## 1

### Extra T

#### Interp and violation – recognize means to acknowledge. Any further governmental action by the aff is extra t

Merriam Webster ND Merriam Webster, “recognize”, <https://www.merriam-webster.com/dictionary/recognize> DD AG

: to acknowledge formally: such as

a: to admit as being lord or sovereign

b: to admit as being of a particular status

c: to admit as being one entitled to be heard : give the floor to

d: to acknowledge the de facto existence or the independence of

#### Standards

#### 1] Limits and ground – Affs that don’t defend legal protections for strikes justify infinite affs that fiat anything from aid for strikes to a white house statement that gain offense off perception and explode neg prep burden. Independently decks core neg ground because the aff is barely a shift from the squo and we lose DA links.

#### 2] Precision – by not using recognize, they shift the goalposts and justify arbitrarily jettisoning words in the rez or shifting words like recognize to concede – best case they’re totally non topical, worst case, they’re extra t for specifying beyond the bounds of the rez

#### Topicality should be a voting issue evaluated through competing interpretations—reasonability invites arbitrary judge intervention that takes the debate out of the hands of the debaters. Pre-round prep has already been skewed which means the only remedy is to drop the debater.

## 2

#### The right to strike is a dangerous fantasy antithetical to any effective deployment of labor power

White 18 – Ahmed White (Nicholas Rosenbaum Professor of Law, University of Colorado-Boulder), Its Own Dubious Battle: The Impossible Defense of an Effective Right to Strike, 2018, 2018 Wis. L. Rev. 1065 https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=2369&context=articles WJ

One of the most important statutes ever enacted, the National Labor Relations Act envisaged the right to strike as the centerpiece of a system of labor law whose central aims included dramatically diminishing the pervasive exploitation and steep inequality that are endemic to modern capitalism. These goals have never been more relevant. But they have proved difficult to realize via the labor law, in large part because an effective right to strike has long been elusive, undermined by courts, Congress, the NLRB, and powerful elements of the business community. Recognizing this, labor scholars have made the restoration of the right to strike a cornerstone of labor law scholarship. Authorities in the field have developed an impressive literature that stresses the importance of strikes and strongly criticizes the arguments that judges, legislators, and others have used to justify their degradation of the right to strike. But this literature has developed without its authors ever answering a fundamental question, which is whether an effective right to strike is a viable aspiration in the first place. This Article takes up this question. It documents the crucial role that strikes have played in building the labor movement, legitimating the labor law itself, and indeed validating the New Deal and, with this, the modern administrative state; and it confirms the integral role that strikes play in contesting the corrosive power capitalism accords employers over the workplace and the spoils of production. But this Article also shows how the strikes that were effective in these crucial ways were not conventional strikes, limited to the simple withholding of labor and the advertisement of workers’ grievances. Instead, they inevitably embraced disorderly, coercive tactics like mass picketing and sit-down strikes to a degree that suggests that tactics such as these are indeed essential if strikes are to be effective. Yet strikes that have featured these tactics have never enjoyed any legitimacy beyond the ranks of labor, radical activists, and academic sympathizers. Their inherent affronts to property and public order place them well beyond the purview of what could ever constitute a viable legal right in liberal society; and they have been treated accordingly by courts, Congress, and other elite authorities. From this vantage, it becomes clear that an effective right to strike is not only an impossible distraction but a dangerous fantasy that prevents labor’s champions from confronting the broader, sobering truths that this country’s legal and political system are, at root, anathema to a truly viable system of labor rights and that labor’s salvation must be sought elsewhere.

