# Glenbrooks R2 vs McNeil AG

## 1NC

#### The debate does not become a question of whether striking is good/bad, striking is good but the question is whether the right is good in which we link turn with the Cap K-

#### The Right to Strike legitimates neoliberal domination – it marks strikes as a restriction of one’s own personal labor power, which equivocates the right to strike with the right of contract – the plan is subtended by an assumption that workers are economic subjects who turn their labor into human capital, leaving the terms and conditions of neoliberal capitalism intact.

Tomassetti, 21

[Julia, Assistant Prof. Law @ City University of Hong Kong, JD @ Harvard, PhD Sociology @ UCLA: “Neoliberal Conceptions of the Individual in Labour Law,” Chapter 7 in The Collective Dimensions of Employment Relations: Interdisciplinary Perspectives on Workers’ Voices and Changing (Palgrave Macmillan, 2021). [https://doi.org/10.1007/978-3-030-75532-4]//AD](https://doi.org/10.1007/978-3-030-75532-4%5d//AD)

\*legerdemain = slight-of-hand

Neoliberal theory telescopes the corporation to the individual subject through the concept of ‘human capital’. What is human capital? Simulating the emic perspective of the neoliberal subject, Feher (2009, p. 26) provides: ‘my human capital is me, as a set of skills and capabilities that is modified by all that affects me and all that I effect’. Whereas liberal agency is grounded in possessive individualism (Gershon 2011), neoliberal agency is based on human capital (Feher 2009; Brown 2015). Neoliberalism transmutes the firm from a coordinator of labour to the manager of an asset portfolio, and the worker from an owner of labour to the manager of a human capital portfolio. The shift from labour to human capital reflects ‘neoliberal rationality’, which views neoliberalism as an ‘order of normative reason’ (Brown 2015; Foucault 2008). From an analysis of policies, economic arrangements, and other contemporary institutions, Brown (2015) distils neoliberal rationality as a complex of categories, practices, logics, and principles that differ from their liberal counterparts. Scholars have been addressing how platform companies, as part of the ‘gig economy’, enact, benefit from, and propel neoliberal policies and work arrangements (Zwick 2018). We see less work examining neoliberalism as a form of rationality. Yet, scholars are beginning to explore how neoliberal rationality and its construction of the individual manifest in and shape different social relations, including work. Moisander, Groß, and Eräranta (2018), for example, explore how a digital platform company, in order to manage precarious labour, sought to shape its workers’ subjectivity so that workers thought of themselves as little enterprises, or neoliberal agents. This chapter argues that we can also see neoliberal rationality at work in legal reasoning, when companies, and sometimes legal decisionmakers, construe workers as neoliberal agents. Using the SuperShuttle DFW dispute as my primary example, I show how a company can index the worker and ‘entrepreneur’ in neoliberal terms through practical and discursive techniques. The worker becomes an ‘entrepreneur’, but with a meaning far removed from a liberal understanding of the term. For example, on the practical side, the company designs the labour process to permit/require workers to determine their own working times by logging in and out of the platform. The platform then argues that, since workers can earn more money the more hours they log in, they are deploying a managerial strategy in deciding when and how long to work. For the liberal subject, choosing to work longer hours under the command of another for mostly fixed returns is not entrepreneurial. However, for the neoliberal subject, a decision to work longer hours reflects her discretionary commitment of human capital— her time.1 Human capital is like any other capital. It is ‘invested’ like other capital and earns ‘profit’ like any other capital. Therefore, working longer hours is the equivalent of risking any other capital for the sake of gain, like investing additional money in a business to expand production or enter a new market. This is how the practice of permitting—requiring—workers to determine their own schedules facilitates a neoliberal legerdemain: the company provides the individual, as holder of human capital, the opportunity to make decisions about the use of this capital. In fact, it requires the worker to make these decisions. As a consequence, no matter how unskilled the work, and even where the costs and returns vary little or not at all with the duration of the work, time management becomes an entrepreneurial venture. The analysis of SuperShuttle DFW shows how neoliberal rationality can transform discretion in carrying out work tasks into economic autonomy. Conceptualizing the worker as a manager of human capital makes it possible to interpret almost all worker discretion as entrepreneurial opportunity. As illustrated by the working hours example, within neoliberal rationality, the discretion need not be exercised in the context of product market competition to be entrepreneurial or involve activities characteristic of product market competition, like investing in advertising or making production more efficient. Nor does the desired end need to be monetary, because neoliberal rationality does not distinguish between the domains of production and reproduction (Feher 2009). Thus, taking time off from work can be an entrepreneurial opportunity. Further, the discretion need not be exercised in as methodological a fashion as expected under a liberal notion of entrepreneurialism. It can be more speculative and sporadic. By showing how neoliberal rationality can shape legal evaluations of platform work, including what it means to be an entrepreneur, my analysis carries some implications for our understanding of digitally coordinated work. Advancements in information and communications technology have facilitated changes in how companies organize production and exchange. Yet, these changes do not always involve major shifts in the organization of authority relations, sites of entrepreneurial ferment, or loci of power. The analysis of SuperShuttle DFW suggests that some of these apparent transformations in the organization of work are artefacts of changes in our conception of individuals as economic agents.

#### The aff’s strike-focused politics privatizes and atomizes worker struggle – it channels it towards specific employers rather than class domination as a whole while ensuring the dictatorship of the bourgeoisie by privileging alternative modes of settlement outside and in spite of the specifics of the law itself.

