# Prison Strikes AC

## Part 1: The Court

#### **[Guinier & Torres] RACISM IS RAMPANT, AND DEBATE’S A PLACE TO CHALLENGE IT –** rounds are practice for real world engagement of political problems.

Guinier & Torres: Guinier, Lani [Bennett Boskey Professor of Law, Harvard Law School] and Gerald Torres [Professor of Environmental Justice at the Yale School of the Environment]. “The Miner’s Canary, Enlisting Race, Resisting Power, Transforming Democracy.” Harvard University Press,2002. CV/CH

An individual in isolation cannot constitute or define the meaning of a political space. Only when individuals freely join together to resist and transform the forces of conventional power which named them as part of¶ a group in the first place can the possibilities emerge for generating new¶ forms of collective and democratic struggle. Those intermediate spaces defined by this reconceptualization of post-postmodern power offer the¶ opportunity for individuals to share their stories and construct relationships that reinforce a more systemic and critical social understanding. The effort to expand our readings of race and power beyond strictly win/lose outcomes is not explanatory as much as it is motivational. It describes, from the inside out, what it feels like to experience the joy of human solidarity when mobilized to generate new and unexpected outcomes. Thus, political race builds from inside the lived experience of a marginalized community and uses that experience as an imperfect but valuable lens through which to view and possibly enhance an individual’s political status. The lens on that experience can be stretched and even reshaped when human beings join together to engage in diagnosing and organizing through the multi-step process that we imagine. When and if it is¶ acknowledged, groups may move from this vantage point to join with others in free spaces of participatory democracy that resist authority and challenge the status quo. As we illustrate in Chapters 5 and 6, these free spaces are usually outside the formal public sphere of legislative decision-making; they are also¶ not the same as the public sphere of communitarian literature. They are instead intermediate or in-between places in which a marginalized group can share their experiences without interference from the dominant¶ group.6 The interstices are practice fields or training sessions for an eventual engagement with various hierarchical sources of power. They are laboratories¶ as well as launching pads.

#### [ROJ] Thus, the Role of the Judge is to Promote Anti-Racist Education in the Debate Space, meaning they must make this a place to confront that issue.

#### [Torres] And anti-racist education is uniquely key now – it’s the only way to address the problem.

Torres: Torres, Christina. [8th grade English teacher in Honolulu, Hawaii] “All Students Need Anti-Racism Education.” Tolerance.org, July 30, 2020. CH

As more and more teachers, administrators, schools and organizations are questioning their practices and looking at the racist history of their institutions, many are finally asking, “How we can listen to and support Black students, teachers and communities who have been systemically silenced for too long?” This question is essential, and examining anti-Blackness in our practice is something we all must be looking at. Looking at anti-Blackness or inequities brought about by systems rooted in white supremacy and racism is something all students should be doing. While more institutions, including primarily or historically white ones, are committing to this work, white teachers with primarily white students can feel hesitant to discuss these issues since they may not feel it affects them. This idea is a fundamental misunderstanding of what anti-racist work actually is. Anti-racist work means acknowledging that racist beliefs and structures are pervasive in all aspects of our lives—from education to housing to climate change—and then actively doing work to tear down those beliefs and structures. Those beliefs and structures don’t just exist in primarily white/and or privileged institutions—they thrive there. Schools that house mostly students and teachers who have benefited from white privilege can lack the perspective to push back on institutional malpractice or racist mindsets that may be present. In addition, it is difficult to convince those with power and privilege to give those privileges up without clear education and work to understand why doing so is a necessity for true justice in our society. Doing the work in spaces of privilege may look different, but educators cannot pretend that anti-racist work doesn’t exist simply because their student body isn’t directly harmed by racism. There are clear aims that primarily white and otherwise privileged institutions must work toward in the fight against racism. Teachers must re-evaluate their curriculum. When teaching standards and core curricula have been developed for your students, it’s easy to simply follow along. However, it’s important to remember that our education system has been founded on historically racist practices, including silencing those from disenfranchised communities. It’s not just BIPOC who need to see themselves in the literature or history they study. White students need to hear those perspectives as well, just as straight and cisgender students need to read LGBTQ+ stories. This is because students need not just mirrors but also windows into other cultures, as Dr. Rudine Sims Bishop notes in her essay “Mirrors, Windows and Sliding Glass Doors.” Students from communities with white privilege need to hear voices from other perspectives in order to grow their own thinking. Those perspectives need to be diverse and empowering as well—only showing Black suffering or slavery does not begin to break down problematic beliefs about Black people. Instead, students coming from positions of power need to see and understand the power and agency of those who have been historically disenfranchised, particularly since society frequently tells them otherwise. This will allow white students and teachers to have a more accurate and nuanced understanding of our history, while also ensuring they can center BIPOC voices and be allies and accomplices instead of “saviors.” Students need to understand privilege and rethink power. Students from privileged communities can struggle to understand privilege since they may feel that they have had to work hard or struggle at times in their lives. Teachers must help students understand how privilege works at a systemic level that may have given students an edge that, while it may be one they didn’t ask for, is still very real. The work does not stop there, though. It can be easy in teaching privilege to fall into the trap of “white guilt” or “privilege guilt” (or even “survivor guilt” for BIPOC who have moved up socioeconomically and have internalized the belief that their communities were something to be “survived”). While guilt can be an important emotion to notice and process, educators should help students move through it to a place of action. Beyond “feeling bad” about generations of oppression, how can they use this knowledge to advocate for change and begin breaking down their own racist beliefs? How can they also reframe their understandings of privilege so that they stop prioritizing hegemonic ideas of success and worth? Some of that will mean teaching students to analyze and reframe how they see values and stories from other cultures. Most of us were taught to praise white-dominant cultural ideas: financial success, rugged individualism, paternalism. Because of this, cultures with different priorities may not be seen as “successful” or “valuable” in our eyes and in the eyes of our students. We need to teach students with privilege not to be “saviors” for historically disenfranchised communities, but rather to listen to, value and stand in kinship with them so we can work together toward justice. Schools must interrogate their practices and how they gained institutional privilege to begin with.

#### [ROB] The Role of the Ballot is to Endorse the Best Anti-Racist Resistance Strategy. That means we weigh the round based on whose advocacy better combats racism – NOT as a footnote to some big stick extinction scenario that directs the discussion elsewhere, but as a terminal impact in itself.

## Part 2: Behind the Wall

#### [Davis et al] The prisoner industrial complex, or PIC, is a continuation of slavery – it’s built on notions of stripping humanity of individuals to prioritize profit.