#### Their approach results in elitist and top-down unionism -- it legitimizes the judicial state and crushes movements

Walchuk 11 -- Brad Walchuk (York University, Canada), Union Democracy and Labour Rights: A Cautionary Tale, Global Labour Journal Vol. 2 No. 2: May 2011, https://mulpress.mcmaster.ca/globallabour/article/view/1099 WJ

Despite a wealth of literature that is critical of constructing labour rights as human rights and the accompanying judicialized strategy required to achieve this, the discussion of the effects of such a strategy on the capacity building and mobilization of the labour movement’s grassroots, rank-and- file members has been downplayed. Consequently, this essay seeks to fill the void and analyze in considerable detail the long-term effects of rights-based strategy on rank-and-file activism. Although some discussion of the effects of rights-based strategy on rank-and-file democracy has occurred, it has been done largely in passing and with evidence that is non-existent or, at best, anecdotal. For example, Joseph McCartin, in contrasting the rise of pre-war unionism based on industrial democracy and contemporary unionism based on rights-discourse, maintains that ‘...the [pre-war] demand for industrial democracy helped counter the tendency of unions to follow the “iron law of oligarchy...”’ adding that ‘it is [now] difficult to imagine how rights talk can foster this democratic spirit’ (McCartin 2005: 64). Viewed in this light, a union renewal strategy based upon constructing labour rights as human rights privileges a bureaucratic form of unionism, thus shifting the emphasis from democratic rank-and-file activism to top-down leader-driven unionism. As a result, it is suggested that unions will succumb to the iron law of oligarchy by relying too heavily on rights- based strategy.1

Similarly, in a cautioning account of the effects of the rise of rights discourse within the labour movement, Nelson Lichtenstein argues that ‘the spread of employee rights has suffered through its necessary dependence upon professional, governmental expertise’ (Lichtenstein 2003: 71). For labour rights to be actualized, rank-and-file workers are forced to rely on union bureaucrats – especially labour lawyers – as opposed to their own active participation. ‘Rights consciousness’, he continues, ‘...transfers authority into the hands of another body...to sort out the various claims and strike the approximate balance’ (Lichtenstein 2003: 71). While rights-discourse may lead to meaningful ends for rank-and-file workers, the means used to achieve those ends do little to foster a sense of activism amongst workers or to facilitate their capacity building. Lichtenstein aptly concludes that ‘justice is served, but not always democratic participation’ (2003: 71).

While McCartin and Lichenstein draw important conclusions regarding the effects of constructing labour rights as human rights on democratic rank-and-file participation, they do so only in passing as part of a broader normative argument regarding the limitations associated with rights discourse. Furthermore, they cite no evidence of labour rights campaigns adversely affecting rank-and-file activism and instead present broad generalizations of what they expect to happen under such a construction. While there is considerable merit to their conclusions, they are weakened by sole presence of normative assertions and the absence of empirical evidence. However, the use of both a typology of trade unionism and a concrete case study of a labour-backed, rights-based campaign will strengthen the claim that constructing labour rights as human rights prevents the development of a form a more radical, grassroots, rank-and-file led social movement unionism and instead facilitates the proliferation of more hierarchical, elite dominated forms of trade unionism.

#### **Demands for recognition from the judiciary produce exclusion from and cooption by whiteness. Their requests cede and reinforce fascist state power.**

Weheliye 14 Alexander Weheliye, Professor of African American Studies at Northwestern University, 2014, “Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human”