Feldman, 94

[George, Assistant Prof. @ Wayne State Law: “Unions, Solidarity, and Class: The Limits of Liberal Labor Law,” Berkeley Journal of Employment and Labor Law, Volume 15, No. 2, 1994. https://heinonline.org/HOL/Page?handle=hein.journals/berkjemp15&div=14&g\_sent=1&casa\_token=&collection=journals#]//AD

In other ways, however, the liberal vision of labor law that Justice Brennan exemplified has been severely limited. 19 One obvious limitation, for instance, has been the Court's preference for arbitration.20

\*\*\*FOOTNOTE 20 STARTS HERE\*\*\*

20. The Court's tendency to privilege arbitration has led it to impose legal limitations on the right to strike that are unsupported by the language, policy, or history of the labor laws. See Boys Mkts., Inc. v. Retail Clerks Union, Local 770, 398 U.S. 235 (1970); Gateway Coal Co. v. United Mine Workers of Am., 414 U.S. 368 (1974), discussed infra at part III.C. For criticism of the Court's weakening of the right to strike, see Matthew W. Finkin, Labor Policy and the Enervation of the Economic Strike, 1990 U. ILL. L. REV. 547, 548-49; JAMES B. ATLESON, VALUES & AssuMiPTIONS IN AMERICAN LABOR LAW

\*\*\*FOOTNOTE 20 ENDS HERE\*\*\*

(1983). Yet a different kind of limit also has been present in the labor jurisprudence of the Court's liberal wing-a limit that is less obvious, usually has less immediate impact, but that is perhaps more deeply seated. The Court's privileging of arbitration restricts the means by which unions legally may act in response to concerns that are concededly legitimate. The limits discussed here, by contrast, define the legitimate boundaries of collective actions and collective concerns. The cases discussed here reflect the liberal doctrine that labor law protects unions only insofar as they limit their role to that of representative of the employees of an individual employer, and that the law will resist any union attempt to move beyond this limitation. That doctrine rejects protection when the underlying issue implicates the proper role of unions in American society.

That question emerges in a variety of contexts. In some, a broad definition of unions' societal function may require, or may seem to require, limiting individual rights;21 in others, the Court's conclusion, or something very similar to it, is so clearly required by statute that the conclusion cannot be ascribed to the conscious or unconscious ideological views of the Justices.22

\*\*\*FOOTNOTE 21 STARTS HERE\*\*\*

21. When such a conflict is actually present, the proper place to draw the line is fairly subject to debate; a judge determined to protect both strong unions and individual employee rights might resolve apparent conflicts between the two in different ways without forfeiting a claim of taking each seriously. See infra notes 237-41; cf Emporium Capwell Co. v. Western Addition Community Org., 420 U.S. 50 (1975).

\*\*\*FOOTNOTE 21 ENDS HERE\*\*\*

At other times, however, liberal members of the Court have narrowed the range of permissible union concerns and therefore of unions' social role in contexts in which the law would have allowed a broader understanding, and in which the danger of conflict with individual rights was either absent or too attenuated to serve as a reasonable justification. In some cases this desire to narrow the sphere of union activity is central to the Court's reasoning; in others, it is a subsidiary theme, or is present only as an underlying assumption, unstated and perhaps unconscious, whose presence helps account for the result reached.

This article examines what the members of the Supreme Court who have been identified with its liberal wing have said explicitly or by necessary implication about what is the legitimate sphere of union activity in American life. This vision of the role that unions should play in society has both practical and ideological consequences. Modern labor law, faithful to the Wagner Act's premises, aims to particularize rather than generalize workers' struggles; it directs them towards their specific relationship to their employer, rather than to the larger relationship of their class to employers and to work; it privatizes and depoliticizes those struggles.23

\*\*\*FOOTNOTE 23 STARTS HERE\*\*\*

23. It is in this sense that I think the frequently voiced point of authors associated with the Critical Legal Studies movement is correct. It is not that workers' struggles are channeled to arbitration rather than to a public body like the National Labor Relations Board (NLRB), see Katherine Van Wezel Stone, The Post-War Paradigm in American Labor Law, 90 YALE L.J. 1509 (1981). but rather that whatever method workers employ-even including a strike or other collective job actions-the locus of the struggle remains the particular workplace or employer. It is in this sense that workers' struggles are channeled away from "political" dimensions.

\*\*\*FOOTNOTE 23 ENDS HERE\*\*\*

Given the contextual limitations mentioned, this analysis necessarily must be cautious. It must take account of the constraints of statutory language and congressional intent and, where applicable, of judicial deference to the decisions of the NLRB. 24 This analysis also must recognize the presence of other policy or ideological considerations that are unrelated to the theme of limiting the breadth of union concerns. Nonetheless, this theme is demonstrably present in a wide variety of legal settings, transecting the doctrinal categorizations that abound in labor law.

#### Our critique independently outweighs the case - neoliberalism causes extinction and massive social inequalities – the affs single issue legalistic solution is the exact kind of politics neolib wants us to engage in so the root cause goes unquestioned – and treat this as a no long-term solvency argument – the inequalities of labor relations are fundamental to capitalism. **F**

Farbod 15

( Faramarz Farbod , PhD Candidate @ Rutgers, Prof @ Moravian College, Monthly Review, http://mrzine.monthlyreview.org/2015/farbod020615.html, 6-2)

