# Round 2 1NC v. Immaculate Heart SS

## 1

#### The AC is an effort in “left legalism”, they believe the right to strike is not adequately protected and the solution is to codify it. This ignores that it is the nature of rights themselves in liberal societies that produce conflict

Dimick, JD/PhD, 19

(Matt, Law@Buffalo, *Counterfeit Liberty*, Catalyst Vol 3 No 1 Spring)

A third example concerns the legal status of concerted activity taken in response to an employer’s unfair labor practices. The Supreme Court addressed this issue in a widely cited and discussed decision, NLRB v. Fansteel Metallurgical Corp.49 In that case, the employees responded to a series of the employer’s unfair labor practices — recognizing only an “independent,” company-dominated union, and employing a labor spy to engage in espionage within the bona fide, “outside” union — by “seizing the employer’s property” in a sit-down strike. The employer countered by announcing that “all of the men in the plant were discharged for the seizure and retention of the buildings.” The employer then appealed to the local sheriff, who with an “increased force of deputies” evicted the workers from the plant and arrested them; most of the workers were eventually fined and given jail sentences. As a remedy for the employer’s unfair labor practices, the Board ordered “‘immediate and full reinstatement to their former positions,’ with back pay.” However, the Supreme Court denied enforcement of this order, concluding that the workers had been legitimately discharged for illegally seizing the employer’s property. The court’s decision has been widely criticized for taking a narrow view of “concerted, protected activity,” and ignoring the workers’ claims to be acting in self-defense against the employer’s violation of their rights granted to them by the Wagner Act. According to Karl Klare, the language of the Fansteel decision reinforces the role of workers as sellers of labor power and consumers of commodities, rather than as producers, and obstructs an alternative perspective presaged by the “‘dereifying’ explosion of repressed human spirit” expressed in the sit-down strike.50 According to James Gray Pope, the Fansteel decision inverts appropriate legal hierarchies, placing the employer’s common-law property rights above those of the employee’s statutory right to engage in collective action, a conclusion that can only be justified by an unstated appeal to a discredited interpretation of the Constitution.51 Both critics, however, overlook the very first words of Chief Justice Hughes’s decision following its statement of facts: “For the unfair labor practices of [the employer] the Act provided a remedy. Interference in the summer and fall of 1936 with the right of self-organization could at once have been the subject of complaint to the Board.”52 Once again, using the strike to enforce workers’ statutory rights is legally duplicitous because the Board already possesses the power to enforce those rights. The court continued, “To justify such conduct because of the existence … of an unfair labor practice would be to put a premium on resort to force instead of legal remedies and to subvert the principles of law and order which lie at the foundations.”53 Responding to this language, Klare is correct to draw attention to the inherently peaceful nature of workers’ concerted activity in general and the sit-down strike in particular.54 But it is not the court’s hysterics that are most interesting; instead, it is the overlooked rationale that, whether violent or not, concerted action to enforce rights already subject to Board administration and enforcement subverts the appropriate scheme of rights enacted by the NLRA. Thus, it is not (or not just) ideologically freighted judicial reasoning that has undermined the labor movement, but the very rights themselves, created and enforced by the state apparatus, that have justified restrictions on concerted worker activity.

#### Subordination- rights weaken labor movements by making them dependent on a corrupt legal system. Cross-national analysis shows rights never help, they only hurt

Dimick, JD/PhD, 19

(Matt, Law@Buffalo, *Counterfeit Liberty*, Catalyst Vol 3 No 1 Spring)

Labor law presents an inescapable problem for the labor movement. If that claim was not already obvious, then the US Supreme Court’s decision in Janus v. AFSCME should have made this clear. Even labor law scholars, who once viewed labor law as a path of liberation for the labor movement, now see it as an ossified millstone around its neck. Recommendations for the reform and renewal of labor law therefore abound. In nearly all of these recommendations, there is no question that the law can and should play a fundamental role in revitalizing the labor movement. Indeed, labor law’s current flaw according to these recommendations is not the rights they provide, but only the “weakness” of these rights. In this essay, I want to ask a question that has quite a different implication for how trade unions should approach labor law: how did the regulation of labor relations come to assume the form of law? The first objective of this essay is to answer this question. As labor movements developed under capitalism in the late nineteenth and early twentieth centuries, the regulation of labor relations took different paths. The path that a particular country took was determined by various material, political, and ideological causes that this essay will try to describe. While some amount of legal regulation is inescapable in a society based on private property and generalized commodity exchange — which logically imply the contestation of private interests — labor movements in some parts of the world have been able to avoid the dependency and displacement that always follows a regime of full-blown legal regulation. Trade unions in Scandinavia in particular have been able to develop a system of labor regulation that avoids the subordination to the state that has been the fate of Anglophone countries, such as the US and Australia, as well as on the Continent, in France and Germany. Another objective of this essay is to show that even labor law sympathetic to unions, rather than loosening, came to bind ever more tightly the cords constraining labor. This is not, or at least not only, because of capitalist-class interest or ideology extrinsic to labor law, but in fact is quite intrinsic to law itself. As this essay will demonstrate, many of the restrictions and prohibitions that hobble the labor movement today are justified by the very rights the labor law statute, the National Labor Relations Act (NLRA), confers. Statutory labor law confers rights, and rights are distinguished by the fact that they constitute claims that are enforced through the machinery of the state apparatus. In the mind of a judge or bureaucrat, one can hardly complain about the suppression of workers’ self-activity to advance or enforce some interest or claim, because the existence of a corresponding legal right makes such activity legally redundant. Of course, there is an enormous sociological difference: if strikes are the means by which workers build solidarity and develop class consciousness, then the substitution of the strike for other means of reaching working-class objectives may, whether intentionally or not, undermine working-class interests.

