since it doesn’t make sense for unemployed people to strike, 2] adverb test – adding “usually” to the res doesn’t change the meaning because “unconditionally" means no matter what

**B] Violation –**

#### C] Vote neg—

#### 1] Semantics outweigh --

#### A] Topicality is a constitutive rule of the activity and a basic aff burden, they agreed to debate the topic when they came to the tournament

#### B] It’s the only stasis point we know before the round so it controls the internal link to engagement, and there’s no way to use ground if debaters aren’t prepared to defend it.

#### 2] Limits: **You can spec in any sector like climate, tech, manufacturing, healthcare almost every sector has experienced strikes. There’s no universal DA since if you spec a hyper specific sector it won’t have any impact on the economy. That explodes neg prep burdens and kills engagement – even if generics solve, it’s a horrible model that leads to the same stale debates.**

#### D] Paradigm Issues –

#### 1] T is DTD – their abusive advocacy skewed the debate from the start

#### 2] Comes before 1AR theory -- A] If we had to be abusive it’s because it was impossible to engage their aff B] T outweighs on scope because their abuse affected every speech that came after the 1AC C] Topic norms outweigh on urgency – we only have a few months to set them

#### 3] Use competing interps on T – A] topicality is a yes/no question, you can’t be reasonably topical B] reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation

#### 4] No RVIs – A] Forcing the 1NC to go all in on the shell kills substance education and neg strat B] discourages checking real abuse C] Encourages baiting – outweighs because if the shell is frivolous, they can beat it quickly

### 1NC – 2

#### Capitalism is a system engendering massive violence and inevitable extinction – the foundational task is to find a way out – the Role of the Ballot is to endorse the best organizational tactics.

Badiou ‘18

[Alain, former chair of philosophy at the Ecole Normale Superiure, professor of philosophy at The European Graduate School. Translated by David Broder. 07/30/2018. “The Neolithic, Capitalism, and Communism,” <https://www.versobooks.com/blogs/3948-the-neolithic-capitalism-and-communism>] pat

Today, it has become commonplace to predict the end of the human race such as we know it. There are various reasons for such forecasts. According to a messianic kind of environmentalism, the excessive predations of a beastly humanity will soon bring about the end of life on Earth. Meanwhile, those who instead point to runaway technological advances prophesy, indiscriminately, the automation of all work by robots, grand developments in computing, automatically-generated art, plastic-coated killers, and the dangers of a super-human intelligence.

Suddenly, we see the emergence of threatening categories like transhumanism and the post-human — or, their mirror image, a return to our animal state — depending on whether one prophesies on the basis of technological innovation or laments all the attacks on Mother Nature.

For me, all such prophesies are just so much ideological noise, intended to obscure the real peril that humanity is today exposed to: that is to say, the impasse that globalised capitalism is leading us into. In fact, it is this form of society — and it alone — which permits the destructive exploitation of natural resources, precisely because it connects this exploitation to the boundless quest for private profit. The fact that so many species are endangered, that climate change cannot be controlled, that water is becoming like some rare treasure, is all a by-product of the merciless competition among billionaire predators. There is no other reason for the fact that scientific innovation is subject to the question of what technologies can sell, in an anarchic selection mechanism.

Environmentalist preaching does sometimes use persuasive descriptions of what is going on — despite the exaggerations typical of the prophet. But most of the time this becomes mere propaganda, useful for those states who want to show their friendly face. Just as it is for the multinationals who would have us believe — to the greater benefit of their balance sheets — in the noble, fraternal, natural purity of the commodities they are trafficking.

The fetishism of technology, and the unbroken series of "revolutions" in this domain — of which the "digital revolution" is the most in vogue — has constantly spread the beliefs both that this will take us to the paradise of a world without work — with robots to serve us, and us left to idle — and then, on the other hand, that digital "thought" will crush the human intellect. Today there is not one magazine that does not inform its astonished readers of the imminent "victory" of artificial over natural intelligence. But in most cases neither "nature" nor the "artificial" are properly or clearly defined.