Global capitalism is the 800-pound gorilla. The twin ecological and economic crises, militarism, the rise of the surveillance state, and a dysfunctional political system can all be traced to its normal operations. We need a transformative politics from below that can challenge the fundamentals of capitalism instead of today's politics that is content to treat its symptoms. The problems we face are linked to each other and to the way a capitalist society operates. We must make an effort to understand its real character. The fundamental question of our time is whether we can go beyond a system that is ravaging the Earth and secure a future with dignity for life and respect for the planet. What has capitalism done to us lately? The best science tells us that this is a do-or-die moment. We are now in the midst of the 6th mass extinction in the planetary history with 150 to 200 species going extinct every day, a pace 1,000 times greater than the 'natural' extinction rate.1 The Earth has been warming rapidly since the 1970s with the 10 warmest years on record all occurring since 1998.2 The planet has already warmed by 0.85 degree Celsius since the industrial revolution 150 years ago. An increase of 2° Celsius is the limit of what the planet can take before major catastrophic consequences. Limiting global warming to 2°C requires reducing global emissions by 6% per year. However, global carbon emissions from fossil fuels increased by about 1.5 times between 1990 and 2008.3 Capitalism has also led to explosive social inequalities. The global economic landscape is littered with rising concentration of wealth, debt, distress, and immiseration caused by the austerity-pushing elites. Take the US. The richest 20 persons have as much wealth as the bottom 150 million.4 Since 1973, the hourly wages of workers have lagged behind worker productivity rates by more than 800%.5 It now takes the average family 47 years to make what a hedge fund manager makes in one hour.6 Just about a quarter of children under the age of 5 live in poverty.7 A majority of public school students are low-income.8 85% of workers feel stress on the job.9 Soon the only thing left of the American Dream will be a culture of hustling to survive. Take the global society. The world's billionaires control $7 trillion, a sum 77 times the debt owed by Greece to the European banks.10 The richest 80 possess more than the combined wealth of the bottom 50% of the global population (3.5 billion people).11 By 2016 the richest 1% will own a greater share of the global wealth than the rest of us combined.12 The top 200 global corporations wield twice the economic power of the bottom 80% of the global population.13 Instead of a global society capitalism is creating a global apartheid. What's the nature of the beast? Firstly, the "egotistical calculation" of commerce wins the day every time. Capital seeks maximum profitability as a matter of first priority. Evermore "accumulation of capital" is the system's bill of health; it is slowdowns or reversals that usher in crises and set off panic. Cancer-like hunger for endless growth is in the system's DNA and is what has set it on a tragic collision course with Nature, a finite category. Secondly, capitalism treats human labor as a cost. It therefore opposes labor capturing a fair share of the total economic value that it creates. Since labor stands for the majority and capital for a tiny minority, it follows that classism and class warfare are built into its DNA, which explains why the "middle class" is shrinking and its gains are never secure. Thirdly, private interests determine massive investments and make key decisions at the point of production guided by maximization of profits. That's why in the US the truck freight replaced the railroad freight, chemicals were used extensively in agriculture, public transport was gutted in favor of private cars, and big cars replaced small ones. What should political action aim for today? The political class has no good ideas about how to address the crises. One may even wonder whether it has a serious understanding of the system, or at least of ways to ameliorate its consequences. The range of solutions offered tends to be of a technical, legislative, or regulatory nature, promising at best temporary management of the deepening crises. The trajectory of the system, at any rate, precludes a return to its post-WWII regulatory phase. It's left to us as a society to think about what the real character of the system is, where we are going, and how we are going to deal with the trajectory of the system -- and act accordingly. The critical task ahead is to build a transformative politics capable of steering the system away from its destructive path. Given the system's DNA, such a politics from below must include efforts to challenge the system's fundamentals, namely, its private mode of decision-making about investments and about what and how to produce. Furthermore, it behooves us to heed the late environmentalist Barry Commoner's insistence on the efficacy of a strategy of prevention over a failed one of control or capture of pollutants. At a lecture in 1991, Commoner remarked: "Environmental pollution is an incurable disease; it can only be prevented"; and he proceeded to refer to "a law," namely: "if you don't put a pollutant in the environment it won't be there." What is nearly certain now is that without democratic control of wealth and social governance of the means of production, we will all be condemned to the labor of Sisyphus. Only we won't have to suffer for all eternity, as the degradation of life-enhancing natural and social systems will soon reach a point of no return**.**

#### New radical party politics are key—we need a new political ecology of class. That solves 100% of labor problems, the environment, and imperialism.

#### Keep in mind – they only cement in class politics by forcing the lower class to militarize against the upper– they are opposite of this alt and completely uncompatible so we preempt the perm and sever it

Gindin 16 Sam Gindin was research director of the Canadian Auto Workers from 1974–2000 and is now an adjunct professor at York University in Toronto. 12.20.2016 <https://www.jacobinmag.com/2016/12/socialist-party-bernie-sanders-labor-capitalism>, Building a Mass Socialist Party The response to Bernie showed that a socialist party in the United States is possible. But there is no shortcut to building power.