#### Prefer negative methodology- a comparative history approach reveals flaws in the affirmatives “critical labor law” approach. Their focus on specifics obscures the fundamental issue of statism

Dimick, JD/PhD, 19

(Matt, Law@Buffalo, *Counterfeit Liberty*, Catalyst Vol 3 No 1 Spring)

The intent of this brief comparative history is to reveal the uniqueness of the form of labor union organization found in the US. Unlike either the continental or Nordic variants, labor union organization in the US (and other Anglophone countries) is characterized by strong workplace-based organization (when and where it exists) and weak coordinating capacity above the workplace level (i.e., sectoral, national, etc.). This section will trace how that form of union organization gave rise to a law-based, statist form of labor-relations regulation. The shift to a law-based form of regulation was dramatic. Toward the end of the nineteenth century, neither unions nor collective bargaining had any legal existence. The only means available to a union to obtain recognition from an employer, bring the employer to the bargaining table, make a collective agreement, or even enforce a collective agreement, was through “extralegal” economic compulsion — the threat or exercise of strikes, boycotts, and other forms of concerted activity. Court injunctions frequently repressed such tactics — thus “recognizing” collective worker activity only in the negative sense. By the middle of the twentieth century, this had all changed: statutes established comprehensive legal regulation of all stages of a collective bargaining process presided over by an administrative agency, the NLRB, and the federal courts. What explains this transformation? How did the regulation of labor relations come to assume the form of law? Did alternative possibilities exist? DECENTRALIZED UNIONISM AND THE ADOPTION OF THE LEGAL FORM The answer I offer is that this statist regime of labor law is a product of the narrowness of labor relations themselves. Unions in the US have a strong workplace presence but weak coordinating capacity. This decentralized model of trade union organization produced pervasive employer-union conflict as well as union-union conflict. Owing to their lack of coordinating capacity, unions in the US were unable to forge a regime of self-regulation. A statist regime of labor law was constructed to fill the regulatory void. At the heart of the 1935 National Labor Relations Act (or Wagner Act, after its main sponsor Senator Robert F. Wagner of New York) is an election procedure in which the NLRB supervises a secret ballot election and, by majority rule, awards “exclusive representation” status to a union if it prevails. Other features of the Act fit neatly into this “recognition” framework. The Act bans “unfair labor practices” to ensure that the workers’ choice of representative (or whether to be represented) is “fair and free.” After a union is “certified” by the government, the Act provides for elaborate procedures for when workers may decertify a union or an employer withdraw recognition. The legal status of various kinds of economic weapons to which workers may resort often depend on whether a union has been certified. And certification grants to unions themselves certain rights and protections, including machinery for the enforcement of union-negotiated contracts. This regime can only be described as a highly statist form of labor-relations regulation. The origins of this majority-rule recognition procedure can be traced to the pre-New Deal era, specifically to attempts to regulate labor relations on the railroads. Union organization on the railroads is a classic example of the early-industrialization problem. First as fraternal and benefit societies, later as bona fide unions, there were no fewer than twenty different labor organizations representing workers in the railway industry. Each of these organizations, in structure and strategy, enacted the principle of exclusivity described in the previous section. “Each brotherhood, as was customary among American craft unions, claimed sole jurisdiction over the employment conditions governing employees in that craft,” whether or not the worker was a member of the union.34 At approximately the same time, railway unions began appealing to the majority-rule principle both to justify their demands for union recognition vis-à-vis employers and to solve their jurisdictional disputes with one another. This all took place against the backdrop of extraordinary labor strife. Later, this principle was adopted in one of first pieces of national legislation regulating labor relations, the Transportation Act of 1920. Fifteen years later, a series of statutes, court decisions, and policy choices had so narrowed the available options that “the question of Wagner’s intent became secondary to his policy constraints. Wagner built the NLRA upon an ideology that had become self-sustaining.”35 Scholars have criticized the NLRA for enshrining into law the old AFL’s “voluntarist” labor-relations philosophy. This was accomplished either by the passage of the NLRA itself or by its subsequent “judicial deradicalization.” Either version treats the NLRA as a kind of ex nihilo event, without any legal or policy history of its own.36 Ruth O’Brien convincingly demolishes this account. It was not the AFL’s voluntarism that prevailed but the progressive movement’s “responsible unionism.” For progressives, the labor movement was too narrowly self-interested to accommodate the “public interest.” What was needed was a Hobbesian strong state — one that would subordinate the labor movement to the “true” guardian of the public interest.37 I endorse O’Brien’s version of events, but she doesn’t account for the counterfactual: could the AFL’s voluntarism have been a viable alternative solution to the “labor problem”? Given the lack of coordinating capacity among US labor unions, I suggest not. At least partly, the progressives’ critique of the AFL-dominated labor movement was true. It is just that the possibilities, if not the concrete choices available to the labor movement in the early 1900s, were not limited to either a Leviathan or narrow craft voluntarism. The following comparative example makes this claim concrete. In a forgotten story