Nevertheless, the benefits accrued through the juridical acknowledgment of racialized subjects as fully human often exacts a steep entry price, because inclusion hinges on accepting the codification of personhood as property, which is, in turn, based on the comparative distinction between groups, as in one of the best-known court cases in U.S. history: the Dred Scott case. In 1857, the Supreme Court invalidated Dred Scott’s habeas corpus, since, as an escaped slave, Scott could not be a legal person. According to Chief Jus- tice Taney: “Dred Scott is not a citizen of the State of Missouri, as alleged in his declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves.”8 In order to justify withdrawing Dred Scott’s legal right to ownership of self, Chief Justice Taney’s opinion in the decision contrasts the status of black subjects with the legal position of Native Americans vis- à-vis the possibility of U.S. citizenship and personhood: “The situation of [the negro] population was altogether unlike that of the Indian race. These Indian Governments were regarded and treated as foreign Governments. . . . [Indians] may, without doubt, like the subjects of any other foreign Govern- ment, be naturalized . . . and become citizens of a State, and of the United States; and if an individual should leave his nation or tribe, and take up his abode among the white population, he would be entitled to all the rights and privileges which would belong to an emigrant from any other foreign peo- ple.”9 While slaves were not accorded the status of being humans that be- longed to a different nation, Indians could theoretically overcome their law- ful foreignness, but only if they renounced previous forms of personhood and citizenship. Hence, the tabula rasa of whiteness—which all groups but blacks can access—serves as the prerequisite for the law’s magical tran- substantiation of a thing to be possessed into a property-owning subject.10 The judge’s comparison underscores the dangers of ceding definitions of personhood to the law and of comparing different forms of political subjugation, since hypothetical Indian personhood in the law rests on at- taining whiteness and the violent denial of said status to black subjects. Additionally, while the court conceded limited capabilities of personhood to indigenous subjects if they chose to convert to whiteness, it did not pre- vent the U.S. government from instituting various genocidal measures to ensure that American Indians would become white and therefore no lon- ger exist as Indians. In other words, the legal conception of personhood comes with a steep price, as in this instance where being seemingly granted rights laid the groundwork for the U.S. government’s genocidal policies against Native Americans, since the “racialization of indigenous peoples, especially through the use of blood quantum classification, in particular follows . . . ‘genocidal logic,’ rather than simply a logic of subordination or discrimination,” and as a result “whiteness constitutes a project of dis- appearance for Native peoples rather than signifying privilege.”11 Begin- ning in the nineteenth century the U.S. government instituted a program in which Native American children were forcibly removed from their fami- lies and placed in Christian day and boarding schools, and which sought to civilize children by “killing the Indian to save the man,” representing one of the most significant examples of the violent and legal enforced assimi- lation of Native Americans into U.S. whiteness.12 Though there is no clear causal relationship between Taney’s arguments in the Scott decision and the boarding school initiative, both establish that legal personhood is available to indigenous subjects only if the Indian can be killed—either literally or figuratively—in order to save the world of Man (in this case settler colo- nialism and white supremacy). Furthermore, the denial of personhood qua whiteness to African American subjects does not stand in opposition to the genocidal wages of whiteness bequeathed to indigenous subjects but rather represents different properties of the same racializing juridical assemblage that differentially produces both black and native subjects as aberrations from Man and thus not-quite-human. The writ of habeas corpus—and the law more generally—anoints those individualized subjects who are deemed deserving with bodies even while this assemblage continually enlists new and/or different groups to exclude, banish, or exterminate from the world of Man. In the end, the law, whether bound by national borders or spanning the globe, establishes an international division of humanity, which grants previously excluded subjects limited access to personhood as property at the same time as it fortifies the supremacy of Man.13

#### The alternative refuses rights discourse in favor of militant political power – only our approach can harness the forces behind 20th century unionism and ensure democratic protection

McCartin 11 -- Joseph A. McCartin (Georgetown University), Probing the Limits of Rights Discourse in the Obama Era: A Crossroads for Labor and Liberalism, International Labor and Working-Class History, No. 80 (Fall 2011), pp. 148-160, https://www.jstor.org/stable/41307197?seq=1 WJ