There are no blueprints to pull off the shelf, no models to comfortably point to, no social base chomping at the bit for the long road to an uncertain somewhere else. Even in the case of those unions that broke with their labor peers and supported Sanders, it is quite another thing to take the next step and completely break with the Democratic Party. Nor is it just a matter of the how and when of getting such a party started. The more fundamental question of what kind of party we are actually talking about remains paramount. What the moment seems to call for is a sober step back and — borrowing from Jane McAlevey — implementation of a “stress test” (McAlevey prefers the term “structure test”). Let’s test ourselves. Do the commitments and capacities exist to establish a loose but relatively coherent socialist current across the country? If this can’t be done, then bravely announcing the formation of a new party won’t go anywhere. The institutional essence of trying to create such a current/tendency has often been discussed and this familiar ground can be quickly summarized: Based on recruitment from the many activists mobilized by the Sanders campaign (or past socialist legacies in the case of Canada), socialist groupings would be formed in multiple centers. Each would develop a democratic structure, raise funds, and in terms of engagement determine which movements and struggles to prioritize. The groups would develop an infrastructure for communication, internal discussion/debate, and public forums. They would eventually hire part-time or full-time organizers, make links with other regions, and develop what Greg Albo calls a “political ecology of protest” — that is, frame the protests within a larger political context. Progressive candidates would be supported for a miscellany of local offices to build alliances, develop administrative skills within the movement, and provide a base for local experiments in alternative ways to address economic, environmental, and cultural needs. Speakers from abroad could be brought in for national tours reporting on related experiments elsewhere. National conferences would be held, common national campaigns chosen to build some practical unity. Debates would naturally evolve over whether the time seems opportune to give birth to a new party with its greater discipline and eventual electoral ambitions, or whether further preliminary steps remain necessary. Underlying these institutional tasks would be a number of general political tasks. First, constantly hammering capitalism as an undemocratic social system that cannot meet popular needs, cannot meet human potentials, and cannot avoid despoiling the planet. Second, insisting that if we are to do more than complain, we need to build an institutional capacity with some hope of matching capitalism’s power; we need to move to deep organizing. Third, that at this particular moment what is especially crucial is to organize ourselves to make the socialist idea relevant once more — that is, to both create a new generation of intellectual organizers committed to socialism and through popular education contribute to placing socialism on the agenda again. Fourth, active engagement in existing union and movement struggles is elemental. Absent such engagement we cannot possibly grasp the lay of the land, learn to deal with the inevitability of compromises, expand our base, or act constructively. Within such struggles a key challenge is to overcome the sense that socialist perspectives are distant and impractical ideals and demonstrate that they matter now — that they can contribute in practical terms to developing and carrying out union and movement strategies. Of special importance here are interventions in a number of debates that have stymied and divided the broad left. One is the centrality of the working class and unions. Much of the Left reserves its enthusiasm for the social movements while denigrating unions. But if the working class cannot be organized as an exemplary democratic social force, then social transformation is likewise impossible. While social movements are critical to social change, their ability to build the kind of sustained social power that might lead a challenge to capitalism have historically been disappointingly limited. Moreover, social movements remain dependent on the organizational capacities, independent resources and leverage of the working class. Yet there has always been the question of where unions, with their sectional roles as representatives of particular groups of workers, fit into a struggle beyond capitalism. Today, there is no avoiding the most fundamental questions about the capacity of existing unions to play a role in social transformation. Is union renewal and radicalization possible? And especially critical to the place of a socialist current, is this possible without the intervention of socialists committed to that reinvention of unions? A related and especially fraught controversy revolves around the relationship between class and identity. The US election has amplified these divisions. It is not news that there are nativist and racist attitudes within the white US working class. But there is a strong case to be made at this point — as more information comes out we can be more definitive — that the deciding factor in the key Midwest states was not the white working class’s enthusiasm for Trump’s xenophobia and misogyny but the built-up anger against an establishment that had for so long ignored their class concerns. The increase in the numbers that abstained from voting for Clinton (or Trump) far exceeded those who switched to Trump. This does not excuse the apparent toleration of Trump’s racism and sexism but it does mean that the appeal of Trump among white voters should not be exaggerated. Any attempt to fight the expected direction of the Trump presidency can’t start by blaming the white working class for Trump’s victory but must take the frustrations of the white working class seriously and win them to its side. In this context, class politics is not a stand-in for setting aside the injustices of racism but rather a reminder that categories abstracted from class — like “white,” “black,” and “Latino” — obscure the imbalances in power internal to each group; that only a class orientation can unify an otherwise fragmented working class; and insisting on class unity implies the committed, active support for full equality within the class. Fighting racism inside the class and in society as a whole is fundamental to building class power. A third controversy relates to immigration and solidarity. To simply assert the righteousness of fully open borders in the present context of economic insecurity cannot help but elicit a backlash and will ultimately do little for refugees and future immigrants. Workers who have seen their own standards undermined over time without their unions or the government responding to this may have charitable sentiments but they are not going to prioritize open borders. More can be achieved by trying to win people to a more liberal but regulated border policy, by fighting for full equality of workers once they are here, and by insisting that refugees and new immigrants get the social supports they need to concretize that equality — all of which bring us into solidaristic struggles over union rights and the restoration and expansion of the welfare state. A fourth

tension is that between the urgency of ecological time and the inherently extended epoch of revolutionary time. The environmental crisis demands change now but building the social force capable of bringing about that change — especially as it must mean a degree of democratized economic and social planning that inherently and fundamentally challenges corporate power — can’t help but take time even if should obviously be started now. A related friction is how to prioritize the environment since planetary survival is at stake without setting aside struggles for social justice. As the environmental crisis worsens, the greatest inequalities will revolve around access to the basics of food, water, and air so the crisis cannot be separated from its impact on inequality and justice. At the same time, unless one thinks that addressing the elite will solve the environmental crisis, the only path to building the social power necessary to transform society and deal with the environment is by way of incorporating issues of inequality and social justice. Finally, as we turn to the programmatic content of a socialist current we must confront a set of thornier issues lying behind any focus on jobs and public goods and services. Progressive policies on health care, education, housing, public transportation, minimum wages, labor rights, jobs, just environmental transitions, etc. are of course central to building a broad base. But without a further and more radical set of policies that involve fundamental economic interventions such as challenging free trade, private control over investment, and the financial power of banks and investment houses, the social policies simply cannot be sustained. In fact, in today’s context more radical policies are essential for even achieving moderate reforms. This consideration shifts the emphasis from the terrain of policies to the terrain of power — to an alternative politics rooted in developing the deepest political capacities.

#### K First - There is no material world that we can separate from the lens through which we view it. Deconstructing the AFF scholarship is a prior question that has material effects.