in labor history — forgotten because of the opportunity that was not taken — the International Association of Machinists (IAM) and the National Metal Trade Association (NMTA) signed the so-called Murray Hill agreement in 1900. In terms of the agreement’s substance, employers conceded to a reduction in the working day from ten to nine hours for all machinists in NMTA shops. However, a complication arose from the union’s inability to convince all NMTA employers to also adopt a uniform 12.5 percent wage increase to maintain weekly earnings at earlier levels. The agreement was repudiated in the following strike wave, the union claiming that the employer had failed to agree to the wage increase, the employers accusing the union of calling strikes instead of settling the disputes through the central arbitration system established by the agreement. As told by Peter Swenson, employers would have in time accepted, and many would have even welcomed, centralized bargaining over wages and working conditions in exchange for the unions relinquishing their job-control objectives. Employers “slammed the door shut for all time, however, because union militants used the strikes to impose the closed shop … and rules prohibiting men from operating more than one machine at a time, working for piece rates, and instructing unskilled workers.”38 The IAM leadership did not approve the strikes and in fact had agreed to management’s demand for the open shop and the right to manage. Thus, the objective of taking wages out of competition came to founder on the IAM’s inability to control local militancy and designs on job control. At almost exactly the same time, in 1905, an almost identical experiment in the identical industry led the Swedish labor movement in a very different direction. Confronted with a metal-workers’ strike, the employers’ association in the engineering industry responded with a lockout at eighty-three member firms. The conflict led to the “first industry-wide multi-employer wage settlement for any industry in the country.” The agreement “allowed no restrictions on manning of machinery or hiring of unskilled workers and apprentices … [and] the union agreed to an open shop clause.” The metal workers’ counterpart in the United States, “[m]ilitant skilled craftsmen” in the IAM, “would have regarded the deal with dismay and disgust.” The next year, this industry agreement was followed by a multi-industry, national agreement known as the “December Compromise.” A key section of the agreement prohibits closed-shop agreements and establishes management control over “decisions involving hiring, firing, and supervising work.”39 Yet what workers gave up in firm-level “production politics” they gained in power over the labor market itself. Centralized bargaining has come to deliver high union density, the lowest level of wage dispersion in the advanced capitalist world, and most critically, high inclusivity, encompassing virtually all wage earners. The IAM’s attempt at establishing industry-wide bargaining vividly demonstrates how the US labor movement’s workplace-centered unionism acted as an obstacle to broader and more inclusive forms of worker organization. Centered at the workplace, and pursuing a job-control strategy, US unions had significant power to contest the employer’s domination of the labor process. Unfortunately, for exactly those same reasons, this constellation of power was too weak, too uncoordinated between firms, to contest the domination of the market. As the comparison of the IAM with the Swedish metal workers shows, local power generated conflict but obstructed efforts to develop self-regulation. Following decades of the “labor problem,” the state stepped in as regulator. As a result, “[g]overned by this state-operated regulatory agency [i.e., the NLRB], organized labor no longer shaped its own destiny—it was dependent on this agency.”40 O’Brien is therefore correct to insist that it was the progressives’ statist vision rather than the AFL’s voluntarist philosophy that prevailed. Nevertheless, we should not overlook how historically given forms of labor organization frustrated other possible forms of labor-relations regulation. This gives us another reason why voluntarism per se was not the culprit in labor’s current legal and existential crisis. Scandinavian self-regulation is, after all, another kind of voluntarism. At the same time, as the IAM example demonstrates, the institutional and organizational narrowness of craft unionism left the door open to a statist regime of labor law. THE CONSEQUENCES OF IGNORING THE LEGAL FORM Because of unions’ strong workplace presence but weak capacity for coordinating activity across workplaces, the regulation of labor relations was achieved by recourse to the law. This claim cuts directly against the thrust of a tradition of “critical” labor law. The story told by critical labor law scholars is of a potentially “anticapitalist” National Labor Relations Act that was “deradicalized” by conservative judges and narrow-minded intellectuals.41 In these approaches there is never any question whether the law should be used to regulate labor relations. Rather, the line of attack is to challenge the particular content of the labor law, not the form of regulation itself. Not only is this a mistake as a method of analysis but, as I will also demonstrate, it also commits an instrumentalist error about the nature of the law and the state within capitalism. A content critique of law obscures the way that law does more than simply help or hinder the labor movement achieve various, specific objectives. As a form of social regulation, the law also allocates determinate material and ideological resources as a means to achieve these ends. These means threaten to substitute for the working class’s own material and ideological means of regulation. This would not be an issue if labor unions or other working-class organizations were merely means of achieving gains for workers. But they are not. Whatever their limitations, unions are moments in the process by which workers constitute themselves as a class. Thus, the law — not in its content, but as a form of social regulation — always presents the danger of undermining this process through mechanisms of dependency and displacement.