I have argued elsewhere that the struggle for industrial democracy played a more salutary role in organizing progressive forces to address the labor question in the early twentieth century than a rights-based formulation of the labor problem would have been able to do. By privileging the ideal of majority rule rather than workers' rights, the concept of industrial democracy provided a powerful counterweight to the individualism which was so deeply rooted in both the culture and the judicial system; by helping reformers articulate the linkages between the workplace and the state, it helped them make the case for the necessity of reform in both arenas of power; and by positing the enhancement of democracy as a central goal of labor relations, it lent encouragement to workers who sought to make their unions more democratic. Industrial democracy was, moreover, a malleable concept, open to appropriation by radicals, reformers, and pure-and-simple trade unionists alike. That framework was not without its own flaws: The majoritarian biases of the industrial democracy ideal proved unsuitable to the task of rooting out systemic discrimination against women and racial minorities. However, despite these limitations the ideal of industrial democracy functioned extraordinarily well during its heyday as a concept around which liberals and labor could pull in harness to their mutual advantage.35 If the liberals and labor activists of the early twentieth century did not depend upon rights-based arguments, there is no reason why their present-day heirs must depend so heavily upon them. Human rights appeals can and should continue to play an important role in the struggle for workers' empowerment, especially in international or transnational contexts.36 But both labor and today's progressives have much to gain by developing a framework that reaches beyond rights to articulate a vision that references to rights alone cannot evoke. What that vision is and how best to articulate it is not yet clear. Nor will we find it in the past. While industrial democracy worked well in its time, it was a product of distinctive circumstances and of a unique historical moment that is long gone: We cannot simply resurrect that dated ideal. But what we can do is learn from it and look for our own ways of articulating democratic aspirations, just as the demand for industrial democracy once did. We can also seek ways to link those aspirations with the growing desires for transparency, accountability, and sustainability that are making themselves felt across the political landscape in inchoate and sometimes contradictory ways, and with the abiding hunger for solidarity and community that acquisitive individualism has yet to extinguish - a hunger that rights-based appeals have never fully satisfied. To be sure, this moment marks a nadir, a time for crisis for both organized labor and its progressive allies. But it is also a moment of opportunity, a time to discard or revise timeworn frameworks and strategies, a time to begin anew. There is no guarantee that organized labor can find a way to surmount the obstacles it faces. But it would be folly to continue to employ strategies that are not working. The time has come to move beyond our over-reliance on the rights-based framework in search of a new vision whose full dimensions are still only dimly visible, but whose broad outlines our recent experience has begun to illuminate.

#### Labor scholarship must analyze the form of the law before its content

Dimick 19 – Matt Dimick teaches law at the University at Buffalo School of Law, Catalyst Journal vol 3 no 1, 2019, “Counterfeit Liberty”, https://catalyst-journal.com/2019/07/counterfeit-liberty WJ

Because of unions’ strong workplace presence but weak capacity for coordinating activity across workplaces, the regulation of labor relations was achieved by recourse to the law. This claim cuts directly against the thrust of a tradition of “critical” labor law. The story told by critical labor law scholars is of a potentially “anticapitalist” National Labor Relations Act that was “deradicalized” by conservative judges and narrow-minded intellectuals.41 In these approaches there is never any question whether the law should be used to regulate labor relations. Rather, the line of attack is to challenge the particular content of the labor law, not the form of regulation itself. Not only is this a mistake as a method of analysis but, as I will also demonstrate, it also commits an instrumentalist error about the nature of the law and the state within capitalism.

A content critique of law obscures the way that law does more than simply help or hinder the labor movement achieve various, specific objectives. As a form of social regulation, the law also allocates determinate material and ideological resources as a means to achieve these ends. These means threaten to substitute for the working class’s own material and ideological means of regulation. This would not be an issue if labor unions or other working-class organizations were merely means of achieving gains for workers. But they are not. Whatever their limitations, unions are moments in the process by which workers constitute themselves as a class. Thus, the law — not in its content, but as a form of social regulation — always presents the danger of undermining this process through mechanisms of dependency and displacement.