#### Therefore the ROB is one of deconstruction – vote for the side which best challenges neoliberal scholarship

#### Springer ‘12

Simon Springer - Department of Geography, University of Otago. “Neoliberalism as discourse: between Foucauldian political economy and Marxian poststructuralism.” Routledge. May 2012. JJN from file \*bracketing in original

Conclusion In arguing for an understanding of neoliberalism as discourse, I do not presume that comprehending neoliberalism separately as a hegemonic ideology, a policy and program, a state form, or as a form of governmentality is wrong or not useful. Rather I have simply attempted to provoke some consideration for the potential reconcilability of the different approaches. My argument should accordingly be read as an effort to destabilize the ostensible incompatibility that some scholars undertaking their separate usage seem keen to assume. Without at least attempting to reconcile the four approaches we risk being deprived of a coherent concept with which to work, and thus concede some measure of credibility to Barnett’s (2005) claim that ‘there is no such thing as neoliberalism’. Such a position renders the entire body of scholarship on neoliberalism questionable, as scholars cannot be sure that they are even discussing the same thing. More perilously, to accept such a claim throws the project of constructing solidarities across space into an uneasy quandary, where the resonant violent geographies of our current moment may go unnoticed, a condition that plays perfectly into the ideological denial maintained by the current capitalist order (Zizek, 2011). In ignoring such relational possibilities for resistance to the contemporary zeitgeist, Barnett (2005) seems keen to engage in disarticulation ad nauseam. Yet deconstruction is meant to be interruptive not debilitating. As Spivak (1996, p. 27) contends, ‘Deconstruction does not say there is no subject, there is no truth, there is no history. ... It is constantly and persistently looking into how truths are formed’. It is about noticing what we inevitably leave out of even the most searching and inclusive accounts of phenomena like neoliberalism, which opens up and allows for discursive understandings. Rather than making nice symmetrical accounts of the ‘real’ at the meeting point of representational performance and structural forces, neoliberalism understood as a discourse is attuned to processual interpretation and ongoing debate. While there are inevitable tensions between the four views of neoliberalism that are not entirely commensurable, their content is not diametrically opposed, and indeed a considered understanding of how power similarly operates in both a Gramscian sense of hegemony and a Foucauldian sense of governmentality points toward a dialectical relationship. Understanding neoliberalism as discourse allows for a much more integral approach to social relations than speech performances alone. This is a discourse that encompasses material forms in state formation through policy and program, and via the subjectivation of individuals on the ground, even if this articulation still takes place through discursive performatives. By formulating discourse in this fashion, we need not revert to a presupposed ‘real-world’ referent to recognize a materiality that is both constituted by and constitutive of discourse. Instead, materiality and discourse become integral, where one cannot exist without the other. It is precisely this understanding of discourse that points to a similitude between poststructuralism and Marxian political economy approaches and their shared concern for power relations. I do not want to conclude that I have worked out all these tensions, my ambition has been much more humble. I have simply sought to open an avenue for dialogue between scholars on either side of the political economy/ poststructuralist divide. The importance of bridging this gap is commensurate with ‘the role of the intellectual ... [in] shaking up habits, ways of acting and thinking, of dispelling commonplace beliefs, of taking a new measure of rules and institutions ... and participating in the formation of a political will’ (Foucault, quoted in Goldstein, 1991, pp. 11– 12). Such reflexivity necessarily involves opening ourselves to the possibility of finding common ground between the epistemic and ontological understandings of political economy and poststructuralism so that together they may assist in disestablishing neoliberalism’s rationalities, deconstructing its strategies, disassembling its technologies, and ultimately destroying its techniques. In changing our minds then, so too might we change the world.

#### The permutation doesn’t solve, it makes strikes LEGAL- it’s the EXACT ILLEGAL nature of strikes that sparks social transformation by capturing the moral high ground

Burns , JD, 11

(Joe, veteran union negotiator and labor lawyer Reviving the Strike: How Working People Can Regain Power and Transform America)

Traditional trade unionists exhibited this same independence of judgment, often acting in defiance of the prevailing laws of the time. This wasn’t a calculus based on political leanings, as even conservative labor officials of the early 1900s scorned anti-labor judicial rulings. In fact, just as many conservative activists do today, the labor leaders of seventy-five years ago articulated their own sets of rationales, often in opposition to the views of management and the legal system. As William Forbath notes in his illuminating book Law and the Shaping of the Labor Movement, “…labor activists expounded a competing language of rights. They claimed entitlements to jobs and workplaces as well as broad freedoms of action and association and immunities from state coercion.”3 While there certainly were differences within the labor movement over tactics, the movement as a whole upheld the right of workers to engage in an effective strike. Unlike the contemporary labor movement, trade unionists of the past bitterly resisted restrictions on the right to strike, as “principled disobedience to injunctions was official AFL policy from the late 1880s until the passage of Norris LaGuardia and beyond.”4 One of the principles of the Industrial Workers of the World was that “Strikers are to disobey and treat with contempt all judicial injunctions.”5 Even conservative union leaders such as Samuel Gompers said things like, “Injunctions regarding industrial relations I hold to be illegal.”6 Gompers understood that these powers were beyond the scope of the courts, saying that, “Such injunctions can and ought to have no real authority. I believe that those to whom such injunctions are intended to apply ought to pay no attention to them whatsoever, but should stand upon their constitutional rights.”7 It was labor’s agitation, and more importantly, the open and principled defiance of judicial orders, that won workers the right to strike and stop production. William Forbath notes that trade unionists of the early 1900s violated the law even in the face of state violence and threat of imprisonment. “From the 1900s through the 1920s,” he writes, “a widening campaign of massive and articulate defiance of the courts helped the labor movement win support for its exiled constitutional claims.”8 During the critical decade of the 1930s, this same moral certainty empowered labor to defy the power of the courts and the government. Trade unionists took over plants, stopped production with mass picket lines, and denounced employers who attempted to continue production. In addition, police who attempted to intervene in strikes by escorting scabs across picket lines were considered to be union-busters. It was the underlying belief that their actions were legitimate and that those who opposed them were in the wrong that allowed workers to engage in such militant action. For millions of working class Americans— meatpackers, truckers, autoworkers—the labor movement’s defiance of the law in the 1930s made possible an entire way of life, just as defiance of the law ultimately accomplished desegregation, the dismantling of racist Jim Crow laws, and the gains of the civil rights movement.