Since the origins of philosophy, the question of the real scope of the word "nature" has been constantly posed. "Nature" could mean the romantic reverie of evening sunsets, the atomic materialism of Lucretius (De natura rerum), the inner being of things, Spinoza’s Totality (Deus sive Natura), the objective underside of all culture, rural and peasant surroundings as counterposed to the suspicious artificiality of the towns ("the earth does not lie," as Marshal Pétain put it), biology as distinct from physics, cosmology as compared to the tiny location that is our planet, the invariance of centuries as compared to the frenzy of innovation, natural sexuality as compared to perversion… I am afraid that today "nature" most of all refers to the calm of the villa and the garden, the charm wild animals have for tourists, and the beach or the mountains where we can spend a nice summer. Who, then, can imagine man responsible for nature, when thus far he has just been a thinking flea on a secondary planet in an average solar system at the edge of one banal galaxy?

Since its origins philosophy has also devoted a great deal of thought to Technology, or the Arts. The Greeks meditated on the dialectic of Techne and Physis — a dialectic within which they situated the human animal. They laid the ground for this animal to be seen as "a reed, the weakest of nature, but … a thinking reed." For Pascal, this meant that humanity was stronger than Nature and closer to God. A long time ago, they saw that the animal capable of mathematics would do great things to the order of materiality.

Are these "robots" which they keep banging on about anything more than calculation in the form of a machine? Digits in motion? We know that they can count quicker than us, but it was we who invented them, precisely in order to fulfil this task. It would be stupid to look at a crane raising a concrete pillar up to some great height, use this to argue that man is incapable of the same feat, and then conclude by saying that some muscular, superhuman giant has emerged… Lightning-quick counting is not the sign of an insuperable "intelligence" either. Technological transhumanism plays the same old tune — an inexhaustible theme of horror and sci-fi movies — of the creator overwhelmed by his own creation. It does so either thrilled about the advent of the superman — something we have been expecting ever since Nietzsche — or fearing him and taking refuge under the skirt of Gaia, Mother Nature.

Let’s put things in a bit more perspective.

For four or five millennia, humanity has been organised by the triad of private property — which concentrates enormous wealth in the hands of very narrow oligarchies; the family, in which fortunes are transmitted via inheritance; and the state, which protects both property and the family by armed force. This triad defined our species’ Neolithic age, and we are still at this point — we could even say, now more than ever. Capitalism is the contemporary form of the Neolithic. Its enslavement of technology in the interests of competition, profit and concentrating capital only raises to their fullest extension the monstrous inequalities, the social absurdities, the murderous wars, and the damaging ideologies that have always accompanied the deployment of new technology under the reign of class hierarchy throughout history.

We should be clear that technological inventions were the preliminary conditions of the arrival of the Neolithic age, and by no means its result. If we consider our species’ fate, we see that sedentary agriculture, the domestication of cattle and horses, pottery, bronze, metallic weapons, writing, nationalities, monumental architecture, and the monotheist religions are inventions at least as important as the airplane or the smartphone. Throughout history, whatever has been human has always, by definition, been artificial. If that had not existed, there would not have been Neolithic humanity — the humanity we know — but a permanent close proximity with animal life; something which did indeed exist, in the form of small nomadic groups, for around 200,000 years.

A fearful and obscurantist primitivism has its roots in the fallacious concept of "primitive communism." Today we can see this cult of the ancient societies in which babies, men, women and the elderly supposedly lived in fraternity, without anything artificial, and indeed lived in common with the mice, the frogs, and the bears. Ultimately, all this is nothing but ridiculous reactionary propaganda. For everything suggests that the societies in question were extremely violent. After all, even their most basic survival needs were constantly under threat.

To speak fearfully of the victory of the artificial over the nature, of robot over man, is today an untenable regression, something truly absurd. It is easy enough to answer such fears, such prophesies. For judged by this standard, even a simple axe, or a domesticated horse, not to mention a papyrus covered in symbols, is an exemplary case of the post- or trans-human. Even an abacus allows quicker calculation than the fingers of the human hand.

Today we need neither a return to primitivism, or fear of the "ravages" the advent of technology might bring. Nor is there any use in morbid fascination for the science-fiction of all-conquering robots. The urgent task we face is the methodical search for a way out of the Neolithic order. This latter has lasted for millennia, valuing only competition and hierarchy and tolerating the poverty of billions of human beings. It must be surpassed at all cost. Except, that is, the cost of the high-tech wars so well known to the Neolithic age, in the lineage of the wars of 1914-1918 and 1939-1945, with their tens of millions of dead. And this time it could be a lot more.