## Case

### Toplevel

#### The right to strike does nothing to companies who actually exploit workers—they just hire consultants and employ shady tactics

Lafer and Loustaunau 20-- Gordon Lafer [political economist and is a Professor at the University of Oregon] and Lola Loustaunau [assistant research fellow at the Labor Education and Research Center, University of Oregon]; Fear at work: An inside account of how employers threaten, intimidate, and harass workers to stop them from exercising their right to collective bargaining; July 23, 2020; Economic Policy Institute; <https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/>. (AG DebateDrills)

Even when employers obey the law, they rely on a set of tactics that are legal under the NLRA but illegal in elections for Congress, city council, or any other public office. A $340 million industry of “union avoidance” consultants helps employers exploit the weaknesses of federal labor law to deny workers the right to collective bargaining.17 Over the past five years, employers using union avoidance consultants have included FedEx, Bed Bath & Beyond, and LabCorp, among others. Table 1, reproduced from an EPI report published in late 2019, lists just a few of these employers, along with the reported financial investments they made to thwart union organizing during the specified years.18 These firms’ tactics lie at the core of explaining why so few American workers who want a union actually get one, and their success in blocking unionization efforts represents a significant contribution to the country’s ongoing crisis of economic inequality. The lack of a right of free speech enables coercion NLRB elections are fundamentally framed by one-sided control over communication, with no free-speech rights for workers. Under current law, employers may require workers to attend mass anti-union meetings as often as once a day (mandatory meetings at which the employer delivers anti-union messaging are dubbed “captive audience meetings” in labor law). Not only is the union not granted equal time, but pro-union employees may be required to attend on condition that they not ask questions; those who speak up despite this condition can be legally fired on the spot.19 The most recent data show that nearly 90% of employers force employees to attend such anti-union campaign rallies, with the average employer holding 10 such mandatory meetings during the course of an election campaign.20 In addition to group meetings, employers typically have supervisors talk one-on-one with each of their direct subordinates.21 In these conversations, the same person who controls one’s schedule, assigns job duties, approves vacation requests, grants raises, and has the power to terminate employees “at will” conveys how important it is that their underlings oppose unionization. As one longtime consultant explained, a supervisor’s message is especially powerful because “the warnings…come from…the people counted on for that good review and that weekly paycheck.”22 Within this lopsided campaign environment, the employer’s message typically focuses on a few key themes: unions will drive employers out of business, unions only care about extorting dues payments from workers, and unionization is futile because employees can’t make management do something it doesn’t want to do.23 Many of these arguments are highly deceptive or even mutually contradictory. For instance, the dues message stands in direct contradiction to management’s warnings that unions inevitably lead to strikes and unemployment. If a union were primarily interested in extracting dues money from workers, it would never risk a strike or bankruptcy, because no one pays dues when they are on strike or out of work. But in an atmosphere in which pro-union employees have [with] little effective right of reply, these messages may prove extremely powerful.

#### Turn: Today’s strikes rely on public support—legal strikes always incite social tensions among groups of different statuses—only illegal strikes have the potential to be successful and change minds

Reddy 21-- Diana S. Reddy [Diana Reddy is a Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law]; “There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy; Jan 6 2021; Yale Law Journal; <https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy>. (AG DebateDrills)