#### Methodological questions should be prioritized over policy -it’s a logical prior question to solvency

Bartlett ‘90, professor of law at Duke University, 1990 (Katharine, 103 Harvard Law Review 829, February, lexis)

Feminists have developed extensive critiques of law n2 and proposals for legal reform. n3 Feminists have had much less to say, however, about what the "doing" of law should entail and what truth status to give to the legal claims that follow. These methodological issues matter because methods shape one's view of the possibilities for legal practice and reform. Method "organizes the apprehension of truth; it determines what counts as evidence and defines what is taken as verification." n4 Feminists cannot ignore method, because if they seek to challenge existing structures of power with the same methods that [\*831] have defined what counts within those structures, they may instead "recreate the illegitimate power structures [that they are] trying to identify and undermine." n5

#### Text: The Federative Republic of Brazil should recognize an unconditional freedom of workers to strike.

#### A “right” gives power to the state, a freedom reduces it. The alternative is mutually exclusive with the case and solves better

Dimick, JD/PhD, 19

(Matt, Law@Buffalo, *Counterfeit Liberty*, Catalyst Vol 3 No 1 Spring)

What then should be the attitude of the labor movement toward the law? The very existence of the state and law requires some engagement with it, if only to avoid it. I address these issues in the next section. LABOR LAW AND UNION STRATEGY I have argued that the regulation of labor relations need not always assume the form of law, and that in fact it does not always assume the extreme form of legalism that we find in the United States. I have also demonstrated the contradictory nature of rights in the regulation of labor relations. What kind of labor legal strategy emerges from this analysis? The introduction drew the distinction between rights and freedoms.68 Rights are those interests or actions that are protected by the coercive power of the state. Freedoms on the other hand are those interests or actions that are not prohibited by the state, but also with which others may interfere; freedoms are neither legally protected nor prohibited. My contention is that the labor movement should advance labor freedoms and be wary about labor rights. This contention follows from the previous analysis. Since rights are distinguished by the fact that they are protected by the coercive power of the state, bureaucrats, judges, and legislators can use that fact to restrict labor’s own means and powers to enforce these interests and claims, subordinating society to the state. Indeed, as I have shown, state officials, with interests and power of their own, are likely to view labor’s competing power as legally redundant and particularly subversive. Labor freedoms restrict the coercive power of the state in a way that gives priority to labor’s autonomous sources of power, subordinating the state to society. Advancing labor freedoms is hardly an unambitious strategy, since direct prohibitions on concerted activities are abundant. The three most restrictive prohibitions on strike activity are those directed to (1) mass picketing,69 (2) organizing and bargaining strikes,70 and (3) secondary strikes and boycotts.71 Each is an affirmative ban on worker collective action, by which an employer may have the actions enjoined and the union fined. As such, they are restraints on workers’ freedom of action. The first ban has done the most to destroy the power of the strike and, as discussed below, to open the door to the employer’s use of replacement workers. The second has done the most to squelch coordinated worker activity across firms and industries. As identified earlier, the third has done the most to derail and suppress organic worker self-organization. These restrictions could be eliminated through various means. Congress could amend the National Labor Relations Act, and remove the offending provisions. Some labor law scholars have argued that these provisions violate the First Amendment and therefore should be declared unconstitutional. The labor movement should entertain all options, but I have little doubt that massive civil disobedience though direct worker confrontation with these legal barriers will also be necessary to discredit and overcome them. If such labor freedoms were achieved, employers would be under no state-imposed duty to refrain from interfering with workers engaged in such activities. Workers could be terminated for engaging in mass picketing, organizing strikes, or secondary picketing. Freedoms may therefore strike some readers as insufficient. Yet, it has been the burden of this essay’s comparative, historical, and legal analysis to demonstrate the self-defeating sociological effects of labor rights. Nevertheless, there is truth to the claim that certain, fundamental labor rights remain essential. Thus, insofar as it facilities worker solidarity and collective action, there seems little reason to eschew, for example, a worker’s right to join a union. Even more fundamentally, the rights of workers to be free from the employer’s physical assaults or from the state’s interference with speech and expression are also necessary. The distinction between rights and freedoms is no talisman. Rather, the ultimate objective must be kept in mind: the collective self-organization of the working class.72 To convince the reader that this proposal is not merely wishful thinking, we should recall the self-regulation models of Scandinavia. In Denmark and Sweden, the regulation of labor relations — including such fundamental matters as union recognition and minimum wages — falls within the purview of unions and organized employer associations. Strikes that are banned in the United States remain viable options in Scandinavia. Enforcement of the rules and agreements depends primarily (though not exclusively) on the economic weapons of labor and employers, rather than the physical compulsion administered by the state. Labor courts, unlike the NLRB, operate outside the hierarchy of the bureaucracy and courts of the state apparatus.