The problem is not technology, or nature. The problem is how to organise societies at a global scale. We need to posit that a non-Neolithic way of organising society is possible. This means no private ownership of that which ought to be held in common, namely the production of all the necessities of human life. It means no inherited power or concentration of wealth. No separate state to protect oligarchies. No hierarchical division of labour. No nations, and no closed and hostile identities. A collective organisation of everything that is in the collective interest.

All this has a name, indeed a fine one: communism. Capitalism is but the final phase of the restrictions that the Neolithic form of society has imposed on human life. It is the final stage of the Neolithic. Humanity, that fine animal, must make one last push to break out of a condition in which 5,000 years of inventions served a handful of people. For almost two centuries — since Marx, anyway — we have known that we have to begin the new age. An age of technologies incredible for all of us, of tasks distributed equally among all of us, of the sharing of everything, and education that affirms the genius of all. May this new communism everywhere and on every question stand up against the morbid survival of capitalism. This capitalism, this seeming "modernity," represents a Neolithic world that has in fact been going on for five millennia. And that means that it is old — far too old.

#### History proves an effective right to strike is impossible in liberal capitalist society – courts will water it down and workers will be replaced – but its justification relies on the same tropes of property protection that will be used to delegitimize worker militancy.

White ‘18

[Ahmed, University of Colorado Law School. 2018. “Its Own Dubious Battle: The Impossible Defense of an Effective Right to Strike,” <https://scholar.law.colorado.edu/articles/1261/>] pat

Like every other aspect of Taft-Hartley, the 1947 amendments to the Wagner Act that directly touched on mass picketing and other forms of strike militancy were strongly supported by the business community, including prominent employers and business associations like the National Association of Manufactures, the American Iron and Steel Institute, and the U.S. Chamber of Commerce. Promoted by these groups, witness after witness regaled the Congress with stories of how mass picketing, along with secondary boycotts and other militant tactics, gave unions too much power, eroded the power of owners and their supervisors, and threatened the American way. Time and again, senators and representatives expressed their support for new restrictions on the right to strike as mandates of a common faith, a commitment of the nation itself, to the principles of property and order. “They are a veritable pronouncement of contempt of law and order, private capitalism, and ownership of property, competition, and everything that even smacks of liberty,” said Ohio Representative Frederick Smith, speaking of NLRB positions that seemed to continence an expansive view of the right to strike. “He has been required to employ or reinstate individuals who have assaulted him and his employees and want only to destroy his property,” said New York Representative Ralph Gwinn, in defense of employers supposedly ravaged by such strikes. Under prevailing law, such employers endured “respectable robbery without liability,” Gwinn said.

We in America prize human individual liberty even above the state. We believe that property rights are natural to man. The best protection of those property rights and of that liberty is in the balancing of the rights of our workers and the rights of our businessmen so that the great majority of our citizens will enjoy that private property and that human liberty,

said Representative Charles Kersten of Wisconsin, condemning mass picketing of the sort that had recently featured at the Allis-Chalmers plants in his state. Consider, too, the remarks of Representative John Robsion of Kentucky:

There have been cases in this country where literally thousands of persons have picketed a plant and engaged in violence. In my honest opinion, labor nor management never did help its cause by engaging in lawlessness, violence, and the destruction of the property of others, and under this bill and the law the company cannot mistreat, browbeat and engage in violence and lawlessness against the workers.

Nor was it only conservatives who joined in this, as evidenced by remarks of Utah Senator Elbert Thomas, who had supported the New Deal and the work of the La Follette Committee, on which he had served, and who had joined with Robert La Follette Jr. in 1939 in sponsoring a pro-labor amendment to the Wagner Act. For a worker, he said,

to interpret his right to strike as being an absolute right, entitling him to quit work while the water is turned on in the plant, for leaving in a mine certain equipment in such a way as to result in costly destruction, would obviously be most improper. No person has a right to do such things. No one has a right to act against society. No one has a right to destroy it.