In recent years, consistent with this vision, there has been a shift in the kinds of strikes [are] workers and their organizations engage in—increasingly public-facing, engaged with the community, and capacious in their concerns.178 They have transcended the ostensible apoliticism of their forebearers in two ways, less voluntaristic and less economistic. They are less voluntaristic in that they seek to engage and mobilize the broader community in support of labor’s goals, and those goals often include community, if not state, action. They are less economistic in that they draw through lines between workplace-based economic issues and other forms of exploitation and subjugation that have been constructed as “political.” These strikes do not necessarily look like what strikes looked like fifty years ago, and they often skirt—or at times, flatly defy—legal rules. Yet, they have often been successful. Since 2012, tens of thousands of workers in the Fight for $15 movement have engaged in discourse-changing, public law-building strikes. They do not shut down production, and their primary targets are not direct employers. For these reasons, they push the boundaries of exiting labor law.179 Still, the risks appear to have been worth it. A 2018 report by the National Employment Law Center found that these strikes had helped twenty-two million low-wage workers win $68 billion in raises, a redistribution of wealth fourteen times greater than the value of the last federal minimum wage increase in 2007.180 They have demonstrated the power of strikes to do more than challenge employer behavior. As Kate Andrias has argued: [T]he Fight for $15 . . . reject[s] the notion that unions’ primary role is to negotiate traditional private collective bargaining agreements, with the state playing a neutral mediating and enforcing role. Instead, the movements are seeking to bargain in the public arena: they are engaging in social bargaining with the state on behalf of all workers.”181 In the so-called “red state” teacher strikes of 2018, more than a hundred thousand educators in West Virginia, Oklahoma, Arizona, and other states struck to challenge post-Great Recession austerity measures, which they argued hurt teachers and students, alike.182 These strikes were illegal; yet, no penalties were imposed.183 Rather, the strikes grew workers’ unions, won meaningful concessions from state governments, and built public support. As noted above, public-sector work stoppages are easier to conceive of as political, even under existing jurisprudential categories.184 But these strikes were political in the broader sense as well. Educators worked with parents and students to cultivate support, and they explained how their struggles were connected to the needs of those communities.185 Their power was not only in depriving schools of their labor power, but in making normative claims about the value of that labor to the community. Most recently, 2020 saw a flurry of work stoppages in support of the Black Lives Matter movement.186 These ranged from Minneapolis bus drivers’ refusal to transport protesters to jail, to Service Employees International Union’s Strike for Black Lives, to the NBA players’ wildcat strike.187 Some of these protests violated legal restrictions. The NBA players’ strike for instance, was inconsistent with a “no-strike” clause in their collective-bargaining agreement with the NBA.188 And it remains an open question in each case whether workers sought goals that were sufficiently job-related as to constitute protected activity.189 Whatever the conclusion under current law, however, striking workers demonstrated in fact the relationship between their workplaces and broader political concerns. The NBA players’ strike was resolved in part through an agreement that NBA arenas would be used as polling places and sites of civic engagement.190 Workers withheld their labor in order to insist that private capital be used for public, democratic purposes. And in refusing to transport arrested protestors to jail, Minneapolis bus drivers made claims about their vision for public transport. Collectively, all of these strikes have prompted debates within the labor movement about what a strike is, and what its role should be. These strikes are so outside the bounds of institutionalized categories that public data sources do not always reflect them.191 And there is, reportedly, a concern by some union leaders that these strikes do not look like the strikes of the mid-twentieth century. There has been a tendency to dismiss them.192 In response, Bill Fletcher Jr., the AFL-CIO’s first Black Education Director, has argued, “People, who wouldn’t call them strikes, aren’t looking at history.”193 Fletcher, Jr. analogizes these strikes to the tactics of the civil-rights movement. As Catherine Fisk and I recently argued, law has played an undertheorized role in constructing the labor movement and civil-rights movement as separate and apart from each other, by affording First Amendment protections to civil rights groups, who engage in “political” activity, that are denied to labor unions, engaging in “economic” activity.194 Labor unions who have strayed from the lawful parameters of protest have paid for it dearly.195 As such, it is no surprise that some unions are reluctant to embrace a broader vision of what the strike can be. Under current law, worker protest that defies acceptable legal parameters can destroy a union. Recasting the strike—and the work of unions more broadly—as political is risky. Samuel Gompers defended the AFL’s voluntarism and economism not as a matter of ideology but of pragmatism; he insisted that American workers were too divided to unite around any vision other than “more.”196 He did not want labor’s fortunes tied to the vicissitudes of party politics or to a state that he had experienced as protective of existing power structures. Now, perhaps more than ever, it is easy to understand the dangers of the “political” in a divided United States. Through seeking to be apolitical, labor took its work out of the realm of the debatable for decades; for this time, the idea that (some) workers should have (some form of) collective representation in the workplace verged on hegemonic. And yet, labor’s reluctance to engage in the “contest of ideas” has inhibited more than its cultivation of broader allies; it has inhibited its own organizing. If working people have no exposure to alternative visions of political economy or what workplace democracy entails, it is that much harder to convince them to join unions. Similarly, labor’s desire to organize around a decontextualized “economics” has always diminished its power (and moral authority), given that the economy is structured by race, gender, and other status inequalities—and always has been. During the Steel Strike of 1919, the steel companies relied on more than state repression to break the strike. They also exploited unions’ refusal to organize across the color line. Steel companies replaced striking white workers with Black workers.197 Black workers also sought “more.” But given their violent exclusion from many labor unions at the time, many believed they would not achieve it through white-led unions.198