#### Statism destroys value to life

**Kateb** – Professor of Politics and Director of the Program in Political Philosophy at Princeton – **1992** (George, The Inner Ocean p. 117-118)

What is statism? From a broad range of possible meanings, we may confine ourselves for the moment to the sense present in nuclear rhetoric. Let us say that this statism is the belief that a government is not a mere government but a state and that as such it is the locus of identity of a society; that it is not only distinct from but above society; that it has rights (not merely duties); that its survival can be secured at any cost to its own society or to others. We ordinarily associate such thinking with absolute monarchy or with modern party and military dictatorships. We certainly do not think that such a belief is compatible with the Constitution or with the moral ideas connected with political legitimacy in general. Statism is a vision of life in which people are means to the end of the survival of power, in which society is understood as one great quasi-military organization or power base and in which the state is seen not only as a society's leadership but also as its reason for being. Officials may not recognize their rhetoric and themselves in this description. But I do not see what the expressed determination to risk or engage in a sizable exchange of nuclear weapons could mean except that the idea of statism has been accepted. This point becomes especially evident when we see that American nuclear rhetoric explicitly refers to a protracted nuclear war and thus to the readiness to accept massive numbers of American deaths. Even if we choose to leave aside the rhetoric concerning limited or special nuclear uses, and also to leave aside the massive numbers of deaths in other countries, we are compelled to take in the fact that the American government says it is willing to have the American people endure countless deaths. This willingness, in turn, can only mean that officials think that as long as the executive upper echelons survive intact, and with them a corps of military and police, the only other need is enough people left alive to supply the means necessary for the government—that is, the state—and its purposes. Its purposes are one: to remain and continue to bear the true existence and meaning of society, even when millions have been passively victimized unto death. I do not see what other implication can be drawn from any rationalization of the use of nuclear weapons in a sizable exchange. If we insist that even a so-called special or limited use carries with it the immediate or delayed possibility of escalation, then we simply say that the rationalization of any use of nuclear weapons is the most extreme form of statism and therefore is the most extreme form of illegitimate or anti-constitutionalist doctrine.

#### Statism causes extinction

**Beres, 1994** (Louis Rene, Professor of International Law in the Department of Political Science at Purdue University, Spring,, Arizona Journal of International and Comparative Law, Lexis)

