### Framework

#### Freedom is a primary ethical good –

#### 1] In setting an end, every agent must recognize freedom as a necessary good, Gewirth 84 [bracketed for grammar and gendered language]

[Alan Gewirth, () "The Ontological Basis of Natural Law: A Critique and an Alternative" American Journal Of Jurisprudence: Vol. 29: Iss. 1 Article 5, 1984, https://scholarship.law.nd.edu/ajj/vol29/iss1/5/, DOA:9-10-2018 // WWBW Recut LHP AV]

Let me briefly sketch the main line of argument that leads to this conclusion. As I have said, the argument is based on the generic features of human action. To begin with, **every agent acts for purposes [t]he[y] regards as good.** Hence, **[t]he[y] must regard as necessary goods the freedom** and well being **that [is]** are the generic features and **necessary conditions of** his **action** and successful action in general. From this, it follows that **every agent logically must hold or accept** that he has **rights to these conditions**. For if he were **to deny** that he has **these rights**, then he **would** have to **admit that it is permissible** for other persons **to remove** from him the very **conditions** of freedom and well-being **that**, as **an agent**, he **must have**. But **it is contradictory** for him **to hold both that [t]he[y] must have these conditions and also that he may not have them.** Hence, on pain of self-contradiction, every agent must accept that he has rights to freedom and well-being. Moreover, **every agent must further admit that all other agents also have those rights, since all other actual or prospective agents have the same general characteristics of agency** on which he must ground his own right-claims. What I am saying, then, is that every agent, simply by virtue of being an agent, must regard his freedom and well being as necessary goods and must hold that he and all other actual or prospective agents have rights to these necessary goods. Hence, every agent, on pain of self-contradiction, must accept the following principle: Act in accord with the generic rights of your recipients as well as of yourself. The generic rights are rights to the generic features of action, freedom, and well-being. I call this the Principle of Generic Consistency (PGC), because it combines the formal consideration of consistency with the material consideration of the generic features and rights of action.

#### 2] The exercise of practical rationality requires that one regards practical rationality as intrinsically good – that justifies a right to freedom.

Wood 07 [Allen W. Wood, (Stanford University, California) "Kantian Ethics" Cambridge University Press, 2007, https://www.cambridge.org/core/books/kantian-ethics/769B8CD9FCC74DB6870189AE1645FAC8, DOA:8-12-2020 // WWBW]

Kant holds that **the most basic act through which people exercise their practical rationality is that of setting an end** (G 4:437). To set an end is, analytically, to subject yourself to the hypothetical imperative that you should take the necessary means to the end you have set (G 4:417). This is the claim that you rationally ought to do something whether or not you are at the moment inclined to do it. It represents the action of applying that means as good (G 4:414) – in the sense of “good” that Kant explicates as: what is required by reason independently of inclination (G 4:413). Kant correctly infers that **any being which sets itself ends is committed to regarding its end as good in this sense, and also to regarding the goodness of its end as what also makes application of the means good – that is, rationally required independently of any inclination to apply it.** The act of setting an end, therefore, must be taken as committing you to represent some other act (the act of applying the means) as good. In doing all this, however, **the rational being must also necessarily regard its own rational capacities as authoritative for what is good in general.** For it treats these capacities as capable of determining which ends are good, and at the same time as grounding the goodness of the means taken toward those good ends. But **to regard one’s capacities in this way is also to take a certain attitude toward oneself as the being that has and exercises those capacities.** It is to esteem oneself – and also to esteem the correct exercise of one’s rational capacities in determining what is good both as an end and as a means to it. One’s other capacities, such as those needed to perform the action that is good as a means, are also regarded as good as means. But **that capacity through which we can represent the very idea of something as good both as end and as means is not represented merely as the object of a contingent inclination, nor is it represented as good only as a means. It must be esteemed as unconditionally good, as an end in itself.** To find this value in oneself is not at all the same as thinking of oneself as a good person. Even those who misuse their rational capacities are committed to esteeming themselves as possessing rational nature. It also does not imply that a more intelligent person (in that sense, more “rational”) is “better” than a less intelligent one. The self-esteem involved in setting an end applies to any being capable of setting an end at all, irrespective of the cleverness or even the morality of the end setting. Kant’s argument supports the conclusion, to which he adheres with admirable consistency throughout his writings, that all rational beings, clever or stupid, even good or evil, have equal (absolute) worth as ends in themselves. For Kantian ethics **the rational nature in every person is an end in itself whether the person is morally good or bad.**

#### There are two models of freedom—the non-interference model and the non-domination model. The non-interference model holds that a person’s freedom is violated if they are actually interfered with, while the non-domination model holds that a person’s freedom is violated if someone has the capacity to arbitrarily interfere in their life. Only the non-domination model can ground legitimate state interference and cohere with intuitions about freedom. Pettit 12:

Philip Pettit, “Legitimacy and Justice in Republican Perspective” Current Legal Problems, 2012 RE Recut LHP AV