**Davis et al:** Davis, Angela. [Duke University Press], Shalyor, Cassandra. [Duke University Press] “Race, Gender, and the Prison Industrial Complex: California and Beyond” *Duke University Press,* 2001. JP

As prison populations have soared in the United States, the conventional assumption that increased levels of crime are the cause has been widely contested. Activists and scholars who have tried to develop more nuanced understandings of the punishment process- and especially racism's role- have deployed the concept of the "prison industrial complex" to point out that the proliferation of prisons and prisoners is more clearly linked to larger economic and political structures and ideologies than to individual criminal conduct and efforts to curb "crime." Indeed, vast numbers of corporations with global markets rely on prisons as an important source of profit and thus have acquired clandestine stakes in the continued expansion of the prison system. Because the overwhelming majority of U.S. prisoners are from racially marginalized communities, corporate stakes in an expanding apparatus of punishment necessarily rely on and promote old as well as new structures of racism. Women especially have been hurt by these developments. Although women comprise a relatively small percentage of the entire prison popu- lation, they constitute, nevertheless, the fastest growing segment of pris- oners. There are now more women in prison in the State of California alone than there were in the United States as a whole in 1970 (Currie 1998). Because race is a major factor in determining who goes to prison and who does not, the groups most rapidly increasing in number are black, Latina, Asian-American, and indigenous women. Globalization of capitalism has precipitated the decline of the welfare state in industrialized countries, such as the U.S. and Britain, and has brought about structural adjustment in the countries of the southern region. As social programs in the U.S. have been drastically curtailed, imprisonment has simultaneously become the most self-evident response to many of the social problems previously addressed by insti- tutions such as Aid to Families with Dependent Children (afdc). In other words, in the era of the disestablishment of social programs that have historically served poor communities, and at a time when affirmative action programs are being dismantled and resources for education and health are declining, imprisonment functions as the default solution. Especially for women of color, who are hardest hit by the withdrawing of social resources and their replacement with imprisonment, these dra- conian strategies- ever longer prison sentences for offenses that are often petty- tend to reproduce and, indeed, exacerbate the very problems they purport to solve. There is an ironic but telling similarity between the economic impact of the prison industrial complex and that of the military industrial complex, with which it shares important structural features. Both systems simultaneously produce vast profits and social destruction. What is beneficial to the corporations, politicians, and state entities involved in these systems brings blight and death to poor and racially marginalized communities throughout the world. In the case of the prison industrial complex, the transformation of imprisoned bodies of color into consumers and/or producers of an immense range of commodities effectively transforms public funds into profit, leaving little in the way of social assistance to bolster the efforts of women and men who want to overcome barriers erected by poverty and racism. For example, when women who spend many years in prison are released, instead of jobs, housing, health care, and education, they are offered a small amount of release money, which covers little more than a bus ride and two nights in an inexpensive hotel. In the "free world," they are haunted by the stigma of imprisonment, which renders it extremely difficult for a "felon" to find a job. Thus they are inevitably tracked back into a prison system that in this era of the prison industrial complex has entirely dispensed with even a semblance of rehabilitation.

#### [Sainato] And the current conditions prisoner workers face fuels the PIC.

**Sainato**: Sainato Michael [Writer on Civil Rights issues for the Miami Times] “Companies claim there’s a labor shortage. Their solution? Prisoners.” The Guardian, 2021. MB

Some employers around the US are responding to perceived worker shortages in their industries by pursuing cheap sources of labor, such as people currently or formerly in prison. During a recent industry conference, a Waste Management Services executive discussed hiring immigrants to fill commercial driver’s license positions, and other executives suggested using prison or work release programs to address perceived labor shortages in the sanitation, waste and recycling industry. Campaigners say the move would be exploitative and reflects a refusal to simply raise wages to attract employees. “The talk about immigrant labor, prison labor, it’s all about exploitation, nothing else,” said Chuck Stiles, director of the Teamsters solid waste and recycling division, which represents about 32,000 workers in the private waste industry. “There is no driver shortage. There is a huge wage and benefits shortage that these waste companies refuse to give up anything on the bottom line.” Stiles said several prison work release programs targeted by the waste industry fail to provide decent wages and benefits in an industry where workers face significant safety risks, poor weather conditions, long hours and scarce time off for holidays. Employers and industry groups have claimed labor shortages were stifling recovery from the Covid-19 pandemic, with the US Chamber of Commerce and Republican governors blaming unemployment benefits. Some 26 states have canceled federal extended unemployment benefits early, though economists have noted the available jobs recovery data shows there is no economy-wide labor shortage. That hasn’t stopped employers and business groups from using perceived labor shortages as a pretext to seek out cheap labor sources; employers are hiring teenagers to fill open jobs, automating some job roles to avoid raising wages, lobbying Congress to double the cap on work immigration visas and expanding the use of prison labor. The restaurant industry in Michigan, Texas, Ohio and Delaware recently announced a prison work release program for the food service and hospitality industry. In April, Russell Stover candy production facilities in Iola and Abilene, Kansas, began using prison labor through the Topeka correctional facility in response to staffing issues disrupting production lines. About 150 prisoners work at the plant, making $14 an hour with no benefits or paid time off, while other workers start at higher wages with benefits and paid time off. Kansas also deducts 25% of prisoners’ pay for room and board, and another 5% goes toward a victim’s fund. The prisoners also must pay for gas for the nearly two-hour bus ride to and from the plant. Brandilynn Parks, president of the Kansas Coalition for Sentence and Prison Reform, said these programs can be beneficial for prisoners, but often are a way for employers and the prison system to take advantage of a vulnerable population, while driving down wages and taking jobs from other workers in the community. She noted many private companies that hire prison workers will not employ them after they are released and will not hire job applicants with criminal records. She added that these programs perpetuate mass incarceration. “Whenever we have private industries coming into the Kansas department of corrections, they sign a contract guaranteeing a certain number of people will be working there,” said Parks. “That means there has to be a certain number of people incarcerated, so we’re not working to lower the prison population, but instead building the prison industrial complex as a working machine where people become numbers – and we need a certain amount of numbers to keep them employed to uphold the contracts.” Parks argued employers refusing to pay living wages is the primary factor driving perceived labor shortages, and that the expansion of prison workforce programs are not good faith efforts to solve the problem. Hiring people “who are at their lowest in life and then throwing them crumbs is despicable,” Parks said. “The contract guaranteeing this amount of people makes it difficult to release people because they’re making the department of corrections money. So the DOC and private industry wins and they try to make it appear as though the incarcerated win, when really they’re being taken advantage of.” Even before the pandemic, the construction industry targeted prison labor sources amid what employers have claimed is a severe construction labor shortage that has only worsened under Covid-19. Construction is also one of the industries where significant numbers of formerly incarcerated people find work. In New York City, construction industry employers recruit recently released prisoners who must seek and maintain employment as a condition of their release from prison. Thousands of workers in New York City are siphoned from prison into low-paying construction jobs with no benefits, no health insurance and unsafe working conditions. These job sites, known as “body shops”, use subcontractors so that employers can offload risk insurance liability. The practice has been spreading, but the New York city council is considering legislation to regulate these employers. “Throughout the pandemic, body shop laborers left their homes and took trains and buses to crowded job sites, building the NYC skyline. They did this without health insurance, without an economic safety net and with the constant threat of re-imprisonment if they refused to continue to work,’’ said Chaz Rynkiewicz, vice-president and director of organizing for Construction and General Building Laborers Local 79. “While other workers were called heroes for working during the pandemic, body shop workers are told that their criminal justice history sentences them to a lifetime of hard labor with negligible reward.”