The State presents itself as sacred. The idea of the State as sacred is met with horror and indignation, especially in the democratic, secular West, but this notion is indisputable. Throughout much of the contemporary world, the expectations of government are always cast in terms of religious obligation. And in those places where the peremptory claims of faith are in conflict with such expectations, it is the latter that invariably prevail. With States as the new gods, the profane has become not only permissible, it is now altogether sacred. Consider the changing place of the State in world affairs. Although it has long been observed that States must continually search for an improved power position as a practical matter, the sacralization of the State is a development of modern times. This sacralization, representing a break from the traditional [\*20] political realism of Thucydides, n57 Thrasymachus n58 and Machiavelli, n59 was fully developed in Germany. From Fichte n60 and Hegel, through Ranke and von Treitschke, n61 the modern transformation of Realpolitik has led the planet to its current problematic rendezvous with self-determination. Rationalist philosophy derived the idea of national sovereignty from the notion of individual liberty, but cast in its modern, post-seventeenth century expression, the idea has normally prohibited intervention n62 and acted to oppose human dignity and human rights. n63 Left to develop on its continuous flight from reason, the legacy of unrestrained nationalism can only be endless loathing and slaughter. Ultimately, as Lewis Mumford has observed, all human energies will [\*21] be placed at the disposal of a murderous "megamachine" with whose advent we will all be drawn unsparingly into a "dreadful ceremony" of worldwide sacrifice. n64 The State that commits itself to mass butchery does not intend to do evil. Rather, according to Hegel's description in the Philosophy of Right, "the State is the actuality of the ethical Idea." It commits itself to death for the sake of life, prodding killing with conviction and pure heart. A sanctified killer, the State that accepts Realpolitik generates an incessant search for victims. Though mired in blood, the search is tranquil and self-assured, born of the knowledge that the State's deeds are neither infamous nor shameful, but heroic. n65 With Hegel's characterization of the State as "the march of God in the world," John Locke's notion of a Social Contract -- the notion upon which the United States was founded n66 -- is fully disposed of, relegated to the ash heap of history. While the purpose of the State, for Locke, is to provide protection that is otherwise unavailable to individuals -- the "preservation of their lives, liberties and States" -- for Hegel, the State stands above any private interests. It is the spirit of the State, Volksgeist, rather than of individuals, that is the presumed creator of advanced civilization. And it is in war, rather than in peace, that a State is judged to demonstrate its true worth and potential. [\*22] How easily humankind still gives itself to the new gods. Promised relief from the most terrifying of possibilities -- death and disappearance -- our species regularly surrenders itself to formal structures of power and immunity. Ironically, such surrender brings about an enlargement of the very terrors that created the new gods in the first place, but we surrender nonetheless. In the words of William Reich, we lay waste to ourselves by embracing the "political plague-mongers," a necrophilous partnership that promises purity and vitality through the killing of "outsiders."

## 2

#### CP Text: The National Congress of Brazil should impeach Bolsonaro.

Rosana Pinheiro-Machado, 3-29-2020, (Rosana Pinheiro-Machado is a Brazilian anthropologist at the University of Bath. Author of *Amanhã vai ser maior*, a book about the lead up to Bolsonaro’s election) "Opinion: Bolsonaro is endangering Brazil. He must be impeached.," Washington Post, <https://www.washingtonpost.com/opinions/2020/03/29/bolsonaro-is-endangering-brazil-he-must-be-impeached/> HW CR

On March 17, some members of Congress formally introduced an impeachment request signed by scientists, artists, activists and public intellectuals. Citizens and organized civil society have gotten behind the petition to impeach. Since then, close to 1 million people have signed it. It’s clear that, beyond any political calculation, allowing Bolsonaro to stay in power is unsustainable. Since his election, Bolsonaro has led Brazil by following a fascist playbook, attacking the press and indigenous peoples, eroding human rights protections, and offering apologies for dictatorship and torture. He has gone from breach of decorum to abuse of power to attacks against the constitution. His mismanagement of the coronavirus has only intensified his crimes of irresponsibility. Impeachment can be a difficult political and legal process. (Brazilians not long ago lived through a politicized and unfair process against Dilma Rousseff that amounted to a coup.) But the case against Bolsonaro is bulletproof. Today he represents an existential threat. There must be both deep political articulation and social legitimacy to carry out his removal, and a transition must be carefully planned. Brazilians are now rejecting Bolsonaro’s legitimacy. Our political leaders must move forward and vote to impeach him.

#### Solves Climate – impeaching and removing Bolsonaro will stop climate agenda.

## Case

### Climate

#### Solved by the Advantage CP.

#### Look at the Fox 19 card – it says there have already been 2 general strikes about pensions in 2017. The strike would be for pensions, not climate, and the reforms went ahead anyway despite the threat to strike – no solvency.

#### Re-Highlighted below

Fox 19 [(Micheal, a freelance reporter and video journalist based in Brazil. He is the former editor of the NACLA Report on the Americas and the author of two books on Latin America.) “Brazil’s Labor Unions Prepare for War with Far-Right President Jair Bolsanaro,” In These Times, 3/19/19. <https://inthesetimes.com/article/jair-bolsonaro-war-on-brazils-unions>] RR