And so it went, the references to the inviolate values of property and order in defense of the legislation much too numerous to exhaustively cite. It is easy to dismiss these contentions, even from moderates like Thomas, as the contrived utterances of people who were singularly committed to advancing their narrow class and political interests. To some extent, they surely were that. But these views were hardly outside the mainstream of American politics, particularly among elites, broad swathes of the middle class, and important elements of the working class. Indeed, they comported very conveniently with commonplace views about the virtues of property and order and resonated with what much of the public believed at the time—this is what made them so resonant. And whether contrived or not, they performed an important function. By invoking the virtues of property and order in this way, these Congressmen and the witnesses before them who favored restricting mass picketing and other forms of coercive protest were conspicuously able to couch this position as something other than a malicious attack on the “legitimate” rights of labor. Instead, theirs was a mission to realign the labor law with fundamental American values, to save it from those who had allowed labor policies and the habits of union to stray beyond this field. In this way they were able to deflect, if not disprove, the all-too-apt contention by the legislation’s opponents, repeated many times in the process, that what Taft-Hartley was really about was elevating property rights over human rights.

Added proof that strike militancy was actually indefensible can be found in the fact that no scholars would justify it, not even mass picketing—at least not beyond the point at which it became coercive, which was of course the very point at which it was employed in an effective way. In the wake of the Memorial Day Massacre, most all the major papers sided with the police, declaring the strikers enemies of public order who brought the violence upon themselves. Initially, this stance was premised on distorted readings of the events of that day that charged the strikers with various acts of provocation. But even when the La Follette Committee publicized a Paramount Pictures newsreel (which the company had suppressed) and unearthed other evidence that proved that most all of the blame for what happened that day rested on the police, most of the papers still adhered to this reading of the events.

This attitude toward mass picketing was a centerpiece of revived interest in the right to strike in the major papers, one that extended from the mid 1930s into the 1940s and exceeded the surge in interest of the late 1910s and early 1920s. In 1941, for instance, the New York Herald Tribune described pending legislative attempts to limit mass picketing as “too thoroughly justified to require argument.” In 1946 the New York Times summoned up the rhetoric used to condemn the sitdown trikes and declared mass picketing a “seizure” that was “by its very nature illegal because it infringes both individual and property rights.” Conservative though he was, newspaperman David Lawrence, founder of U.S. News and World Report, spoke for many when he declared mass picketing an act of “violence” by which unionists were seeking to take the law into their own hands. In fact, Lawrence’s judgement that mass picketing was an affront to civil liberties aligned with that of the American Civil Liberties Union, long a champion of labor rights, which, as the New York Times was keen to note, also condemned the tactic in these terms.

Such views fit with a broader tendency to criticize the right to strike as being too aggressively employed by unionists and too generously construed by the courts and the NLRB. In the decade between the validation of the Wagner and the passage of Taft-Hartley, newspapers gave voice to a criticism of mass picketing and other erstwhile excessive forms of strike behavior, one that typically described the Wagner Act as having gone too far in protecting workers’ prerogatives to protest. A typical example of the content and tenor of these pieces is a 1941 editorial in the Chicago Daily Tribune:

“The right to strike” is now used frequently to mean the right of union leaders to force men who don’t want to strike to do so. It is used to justify the seizure of industries and the blockading of factories by mass picketing to prevent the entrance of workers who are satisfied with their working conditions and the movement of goods in and out of the plants. “The right to strike” in this sense means not only that every strike is right but that every measure which may be adopted to win a strike is right.

In fact, at this crucial moment it was common for elites of all stripes to claim that they supported the right to strike and yet to assert that it was being abused by unionists who insisted on winning every labor dispute and using coercive and disorderly methods to do so. In 1946, Hebert Hoover, who might well have denied just such a thing fifteen years earlier, inveighed that “Nobody denies that there is a ‘right’ to strike”; but that right, he said, had been abused to the detriment of the public interest. Although considerably more liberal than Hoover, Walter Lippmann, the extremely popular political commentator, offered a similar judgement about a railroad strike that same year, concluding “we must henceforth refuse to regard the right to strike as universal and absolute, and as one of the inalienable rights of man.” Also writing in 1946, Henry Ford II, whose father had used a small army of thugs and toughs to enforce the open shop at his plants and bitterly fought unionization until 1941, now purported at once to support the right to strike—and to believe that it should be limited. “There is no longer any question of the right of organized workers to strike, but that right,” he said, “is being misused.”