#### [HLR 1] Further, silence surrounds this issue – the public isn’t informed of prison strikes as a result.

**HLR 1, brackets in original text:** Harvard Law Review. [Academic Journal] “Striking the Right Balance: Toward a Better Understanding of Prison Strikes” *HLR,* March 2019. JP

Although none of the strikers’ ten demands have yet been met, the 2018 nationwide prison strike was still a remarkable event in its scope and coordination, as well as its ability to generate public support and attention. An estimated 150 different organizations endorsed the strike; citizens held numerous demonstrations outside of prisons in solidarity; and a range of national media publications provided detailed coverage of the protest’s motivations, objectives, tactics, and status as potentially the “largest prison strike in U.S. history.” 7. Despite the 2018 prison strike’s apparent gravity, it is difficult to fully contextualize its significance because surprisingly little attention has been paid to prison strikes previously. For instance, just two years prior, in 2016, a similar nationwide prison strike was described as “[t]he largest prison strike . . . you [probably] haven’t heard about.” 8. In light of this reality, this Note peers behind prison walls to improve our understanding of prison strikes — the end goal being to open the door to a broader discussion of why and how these strikes should receive legal protection. Part I briefly documents America’s history of prison strikes, showing that the 2018 nationwide strike is the latest in a long, important tradition of prisoners using the only real means available to them — collective actions against prison administrators — to protest labor conditions and other deeply held grievances. Part II then evaluates the legal framework governing prison strikes, demonstrating that such strikes likely do not receive sufficient protections under either the Constitution or federal and state statutes and therefore can be shut down by prison administrators without fear of judicial oversight. Part III, informed by the rich history of prison strikes, argues that their potential and demonstrated value demands, at the very least, consideration of the merits of protecting incarcerated individuals’ right to strike, and it contends that the First Amendment framework offers one potential avenue to allow prisoners to peacefully surface pressing problems in our carceral system and to collectively express their humanity and dignity. I. PRISON STRIKE BACKGROUND AND HISTORY The term “prison strike” encompasses a range of nonviolent collective actions by prisoners — namely work stoppages, sit-ins, spending boycotts, hunger strikes, and other forms of protest — that challenge the rule or order of prison administration and generally disrupt “business as usual” within the prison. 9. Prison strikes differ from other forms of collective action in prisons, including prison riots and rebellions, in that they are peaceful forms of resistance: they do not involve the threat or the use of force against persons or property. 10. And prison strikes differ from other forms of prison disturbances, like individual inmate protests, that are not collective in nature and therefore do not disrupt normal prison activity or obstruct prison officials’ control. 11. See id. Generally speaking, prison strikes (and prisoner collective action more broadly) have not received rigorous scholarly or media analysis until very recently. Social scientists, legal scholars, and the press have largely failed to provide a systematic accounting of the history and place of prisoner protest in the American penal system, particularly prior to the early to mid-twentieth century. 12. Against this backdrop of scarce attention, this Part briefly considers the history of prison strikes, both to illuminate an important but overlooked aspect of prison life and to inform the legal analysis that follows. In particular, this Part provides an abbreviated overview of strikes across four key periods of prison development in the United States: (1) the inception of the American prison during the early American republic, (2) the creation of modern legal punishment and penitentiaries between the antebellum period and Reconstruction, (3) the explosion of prison systems and prison labor between Reconstruction and World War II, and finally (4) the prisoners’ rights and reform movements emerging between the end of World War II and our present-day mass incarceration system. This overview suggests that as the carceral state has expanded and evolved, so too have prison strikes — thus placing actions like the latest 2018 strike in a long tradition of prisoners organizing to express deeply held grievances. Further, examining the history of prison strikes reveals that strikes are often the only way for the incarcerated to act on those grievances — and that while strikes have rarely brought about immediate changes, they have helped initiate longer-term prison reforms and have periodically been successful in drawing attention to the otherwise unnoticed plight of those behind bars.

## Thus, I affirm:

#### [HLR 2] Resolved: A just government ought to recognize an unconditional right of prison workers to strike. This entails codifying a right for all inmates to engage in nonviolent collective action.

**HLR 2:** Harvard Law Review. [Academic Journal] “Striking the Right Balance: Toward a Better Understanding of Prison Strikes” *HLR,* March 2019. JP

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**They add:** Harvard Law Review. [Academic Journal] “Striking the Right Balance: Toward a Better Understanding of Prison Strikes” *HLR,* March 2019. JP

The foregoing analysis suggests that the First Amendment is a critical, worthwhile vehicle for considering the merits of a right to strike for prisoners. As Justice Black recognized, the importance of such analysis likely transcends prisoners themselves. He wrote: “I do not believe that it can be too often repeated that the freedoms of speech, press, petition and assembly guaranteed by the First Amendment must be accorded to the ideas we hate or sooner or later they will be denied to the ideas we cherish.” But this Note acknowledges that judicial recognition of prison strikes’ First Amendment values requires significant doctrinal change. Convincing the Supreme Court to overturn its Jones and Turner precedents, and instead to adopt a test with less deference than is currently afforded to prison administrators, is unlikely. As a result, future research is necessary to identify other potential avenues to consider the legal status and merits of prison strikes. **As alluded to above, labor law presents one such promising avenue, as does state constitutional and statutory law. Drawing from the broader jurisprudence around hunger strikes, and this area of the law’s focus on the body, may present yet another avenue to consider. And more fundamentally, reconsidering incarceration — including the nature of penal punishment, the constitutional status of prisoners, the judiciary’s role in our carceral system, and the ability of social science and social movements to inform the law — may be needed to protect prison strikes and bring about the reforms that strikes have advocated for.** There is a difficult tension in our jurisprudence on prisoners. On the one hand, prisoners are found to enjoy some constitutional rights. On the other hand, prisoners’ rights are often curtailed and must give way to the regulations that prison officials employ to maintain security and order in our correctional system. **Allowing prisoners to peacefully strike allows our criminal justice system to navigate this tension, preserving the goals of prison officials while allowing prisoners to surface critical problems in prison conditions and our criminal justice system as a whole. The strikes also represent an important end unto themselves: they are an important statement of prisoners’ humanity, dignity, and entitlement to a life beyond “modern slavery.”**