But **while** the conception of **freedom as non-interference makes it impossible to argue** on grounds of freedom for **the legitimacy of any** likely **state**, **the republican conception** of freedom that it replaced **does not make this impossible** in the same manner. Indeed it is for that reason, I surmise, that **legitimacy was taken in the republican tradition to be something that could be institutionally secured in a state**: specifically, secured **by the fact of the state’s operating under the constraints imposed by a mixed constitution**. **On the republican conception, freedom is a matter of enjoying a suitable civic status**. Spelled out in greater detail, **it requires, first, a freedom in the exercise of** certain **choices**; **second**, a freedom **in the exercise of those choices that is secured on a certain basis**; **and third, a freedom that is understood in a distinctive manner, requiring non-domination rather than non-interference**. Taking up the first of these three conditions, the choices in which freedom is required are what John Libourne in the 17th century described as ‘the fundamental liberties’: **the choices, as I conceive of them, that all citizens can exercise and enjoy at one and the same time**.32 **These do not include choices requiring impossible abilities, as in the choice between walking on water and walking on solid ground**. Nor choices in which people are in essential competition, as in the choice between winning or not winning superiority over others. Nor choices involving victims, as in the choice between attacking another or not. **They are fundamentally compossible choices that may be simultaneously exercised by all and, at the same time, enjoyed by all.** They may be compossible by nature, as with the choice between speaking your mind and not speaking your mind. Or they may be compossible by virtue of institutional design, as with the choice between appropriating or not appropriating something under local rules of property. **Turning now to the second of our three conditions, the basis on which the fundamental or basic liberties have to be secured for civic freedom in the republican sense is a basis in public law**. As a matter of shared awareness amongst the citizenry, it has to be the case that **the free person**—the liber in early Latin usage, the ‘freeman’ in 17th-century English—**is protected**, perhaps even in some ways resourced, **in the exercise of relevant choices by a law that is promulgated in public and applied equally in defence of all**. It is this public entrenchment of freedom **that enables free persons**, in the age-old republican picture, **to be able to look one another in the eye, without fear or deference**: to escape not just servitude but also servility.33 Indeed the natural criterion for what constitutes adequate entrenchment is that **it is enough**, by local cultural standards, **to give this capacity to all citizens**, or at least to those who are not excessively timid or paranoid. In the ‘free Commonwealth’ or republic, as John Milton wrote, ‘they who are greatest ... are not elevated above their brethren; live soberly in their families, walk the streets as other men, may be spoken to freely, familiarly, friendly, without adoration’.34 We have seen that **republican freedom requires freedom in the choices associated with the basic liberties and that this must be secured on the basis of public law**. Turning finally to our third condition, it also equates freedom in a choice with the absence of domination, not interference. On this conception, **freedom requires people not to be subject to the will of others rather than requiring**, as Bentham required, **that they not be subject to the interference** **of** **others**. Freedom, as Algernon Sidney put it in the 17th century, consists in ‘independency upon the will of another’. ‘Liberty’, in an 18th-century variant, ‘is, to live upon one’s own terms; slavery is, to live at the mere mercy of another’.35 The difference between the two conceptions comes out in a difference on two fronts between the implications that they support. **It is possible to be subject to the will of another in a certain choice**—**it is possible to have to depend on the will of the other as to what you should choose there**— **without that other exercising any active interference**. **The classical example of such a possibility arises with the slaves who are lucky enough to have an indulgent master who gives them a great deal of latitude in the choices they may make for themselves**. **Even if the master allows the slaves to exercise the basic liberties of the society as they wish, still they are subject to the master’s will; they have to depend on the state of the master’s will remaining favourable if they are to be able to choose as they wish.** **The slaves may not suffer interference but still, on the conception of freedom as non-domination, they lack freedom**. They are not their own men or women. **The second difference** of implication between the rival conceptions of freedom appears in the possibility, not of domination without interference, but **of interference without domination**. **You are subject to the interference** of another in your choices, **even if there is an arrangement in place, perhaps set up by you**, perhaps set up by a third party, **under which you can control that interference; say, you can stop that interference at will or allow it to continue only on terms that you endorse.** **Suppose you hire someone** to make certain of your decisions for you— say, your financial or social or even religious decisions—or suppose that you inherit such an arrangement from your family**. The person hired may not always choose as you would choose—may even choose in a way that frustrates your current wishes**—**but so long as you have to the power to suspend and shape the interference, you are not subject to their will**. You do not depend on their will remaining a goodwill for being able to impose your wishes on the matters they currently administer for you. **This should serve to introduce the republican view of the freedom that can go with civic status. We might describe the social order established by a state as just, in a republican rendering of the idea, insofar as it enables people to enjoy such a civic status in relation to one another.** **But it remains to show why we need not despair, on this view of freedom, about identifying institutional conditions under which the coercive state would not jeopardize the freedom of its citizens in imposing such an order and would count therefore as legitimate**. Why does the legitimacy problem become feasible under the conception of freedom as non-domination, when it is so obviously infeasible under the conception of freedom as non-interference? The answer, at the abstract level, is pretty straightforward. The second implication of this way of conceptualizing freedom is that **interference in your choices need not be dominating and that when it is not dominating it does not impose another’s will and does not jeopardize your freedom.** **The coercive state, as we have seen, certainly interferes in the choices of its citizens**. But **this coercion or interference will not jeopardize the freedom of those citizens if they exercise an appropriately effective form of control over the interference.** And **so the prospect of a legitimate state is nothing more or less than that of a state in which citizens exercise a suitable type of control over the coercion that the state practices in their lives**. **The legitimate state will be**, in an etymological sense, **the democratic state**: **the state in which the demos or people exercise a suitable form of kratos or control over those in power.** **This abstract answer points us in the direction that a satisfactory theory of legitimacy has to take and identifies the ideal of a legitimate state, understood in the republican way, as a form of democratic ideal.** But these indications, reassuring as they may be, are worth little unless we can say more about the sort of control that citizens must be able to achieve over the workings of their polity. Without being able to go into much detail, I turn to a consideration of this challenge in the final section.

#### Thus, the standard is consistency with freedom as non-domination, defined as establishing institutional constraints that eliminate the capacity for arbitrary interference.

#### Impact calc – power can be exercised non-arbitrarily insofar as those interfered with have control over domination, Pettit 06:

Pettit P. Freedom in the market. Politics, Philosophy & Economics. 2006;5(2):131-149. doi:10.1177/1470594X06064218 //LHP AV Accessed 7/4/21

In order to understand the republican conception of social freedom, we need to do two things: first, to explain exactly what sort of interference people are shielded against under this conception and, second, to explain what is involved in their being shielded in that way. I proceed now to these two tasks. **To interfere** with a choice, as that notion is understood here, **is** always **to put an obstacle** in its way intentionally, or at least in such a manner (say, such a negligent manner) that blame may be in order.6 I do not interfere with you just through happening, like a natural obstacle, to be in your way or just through doing something that has the unforeseen effect of hindering you. Nor do I generally interfere with you just through allowing such an obstacle to get in your way, or through allowing another person to interfere: not, at any rate, unless contextual criteria give such an omission a positive interpretation. Given that social freedom is what is at issue, **I have to represent an obstacle of a distinctively human, interpersonal kind and this means, in effect, that I have to be intentionally** or quasi-intentionally **obstructive**; the point is likely to be granted on many sides.7 I may be obstructive on my own, but I may also be obstructive, of course, in the company of others. I may be part of an obstructive corporate agency or I may contribute a small amount of obstruction in a context in which others do so too (perhaps unknown to me) and in which the aggregate obstruction reaches a significant level. Interfering with a choice does not necessarily mean rendering the choice of a particular option impossible.8 Interference may certainly involve removing an option from a set of otherwise available options (say, reducing options A, B, and C to options A and B), thereby rendering the choice of that option impossible. But, plausibly, it may also involve changing the options by adding a penalty to one of the alternatives; this might reduce the set to A, B, and C-minus, where ‘Cminus’ refers to C with a penalty. Equally plausibly, it may mean misleading the agent about the options available. Misinformation can be a very effective way of rendering the choice of an option effectively impossible or difficult, transforming the subjective if not the objective options in place. An act of interference in the sense explained will not be an affront to freedom under almost any approach, so long as it is subject to the control of the person interfered with: so long as it is akin to the interference that his sailors practiced on Ulysses when they kept him tied to the mast. But there are different views on what it is for an ‘interfere’ to control the interference of another. One view would put the emphasis on **historical** **consent**, for example. This **is not very plausible**, however, **since it may have been a past, now very alien, self that consented to a form of interference under which I now bristle**; **that is** one reason **why we naturally object to the slave contract**. **Another view would moralize** **freedom** and argue that if a form of interference is morally justified, or is at least justified by moral standards to which I subscribe, then it is subject to my control. **This approach implies that a morally justified intervention can never restrict my freedom**, however, **and that is surely counterintuitive**. Pettit: Freedom in the market 135 **The republican approach** on this matter has been to **assume that I control the interference** of another **so far as that interference is forced to track the interests that I am disposed to avow**. This assumption is usually extended so that I control the interference of the state so far as that interference is forced to track the interests that I am disposed to avow in common with my fellow citizens, though there are different possible accounts of how those interests are to be identified. **The word that is used to describe interference that is subject to such a mode of individual or shared control is ‘nonarbitrary’**.9 Nonarbitrary interference, like a natural obstacle, may reduce the sphere in which people enjoy social freedom, but under the republican approach it will not take such freedom away.

#### Prefer –

#### 1] Oppression – Domination as a condition takes away a person’s status as human – categorical dehumanization is created by communal recognition of domination. Pettit 05

PETTIT, PHILIP. “THE DOMINATION COMPLAINT.” Nomos, vol. 46, 2005, pp. 87–117. JSTOR, www.jstor.org/stable/24220143. Accessed 19 Aug. 2020.