#### Blindly introducing the right to strike always entrenches neoliberalism, guaranteeing its own fruitlessness and undermining the power of the working class, turning case—South Africa proves

Runciman 19-- Runciman, Carin [Associate Professor of Sociology at University of Johannesburg]. "The" Double-edged Sword" of Institutional Power: COSATU, Neo-liberalisation and the Right to Strike." Global Labour Journal 10.2 (2019). (AG DebateDrills)

The analysis presented in this article offers a challenge for the use of the PRA and the analysis of institutional power. By situating institutional power within an analysis of corporatism, I argue that institutional power develops further analytical utility, which is attentive to class forces. In addition to this, in the specificities of the South African context, corporatism also provides an avenue for understanding how the specific forms of institutional power that have been forged by COSATU are related to their political relationship to the ANC, thus providing a more comprehensive account of how institutional power has been shaped. The article not only considers what gives rise to institutional power but also how it has been strategically used. Understanding this requires a wider consideration of COSATU’s associational and structural power as well as its waning political influence. By analysing the 1995 LRA and the 2019 amendments this article is able to give some consideration as to [shows] how COSATU’s institutional power has unfolded through time. Rather than viewing the 1995 LRA as an unqualified victory, as is commonly the case within the literature (Adler and Webster, 1999), this article highlights how significant compromises within the 1995 LRA entrenched neo-liberalism in South Africa, the unintended consequences of which have served to undermine the power of trade unions and the working class overall. The analysis presented within this article demonstrates how neo-liberal restructuring in South Africa emerged hand-in-hand with corporatism. The 1995 LRA was the first and one of the most significant pieces of legislation to be enacted by the first democratic government. While it was undoubtedly a significant step forward for South African workers, particularly black South African workers, it also set out an explicitly neo-liberal path focused on “regulated flexibility” (Du Toit et al., 2003), an objective of both corporatism and neo-liberalism (Humphrys, 2018). While it could be argued that the compromises of the 1995 LRA were necessary in order to formally end the apartheid labour regime, this does not mean we should negate an understanding of COSATU’s agency in resisting the forces of neo-liberalism. As this article argues, COSATU made strategic choices about whom to organise, and in doing so chose to neglect some of the most vulnerable sections of the South African labour market. In the absence of organised labour, the number of precarious workers has grown considerably. While COSATU did utilise its institutional power to initiate reforms to the LRA to enhance protections for vulnerable workers, this has translated into little concrete organising of these workers. Indeed, if anything, the 2019 amendments illustrate that COSATU is willing to act against the interests of these workers in order to shore up its own structural, associational and institutional power.

### Advantage

#### Scholars are too quick to call for democracy’s impending doom and draw comparisons with autocracies—in fact, democracy is resilent and will remain strong for a long while in the squo

Hyde 20-- Hyde, Susan D. [Department Chair of Political Science at Berkeley with research interests in Elections, Electoral Violence, Field Experiments, Democracy Promotion, International Norms]; Saunders, Elizabeth N. (2020). Recapturing Regime Type in International Relations: Leaders, Institutions, and Agency Space. International Organization, (), 1–33. doi:10.1017/S0020818319000365. (AG DebateDrills)