## Part 3: Shining Light

#### [Kaur] Prison strikes create media attention that sheds light on the injustices of the prisoner industrial complex.

**Kaur:** Kaur, Baljeet. [Researcher at the Quill Foundation] “Prisoners' Right to Strike: Protests by Inmates Should Not Be Considered an Offence” *Engage,* 2019. JP

**In the unbearable heat of Rajasthan, some undertrial male prisoners in Jaipur Central Jail, locked up in small suffocating cells for up to 23 hours without ventilation or fans, resolved to take action. The prisoners started a hunger strike demanding installation of boxes where prisoners could put their complaints, and regular visits of a judge to look into their complaints (Waqar 2019).** Prisoners had intimated about their hunger strike along with the demands in a letter to the prison authorities and the judge presiding over their trials. On the intervening night of 29 and 30 March 2019, some undertrial prisoners in Jaipur Central Jail were dragged and beaten up brutally, leading to fractured limbs and serious injuries. **Despite the judge issuing a notice to the jail authorities, prisoners not only suffered physical beatings, but they were also charged under Sections 332 (voluntarily causing hurt to deter public servant from his duty) and 353 (use of criminal force on public servant in execution of his duties) of the Indian Penal Code (IPC) for causing injury to a prison official’s finger, and inflicting self-harm (Hindu 2019).** The most astonishing aspect of this turn of events is that the demands of the prisoners for which they started the hunger strike are the mechanisms that prison authorities should on their own be adopting as per the mandatory directions given by the Supreme Court in several cases including Sunil Batra (II) v Delhi Administration and Madhukar B Jambhale v State of Maharashtra. **On 23 and 24 June, 2017 women prisoners of Byculla Jail in Mumbai rebelled to highlight torture and murder of their co-prisoner Manjula Shetye by prison staff. If it wasn’t for their strike, Manjula’s case would never have seen the light of the day. Their strike brought so much attention to Manjula’s murder in custody that not only the accused prison staff were arrested and are currently being tried, but ministers and parliamentarians have visted the prisoners**. However, an first information report against the 200 women prisoners was filed for allegedly rioting, making unlawful assembly (Dalvi, 2018).

#### [HLR 3] Next, prison strikes are a key way for inmates to get redress from the state – empirics prove.

**HLR 3:** Harvard Law Review. [Academic Journal] “Striking the Right Balance: Toward a Better Understanding of Prison Strikes” *HLR,* March 2019. JP

3. Petition for Redress. — Inmates’ strikes can be seen not only as expressions of their dignity and general efforts to express their voices beyond prison walls but also as significant methods of assembly to call attention to specific grievances and seek redress from the government. 169. While in theory “[t]here is no iron curtain drawn between the Constitution and the prisons of this country,” 170 in practice, “prisons often escape the daily microscope focused on other American institutions such as schools, churches, and government.” 171. Id. at 145. Courts grant prison administrators wide deference not only in running day-to-day life within prisons but also in restricting press access to prisons. 172. Therefore, much of the American public — already closed off from and largely indifferent to the lives of prisoners — is kept even more in the dark about prison conditions and the state of our carceral system as a whole. Prison conditions, from what has been documented, are horrendous across states. Many prisons are severely overcrowded and seriously understaffed; 173. inmates routinely experience physical abuse and even death at the hands of prison guards, 174 receive inadequate protection from guards, are deprived of basic necessities, 175. are given substandard medical care, 176 and are forced to live in squalor and tolerate extreme circumstances; 177. most prisoners have minimal, if any, access, to rehabilitative or mental health services; 178. and prisoners have little legal recourse, as internal prison grievance procedures are often stacked against inmates, 179. and judicial deference and federal legislation have effectively shut the courthouse doors on prisoners’ civil rights claims. 180. And across prisons, criminal sentencing laws not only have contributed to an unprecedented era of mass incarceration, but also have forced African Americans and people of color broadly to bear much of this burden. 181. As the Marshall Project states, “[s]ociety won’t fix a prison system it can’t see”; 182. Keller, supra note 172. peaceful prison strikes like the 2018 strike, however, draw back the “iron curtain” of prison walls, bringing to light many of the pressing issues described above. Through these strikes, inmates are able not only to express their grievances to their prison administrators, but also to “publicize their on-the-ground realities to the larger world” 183. As recent history has shown, inmates have experienced some success by pressing their claims against the government through publicized strikes. For example, as described above, the California strikes in 2011 and 2013 generated public outcry that eventually resulted in transformations to the California prison system’s solitary confinement policies. 185. See supra note 73 and accompanying text. In Alabama, inmates’ participation in the 2016 nationwide prison strike helped prompt the Department of Justice to open an investigation into the state’s prison conditions. 186. And more broadly speaking, strikes like the 2018 strike have begun to “remedy power imbalances, bring aggregate structural harms into view, and shift deeply entrenched legal and constitutional” barriers to critical prison reforms. B. CONSIDERING ADDITIONAL LEGAL AVENUES FOR PROTECTING PRISON STRIKES The foregoing analysis suggests that the First Amendment is a critical, worthwhile vehicle for considering the merits of a right to strike for prisoners. As Justice Black recognized, the importance of such analysis likely transcends prisoners themselves. He wrote: “I do not believe that it can be too often repeated that the freedoms of speech, press, petition and assembly guaranteed by the First Amendment must be accorded to the ideas we hate or sooner or later they will be denied to the ideas we cherish.”