The primary reason why the complaint about being dominated is of the first significance is that **domination almost invariably undermines a person's capacity to enjoy respect in this sense. Where one person dominates another, it is almost bound to be a matter of common awareness among the people involved**, and among other relevant parties, that this domination exists. The question as to whether someone is dominated by another is one that will interest all those involved, after all, and the answer to that question will be obvious in most cases from the sorts of resources they control relative to that other. Thus **we may expect most people to recognize domination when they see it, and this in turn being obvious, to recognize that others will recognize it too, thereby giving rise to the usual hierarchy of common awareness**; each will believe that the person is dominated, each will believe that each believes this, and so on.21 **Once it is recognized as a matter of common awareness that someone is dominated, however, then that person will no longer be able to enjoy the basic respect that we think personhood entitles him to**. He will no longer have the sort of voice that can be reliably forthright, or can be expected to be forthright. He will always be under suspicion of playing to the audience of the powerful and never having anything worthwhile to say in his own right. **Dominated subjects of this kind** may not be ignored or dismissed outright: they may be treated magnanimously to the trap pings of respect. But they **will not command respect; they will receive it only in the manner of supplicants. They may be treated as if they had the status of persons, so we might put it, but they will not really have that status. Being a person is inseparable from earning and receiving respect as of right**—as of effective, not just formal right—and in their case there will be no question of earning or receiving as of right. **What they receive, they will receive only as a gift—only by grace of the powerful**. This line of thought is a familiar and recurrent one in republican thought. It is worth mentioning in connection with it that Kant, the great philosopher of respect and personhood, seems to have shaped many of his ideas on that subject in his reflections on Rousseau's Social Contract, itself a book that belongs at least among the apocrypha of the republican tradition. The point is emphasized by J. B. Schneewind, who quotes Kant as saying: "It is not all one under what title I get something. What properly belongs to me must not be accorded to me merely as something I ask for."22 Schneewind comments: "If nothing is properly mine except what someone graciously gives me, I am forever dependent on how the donor feels toward me. My independence as an autonomous being is threatened. Only if I can claim the others have to give me what is mine by right can this be avoided."23 **Given the connection between enjoying respect as a person and not being subject to domination, there is every reason to treat the complaint of being dominated as extremely significant.** What more serious complaint could there be than one that draws attention to a relationship in virtue of which one's very standing as a person who can command the attention and respect of others is put in jeopardy? This is no mere trifle to do with having one's nose put out of joint, or one's feathers ruffled. It is a complaint of the first moment**. Let some people be dominated and to that extent they will be put out of any community that involves those who dominate. They may aspire to community with such others and their presence may even be tolerated among those others. But** they will always cut somewhat sorry or comic figures, and will always invite only condescension or contempt. They will have no more standing, in a somewhat archaic image, than dogs that cower at their masters' feet or snuggle that up their mistress’s skirt.

### Contention

#### Absent a right to strike, workers are dominated –

#### 1] Structural Domination – a labor market structurally requires exploitation and domination – workers need an alternative, Gourevitch 16:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

The commodification of labor I: structural domination and exploitation So long as we view the labor market as a series of voluntary agreements, to which workers and employers freely consent, we cannot make adequate sense of the right to strike. There are two interconnected forms of compulsion to which workers are subject that undermine any such view. The first is a form of structural domination that renders workers vulnerable to exploitation, the second is a form of legal authority that gives employers arbitrary power in the workplace itself. If we recognize these as ineliminable features of the market for labor, then the right to strike makes sense not as a relic of feudal guild privileges nor just as an economically rational effort by some to maximize wages, but as a form of resistance to the modern labor market itself. Let us **begin with structural domination and** the problem of **exploitation**. **Though most closely associated with the Marxian tradition, the thought that desperate workers are exploited is a familiar one**. Even those not so sympathetic to the complaints of modern wage-laborers can be found saying, as David Hume famously did, that “the fear of punishment will never draw so much labour from a slave, as the dread of being turned off and not getting another service, will from a freeman” (Hume [1742] 1987, II.XI.16 fn39). Adam Smith gave this fact a turn in favor of workers: It is not, however, difficult to foresee which of the two parties must, upon all ordinary occasions, have the advantage in the dispute, and force the other into a compliance with their terms… In all such disputes the masters can hold out much longer… Many workmen could not subsist a week, few could subsist a month, and scarce any a year without employment. In the long-run the workman may be as necessary to his master as his master is to him, but the necessity is not so immediate. (Smith [1776] 1982, I.8.12) On top of which, as Smith noted, “**Masters are always and every where in a sort of tacit**, but constant and uniform **combination**.” In a world in which economic necessity couples with employer collusion, **workers have little choice**: “Such combinations [by employers], however, are frequently resisted by a contrary defensive combination of the workmen; who sometimes too, without any provocation of this kind, combine of their own accord to raise the price of their labour” (Smith [1776] 1982, I.8.12). For this reason Smith thought it was wrong to treat trade unions as criminal conspiracies.9 The view of unions and strikes as defensive, aimed at lessening employers’ ability to take advantage of workers’ need, persisted throughout the industrial age. By the time Hobhouse wrote Liberalism, it was possible for a liberal to argue that strikes might even be connected to human freedom: The emancipation of trade unions, however, extending over the period from 1824 to 1906, and perhaps not yet complete, was in the main a liberating movement, because combination was necessary to place the workman on something approaching terms of equality with the employer, and because tacit combinations of employers could never, in fact, be prevented by law. (Hobhouse 1944, 18) We must note, however, that nearly all of these arguments remain within a form of social theory that attempts to make capitalist practice more like its theoretical selfimage. These thinkers tended to defend unions and their right to strike as a way of achieving ‘real freedom of contract’ in the face of economic necessity. Hobhouse was updating Smith and Mill when arguing, “In the matter of contract true freedom postulates substantial equality between the parties. In proportion as one party is in a position of vantage, he is able to dictate his terms. In proportion as the other party is in a weak position, he must accept unfavourable terms” (Hobhouse 1944, 37). On this account, **the right to strike** is defensible only insofar as it helps maintain a position of relative equality among bargaining parties. It thereby **secures contracts that are not just voluntary but truly free** - Mill’s “necessary instrumentality of that free market.” This basic idea reappears in any number of twentieth century acts of labor legislation and jurisprudence, perhaps most notably in the 1935 law granting American workers the right to strike.10 The problem with the ‘real freedom of contract’ view is that it is based on faulty social analysis. **The labor market is not just another commodity market** in which property-owners are, or can be made, free to participate or not participate. Here some Marxist social theory is inescapable. **Workers who have no other consistent source of income than a wage have no reasonable alternative to selling their labor-power**. That is because, at least in highly capitalist societies where most **goods are only legally accessible if you can buy them**, **there is no other way of reliably acquiring necessary goods**. **The only way for most workers to get enough money to buy what they need is by selling their labor-power**. Their only alternatives are to steal, hope for charity, or rely on inadequate welfare provision. These are generally speaking unreasonable alternatives to seeking income through wages. **If workers have no reasonable alternative to selling their labor-power they are therefore forced to sell that labor-power to some employer or** another (Ezorsky 2007; Cohen 1988, 239-254, 255-285). This forcing exists **even when workers earn relatively high wages**, since **they still lack reasonable** **alternatives**, though the forcing is more immediate the closer one gets to poverty wages. The key feature of this forcing is that it is consistent with voluntary exchange but **it is not some occasional or accidental feature** of this or that worker’s circumstances. It is a product of the distribution of property in society. **People are forced to sell their labor when**, on the one hand, **everyone has property rights in their own capacity to labor** **and**, on the other hand, **some group** of individuals **monopolize all or nearly all of the productive assets** in that society. These are the necessary conditions to create a labor market sufficiently robust to organize production. That is to say, **a** **society in which the primary way of organizing production is through a labor market is one in which most people are forced into that labor market**. Or, put another way, a society in which most people were truly free to enter or not enter the labor market would be one in which labor is so radically de-commodified that the mere formal possibility of a labor market could not serve, on its own, to guarantee social reproduction. Relations among workers and employers would be truly free and thus truly contingent. It is only when there is a sufficiently large population of individuals who have nothing but their labor-power to sell that the mechanism of social forcing guarantees a constant supply of labor through the labor market itself. But this means that, in a society based on the commodification of labor, the conditions that would make the buying and selling of labor-power **a truly free** **set of exchanges** would require utterly transforming that market-based production relationship itself. **It would require giving workers a reasonable alternative to selling their labo**r – say through a sizable, unconditional basic income and universal public goods, or through giving all workers the possibility of owning or cooperatively owning their own enterprise**. Such measures would amount to a radical de-commodification of labor-power, an overcoming of the very social conditions that give rise to the labor market’s self-image as a site of free exchange**. As Ira Steward, a nineteenth century American labor reformer, once said, “if laborers were sufficiently free to make contracts…they would be too free to need contracts” (quoted in Stanley 1998, 96). The foregoing social analysis is familiar enough, but its implications for the right to strike are rarely considered. The right to strike begins to make more sense if we reflect upon the fact that **workers who are forced to sell their labor are vulnerable to exploitation**. Exploitation just is the word for structural domination in the domain of economic production (Vrousalis 2013; Roberts, n.d., Chap. three). **Some** workers **will accept jobs at going wage rates** and hours, **others will be unable to bargain** for what they need**, and most can be made to work longer hours**, **at lower pay, under worse conditions than they would otherwise accept.** Many employers know this and will take advantage of it (Greenhouse 2009; Krugman, New York Times, December 23, 2013). Even if employers do not intentionally take advantage of it, they do so tacitly by making numerous economic decisions about hiring, firing, wages and hours that assume this steady supply of economically dependent labor. So it is not just the force of necessity, but the fact that this forcing leaves workers vulnerable to exploitation and the further fact that **this is a class condition** that is relevant to our thinking. It explains why **workers might seek collective solutions to their structural domination** and why they might refuse to believe that they can overcome their exploitation through purely individual efforts.