Like Taft-Hartley’s supporters in Congress, figures like Hoover, Lippmann, and Ford did not trouble themselves to confess that such tactics as they so blithely condemned might actually be necessary to counterbalance the power of employers and give life and meaning to a statute that did not take adequate account of this basic reality, let alone that they were essential in establishing the idea that workers enjoyed any enforceable right to strike. But they did not have to, either; for they honestly did not believe that labor should generally prevail. Liberal or conservative, it did not matter; these were capitalists in a capitalist society, contented, consistent with their values, with a right to strike that went little further than a right to withhold one’s labor. To be sure, these were not the views of ordinary people. But the public’s perspective did not seem to vary all that much from those of elites. Although overall approval of union membership as measured in Gallup surveys slipped noticeably after 1937, it remained quite high—well above fifty percent right through the 1940s. Nevertheless, Gallup surveys taken in June 1937, after the big wave of sit-strikes had waned noticeably, but while mass picketing and overall levels of labor militancy remained high, revealed that fifty-seven percent supported the proposition that the militia should “be called out whenever strike trouble threatens.”

As with the sit-down strikes, too, the status of mass picketing and other forms of strike militancy can also be gauged by the way these tactics were defended. During the hearings on Taft-Hartley, only a few labor leaders stood against the torrent of criticism of these practices by businessmen, conservative unionists, and congressmen and senators, and tried to parry the move to prohibit the strikes. With only a couple of exceptions, most of them consistently qualified their defense of these tactics by downplaying their coercive qualities—again the very thing that made them so effective in the first place—while also describing them as expedients, presumably temporary, that were justified by the unreasonable stances of some employers.

While the political motivations and implications of this campaign against these forms of strike militancy might be as dubious as the attacks on the sit-down strikes, their value in expressing dominant political judgments concerning these tactics is not. Repeatedly, it was taken for granted that workers could not be allowed to excessively coerce their fellow workers, that they should be obliged to adhere to their contractual obligations, that they did not own the streets or the workplace, and that whatever the right to strike was, it was surely, as Brandeis had insisted, not an absolute right. Of course, all of this was controversial for many unionists. But unionists were almost the only ones to really push back against these measures. Even President Harry Truman’s dramatic veto of Taft-Hartley is widely regarded as a political move taken with the expectation that Congress would override the veto anyway. It is also notable that despite dedicating itself to this aim, the labor movement has never come close to repealing the Taft-Hartley Act, or even securing the enactment of favorable amendments to any of its provisions.

And then there is the replacement worker doctrine where, if anything, the change in the law even more clearly reflected the depth and power of liberal norms. For the rule established in Mackay Radio came out of the blue. It was set forth in a case which required no such question to be resolved, in a manner that drew no support from the text of the Wagner Act, and on the basis of legislative history that was ambiguous at best. Worse, as Getman points out, the rule is in direct conflict with the very statutory principle of barring discrimination on the basis of a worker’s assertion of the basic labor rights laid out in § 7 that it was, itself, supposedly derived from.

As an exercise in statutory construction and administration, Mackay Radio makes no sense; but as a defense of property rights it makes all the sense in the world. One way to see this is to consider what would have happened had the Court decided the matter in a fundamentally different way. If employers were barred from replacing economic strikers, it seems likely that strikes would have proliferated to an extraordinary extent, as workers could at least plausibly have expected to be able to strike under a broad array of circumstances and yet be restored to their jobs no matter the outcome. But precisely because such a doctrine would have given workers so much power, Congress would almost certainly have stepped in with its own rule, codifying employers’ right to permanently replace striking workers and bringing this to an end. Ultimately, it is difficult to imagine a much more liberal alternative to the Mackay Radio rule surviving for very long—a point that also draws support from labor’s failure to repeal the rule in Congress in the early 1990s.

A simple exercise in counterfactual speculation bears similar fruit in regard to other, more basic, limitations on the right to strike, including those imposed relative to sit-down strikes, mass picketing, and secondary boycotts. Shrill and self-interested though it was, all the testimony from employers and their allies during the hearings on Taft-Hartley or Landrum-Griffin about the perils posed by these tactics, was fundamentally correct. For were workers able to make unfettered use of sit-down strikes, mass picketing, and general strikes and sympathy walkouts, they could have very much challenged the sovereignty of capitalists in and about the workplace, and with this the bedrock institutions and norms of liberal society. As Jim Pope puts it, Charles Evans Hughes’ opinion in Fansteel established the maxim that “the employer could violate the workers’ statutory rights without sacrificing its property rights, while the workers could not violate the employer’s property rights without sacrificing their statutory rights.” This is unquestionably true. But equally unquestionable is that neither this court nor any other important arbiter of legal rights in this country was ever prepared to endorse the contrary view that property rights might be sufficiently subordinate to labor rights as to justify the kinds of tactics by which workers could routinely defeat powerful employers on the fields of industrial conflict.