#### [HLR 4] And strikes offer an alternative to violence and a means of collective bargaining for inmates.

**HLR 4, brackets in original text:** Harvard Law Review. [Academic Journal] “Striking the Right Balance: Toward a Better Understanding of Prison Strikes” *HLR,* March 2019. JP

The right to strike within prisons may be conceptually viewed as a composite of three separate fundamental First Amendment freedoms: the freedom to peacefully associate, the freedom of speech, and the freedom to assemble and petition for redress of grievances. 145. Each is considered in turn. 1. Association. — The right to peaceful association is one that captures the right of individuals to commune with others for the expression of ideas and for effective advocacy. 146. Although “association” does not appear in the text of the First Amendment, the Court has long recognized the right as both implicit in and derived from the First Amendment’s other express guarantees (namely speech and assembly), and as a separate substantive due process right. Strikes, like prison unions, represent an important means of association for prisoners — allowing them to “lay claim to a social identity as ‘workers’ . . . and in doing so generate claims to respect and solidarity.” 147. This identity and solidarity can, in turn, enable inmates to engage in productive and peaceful bargains with prison officials for better conditions, higher pay, and other reform desires. Bargaining is, in many respects, already very common in prisons, “for the simple reason that [prison] administrators rarely have sufficient resources to gain complete conformity to all the rules.” 148. However, such bargaining typically happens in an informal, ongoing, private process; 149. in their recurrent, day-to-day contact with inmates, prison administrators use their arsenal of tools to “negotiate” only with select inmate leaders, 151. Id. at 738–39. with the central goal of maintaining “short term surface order.” 152. Id. at 729. This informal bargaining is “dysfunctional” to the long-term stability of prison institutions and “the real needs of those incarcerated within” them 153. Id. at 738. — creating hierarchical relationships 154. Id. at 739–40. that breed mistrust 155. Id. at 741–42. and leave many inmates powerless and feeling aggrieved. 156. Id. at 741–43. As a result, inmates often feel that they have to resort to violence to protect themselves from exploitation, express their dissatisfaction, and obtain redress. 157. Alternatively, peaceful, collective prison strikes avoid these harmful consequences by allowing for “open” and “formal” negotiations between all inmates and prison staff. 158. And by permitting peaceful strikes, prison administrators “provide inmates with a channel for airing grievances and gaining official response . . . giv[ing] the institution a kind of safety-valve for peaceful, rather than violent, change” 160. — avoiding potentially expensive and time-consuming litigation and even helping rehabilitate inmates, 161. Note, supra note 148, at 751–52. all while deemphasizing hierarchical structures in prisons that harm institutional order. 162.

#### [Bozelko] Indeed, strikes empower prisoners to express their grievances – they’re key to changing the power dynamic.

**Bozelko:** Bozelko, Chandra. [Writer at Reuters] “Commentary: The real reason prisoners are striking” *Reuters,* 2018. JP

**The lack of oversight has become dangerous. While we don’t know the numbers of prisoners who are injured at work (OSHA maintains that data on employees only), we do have stories about allegations of substandard care and dangerous working conditions. In one case, a Georgia man who lost his leg after a fall in a prison kitchen won $550,000 from the state after claiming that a prison doctor neglected his injury. Other inmates have lost thumbs and fingers when they were caught in machinery**. In Pueblo, Colorado, a female inmate, Kara Fuelling, was almost decapitated while working in a saw mill when a blade tore through her helmet. In California, two inmates conscripted into firefighting detail through the state Department of Corrections lost their lives. In Georgia, just this past May, a prisoner on work detail was killed by a distracted driver passing the highway work site. **Although it could be argued that these injuries and deaths can happen anywhere, the difference is that workplaces outside of prison have some safety oversight and with it, a higher standard of care**. If prisons had to comply with OSHA standards, these injuries and deaths may have been prevented. Inmate injuries are worthy of even more preventive oversight when you consider that medical care can be substandard in many correctional facilities. The Georgia inmate who lost his leg initially sustained only a dime-sized cut above his ankle, but evidence in the lawsuit indicated that a lack of care worsened his injury to the point that he had to sacrifice a limb. Kara Fuelling, the saw mill worker, wasn’t brought to an emergency room but was rather transported to the prison infirmary. According to Fuelling’s lawsuit, a doctor who examined her was concerned about possible infection because the saw blade was dirty; she went on to develop an antibiotic-resistant MRSA infection. Many of these injuries are caused by equipment that, according to a report in the University of Pennsylvania Journal of Business and Employment Law, was known to be faulty or defective. **Even when inmates are hurt because the correctional facility is negligent, there’s little to no recourse for incarcerated workers when they are injured. This is mostly because occupational statutes in 43 states exclude incarcerated workers from the definition of employees, and thereby don’t allow those workers to file worker compensation claims**. This is much more a problem for inmates than it is for the prisons themselves. In all of the litigation over prison work injuries, only a handful of courts have said that dangerous conditions violate the Constitution’s Eighth Amendment prohibition on cruel and unusual punishment. Because there’s little-to-no liability for the facilities, danger abounds in American prisons. One of the motivating factors for the current strike is the April riot at Lee Correctional Center in South Carolina, where seven prisoners were killed. Initially, prison officials blamed the deaths on gang disputes and the use of contraband cellphones. But as more eyewitness accounts became available, the Lee riot was revealed to have taken place in a “gladiator school” where guards had reportedly abandoned their posts. One inmate said that there were no immediate deaths from the violence within the facility. The people who died were allowed to bleed out, he said, as guards looked on**. Strikes like the current one are necessary to change safety conditions in prisons because the usual avenues of remedy – grievance procedures and courts – have been blocked off by an erosion in human rights standards when it comes to people who have been convicted of breaking the law**. Many people may be horrified by the way incarcerated people are treated, but disagree with the tactic of a strike where the risk of injury goes up even further as strikers are dragged to solitary confinement and disciplined in other ways. But there is no other way. Courts and administrative remedies have failed to protect imprisoned people. While incarcerated we witnessed many inmates who came to expect injuries, accidents and even death. Such an expectation of punishment seems medieval, but prisoners are taking a stand to show that it is, unfortunately, still a modern phenomenon.

#### [Sudbury] We aren’t reformism, but an approach towards abolition. The method of decarceration is an effective combination of critique, action, and goals that holds reform and abolition in creative tension in order to maintain the advantages of both.