FLORIANÓPOLIS, BRAZIL — On a gray afternoon in early February, 60 local leaders from roughly 40 unions meet at the tan, seven-story headquarters of the Santa Catarina State Commerce Workers Federation to discuss how to move forward under Brazil’s new, far-right president, Jair Bolsonaro. They represent metalworkers, teachers and just about everything in between. Similar meetings have been held around the country. “We have to unite, or we will be carried away by a dictatorial government." Since Bolsonaro’s inauguration January 1, he has unleashed an assault on workers and unions. He lowered the minimum wage (despite inflation) and closed the country’s 88-year-old Ministry of Labor. The sign was quickly taken down from the government building in Brasilia. “There is an excess of rights,” Bolsonaro has said of labor. At the Florianópolis meeting, behind a long table hung with red, yellow and white union banners, Anna Julia Rodrigues, state president of the country’s largest labor federation, CUT, calls for unity. ​“We have to unite, or we will be carried away by a dictatorial government,” she says. Ingrid Assis, an indigenous labor leader with CSP-Conlutas, a labor federation that includes unions and grassroots movements, takes the call for unity to another level. She challenges those in the room not to forget that the country’s indigenous peoples — whose sovereignty over their land is under attack by Bolsonaro — are workers, too. “The union movement has to embrace this struggle,” says Assis. Both speakers are greeted with applause. But will unity be enough? Michael Fox reports on Brazilian unions for the Real News Network “Today we are living in the worst moment for the working class in recent history in Brazil,” Rodrigo Britto, the president of the Brasilia branch of CUT, tells In These Times. ​“We are returning to the 19th century.” Workers have been fighting an uphill battle since the 2016 impeachment of Workers’ Party President Dilma Rousseff, a move that many called a congressional coup. In 2017, the conservative Congress passed a labor reform bill that gutted workers’ rights, ended mandatory union contributions, opened the door to outsourcing and allowed bosses to negotiate directly with individuals, side-stepping unions. With Bolsonaro’s election, it got worse. Bolsonaro is a former military captain who promised to fight corruption, violence and Brazil’s Left. He vowed to put guns into people’s hands, end activism and eliminate his political opponents. “You have to do away with unions in Brazil ‚” he told reporters. Labor analysts believe the closure of the Ministry of Labor is a move in that direction. Former Labor Minister Manoel Dias called it a ​“crime.” The Finance Ministry is now in charge of pensions, workplace oversight, health and safety, and guidelines for workers’ salaries. Under the direction of Bolsonaro’s finance minister, Paulo Guedes — one of the ​“Chicago Boys,” neoliberal Latin American economists who studied under Milton Friedman at the University of Chicago — it’s hard to imagine the ministry carrying out workplace inspections. The registration of unions now falls under the jurisdiction of the Ministry of Justice, overseen by Minister Sérgio Moro, the former judge who jailed ex-president Luiz Inacío Lula da Silva on controversial evidence, blocking him from running against Bolsonaro. In January, Moro announced he would choose a Federal Police officer to oversee union registration. “The criminalization of the union movement begins ‚” Workers’ Party president Gleisi Hoffmann responded. Hoffmann and others fear Moro and his people may move to strip the registration of unions as a way to weaken labor organizing in the country, and in the words of Bolsonaro’s philosopher-guru Olavo de Carvalho, ​“break the legs” of the enemies of the government. “Their objective is to silence those that are opposing this policy of privatizations that they are planning,” Jose Maria Rangel, the president of the United Federation of Oil Workers (FUP), told In These Times. Privatization Shortly after his inauguration, Bolsonaro announced plans for a first round of privatizations. “We will quickly attract initial investments worth roughly 7 billion reals, with concessions for railroads, 12 airports and 4 ports,” Bolsonaro wrote on Twitter. His conservative predecessor Michel Temer — who came to power in 2016, with the impeachment of former president Dilma Rousseff — had already begun auctioning off state infrastructure and the private rights for oil production in Brazil’s massive off-shore oil reserves, known as Pre-Salt. But privatizations are expected to take a much more prominent role under Bolsonaro and finance minister Guedes. In late January, the new privatization secretary, businessman Salim Mattar, announced plans to sell off $20 Billion in state shares of public companies, including Brazil’s state-oil giant Petrobras. Petrobras is South America’s largest oil company, producing roughly 2.6 million barrels of oil a day. Petrobras was at the center of the country’s massive Lava Jato corruption scandal. This has been used as an excuse to push for the sell-off of the company’s assets. During a talk in late January, Mattar said that the Brazilian government is looking to auction the majority of Petrobras’s 36 subsidiaries in less than four years. The move would mean big money for Brazil now, but a loss of major government assets, investments, and profit, in the longterm. For oil workers it would be disastrous, with potential layoffs, outsourcing and loss of benefits. “We have to raise awareness in society about the importance of state companies,” says the FUP’s Rangel. ​“We have to defend our rights. We have to try to stop the privatization of businesses. We have to try and stop the pension reform.” Pensions Bolsonaro and his allies in Congress are looking to slash pension benefits and drastically increase the years of work required to earn them, in the name of staving off financial disaster. Unions across the country have promised to do everything to stop them, including a general strike, if necessary. Brazil’s unions carried out two general strikes in 2017 against the pension and labor reforms. Bolsonaro’s allies don’t yet have the votes they need, but they have powerful forces on their side, such as the evangelical caucus. Unions, however, believe this is a fight workers can win. On February 20, thousands rallied against the reform in São Paulo and 11 other cities. Thousands more protested again on March 8, International Women’s Day, and another day of rallies is planned for March 22. Unions are laying plans for more protests in the coming months: printing materials, handing out flyers and locking in dates. On top of Bolsonaro’s move to undercut unions and workers’ rights, unemployment in Brazil remains high, at just under 12 percent, double the rate just five years ago under the Workers’ Party. Outsourcing has made the job market more precarious. Informal employment and unemployment are both expected to rise. “This moment is really intense,” Assis tells In These Times. ​“We can’t trust Congress and its corrupt representatives. We have to construct alternatives and these alternatives have to come by the hands of the workers.”