Our framework—and the books and related work that inspired it—lead us to conclude that regime type is still a crucial concept in IR, and that the overarching picture from second-generation scholarship has reaffirmed, rather than rejected, its importance. The pendulum that swung toward domestic politics and particularly the distinctiveness of democracies after the Cold War has not swung back as far as some suggest. Regime type provides important structural constraints and bounds on state leaders and the degree to which political elites can strategically manipulate those constraints. Such manipulation may have important payoffs in particular issue areas, but crucially, it can also backfire. The costs and risks associated with strategic manipulation of domestic audiences suggest many avenues for future research. Beyond this research agenda, our review yields several important takeaways about the direction of research on regime type and international relations. First, while scholarship on what we call structural and strategic sources of leader-audience accountability is not new, few scholars [rarely] address[es] both. The connection between structural constraints and strategic behavior is important because it affects how much leaders can temporarily increase or decrease accountability before triggering more lasting institutional changes, and is essential to understanding regime type differences. It also influences the degree to which autocrats and democrats can move strategically against type, as when autocrats increase constraints and democrats increase insulation from domestic accountability. Even if an authoritarian state can sometimes generate democracy-like outcomes in the international arena, there is a ceiling on how constrained its leaders can be without causing instability or regime change. Second, our focus on the strategic sources of audience constraint highlights the limits of what better measures can do for understanding how regime type affects international behavior, despite improved measurement of both democracy and autocracy.101 The potential for states to behave in ways that lead to similar outcomes, and the difficulty in detecting and measuring the effects of strategic use of agency space, underscore that new and better measures of political institutions are not enough to assess democratic or autocratic distinctiveness on a given IR dependent variable. Leader incentives to emulate features of other regime types—incentives which themselves depend on international-level factors—may bias measures and represent a thorny problem for cross-national empirical work. Additionally, state leaders may seek to confound not only direct measures of regime type, but also data on economic performance, for both domestic and international audiences.102 As new insights from comparative authoritarianism move into IPE, this problem may be even more challenging because bias in self-reported indicators may be systematically related to regime type in ways that are difficult to document. Third, what of the democratic advantage? Our reading is that the tone of research on autocracies in IR is often too optimistic, while the tone of research on democracies is sometimes too gloomy. Even when autocrats decide to pay costs and reach a level of audience constraint accessible to democrats, it may not be a particularly large shift in international policy. For example, Vreeland argues that multiparty autocracies— which in our framework, have a higher default level of constraint than other autocracies—join institutions like the UN Convention Against Torture (CAT) precisely because it is a “relatively cheap concession” to interest groups that have some voice in domestic politics, and given the preferences of Western powers and NGOs, might bring some international benefits.103 But these autocratic CAT joiners continue to torture post-ratification. Likewise, some recent research on how democracies fare in the international arena can seem overly pessimistic. Some pessimism is natural given that many findings point either to similar outcomes across regime type or a smaller democratic advantage. And the news is not all good for democracies. For example, Bastiaens and Rudra show that democracies are less well-equipped to deal with the “revenue shock” resulting from a loss of trade taxes under globalization.104 As we discuss here, democratic distinctiveness does not always translate into democratic advantage, or even preferable foreign policy choices. But other assessments would benefit from more clarity on exactly how costs manifest for democratic leaders to take advantage of agency space. When do democratic institutions provide leaders with flexibility to take advantage of agency space in different ways? How do democratic institutions withstand repeated attempts to manipulate constraint? Finally, renewed attention to system-level effects on domestic institutions suggests that domestic politics and international politics remain inseparable. These effects include the “hegemonic shocks” Gunitsky highlights, which directly affect the costs and benefits of certain domestic institutions; international pressure that incentivizes states to adopt democratic forms; and international market forces like capital abundance or scarcity that change the degree to which regime type matters. Democracy may no longer pay quite so much as it did in the post-Cold War era of US hegemony. But if this era ushers in more similarity in international behavior across regime type, we should not conclude that similarity in domestic accountability necessarily reflects reduced influence of domestic politics. The works reviewed here remind us that regime type will remain a rich area of scholarship in IR for the foreseeable future. We paint a picture of democratic flexibility, with democratic leaders taking advantage of agency space more readily or with lower risks—leading to foreign policy outcomes that are sometimes, though not always, beneficial.