Sudbury: Julia, Metz Professor of Ethnic Studies at Mills College. Activist, in the prison abolitionist movement. Co-founder of Critical Resistance, a national abolitionist organization. “Rethinking Global Justice: Black Women Resist the Transnational Prison-Industrial Complex”, Souls: A Critical Journal of Black Politics, Culture, and Society, Volume 10, Issue 4

Chronic overcrowding has led to worsening conditions for prisoners. As a result of the unprecedented growth in sentenced populations, prison authorities have packed three or four prisoners into cells designed for two, and have taken over recreation rooms, gyms, and rooms designed for programming and turned them into cells, housing prisoners on bunk beds or on the floor. These new conditions have created challenges for activists, who have found themselves expending time and resources in pressuring prison authorities to provide every prisoner a bed, or to provide access to basic education programs. As prison populations continue to swell, anti-prison activists are faced with the limitations of reformist strategies.Gains temporarily won are swiftly undermined, new “women-centered” prison regimes are replaced with a focus on cost-efficiency and minimal programming and even changes enforced by legal cases like Shumate vs. Wilson are subject to backlash and resistance. 19 Of even greater concern is the well-documented tendency of prison regimes to co-opt reforms and respond to demands for changes in conditions by further expanding prison budgets.The vulnerability of prison reform efforts to cooption has led Angela Y. Davis to call for “non-reformist reforms,” reforms that do not lead to bigger and “better” prisons. 20 Despite the limited long-term impact of human rights advocacy and reforms**,** building bridges between prisoners, activists, and family members is an important step toward challenging the racialized dehumanization that undergirds the logic of incarceration. In this way, human rights advocacy carried out in solidarity with prisoner activists is an important component of a radical anti-prison agenda. Ultimately, however, anti-prison activists aim not to create more humane, culturally sensitive, women-centered prisons, but to dismantle prisons and enable formerly criminalized people to access services and resources outside the penal system. After three decades of prison expansion, more and more people are living with criminal convictions and histories of incarceration. In the U.S., nearly 650,000 people are released from state and federal prisons to the community each year. 21 Organizations of formerly incarcerated people focus on creating opportunities for former prisoners to survive after release, and on eliminating barriers to reentry, including extensive discrimination against former felons. The wide array of “post-incarceration sentences” that felons are subjected to has led activists to declare a “new civil rights movement.” 22 As a class, former prisoners can legally be disenfranchised and denied rights available to other citizens. While reentry has garnered official attention, with President Bush proposing a $300 million reentry initiative in his 2004 State of the Union address, anti-prison activists have critiqued this initiative for focusing on faith-based mentoring, job training, and housing without addressing the endemic discrimination against former prisoners or addressing the conditions in the communities which receive former prisoners, including racism, poverty, and gender violence. Organizations of ex-prisoners working to oppose discrimination against former prisoners and felons include All of Us Or None, the Nu Policy Leadership Group, Sister Outsider and the National Network for Women Prisoners in the U.S., and Justice 4 Women in Canada. All of Us Or None is described by members as “a national organizing initiative of prisoners, former prisoners and felons, to combat the many forms of discrimination that we face as the result of felony convictions.” 23 Founded by anti-imperialist and former political prisoner Linda Evans, and former prisoner and anti-prison activist Dorsey Nunn, and sponsored by the Northern California–based Legal Services for Prisoners with Children, All of Us Or None works to mobilize former prisoners nationwide and in Toronto, Canada. The organization's name, from a poem by Marxist playwright Bertold Brecht, invokes the need for solidarity across racial, class, and gender lines in creating a unified movement of former prisoners. Black women play a leading role in the organization, alongside other people of color. All of Us Or None focuses its lobbying and campaign work at city, county, and state levels, calling on local authorities to end discrimination based on felony convictions in public housing, benefits, and employment, to opt out of lifetime welfare and food stamp bans for felons, and to “ban the box” requiring disclosure of past convictions on applications for public employment. In addition, the organization calls for guaranteed housing, job training, drug and alcohol treatment, and public assistance for all newly released prisoners. 24 In the context of the war on drugs, many people with felony convictions also struggle with addictions. The recovery movement, which is made up of 12-step programs, treatment programs, community recovery centers, and indigenous healing programs run by and for people in recovery from addiction, offers an alternative response to problem drug use through programs focusing on spirituality, healing, and fellowship. However, the recovery movement's focus on individual transformation and accountability for past acts diverges from many anti-prison activists' focus on the harms done to criminalized communities by interlocking systems of dominance. As a result, anti-prison spaces seldom engage with the recovery movement, or tap the radical potential of its membership. Breaking with this trend, All of Us Or None has initiated a grassroots organizing effort to reach out to people in 12-step programs with felony convictions. This work is part of their wider organizing efforts that aim to mobilize former prisoners as agents of social change. Building on the strengths of identity politics, these organizations suggest that those who have experienced the prison-industrial complex first-hand may be best placed to provide leadership in dismantling it. As former prisoners have taken on a wide range of leadership positions across the movement, there has been a shift away from leadership by white middle-class progressives, and a move to promote the voices of those directly affected by the prison-industrial complex. Politicians who promote punitive “tough-on-crime” policies rely on racialized controlling images of “the criminal” to inspire fear and induce compliance among voters. Once dehumanized and depicted as dangerous and beyond rehabilitation, removing people from communities appears the only logical means of creating safety. Activists who pursue decarceration challenge stereotypical images of the “criminal” by making visible the human stories of prisoners, with the goal of demonstrating the inadequacy of incarceration as a response to the complex interaction of factors that produce harmful acts**.** Decarceration usually involves targeting a specific prison population that the public sees as low-risk and arguing for an end to the use of imprisonment for this population. Decarcerative strategies often involve the promotion of alternatives to incarceration that are less expensive and more effective than prison and jail. For example, Proposition 36, the Substance Abuse and Crime Prevention Act, which passed in California in 2000 and allowed first- and second-time non-violent drug offenders charged with possession to receive substance abuse treatment instead of prison, channels approximately 35,000 people into treatment annually. 25 Drug law reform is a key area of decarcerative work**.** Organizations and campaigns that promote drug law reform include Drop the Rock, a coalition of youth, former prisoners, criminal justice reformers, artists, civil and labor leaders working to repeal New York's Rockefeller Drug Laws. The campaign combines racial justice, economic, and public safety arguments by demonstrating that the laws have created a pipeline of prisoners of color from New York City to newly built prisons in rural, mainly white areas represented Republican senators, resulting in a transfer of funding and electoral influence from communities of color to upstate rural communities. 26 Ultimately, the campaign calls for an end to mandatory minimum sentencing and the reinstatement of judges' sentencing discretion, a reduction in sentence lengths for drug-related offenses and the expansion of alternatives, including drug treatment, job training, and education. Former drug war prisoners play a leadership role in decarcerative efforts in the field of drug policy reform. Kemba Smith, an African–American woman who was sentenced to serve 24.5 years as a result of her relationship with an abusive partner who was involved in the drug industry, is one potent voice in opposition to the war on drugs. While she was incarcerated, Smith became an active advocate for herself and other victims of the war on drugs, securing interviews and feature articles in national media. Ultimately, Smith's case came to represent the failure of mandatory minimums, and in 2000, following a nation-wide campaign, she and fellow drug war prisoner Dorothy Gaines were granted clemency by outgoing President Clinton. After her release, Smith founded the Justice for People of Color Project (JPCP), which aims to empower young people of color to participate in drug policy reform and to promote a reallocation of public expenditures from incarceration to education. While women like Kemba Smith and Dorothy Gaines have become the human face of the drug war, prison invisibilizes and renders anonymous hundreds of thousands of drug war prisoners. The organization Families Against Mandatory Minimums (FAMM) challenges this process of erasure and dehumanization through its “Faces of FAMM” project. The project invites people in federal and state prisons serving mandatory minimum sentences to submit their cases to a database and provides online access to their stories and photographs. 27 The “Faces of FAMM” project highlights cases where sentencing injustices are particularly visible in order to galvanize public support for sentencing reform. At the same time, it dismantles popular representations of the war on drugs as a necessary protection against dangerous drug dealers and traffickers, demonstrating that most drug war prisoners are serving long sentences for low-level, non-violent drug-related activities or for being intimately connected to someone involved in these activities. Decarcerative work is not limited to drug law reform. Free Battered Women's (FBW) campaign for the release of incarcerated survivors is another example of decarcerative work. The organization supports women and transgender prisoners incarcerated for killing or assaulting an abuser in challenging their convictions by demonstrating that they acted in self-defense. Most recently, FBW secured the release of Flozelle Woodmore, an African–American woman serving a life sentence at CCWF for shooting her violent partner as an 18 year old. Released in August 2007, after five parole board recommendations for her release were rejected by Governors Davis and then Schwarzenegger, Woodmore's determined pursuit of justice made visible and ultimately challenged the racialized politics of gubernatorial parole releases. 