#### 2] Workplace Domination – authority within the workplace arbitrarily resides in the hands of employers, which alienates and dominates workers, Gourevitch 16:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

The commodification of labor 2: contracts and government of the workplace Strikes are ways of resisting structural domination at its most immediate, concrete point – the job. But that is only one aspect of the unfreedom that produces strikes. **The other arises from personal domination in the workplace itself**. Most modern work is a continuous, coordinated activity of workers in a workplace. This **coordination is only possible through a system of authoritative decisions and standards that cover the complex, ongoing, ever changing set of workplace activities**. Here we meet the second way in which a contract-based social theory is not up to the task of giving an adequate account of the actual relationships in which workers find themselves. Though there are attempts to explain and justify the arbitrary authority that employers possess by reference to the labor contract, these fail, leaving an analytic and moral void. The view of the workplace as a product of private contracts makes it difficult even to grasp the political structure of the workplace itself, let alone understand the range of issues against which **workers** might **strike when resisting an employer’s arbitrary authority** (Anderson 2015; Gourevitch 2013; Hsieh 2005). **A workplace is a site of personal domination because workers are subject to the arbitrary authority of bosses**. **The bosses’ authority is arbitrary because it is not sufficiently controlled by workers.** The ruling legal and social assumption is that decisions about how to run the workplace are up to employers and their managers. **Workers are expected simply to obey**. In American law, this is enshrined as the “core of managerial prerogatives” regarding hiring and firing, work schedules, design of tasks, introduction of new technology and the like – and they extend to prerogatives of capital regarding purchase of goods, plant location, and other investment-related decisions. 11 A general set of, often poorly enforced, labor laws establish specific reservations against what an employer may order workers to do or require them to accept. But the very fact that these are **specific reservations only reinforces the fact that the assumption is one of dependence on the arbitrary will of managers and owners**. For examples, consider the fact that **in many states employers have been within their rights when firing workers for comments** they made **on Facebook** (Emerson, Huffington Post, October 17, 2011), for their sexual orientation (Velasco, San Gabriel Valley Tribune, October 7, 2011), for being too sexually appealing (Strauss, ABC News, August 2, 2013), **or for not being appealing enough** (Hess, Slate Magazine, July 29, 2013). **Workers** **face** being given **more tasks** **than** **can be performed** in the allotted time (JOMO, Dissent, Winter 2013; Greenhouse 2009, 53-55, 89, 111-112), **locked** in the workplace **overnight** (Greenhouse 2009, 49-53), forced to **work in extreme** **heat or physically hazardous** but not illegal conditions (Urbina, New York Times, March 30, 2013; Hsu, Los Angeles Times, September 19, 2011), **or arbitrarily isolated** from the rest of one’s coworkers (Greenhouse 2009, 26-27). **Some workers are forced to wear diapers** rather than go to the bathroom, **refused lunch breaks or pressured to work through them** (Jamieson, Huffington Post, May 8, 2013; Wasserman, Mashable, July 25, 2012; Vega, New York Times, July 7, 2012; Egelko, San Francisco Chronicle, February 18, 2011; Greenhouse 2009, 11-12), **forced to keep working after their shift is up, denied the right to read or turn on air conditioning** during break (Bennett-Smith, Huffington Post, August 14, 2012; Little, ABC News, August 15, 2012), or **forced to take random drug tests** and to perform other humiliating or irrelevant actions (Bertram, Robin and Gourevitch, Crooked Timber, July 1, 2012). Notably, in these cases and in many others, **the law protects the employer’s right to make these decisions without consulting workers and to fire them if they refuse**. **The bitterness of this experience of subjection is old and used to carry the complaint of “wages-slavery**.” As an American labor agitator once wrote in 1886, once **Liberty consists in being able to satisfy all one’s wants, to develop all one’s faculties, without** in any way **depending upon the caprice of one’s fellow-beings**, which is impossible if man cannot produce upon his own responsibility. **So long as the workman works for a boss**, a master, **he is not free**. ‘You must obey,’ the master will say, ‘for since I assume the responsibility of the undertaking, I alone have the right to its direction.’ (Journal of United Labor, July 10, 1886, 2109– 2111) The point of greatest interest to us here is that **the employer’s claim to exercise this authority is intimately bound up with the commodification of labor**-power and the free exercise of property rights. As the quotation above suggests, the employer’s authority is supposed to derive from the way in which he “assumes the responsibility of the undertaking.” He is the agent, putting his idea and money on the line, taking all the risk. The worker, on the other hand, already received her reward. She has sold her commodity – her labor-power – to the employer, who pays her a wage in exchange for rights to that commodity. **To have a property-right in something is to have some kind of exclusive authority over it; therefore, the boss should not have to consult with the worker about how to use the labor-power he bought**. However, as labor reformers have long observed, the special thing about the sale of labor is that “**Labor is inseparably bound up with the laborer**.” A labor contract “assumes that labor shall not be a party to the sale of itself beyond rejecting or accepting the terms offered. **This purchase of labor gives control over the laborer-his physical intellectual, social and moral existence**. The conditions of the contract determine the degree of this rulership” (Journal of United Labor, January 7, 1888, 2554). In other words, **there is no way for the boss to enjoy his property right in the purchased labor-power without also exercising that arbitrary power over the person of the laborer. But this is just the kind of power that the exchange of property is not supposed to give over the seller of property since the seller’s will is supposed to be separable from the commodity.** The employer’s arbitrary authority is derived from the view that the worker has sold his property, his labor-power, but that **same theory of property seems to deny that such arbitrary control may be claimed when the seller cannot withdraw his will from the property.** There are a few ways that a contract-based social theory might respond to this challenge, but we shall focus here on the most important:12 the incompleteness of contracts. It is a well-known fact that all **contracts are incomplete** (Hart 1995). But in the case of the workplace, **this incompleteness is intensified and magnified by the fact that the contract is to take part in a dynamic, continuous activity with other people**. No matter what a worker has agreed to at the point of the contract **it is impossible for a contract to specify all of the eventualities** that arise in the complex, ongoing process of running a workplace. Something else has to explain who exercises control over all these unanticipated matters. This means, no matter how freely made a contract is, **we cannot say that the authority to which a worker is subject is justified by that free consent.** At most, the radical incompleteness of labor contracts is what allows the many aspects of law and cultural assumption to fill the void. For instance, **in American law, employers enjoy a “core of managerial prerogatives” over issues like hiring, firing, investment, and work organization**. Strikers may not strike to contest these decisions and employers may not be forced to bargain about them. They need not give any account of why such production decisions have been made, even if they have dramatic consequences for employees – like producing plant closures or changing the organization and definition of tasks. Courts have defended this managerial control and the narrowing of the right to strike by importing older, status-based ideas about contract and property to fill the void of incompleteness. Only by (often semi-articulated) reference to quasi-feudal master-servant law have they been able to fill out the authority that the contract leaves open. Courts have argued that worker deference to managers of a “common enterprise” is implied in the contract or by arguing that employers enjoy uninfringeable property rights in the worker’s labor or wider enterprise (Atleson 1983, 84-109). In other words, courts themselves have acknowledged the incompleteness and thus indeterminacy of the contract with respect to the organization of work, but generally resolved this authority in favor of employers by appeal to something outside the contract itself. So, to put the problem another way, the point about structural domination was that workers might be forced to make a variety of explicit concessions on any number of issues – wages, hours, conditions, stultifying jobs. But the point **about personal domination in the workplace is that the contract also seems to involve the tacit concession of generic control over a further set of unknown issues**. The problem from the standpoint of contract theory is that **the contract itself cannot adequately explain why this power is assumed to devolve to the employer** nor why law should support this assumption. At most, we can only say the worker agreed to give up this control, not that she in any way agreed to the various decisions about her work. Usually, however, **we do not think a human being has a right to such blanket alienation of their liberty.** In the case of work, the only reason supporting that worker’s alienation of control as authoritative seems to be that the worker sold her property – her labor-power – and therefore has no right to control that property for the duration of the work (within the reasonable boundaries of protective labor legislation) or that she owes obligations of deference to the employer.