## Case

**A right does not guarantee more/better strikes – multiple warrants**

**Waas PhD 12**

Professor Bernard Waas, Sep 2012, "Strike as a Fundamental Right of the Workers and its Risks of Conflicting with other Fundamental Rights of the Citizens " World Congress General Report, [https://www.islssl.org/wp-content/uploads/2013/01/Strike-Waas.pdf //](https://www.islssl.org/wp-content/uploads/2013/01/Strike-Waas.pdf%20//) AW

No national laws on strike action are alike. Notably, the law on strike action is part of a much broader picture. As strikes are mostly related to collective bargaining, distinct perspectives that may exist in national systems in this regard inevitably influence assessments of strikes. If the room for bargaining is deemed an area in which the state does not interfere, the decision to use strike action may essentially be left to the autonomous decision-making of trade unions. If, on the other hand, the state tightly regulates collective bargaining, then it seems plausible for regulations on strikes to be subject to similar rules. A possible link between collective bargaining and strikes may also have other implications. If the right to conclude collective agreements is, for instance, limited to the most representative unions only, then the case might be that only members from those unions actually enjoy the right to strike. More generally, legal systems differ considerably with respect to who may represent workers´ interests. In many countries, trade unions exercise monopoly power in the representation of workers. In other countries, dual systems are in place. Works councils, for instance, may be the representative bodies at the level of the individual establishment, while trade unions may represent workers´ interests at the company and, in particular, at the branch level. Though collective agreements can be concluded at all these levels, it may very well be that works councils are prevented from staging a strike when the employer is reluctant to conclude an agreement. Instead of calling a strike, the works council may have to take recourse to arbitration as is indeed the case, for instance, in Germany. 2 Second, entirely different attitudes exist towards strikes. In some countries, strikes are considered “a right to self-defence” which is not necessarily directed at the employer; in other countries, the area of admissible industrial action may be necessarily congruent with the relationship between employers and employees. In yet other countries, strikes are seen as acts of “self-empowerment” which have very little to do with a legal order granting certain powers or rights. Finally, in some countries, the right to strike is viewed as being firmly rooted in human dignity, granted to each individual worker and not waivable by him or her, and in others, the perspective may be more “technical” with a considerable power to dispose of the right to strike. Third, as strikes are a means of balancing power between the employer and the workers, socio-economic conditions which influence this relationship may have to be considered when determining the rules on strikes. To give only two examples: Today, many companies are highly dependent on each other. Some of them may even form clusters. A move to reduce in-process inventory and associated carrying costs has made just in time production prevalent among, for instance, car manufacturers. Accordingly, a strike at a supplier will quickly start affecting the customers, a fact that lends additional power to unions and can therefore not be easily disregarded when determining the rules on strikes. Similarly, if employers can move factories beyond borders, which is indeed possible in times of a globalized economy, the question what workers should be able to throw into the balance needs to be addressed. The following comparative overview tries to shed light on the various legal systems and the solutions they provide to the most important issues relating to strikes. It must be noted, however, that **descriptions of the legal situation can only do so much**. As every comparatist knows, **a considerable gap exists between the “law in the books” and reality**. This may, in particular, be true with regard to strikes, because **striking is part of a “fight” which raises the question of power, a question that cannot be answered by simply referring to legal rules**. In some countries, into strike action often takes place outside the scope of the legal framework. Not only are many strikes unofficial, strikers all too often do not care much about the law. Accordingly, to get a clear understanding of what strike action means “on the ground”, one would have to broaden the perspective and take industrial relations as whole account. In this context, many questions would have to be raised, for instance, about the number and structure of the relevant “players”, about trade union democracy, discipline 3 among trade union members, accountability and the feeling of responsibility on the part of unions as well as employers, dependence or independence of trade unions, the scope of inter-union rivalry, etc. Many questions have yet to be answered and the answers may often be disputable. The following section discusses the legal situation of strike law.

**An unconditional right legalizes strikes with misconduct and without a legal purpose – turns case by giving strikes a bad rep**

**Guerin J.D. 13**

Lisa Guerin, J.D., 2013-06-17 (date from source code), "Strikes," nolo, <https://www.nolo.com/legal-encyclopedia/strikes.html/> //AW

No-Strike Clauses Even **strikes with a legal purpose are not protected** by the NLRA If the union's contract with the employer (the [collective bargaining](https://www.nolo.com/legal-encyclopedia/collective-bargaining.html) agreement) includes a no-strike clause. With a few limited exceptions (for example, if employees are refusing to work because of unusually dangerous working conditions), a strike that violates a no-strike provision is illegal. Strike Misconduct A strike can also become unlawful if strikers engage in serious misconduct, such as violence or threats, physically preventing other from entering or leaving the workplace, or sit-down strikes, in which employees refuse to leave the workplace and refuse to work. These strikes are not protected by the [NLRA](https://www.nolo.com/legal-encyclopedia/free-books/employee-rights-book/chapter15-2.html).