28 While the number of women imprisoned for killing or assaulting an abuser is small—FBW submitted 34 petitions for clemency at its inception in 1991, and continues to fight 23 cases—FBW's campaign for the release of all incarcerated survivors challenges the mass incarceration of gender-oppressed prisoners on a far larger scale. FBW argues that experiences of intimate partner violence and abuse contribute to the criminalized activities that lead many women and transgender people into conflict with the law, including those imprisoned on drug or property charges, and calls for the release of all incarcerated survivors. Starting with a population generally viewed with sympathy—survivors of intimate partner violence—FBW generates a radical critique of both state and interpersonal violence, arguing that “the violence and control used by the state against people in prison mirrors the dynamics of battering that many incarcerated survivors have experienced in their intimate relationships and/or as children.” 29 In theorizing the intersections of racialized state violence and gendered interpersonal violence, FBW lays the groundwork for a broader abolitionist agenda that refutes the legitimacy of incarceration as a response to deep-rooted social inequalities based on interlocking systems of oppression. By gradually shrinking the prison system, Black women activists involved in decarcerative work hope to erode the public's reliance on the idea of imprisonment as a commonsense response to a wide range of social ills. At the other end of anti-expansionist work are activists who take a more confrontational approach. By starving correctional budgets of funds to continue building more prisons and jails, they hope to force politicians to embrace less expensive and more effective alternatives to incarceration. Prison moratorium organizing aims to stop construction of new prisons and jails. Unlike campaigns against prison privatization, which oppose prison-profiteering by private corporations, and seek to return imprisonment to the public sector, prison moratorium work opposes all new prison construction, public or private. In New York, the Brooklyn-based Prison Moratorium Project (PMP), co-founded by former prisoner Eddie Ellis and led by young women and gender non-conforming people of color, does this work through popular education and mass campaigns against prison expansion. Focusing on youth as a force for social change, New York's PMP uses compilations of progressive hip hop and rap artists to spread a critical analysis of the prison-industrial complex and its impact on people of color. PMP's strategies have been effective; for example, in 2002 the organization, as part of the Justice 4 Youth Coalition, succeeded in lobbying the New York Department of Juvenile Justice to redirect $53 million designated for expansion in Brooklyn and the Bronx. 30 PMP has also worked to make visible the connections between underfunding, policing of schools, and youth incarceration through their campaign “Stop the School-to-Prison Pipeline.” By demonstrating how zero tolerance policies and increased policing and use of surveillance technology in schools, combined with underfunded classrooms and overstretched teachers, has led to the criminalization of young people of color and the production of adult prisoners, PMP argues for a reprioritization of public spending from the criminal justice system to schools and alternatives to incarceration. 31 Moratorium work often involves campaigns to prevent the construction of a specific prison or jail. In Toronto, for example, the Prisoner Justice Action Committee formed the “81 Reasons” campaign, a multiracial collaboration of experienced anti-prison activists, youth and student organizers, in response to proposals to build a youth “superjail” in Brampton, a suburb of Toronto. 32 The campaign combined popular education on injustices in the juvenile system, including the disproportionate incarceration of Black and Aboriginal youth, with an exercise in popular democracy that invited young people to decide themselves how they would spend the $81 million slated for the jail. Campaigners mobilized public concerns about spending cuts in other areas, including health care and education, to create pressure on the provincial government to look into less expensive and less punitive alternatives to incarceration for youth. While this campaign did not ultimately prevent the construction of the youth jail, the size of the proposed facility was reduced. More importantly, the campaign built a grassroots multiracial antiprison youth movement and raised public awareness of the social and economic costs of incarceration. Moratorium campaigns face tough opposition from advocates who believe that building prisons stimulates economic development for struggling rural towns. Prisons are “sold” to rural towns that have suffered economic decline in the face of global competition, closures of local factories, and decline of small farms. In the context of economic stagnation, prisons are touted as providing stable, well-paying, unionized jobs, providing property and sales taxes and boosting real estate markets. The California Prison Moratorium Project has worked to challenge these assertions by documenting the actual economic, environmental, and social impact of prison construction in California's Central Valley prison towns. According to California PMP: We consider prisons to be a form of environmental injustice. They are normally built in economically depressed communities that eagerly anticipate economic prosperity. Like any toxic industry, prisons affect the quality of local schools, roads, water, air, land, and natural habitats. 33 California PMP opposes prison construction at a local level by building multiracial coalitions of local residents, farm workers, labor organizers, anti-prison activists, and former prisoners and their families to reject the visions of prison as a panacea for economic decline. 34 In the Californian context, where most new prisons are built in predominantly Latino/a communities and absorb land and water previously used for agriculture, PMP facilitates communication and solidarity between Latino/a farm worker communities, and urban Black and Latino/a prisoners in promoting alternative forms of economic development that do not rely on mass incarceration. Scholar-activist Ruth Wilson Gilmore's research on the political economy of prisons in California has been critical in providing evidence of the detrimental impact of prisons on local residents and the environment. 35 As an active member of CPMP, Gilmore's work is deeply rooted in anti-prison activism and in turn informs the work of other activists, demonstrating the important relationship between Black women's activist scholarship and the anti-prison movement. 36 Many anti-prison activists view campaigns for decarceration or moratorium as building blocks toward the ultimate goal of abolition. These practical actions promise short and medium-term successes that are essential markers on the road to long-term transformation. However, abolitionists believe that like slavery, the prison-industrial complex is a system of racialized state violence that cannot be “fixed.” The contemporary prison abolitionist movement in the U.S. and Canada dates to the 1970s, when political prisoners like Angela Y. Davis and Assata Shakur, in conjunction with other radical activists and scholars in the U.S., Canada, and Europe, began to call for the dismantling of prisons. 38 The explosion in political prisoners, fuelled by the FBI's Counter Intelligence Program (COINTELPRO) and targeting of Black liberation, American Indian and Puerto Rican independence movements in the U.S. and First Nations resistance in Canada as “threats” to national security, fed into an understanding of the role of the prison in perpetuating state repression against insurgent communities. 39 The new anti-prison politics were also shaped by a decade of prisoner litigation and radical prison uprisings, including the brutally crushed Attica Rebellion. These “common” prisoners, predominantly working-class people of color imprisoned for everyday acts of survival, challenged the state's legitimacy by declaring imprisonment a form of cruel and unusual punishment and confronting the brute force of state power. 40 By adopting the term “abolition” activists drew deliberate links between the dismantling of prisons and the abolition of slavery. Through historical excavations, the “new abolitionists” identified the abolition of prisons as the logical completion of the unfinished liberation marked by the 13th Amendment to the United States Constitution, which regulated, rather than ended, slavery. 41 Organizations that actively promote dialogue about what abolition means and how it can translate into concrete action include Critical Resistance (CR), New York's Prison Moratorium Project, Justice Now, California Coalition for Women Prisoners, Free Battered Women, and the Prison Activist Resource Center in the U.S. and the Prisoner Justice Action Committee (Toronto), the Prisoners' Justice Day Committee (Vancouver) and Joint Action in Canada. CR was founded in 1998 by a group of Bay Area activists including former political prisoner and scholar-activist Angela Y. Davis. Initially, CR focused on popular education and movement building, coordinating large conferences where diverse organizations could generate collective alternatives to the prison-industrial complex. Later work has included campaigns against prison construction in California's Central Valley and solidarity work with imprisoned Katrina survivors. CR describes abolition as: [A] political vision that seeks to eliminate the need for prisons, policing, and surveillance by creating sustainable alternatives to punishment and imprisonment … . An abolitionist vision means that we must build models today that can represent how we want to live in the future. It means developing practical strategies for taking small steps that move us toward making our dreams real and that lead the average person to believe that things really could be different. It means living this vision in our daily lives. 42 In this sense, prison abolitionists are tasked with a dual burden: first, transforming people's consciousness so that they can believe that a world without prisons is possible, and second, taking practical steps to oppose the prison-industrial complex. Making abolition more than a utopian vision requires practical steps toward this long-term goal. CR describes four steps that activists can get involved in: shrinking the system, creating alternatives, shifting public opinion and public policy, and building leadership among those directly impacted by the prison-industrial complex. 43 Since its inception in the San Francisco Bay Area, Critical Resistance has become a national organization with chapters in Baltimore, Chicago, Gainesville, Los Angeles, New Orleans, New York, Tampa/St. Petersburg, and Washington, D.C. As such, CR has played a critical role in re-invigorating abolitionist politics in the U.S. This work is rooted in the radical praxis of Black women and transgender activists.