#### Thus, the plan: A just government ought to recognize an unconditional right of workers to strike. Gourevitch 16:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

“Is it peace or war:”1 What is a right to strike? **The right to strike is** peculiar. It is **not a right to quit**. The right to quit is part of freedom of contract and the mirror of employment-at-will. Workers may quit when they no longer wish to work for an employer, employers may fire their employees when they no longer want to employ them. Either of those acts severs the contractual relationship and the two parties are no longer assumed to be in any relationship at all. **The right to strike**, however, **assumes the continuity of the very relationship that is suspended.** **Workers on strike refuse to work but do not claim to have left the job**. After all, the whole point of a strike is that **it is a collective work stoppage**, **not a collective quitting** of the job. This is the feature of the strike that has marked it out from other forms of social action. If a right to strike is not a right to quit what is it? **It is the right that workers claim to refuse to perform work they have agreed to do while retaining a right to the job**. Most of what is peculiar, not to mention fraught, about a strike is contained in that latter clause. Yet, surprisingly, few commentators recognize just how central and yet peculiar this claim is (Locke 1984).2 Opponents of the right to strike are sometimes more alive to its distinctive features than defenders. One critic, for instance, makes the distinction between quitting and striking the basis of his entire argument: the unqualified right to withdraw labour, which is a clear right of free men, does not describe the behaviour of strikers…Strikers…withdraw from the performance of their jobs, but in the only relevant sense they do not withdraw their labour. The jobs from which they have withdrawn performance belong to them, they maintain.

#### Current legal norms effectively eliminate a right to strike – the aff’s philosophical defense grounds an unconditional right to strike that’s distinct from the traditional voluntarist version, Gourevitch 16:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

This is standard liberal advice on how to solve the problem. Workers are free to pursue their interests so long as they do not violate the basic rights of anyone else. They may engage in moral suasion, hoping to convince others not to take their jobs, or to convince employers to bargain with them rather than make contracts with others. Their freedom includes the right to join forces, so long as they don’t force anyone to join. They are free to bargain collectively, so long as they do not force anyone to bargain. Unfortunately, **this voluntarist solution** works only by **deal**ing **a near irrevocable blow to the right to strike itself**. **Few strikes** **with** any reasonable chance of **success** **can hope to stand on moral suasion alone**, especially when no serious pressure can be brought against employers or replacement workers (Cramton and Tracy 1998; Currie and Ferrie 2000; Naidu and Yuchtman, n.d.). **A strike is not part**, at least not only a part, **of** those **activities** of civil society **that hope to win by the ‘soft force of the better argument’** alone. **Strikers must be able to impose severe costs** on employers and replacements. If the right to strike protects some important human interest it cannot do so by effectively neutralizing that very form of collective action. Moreover, as one commentator reminds us, if there really is a right to the job that workers refuse to perform then, **a strike goes beyond merely attempting to persuade people not to break the strike**; to use a suitably vague phrase, **it involves putting pressure on those who would break the strike, to make it difficult or unpleasant for them to do so.** That, surely, is what the apparatus and ideology of strikes is for: not just to persuade non-strikes so that they willingly accept whatever restrictions the strikers seek to impose; but to put pressure on them so that unwillingly, if needs be, they decline to break the strike…( Locke 1984) So far then, we are on the horns of a dilemma. **Either the right to strike really includes the right to the job that strikers refuse to perform, in which case a wide range of actions are permitted or at least enjoy some prima facie justification**. **Or the right to strike must take place purely in voluntaristic terms, in which case no basic rights are violated. But in that case there is little chance of the strike succeeding and there is no recognition of the strikers’ right to the job**. Lest this seem like a purely theoretical dilemma a brief survey of **American labor law shows us the stakes** of falling on one side or the other. As we shall see, American labor law has essentially chosen **the liberal voluntarist position**, which surrounds strikes with a number of rules and prohibitions that protect rights of property, contract, and managerial control at the expense of **leaving an extremely constrained right to strike – perhaps no real right to** **strike at all**. The stakes: American case **In the United States the law says that private sector workers have a right to strike** (National Labor Relations Act 1935, 7, 13). 4 As part of this law **the state may not issue pre-strike injunctions nor may it criminalize collective bargaining** or the taking of strike action. 5 The law also prohibits employers from blacklisting pro-union employees or requiring ‘yellow-dog’ contracts.6 **Nor may they fire a worker for defending unions or for going on strike** (National Labor Relations Act 1935, 8(a); Norris-Laguardia Act 1932). Notably, **protections for pro-union workers are one of the few restrictions on the employer’s employment-at-will rights to hire and fire whomever** he wants (Coppage v. Kansas 1915). This restriction means that **American law recognizes that the prospect of losing one’s job is a coercive threat**. The threat of losing one’s job as a consequence of striking violates the right to strike. That is relevant because, surprisingly, while employers may not fire pro-union workers, **the Supreme Court says that employers’ interest in maintaining production** and controlling their property **means they may threaten to close an entire business or relocate a plant solely because** workers have threatened **a strike** (Textile Workers Union v. Darlington Manufacturing Co. 1965). **They are also legally permitted to hire permanent** 4 I am especially indebted to Laura Weinrib, whose helpful guidance on American labor law has saved me from a number of errors. 5 The story is more complicated since injunctions have returned through ‘no-strike’ clauses in union contracts and through the use of other elements of the criminal code. See White 2008. 6 Yellow-dog contracts make not joining a union a condition of employment**. replacement workers and these workers may vote to decertify the current union** (NLRB v. Mackay Radio & Telegraph Co. 1938; Pope 2004; Atleson 1983, 1-34). **Thus, employers may explicitly threaten the entire body of workers with loss of their jobs and, though firing workers is illegal, may permanently replace them**. **It is unclear what conceptual distinction lies behind** the legal distinction between ‘**firing’ and ‘permanent replacement’ or ‘shutting down and moving’ since the effect** on the worker **is the** **same**. As one legal scholar has put it, “The ‘right to strike’ upon risk of permanent job loss is a ‘right’ the nature of which is appreciated only by lawyers” (Atleson 1983, 30) But there it is, in law. For these reasons alone we might think **American workers do not enjoy a real right to strike**. Yet there is more.7 **Workers may not organize in industry-wide unions without** individual, workplace-by-workplace **unionization agreements**. Strikes must also usually take place on a workplace-by-workplace rather than industry-wide basis (Burns 2011). **Closed and union shops are acceptable in many states**, though some prohibit even mandatory collection of dues, and the Supreme Court allows employers to ban unionorganizers from their property (Lechmere, Inc. v. National Labor Relations Board 1992; National Labor Relations Board v. Babcock and Wilcox Co. 1956). Further, **the employer’s property-interest in** the “core of **entrepreneurial control**” over hiring and firing, plant location, investment, pricing, production processes **remains outside the scope of what law** and precedent **have established as labor’s legitimate interests** (Burns 2011, 7 For a summary of the most important legal limitations on strikers, see (Pope 2004, 47- 70, 115-136). 123-26; Atleson 1983, 67-109). **Strikes must therefore be restricted on illegal labor practices or on bread and butter issues like wages and hours**. **Workers may not engage in sympathy strikes or secondary boycotts**, which includes legal prohibition on workers picketing outside stores that use or sell products made in struck workplaces (Pope 2004; Taft-Hartley Act 1947; National Labor Relations Act 1935). To understand the consequences of that last prohibition, **consider a store that is selling goods made with parts from a struck factory**. **Anyone not from the striking factory may stand outside**, simply as a citizen with free speech rights, **and petition** against shoppers spending their money there. **But a worker from the striking factory may not do the same** because it is considered illegal, secondary picketing. **To go on strike is therefore to lose** some basic **civil liberties.** 8 In other words, the repertoire of **mass, solidarity-based strikes across an industry are** no longer a part of union action at least in part because they have been, since the mid-twentieth century, **illegal**. There are other relevant laws and precedents, but this gives a vivid enough picture as it is. The facts described in the previous three paragraphs remind us why **our thinking about the right to strike matters.** **If the right to strike is just a derivative** right, with the same general structure and function as rights of association, contract, and property, then many, if not all, of the laws or precedents described above are defensible. These **restrictions flow** from a rejection of the view that workers have an enforceable right to the job they strike; from the requirement that collective action remain voluntary; and from a refusal to accept that workers as a whole have shared interests as a consequence of 8 I have taken this comparison from Pope who has used it many times. their social position. Unions may, at most, operate closed shops and enjoy a formal right to strike, but they may not interfere with the core property rights of employers, contract rights of workers, nor claim that the interests of workers expand beyond a narrow range of issues in the workplace itself. **If, however, we take the right to strike to be a distinctive kind of right**, in which workers do legitimately have a right to the job over which they strike, **then we would have to reject many existing restrictions on strike activity**. In other words, many of the current legal restrictions on workers make some kind of sense if we accept the voluntarist position. To understand why this voluntarist view is wrong, we must move to the world of social theory. Specifically, we have to understand the way in which the commodification of ‘labor-power’ subjects workers to overlapping forms of unfreedom.