### Inequality

#### Strikes hurt innocent bystanders and cause more layoffs than union victories, thus putting more people into poverty.

McElroy 19 [John McElroy, editorial director of Blue Sky Productions and producer of “Autoline Detroit” for WTVS-Channel 56, Detroit. "Strikes Hurt Everybody", 10-25-2019, accessed 11-1-2021, https://www.wardsauto.com/ideaxchange/strikes-hurt-everybody] HWIC

The recent strike at General Motors shows traditional labor practices must change. Not only did the strike cause considerable financial damage at GM, it drove another wedge between the company and its workers. And worst of all, it hurt a lot of innocent bystanders.

Thanks to the UAW, the hourly workforce at GM earns the highest compensation in the U.S. auto industry. But you would never know that by listening to union leaders. They attack GM as a vile and heartless corporation that deliberately tries to oppress honest working men and women.

Of course, they kind of have to say that. Union officials are elected, not appointed, and they are just as political as any Republican or Democrat. No UAW official ever got elected by saying, “You know what? Management is right. We’ve got to make sure our labor costs are competitive.”

It’s the opposite. Union leaders get elected by attacking management’s greed and arrogance.

This creates a poisonous relationship between the company and its workforce.  Many GM hourly workers don’t identify as GM employees. They identify as UAW members. And they see the union as the source of their jobs, not the company. It’s an unhealthy dynamic that puts GM at a disadvantage to non-union automakers in the U.S. like Honda and Toyota, where workers take pride in the company they work for and the products they make.

Attacking the company in the media also drives away customers. Who wants to buy a shiny new car from a company that’s accused of underpaying its workers and treating them unfairly?

Data from the Center for Automotive Research (CAR) in Ann Arbor, MI, show that GM loses market share during strikes and never gets it back. GM lost two percentage points during the 1998 strike, which in today’s market would represent a loss of 340,000 sales. Because GM reports sales on a quarterly basis we’ll only find out at the end of December if it lost market share from this strike.

UAW members say one of their greatest concerns is job security. But causing a company to lose market share is a sure-fire path to more plant closings and layoffs.

Even so, unions are incredibly important for boosting wages and benefits for working-class people. GM’s UAW-represented workers earn considerably more than their non-union counterparts, about $26,000 more per worker, per year, in total compensation. Without a union they never would have achieved that.

Strikes are a powerful weapon for unions. They usually are the only way they can get management to accede to their demands. If not for the power of collective bargaining and the threat of a strike, management would largely ignore union demands. If you took away that threat, management would pay its workers peanuts. Just ask the Mexican line workers who are paid $1.50 an hour to make $50,000 BMWs.

But strikes don’t just hurt the people walking the picket lines or the company they’re striking against. They hurt suppliers, car dealers and the communities located near the plants.

The Anderson Economic Group estimates that 75,000 workers at supplier companies were temporarily laid off because of the GM strike. Unlike UAW picketers, those supplier workers won’t get any strike pay or an $11,000 contract signing bonus. No, most of them lost close to a month’s worth of wages, which must be financially devastating for them.

GM’s suppliers also lost a lot of money. So now they’re cutting budgets and delaying capital investments to make up for the lost revenue, which is a further drag on the economy.

According to CAR, the communities and states where GM’s plants are located collectively lost a couple of hundred million dollars in payroll and tax revenue. Some economists warn that if the strike were prolonged it could knock the state of Michigan – home to GM and the UAW – into a recession. That prompted the governor of Michigan, Gretchen Whitmer, to call GM CEO Mary Barra and UAW leaders and urge them to settle as fast as possible.

So, while the UAW managed to get a nice raise for its members, the strike left a path of destruction in its wake. That’s not fair to the innocent bystanders who will never regain what they lost.

I’m not sure how this will ever be resolved. I understand the need for collective bargaining and the threat of a strike. But there’s got to be a better way to get workers a raise without torching the countryside.

### Solvency

**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.