Significantly, there is no reason to believe that any of this has changed or is poised to change today. Quite the contrary: In a culture and political system more immersed than ever in the veneration of order and control, mediated by criminal law and police work, by the celebration of property rights, and by a readiness to punish violence, it is all but unthinkable that the courts or the NLRB would deign to give legal sanction to workers to engage in any sustained way in the kinds of tactics that might make going on strike a worthwhile thing to do.

#### Capitalist climate reforms can’t solve warming – it’s way too slow and doesn’t challenge the imperial structure of production that drives ecological devastation.

Escalante ‘19

[Alyson, Marxist-Leninist, masters in philosophy @ University of Oregon. 03/26/2019. “Communism and Climate Change: A Dual Power Approach,” <https://regenerationmag.org/communism-and-climate-change-a-dual-power-approach/>] pat

One of the most pressing of the various crises which humanity faces today is climate change. Capitalist production has devastated the planet, and everyday we discover that the small window of time for avoiding its most disastrous effects is shorter than previously understood. The Intergovernmental Panel on Climate Change predicts that we have twelve years to limit (not even prevent) the more catastrophic effects of climate change. The simple, and horrific, fact that we all must face is that climate change has reached a point where many of its effects are inevitable, and we are now in a post-brink world, where damage control is the primary concern. The question is not whether we can escape a future of climate change, but whether we can survive it. Socialist strategy must adapt accordingly.

In the face of this crisis, the democratic socialists and social democrats in the United States have largely settled on market-based reforms. The Green New Deal, championed by Representative Alexandria Ocasio-Cortez and the left-wing of the Democratic Party, remains a thoroughly capitalist solution to a capitalist problem. The proposal does nothing to challenge capitalism itself but rather seeks to subsidize market solutions to reorient the US energy infrastructure towards renewable energy production, to develop less energy consuming transportation, and the development of public investment towards these ends.

The plan does nothing to call into question the profit incentives and endless resource consumption of capitalism which led us to this point. Rather, it seeks to reorient the relentless market forces of capitalism towards slightly less destructive technological developments. While the plan would lead to a massive investment in the manufacturing and deployment of solar energy infrastructure, National Geographic reports that “Fabricating [solar] panels requires caustic chemicals such as sodium hydroxide and hydrofluoric acid, and the process uses water as well as electricity, the production of which emits greenhouse gases.” Technology alone cannot sufficiently combat this crisis, as the production of such technology through capitalist manufacturing infrastructure only perpetuates environmental harm. Furthermore, subsidizing and incentivizing renewable energy stops far short of actually combating the fossil fuel industry driving the current climate crisis.

The technocratic market solutions offered in the Green New Deal fail to adequately combat the driving factors of climate change. What is worse, they rely on a violent imperialist global system in order to produce their technological solutions. The development of high-tech energy infrastructure and the development of low or zero emission transportation requires the import of raw material and rare earth minerals which the US can only access because of the imperial division of the Global South. This imperial division of the world requires constant militarism from the imperial core nations, and as Lenin demonstrates in Imperialism: The Highest Stage of Capitalism, facilitates constant warfare as imperial states compete for spheres of influence in order to facilitate cheap resource extraction. The US military, one of many imperialist forces, is the single largest user of petroleum, and one of its main functions is to ensure oil access for the US. Without challenging this imperialist division of the world and the role of the US military in upholding it, the Green New Deal fails even further to challenge the underlying causes of climate change.

Even with the failed promises of the Green New Deal itself, it is unlikely that this tepid market proposal will pass at all. Nancy Pelosi and other lead Democrats have largely condemned it and consider it “impractical” and “unfeasible.” This dismissal is crucial because it reveals the total inability of capitalism to resolve this crisis. If the center-left party in the heart of the imperial core sees even milquetoast capitalist reforms as a step too far, we ought to have very little hope that a reformist solution will present itself within the ever-shrinking twelve-year time frame.