#### The plan solves –

#### 1] Power – it reverses power relationships and challenges the structure of economic control itself – that alleviates domination, Gourevitch 16:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

Quitting the work not the job We now have a way of explaining the right to strike as something decidedly more modern than just residual protection of some feudal guild privilege. **The right to strike springs organically from** the fact of **structural domination**. **Striking is a way of resisting** that **domination** at the point in that structure at which workers find themselves – the particular job they are bargaining over. It is not that workers believe they have some special privilege but quite the opposite. **It is their lack of privilege, their vulnerability, that generates the claim. Structural domination makes its** most immediate appearance in the **threat of being exploited** by a particular employer, even though the point of structural domination is that workers can be exploited by any potential employer. **The sharpest form that the structural domination takes is through the threat of being fired,** or of never being hired in the first place. The claim that **strikers make** to their job is therefore, in the first instance, a dramatization of **the fact that their relationship is not voluntary**, it is not accidental and contingent. **They are always already forced** to be **in a contractual relationship** with some employer or another. **The refusal to perform work** while retaining the right to the job is a way of **bring**ing to the fore **this social and structural element in their condition.** **It** **vivifies the real nature of the production relationship** that workers find themselves in. **Quitting the work but not the job is a way of saying that** this **society** is not and **cannot be just a system of voluntary exchanges**. There is an underlying structure of control, maintained through the system of contracts, that even the ‘most voluntary’ arrangements conceal. This is not just a dramaturgical fact about strikes, though the drama has, in many cases, been nearly Greek in its intensity and tragedy**. It is a point about power**. It would not have the drama if it were not a power play. By demanding the job as a matter of right workers do not just publicize their domination, **they attempt to challenge the forcing to which they are subject**. **Limiting the employer’s ability to make contracts with others, and preventing other workers from taking those jobs, is a way of reversing the power relationship**. It is a way of neutralizing the threat of losing the job, which is the most concrete, immediate point of contact with that background structure of domination. **If you cannot lose your job, you are less vulnerable, less immediately economically dependent. Of course, this does not do away with the background structure itself, but a particular strike can never do that**. Though even here, there are times when a strike, as it becomes a more generalized rejection of structural domination – say in large-scale sympathy strikes or **general strikes** – **can** begin to **challenge** the **broad structure of economic control itself** (Brecher 2014). As we have said, this is a challenge to the market logic that begins from within, at the location of the strike itself. At that point in the system, **strikers temporarily reverse the relationships of power by eliminating that employers’ ability to use the threat** of job-loss against them. They do that not just by claiming the job but by claiming it as a matter of right. The thought is that the **exploitation** of **workers is unjustifiable**, an unjustifiability that appears in the terms of the employment itself. Workers have the right to the job, and therefore to interfere with the employer’s property rights and other workers’ contract rights, because it is unjustifiable to subject workers to exploitative conditions. To be sure, many strikes and many strikers never articulate the argument in this language. But the point is not what workers always explicitly say, but rather what they do and what that doing presupposes. I am reconstructing the ideal presuppositions of a strike, and in particular, how to think about the peculiar set of assumptions about the right to a job. We have seen that it is no atavistic recovery of traditional rights and guild privileges but is a way of resisting a thoroughly modern form of social domination from a point within that structure of domination. Again, **facing a freedom to quit the job but not the work, workers assert a right to quit working but keep the job**. To put this all another way, **though strikes are still about bargaining**, and in that sense like market exchanges, **they are simultaneously a challenge to the market as the appropriate standard by which to judge the fairness of workers’ compensation**. The market is unfair because of workers’ structural disadvantage. Over and against the market value, strikers argue that there are shared, or at least shareable, standards of fair compensation that employers should adhere to. While here again we see the echoes of feudal theories of ‘just price’ and equity jurisprudence (Horwitz 1977, 160-211), we must note that in principle the claim is not, or does not have to be, based on special privilege. Rather, it begins by challenging the view that labor ‘freely’ finds its value on the market. **Workers are always already in relationships with employers and they cannot leave the basic relationship of earning money only by selling labor-power, no matter how many jobs they might quit**. The standards we use for evaluating those kinds of forced relationships, like the state, are different, based on shared conceptions of justice and human need, not private agreement. Two final observations before we move to the workplace itself. If the foregoing analysis is correct then we can get a better sense of the way a right to strike relates to the rights of employers and replacement workers. The right to strike does not have to include the claim that employers have no right to use their property to pursue their own interests. It just means employers have no right to use their property in ways that allow them to exploit workers. That is why, from within the theory of the right to strike, employers do not have a unilateral right to hire whomever they please on whatever terms they please. If that latter right is permitted then, of course, employers may take advantage of the fact that every propertyless worker needs a job. Further, the right to strike does not have to mean replacement workers have no right to pursue their interests and make labor contracts. Rather, it means they do not have a right to use that power to reproduce the system of structural domination that puts all workers at an unfair disadvantage. That is why they may not take jobs that striking workers refuse to perform.