## Extra

#### [HLR] The aff’s inherent – there is no recourse for when prisoners want to strike now.

**HLR:** Harvard Law Review. [Academic Journal] “Striking the Right Balance: Toward a Better Understanding of Prison Strikes” *HLR,* March 2019. JP

**As a threshold matter, state and federal statutory law provides no recourse for protecting prison strikes**. Incarcerated individuals are not included as protected “employees” in the text of federal labor laws like the Fair Labor Standards and the National Labor Relations Act, and courts have refused to extend the protections that these statutes offer to those confined within prison walls. Further, this Note is aware of no state labor laws, or for that matter any state constitutional provisions, that have been interpreted to allow prisoners to strike. **Not only are prison strikes not protected by statutory law — they also are often explicitly prohibited. State statutes and prison regulations pose the most immediate barrier to prison strike activity, as states across the union appear to categorically bar prison strikes and other forms of inmate collective organizing**. For instance, Alaska’s administrative code lists “participation in an organized work stoppage” and “encouraging others to engage in a food strike” as “high-moderate infractions.” Some other states have adopted similar statutory or administrative provisions. For a related analysis of state statutes and prison regulations governing prison “protest speech,” see Andrea C. Armstrong, Racial Origins of Doctrines Limiting Prisoner Protest Speech,. The same is true at the federal level, as the Bureau of Prisons has made “[e]engaging in or encouraging a group demonstration” and “encouraging others to refuse to work, or to participate in a work stoppage” prohibited acts. Further research is certainly necessary to develop a fuller, more nuanced treatment of the various state and federal statutory schemes that impact prison strikes. Further research could reveal differences across states in the severity of punishment for prison strike activity, as well as the scope of permissible collective action by prisoners. This could, in turn, reveal possible avenues for potentially protecting prisoners’ ability to strike. See, e.g., In re Gomez, 201 Cal. Rptr. 3d 124 (Ct. App. 2016) (holding that an inmate participating in a broader hunger strike and work stoppage across California prisons did not violate a California regulation that requires inmates to “refrain from behavior that might lead to violence or disorder, or otherwise endangers the facility, outside community or other person,” . As the court held in that case, none of the accusations against the inmate regarding striking “suggested prison operations were thrown into disorder.” Id. at 137. **But even this brief overview drives home a clear bottom line: that state and federal laws, in their current forms, likely offer no viable protection for prison strikes and indeed often prohibit them outright.**