#### Vote neg to join the party – dual power organizing is the only path to revolutionary change.

Escalante ‘18

[Alyson, philosophy at U of Oregon. 08/24/2018. “Against Electoralism, For Dual Power!” <https://theforgenews.org/2018/08/24/against-electoralism-for-dual-power/>] pat

I am sure that at this point, the opportunists reading this have already begun to type out their typical objection: the world is different than it was in 1917, and the conditions of the United States in no way echo the conditions which enabled the Bolsheviks to achieve revolutionary success.

To this tried and true objection, there is one simple answer: you are entirely correct, and that is why we need to abandon electoralism and working within the bourgeois state.

What were the conditions which allowed the Bolsheviks to successfully revolt? The conditions were that of Dual Power. Alongside the capitalist state, there existed a whole set of institutions and councils which met the needs of the workers. The soviets, a parallel socialist government made up of individual councils, successfully took over many governmental responsibilities in some parts of Petrograd. In the radical Viborg district, the Bolshevik controlled soviets provided government services like mail, alongside programs that could meet the needs of workers. When a far right coup was attempted against the provisional government, it was troops loyal to the Bolshevik factions within the soviet who repelled the coup plotters, proving concretely to the workers of Petrograd that the socialists could not only provide for their needs, but also for their defense.

In short: the Bolsheviks recognized that instead of integrating into the bourgeois state, they could operate outside of it to build dual power. They could establish programs of elected representatives who would serve the workers. They would not bolster the capitalist state in the name of socialism, they would offer an alternative to it.

And so, when the time came for revolt, the masses were already to loyal to the Bolsheviks. The only party who had never compromised, who had denounced the unpopular imperialist wars, who had rejected the provisional government entirely, was the party who successfully gained the support of the workers.

And so, many of us on the more radical fringes of the socialist movement wonder why it is the the DSA and other socialist opportunists seem to think that we can win by bolstering the capitalist state? We wonder, given this powerful historical precedent, why they devote their energy to getting more Ocasios elected; what good does one more left democrat who will abandon the workers do for us?

The answer we receive in return is always the same: we want to win small changes that will make life for the workers easier; we want to protect food stamps and healthcare.

And do this, we reply: what makes you think reformism is the only way to do this. When the bourgeois state in California was happy to let black children go to school unfed, the Black Panthers didn’t rally around democratic candidates, they became militant and fed the children themselves. In the 40s and 50s, socialists in New York saw people going without healthcare and instead of rallying behind democratic candidates, they built the IWO to provide healthcare directly. Both these groups took up our pressing revolutionary task: building dual power.

Imagine if all those hours the DSA poured into electing Ocasio were instead used to feed the people of New York, to provide them with medical care, to ensure their needs were met. Imagine the masses seeing socialism not as a pipe dream we might achieve through electing more imperialists, but as a concrete movement which is currently meeting their needs?

The fact is, we are not nearly ready for revolution. Socialists in the United States have failed to meet the needs of the people, and as long as their only concrete interaction with the masses is handing them a voter registration form, they will continue to fail the people. Our task now is not to elect representatives to advocate for the people; it is much more gruelingly laborious than that. Our task is to serve the people. Our task is to build dual power.

The movement to do this is underway. Members of the DSA refoundation caucus have begun to move the left of the DSA in this direct, socialist groups like Philly Socialists have begun to build dual power through GED programs and tenants unions, many branches of the Party For Socialism and Liberation have begun to feed the people and provide for their concrete needs, and Red Guard collectives in Los Angeles have built serve the people programs and taken on a stance of militant resistance to gentrification. The movement is growing, its time is coming, and dual power is achievable within our life time.

The opportunists are, in a sense, correct. We are not where we were in 1917, but we can begin to move in that direction and dual power can take us there. In order to achieve dual power we have to recognize that Lenin was right: there will be no socialist gains by working within state institutions designed to crush socialism. Furthermore, we must recognize that the strategies of the electoral opportunists trade off with dual power. Electing candidates drains resources, time, and energy away from actually serving the people.

And so, we should commit to undertake the difficult and dangerous task of building dual power. We must reject opportunism, we must name the democratic party as our enemy, we must rally around power directly in the hands of the socialist movement. We do not have a parallel system of soviets in the United States. We can change that. Someday the cry “all power to the soviets” will be heard again. Lets make it happen.