#### 2] Decommodification – strikes challenge the notion of labor as a mere commodity – that empowers workers and resists arbitrary managerial authority, Gourevitch 16:

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As we have seen, **workers resist** these accounts **on the grounds that their capacity to labor is not a commodity at all.** Or at least, labor-power cannot operate as a commodity in this case because a crucial feature of the sale of property – separability of the seller’s will from the commodity sold – is impossible. Therefore, **whatever** the status **the labor contract** has, the **authority** relations **of the workplace** itself **cannot be derived from the contract** – at least not from the contract conceived as a sale of property. Workers nevertheless find themselves in a world in which employers do legally possess this arbitrary authority. **The strike is**, again, one way of **challenging this authority by attacking the idea that labor-power is a mere commodity to be used as the employer sees fit**. The strike is a way of pressing the claim that **workers, too, should exercise control rather than submit passively to managerial prerogatives**. **Historically we can think of ‘control strikes,’ strikes over the introduction of new technology, and even strikes over seemingly lesser issues like “abolition of the luncheon** **privilege**” (Report of the Industrial Commission on the Relations and Conditions of Capital and Labor vol 7 1901, 116). The general point being that **strikes** that target decisions usually falling under the domain of “core of entrepreneurial control” (Burns 2011, 123-126; Lambert 2005, 132) **are not just** about **instrumental considerations** regarding compensation and conditions **but about resisting the very logic of contract and property that supports the manager’s authority in the first place**. It is worth noting the way in which the two kinds of domination are intertwined. Resistance to managerial discretion is not just about objecting to arbitrary power as a matter of principle, nor just about challenging a particularly nasty manager. Rather, the point is that, **in a modern capitalist economy, the manager’s authority is tied to the problem of exploitation itself.** Structurally dominated workers are not just threatened with exploitation at the moment of contract but in the workplace. **The core interest of the employer is in extracting as much labor as possible,** which is why **employers**, **regardless of whether they are benevolent or cruel, tend to seek unchallenged authority over the work process**. Seemingly petty actions, like denying bathroom breaks or imposing dangerous work speeds, are not, on this account, isolated instances of abuse, but rather moments when the structural imperatives of maximizing profits translate into the exercise of managerial authority and organization of work. **Uncontested managerial authority is of concern to workers not just because those who have power tend to abuse it, but because this power is directed to a systematic purpose**: it is used **to exploit workers**. **These prerogatives** are, in effect, a way of **unilaterally alter**ing the terms of **employment**. Threatening to introduce new technology, speed up work, relocate plants, or reduce and redistribute tasks, is typically part of an interconnected process in which structural and personal elements of domination fold into each other to guarantee maximum effort for minimum compensation. That is why **confining strikes narrowly** to issues regarding wages, hours, and conditions **is so problematic**. Such **limitations rely on analytically groundless** **or morally dubious attempts to derive entrepreneurial authority from the contract**, and they fail to understand why managerial prerogatives with respect to hiring, firing, investment and organization are just as significant to the basic interests of the worker as ‘bread and butter’ issues like wages and hours (Burns 2011, 47-55; Atleson 1983, 67-96).

#### Counterplans can’t solve – they’re too slow, don’t empower workers, and fail to decommodify labor, Gourevitch 16:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

**The worker’s interest in not being subject to** continuously **arbitrary authority is expansive**. The question of **compensation cannot be separated from** the organization and **control over work**. **Nor can the expansiveness** of this interest **be reduced to the** fact that workers cannot **fair**ly **bargain** for basic terms if they cannot also contest the wider range of managerial prerogatives. **All members of a democratic society have an independent interest** **in self-rule**. They have that latter interest whenever they find themselves in the kind of ongoing, formally coordinated, rule-bound relationships that are backed by coercive law. **This is just what a government is** (Dahl 1986, 111-135). Absent an actually democratic workplace, **the right to strike remains the primary way for workers to resist these arbitrary forms of authority.** **Strikes are** in many ways **superior to** protective **legislation**, **labor arbitration, and the courts** **because those formal** **processes are slow and can cover only a limited number of issues**. **Strikes are more immediate**, **powerful and reliable ways for workers to contest the employer’s otherwise arbitrary power.** In the process of challenging that form of authority **they challenge the very idea that** their **labor** power **is** properly seen as **a commodity**. They reject the notion that in making a labor contract they have alienated rights of control over their minds and bodies.

### Method

#### The aff aligns itself with historical labor movements that challenged industrial capitalism and wage-slavery – that opens up the potentiality for cooperative control over the means of production, Gourevitch 6:

Gourevitch, Alex. “Labor Republicanism and the Transformation of Work.” Political Theory, vol. 41, no. 4, 2013, pp. 591–617. JSTOR, [www.jstor.org/stable/23484596. Accessed 6 July 2021](http://www.jstor.org/stable/23484596.%20Accessed%206%20July%202021). //LHP AV