## FW

### Extinction o/w

#### Extinction outweighs:

#### A] reversibility – precludes all possibility of future pleasure

#### B] magnitude – 7.5 billion people die

#### C] moral uncertainty – even if we're not sure if [util] is true, saying extinction doesn't matter is too high of a risk

#### C] progress – scientific and moral developments would be lost

#### D] bias – humans are psychologically unable to process the scope and impact so err neg

### Extinction might be bad

#### Human extinction is a unique moral evil because of uncertainty and future potential – err neg because you're psychologically inclined to disregard it

Schubert et al. 19

[(Schubert, S., Caviola, L. & Faber, N.S.) "The Psychology of Existential Risk: Moral Judgments about Human Extinction," Scientific Reports 9, 15100 (2019)., 10-21-2019, accessed 2-14-2021, <https://doi.org/10.1038/s41598-019-50145-9>] IC

The ever-increasing powers of technology can be used for good and ill. In the 21st century, technological advances will likely yield great benefits to humanity, but experts warn that they will also lead to growing risks of human extinction[1](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR1),[2](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR2),[3](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR3),[4](https://www.nature.com/articles/s41598-019-50145-9#ref-CR4). The risks stem both from existing technologies such as nuclear weapons, as well as emerging technologies such as synthetic biology and artificial intelligence[5](https://www.nature.com/articles/s41598-019-50145-9#ref-CR5). A small but growing number of research institutes, such as the University of Oxford’s Future of Humanity Institute and the University of Cambridge’s Centre for the Study of Existential Risk, are studying these risks and how to mitigate them. Yet besides them, relatively small resources are explicitly devoted to reducing these risks.

Here, we study the general public’s views of the badness of human extinction. We hypothesize that most people judge human extinction to be bad. But how bad do they find it? And why do they find it bad? Besides being highly policy-relevant, these questions are central for humanity’s understanding of itself and its place in nature. Human extinction is a pervasive theme in myths and religious writings[6](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR6),[7](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR7),[8](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR8),[9](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR9),[10](https://www.nature.com/articles/s41598-019-50145-9#ref-CR10).

One view is that human extinction is bad primarily because it would harm many concrete individuals: it would mean the death of all currently living people. On this view, human extinction is a very bad event, but it is not much worse than catastrophes that kill nearly all currently living people—since the difference in terms of numbers of deaths would be relatively small. Another view is that the human extinction is bad primarily because it would mean that the human species would go extinct and that humanity’s future would be lost forever. On this view, human extinction is uniquely bad: much worse even than catastrophes killing nearly everyone, since we could recover from them and re-build civilization. Whether extinction is uniquely bad or not depends on which of these considerations is the stronger: the immediate harm, or the long-term consequences.

Here is one way to pit these considerations against each other. Consider three outcomes: no catastrophe, a catastrophe killing 80% (near-extinction), and a catastrophe killing 100% (extinction). According to both considerations, no catastrophe is the best outcome, and extinction the worst outcome. But they come apart regarding the relative differences between the three outcomes. If the immediate harm is the more important consideration, then the first difference, between no catastrophe and near-extinction, is greater than the second difference, between near-extinction and extinction. That is because the first difference is greater in terms of numbers of harmed individuals. On the other hand, if the long-term consequences are more important, then the second difference is greater. The first difference compares two non-extinction outcomes, whereas the second difference compares a non-extinction outcome with an extinction outcome—and only the extinction outcome means that the future would be forever lost.

This thought-experiment was conceived by the well-known philosopher Derek Parfit[11](https://www.nature.com/articles/s41598-019-50145-9#ref-CR11) (we have adapted the three outcomes slightly; see the Methods section). Parfit argued that most people would find the first difference to be greater, but he himself thought that the second difference is greater. Many other philosophers and other academics working to reduce the risk of human extinction agree with Parfit[12](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR12),[13](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR13),[14](https://www.nature.com/articles/s41598-019-50145-9?utm_medium=affiliate&utm_source=commission_junction&utm_campaign=3_nsn6445_deeplink_PID100045715&utm_content=deeplink#ref-CR14),[15](https://www.nature.com/articles/s41598-019-50145-9#ref-CR15). On their view, the badness of human extinction is greatly dependent on how long the future would otherwise be, and what the quality of future people’s lives would be. As the philosopher Nick Bostrom notes, predictions about the long-term future have often been left to theology and fiction, whilst being neglected by science[16](https://www.nature.com/articles/s41598-019-50145-9#ref-CR16). However, in recent years, researchers have tried to assess what the long-term future may be like. They argue that if humanity does not go extinct, then the future could be both extraordinarily long and extraordinarily good, involving much greater quality of life than the current world. For instance, Nick Bostrom argues that a conservative estimate of humanity’s future potential is “at least 1016 human lives of normal duration”, which could “be considerably better than the average contemporary human life, which is so often marred by disease, poverty [and] injustice”[17](https://www.nature.com/articles/s41598-019-50145-9#ref-CR17). He goes on to argue that less conservative estimates would yield even greater numbers, and a drastically improved quality of life. The argument is that if humanity develops to a sufficiently high technological level, then it will either cause its own extinction via misuse of powerful technologies, or use those technological powers to greatly improve the level of well-being. Furthermore, they argue, based on the view that new happy people coming into existence is morally valuable[11](https://www.nature.com/articles/s41598-019-50145-9#ref-CR11), that it is of paramount moral importance to make sure that we realize our future potential, and prevent human extinction.

While philosophers have discussed the ethics of human extinction for some time, the general public’s views on this matter has not received much study. There are some studies on perceptions of risk of extinction, however. Two studies found that a slight majority do not think that humanity will go extinct, and that most of those who thought that it would go extinct thought that would happen at least 500 years into the future[18](https://www.nature.com/articles/s41598-019-50145-9#ref-CR18),[19](https://www.nature.com/articles/s41598-019-50145-9#ref-CR19). There is also a related literature on catastrophic risk in general, focusing primarily on non-extinction catastrophes. For instance, it has been argued that the fact that people use the availability heuristic—they focus on risks which have salient historical examples—leads to a neglect of new types of risks and risks of major catastrophes (which are rare, and therefore less psychologically available)[20](https://www.nature.com/articles/s41598-019-50145-9#ref-CR20). Similarly, it has been argued that the fact that risk mitigation is a public good leads to under-investment, since it means that it is not possible to exclude free riders from benefiting from it[21](https://www.nature.com/articles/s41598-019-50145-9#ref-CR21). On specific risks, there is a literature on the psychology of climate change showing that people fail to act to mitigate climate change because they engage in temporal discounting[22](https://www.nature.com/articles/s41598-019-50145-9#ref-CR22),[23](https://www.nature.com/articles/s41598-019-50145-9#ref-CR23) and motivated reasoning about its severity[24](https://www.nature.com/articles/s41598-019-50145-9#ref-CR24), and because of psychological distance[25](https://www.nature.com/articles/s41598-019-50145-9#ref-CR25) (e.g., temporal and social distance). However, to date there have been no studies on how laypeople reason about the moral aspect of human extinction: how bad it would be. Is the extinction of our own species something people care about? Do they recognize it as being fundamentally different in quality from other catastrophes? And if so, why?

# 2NR

### OV – Medium

#### 1] Treat the links as disads- striking independently supports capitalism, look at either of our links- both of them prevent the alt from functioning which triggers our impact of the extinction scenario

#### 2] Continued neolib causes extinction, only the alt can get us out of this hole with socialist movements

#### 3] The impact of the K is linear not brink, any continued towards neoliberalism is bad

#### 4] Evaluate the K first over the case: they have to defend their epistemology since everything they say is theoretically false due to capitalist ideology infecting their scholarship

### XT: Feldman

#### Extend the atomization of workers card- workers’ real goal is capital but that will never be achieved through a capitalist system- strikes just give employers the power to privatize workers’ struggle- strikes don’t address the real root cause of workers’ problem and even if they do, they can’t solve for capitalism and that links to our extinction scenario impact

### AT: Perm

#### 1] Reject the aff’s claims that you can “perm do both”, we are physically mutually exclusive because you can’t deconstruct scholarship while passing a policy based on it

#### 2] Strikes literally link to our impacts, any form of the aff’s striking still links to our impacts so the alt is exclusive

#### 3] The links are disads to the perm and they provide mutual exclusivity, if their plan includes strikes then they cannot be compatible with the anticapitalism of the alt

#### 4] The perm is severance of their representations – severance is a voting issue because it makes the aff a moving target which is unfair and kills neg strategy since we only get 2 speeches

#### 5] Evaluate the debate as competing methodologies/understandings of the world – this means the perm is incoherent if we aren’t evaluating competing policies.

#### 6] No net benefit – we solve the AC because we solve the root cause– neoliberalism. Evaluate the perm debate through a risk analysis – if we win root cause claims, there’s no reason to risk the AC links hurting alt solvency.

#### **7]** Inclusion of the aff dooms alt solvency – we must give up our attachments to rights and the law in favor of examining the relationship of domination with existence itself.

Gabel, 84

[Peter, Prof. Law @ New College of California School of Law, San Francisco: “The Phenomenology of Rights-Consciousness and the Pact of the Withdrawn Selves,” Texas Law Review 62, no. 8 (May 1984). [https://heinonline.org/HOL/Page?handle=hein.journals/tlr62&div=65&g\_sent=1&casa\_token=&collection=journals]//AD](https://heinonline.org/HOL/Page?handle=hein.journals/tlr62&div=65&g_sent=1&casa_token=&collection=journals%5d//AD)

#### But it is wrong to think that the critique of rights is 'Just a matter of degree," or that all we need is to get the good meaning of rights into the law and get rid of the bad meaning, or that what we need are collective rights instead of individual rights or human rights instead of property rights. And it is also wrong to think that a transformation movement can be advanced by a conceptualized "combination" of rights-victories at the legal level and community organizing at the grass-roots level, as if we could produce a quantity of movement and then freeze it in stone, and then another and freeze that in stone, until we had the right to everything we wanted. To think any of these things is to participate in the illusion that the right to an experience can create the experience itself, and to reverse the true relationship between the meaning of verbal concepts and the qualitative or lived milieu out of which they arise. From my point of view, the critique of rights is a critique of that reversal; it is aimed at clarifying the possible existential meanings that rights can acquire once their true relationship to existence itself has been understood

### AT: No Root Cause

#### They solve a temporary problem and claim victory by solving “extinction” or “solving war”- in reality capitalism causes all these impacts in the long run so they are forced to run with the alt- that’s Farbod 15- it’s impossible for them to solve at this point so cross out all their impacts

### XT: FW

#### Weigh the K over the case:

#### 1] The judges enter the debate without any bias or morals, it is our job to tell them how to view the world- if they have not contested our framing then evaluate the debate 100% on that

#### 2] Epistemology – the K indicts the knowledge production processes of the AC – they first have to win that their authors are understanding the problem through the correct lens before they can win any form of solvency, which makes the K a pre req to the case

#### 3] Fiat is illusory – the plan never passes, so the only tangible impact is the orientation the judge chooses to forward in the academic space – you have a real world obligation to rid educational spaces of neoliberalism.

#### 4] DON'T COP OUT—judges nowadays just disregard framework and let the aff get access to all their impacts. If we win our link arguments you shouldn't weigh their advantages not because of theory, but because their advantages aren't true.

### XT: Impact

#### Weigh the K’s extinction scenario impact over theirs:

#### 1] Any form of them striking solves small impacts in the short term but fails to address the long term- we’ve historically been able to recover from short term impacts but long term impacts tend to have higher magnitude

#### 2] Capitalism is more present than workers striking and therefore it is a more pressing issue- weigh our impacts because they cover a larger scope

#### 3] Weigh magnitude and scope over all else- together they dovetail to create some of the impacts that are just too hard to pass on- debaters’ cognitive bias tends to underestimate high risk scenarios

#### 4] Our impact causes theirs- if you solve capitalism you solve the workers’ desires of trying to gain capital- that’s Feldman. Do the alt and we solve their impacts, don’t do the alt and workers remain unhappy