The Labor Republicans **Labor republicanism developed out of farmers' and urban artisans' reaction to the rise of capitalism**. Initially **a response of small farmers and petty pro-prietors to indebtedness, concentrated wealth, and financial crisis**,15 **over the course of the nineteenth century it came to identify permanent wage-labor and loss of control over productive property as the central concern**.16 Of course, as far back as Cicero, it was common to say "all those workers who are paid for their labour and not for their skill have servile and demeaning employment; for in their case the very wage is a contract to servitude."" But such cast-off **thoughts never held much significance for republicanism until wage-laborers** **took hold of them in the nineteenth century**. The full history of that ideological appropriation has been told elsewhere.I8 The relevant histori-cal point here is that, **while some form of "agrarianism" rooted in the indi-vidualist, petty-proprietor tradition remained the predominant expression of the republican critique of capitalism up through the Civil War,19 the critique of "wage-slave ry"20 gradually developed into a republican argument for the transformation of industrial relations**. This labor republican view took root in a group of late nineteenth-century editors, reformers, and activists, concen-trated mainly around the Knights of Labor. It is on the shoulders of this group that this essay stands. **The Knights of Labor was the first major national political organization of labor that**, unlike its later competitor, the American Federation of Labor, **organized skilled and unskilled workers together**, rather than exclusively on a craft basis.2I Key figures included Terence Powderly, the leader of the Knights of Labor in its heyday; George McNeill, a labor press editor; William H. Sylvis, a labor organizer; and Ira Steward, a famous eight hours cam-paigner. As a group, **they drew attention to the contradiction between repub-lican political forms and unfree economic relationships**. For instance, George McNeill worried that "our rulers, statesmen and orators have not attempted to engraft republican principles into our industrial system."22 It was, in particu-lar, **the dependence of permanent wage-laborers that they found incompatible with republican freedom**. Any serious application of republican principles to the "industrial system" produced the conclusion that "there is an inevitable and irresistible conflict between the wage-system of labor and the republican system of government."23 In the words of Ira Steward, **the condition of wage-laborers called for "a republicanization of labor, as well as a republicaniza-tion of government**."24 **The only solution was "to abolish as rapidly as possible, the wage system, substituting co-operation therefore**."25 What set the labor republicans apart from earlier republican critics of capitalism was their attempt to reorganize rather than reject industrialize life**. The scale and collective character of industrial production appeared to mean a loss of the ideal of independent proprietorship even as it heralded the rise of a permanently dependent wage-labor class**. As historian Leon Fink puts it, "the fact that by 1870 two-thirds of the American workforce were hirelings posed a stark ideological dilemma for a culture in which the lack of property and independence was associated with slavery or 'wage slavery. '"26 The ideological dilemma was whether an increasingly indus-trial economy could offer the prospect of independence to all, or merely to a few property-owners. **Labor republicans responded to this challenge by elaborating a critique of the new forms of economic domination of industrial capitalism**. There were at least two features to this economic domination or "wage-slavery." Inside the workplace, they found their choices about the work activity to be subject to the arbitrary interference of new masters—bosses and owners. This sub-jection expressed itself not only in individual cases of harassment and abuse, though that mattered, but also through organization of the workplace accord-ing to rules that laborers themselves had little influence in shaping. Terence Powderly articulated this complaint in its typical form: The village blacksmith shop was abandoned, the road-side shoe shop was deserted, the tailor left his bench, and all together these mechanics turned away from their country homes and wended their way to the cities wherein the large factories had been erected. **The gates were unlocked in the morning to allow them to enter, and after their daily task was done the gates were closed after them in the evening**.27 The reorganization of work "separated specific tasks hitherto the responsibil-ity of one artisan among teams of workers,"28 meaning work had become an integrated social process, unlike the autarkic autonomy of the idealized farmer or artisan of the early radical agrarians.29 **These conditions drove fig-ures like Powderly to condemn the new order as one that was "making slaves of men who proudly, but thoughtlessly, boast of their freedom—that freedom which they claim came down to us from revolutionary sires as a heritage. . . . Are we the free people that we imagine we are?"**3° Labor republicans connected domination at work with a second, wider form of what we can call structural domination. **Lacking access to land or tools, increasing numbers found themselves forced to sell their labor to employers to earn a living**. Most immediately, this manifested itself in low wages and long hours. Bad on its own, this poverty reflected the underlying subjection of laborers to employers—a subjection to which they gave the name "wage-slavery." **This slavery was not that of the chattel slave, who is directly and legally dependent on a particular owner.** **Labor republicans were proudly aware of their formal, legal freedom and saw it as a constituent fea-ture of full independence**. Yet they believed **the distribution of property meant that they lacked reasonable alternatives to selling their labor to their employ-ers and thus made them slaves in the relevant, republican sense.** For instance, an article titled "Wages Slavery and Chattel Slavery" pub-lished in the Journal of United Labor, the Knights' official press, asserted that `**when a man is placed in a position where he is compelled to give the benefit of his labor to another, he is in a condition of slavery, whether the slave is held in chattel bondage or in wages bondage, he is equally a slave.**"31 Despite their legal ownership of their bodies, **the unequal control over pro-ductive assets forced those without such property to sell themselves to some employer or another**. As George McNeill put it, workers in a labor contract "assent but they do not consent, they submit but do not agree."32 Through this distinction between voluntary "assent" and economic inde-pendence labor republicans attempted to grasp this new form of domina-tion. Though nobody's legal property, wage-laborers were still forced to sell their labor to someone else. The complexity of their situation, then, was that they were dominated by a number of agents, but not any single, given agent in particular. **It was only once the economic sphere was differentiated from private and political life as a domain of free individual exchange, marked by the buying and selling of labor, that this analysis of the wage-laborer's dependence became possible**. Earlier republicans, from Cicero to Jefferson,33 condemned wage-labor simply by assimilating it to slavery rather than by viewing it as a distinct and novel form of unfreedom. In these prior periods, wage-labor existed mostly in the interstices and pockets of the economy, not as a settled condition of an entire class. For labor republicans, on the other hand, wage-labor was the condition of the mass of republican citizens. **It was not just their identification of structural domination and its connec-tion to unfreedom at work that distinguished labor republicans, but also their emphasis on co-operation as the republican solution**. When arguing for the virtues of co-operation, they did not reject the large-scale, collective charac-ter of the modern economy but sought instead to realize the potentials immanent to it. **The cooperative system included the use of public power to regulate employment, through maximum hours laws, nationalize transporta-tion and communication, and redistribute land, credit, and property to support the creation of cooperatively owned and run stores and industries**.34 As stated in the Journal of United Labor "**integral co-operation is the whole or com-plete organization of production and distribution for the benefit of the whole body of those concerned in the production . . . the members of which employ-ing their own labor and consuming their own products would be self-sustain-ing, therefore independent of the money-market and of the wage-market**."35 **Cooperation required both that the democratic state use its power to alter the distribution of control over productive assets and that workers control enter-prises themselves**. As one labor republican put it, the aim of cooperative pro-duction was so that "**each** man **can feel that** he is **a proprietor**; when he can feel that he is working for himself and not for a master; when he can feel and know that his brain and muscle weighs equally in the scale."36 Terence Powderly made the link between independence and productive control explicit: "the method by which we hope to regain our independence . . . [is] by embarking in a system of COOPERATION which will eventually make every man his own master—every man his own employer."37 Though the nerve of the argument remained securing the independence of each citizen, labor republicans no longer identified independence with the individual pro-prietor or earlier agrarianism. Rather, the cooperative ideal secured indepen-dence in terms consistent with large-scale industrial production: through equal control of work activity and productive assets. This was what it meant to "engraft republican principles into our industrial system."38 The **labor republican response to their historical circumstances produced a reflexive moment in the republican tradition.** Labor republicans identified an ambiguity or undertheorized aspect of the republican theory itself. The Roman law presents servitude as a condition of direct, personal, and legal subjection to another. To be a slave, on the Roman view, is "not to be sui iuris but instead to be sub potestate, under the power or subject to the will of some-one else."39 Servitude is a legal status that "consists in rightlessness and sub-jection to dominion."40 Too quick a reading of the Roman law of slavery can make servitude appear merely as a dyadic relation between a particular mas-ter and a particular slave. As we shall see, something like that narrow inter-pretation of the Roman view influences the contemporary, neo-republican theory of liberty and limits its sensitivity to structural domination. However, the original master–slave relation was the product of a legal and economic structure, itself supported by many agents. **This structural dimension of dom-ination remained buried historically until the rise of industrial capitalism brought a distinct economic sphere of formally free laborers into existence, and when those laborers politicized their dependence on employers.** Since current republican theory has not attended to this period, it has missed the conceptual possibilities for thinking about work and economy that these labor republicans inspire.

#### The role of the ballot is to cultivate civic republican virtues – this empowers students while fostering contestation, democratic pluralism, and mutual recognition – optimist humanism is necessary within education. Theory is coherent under the role of the ballot and operates higher than substance. Substantive constraints are debatable via interpretations of the aff framework, Snir and Eylon 16:

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Introduction In **the last couple of decades**, political philosophy **has witnessed a revival of republican thought**, which occupies a central place in contemporary democratic political philosophy. **Neo-republicanism advances the idea of freedom as non-domination**, in an attempt **to provide democracy with a solid normative foundation** upon which concrete principles and institutions can be erected so as to make freedom a reality.1 **At first glance, neo-republicanism may seem** a **very different** political project **from critical pedagogy**. Whilst the former emerges on the backdrop of liberal democracy and thrives in the Anglo-American philosophical world, the latter originates from Marxism and is most influential in the continental context of critical theory. Moreover, the former starts with an abstract moral value and calls for realizing it, whereas the latter is founded on a critique of existing sociopolitical reality. We suggest, however, that **these two projects are related in important ways, and have much to contribute to one another**. Most importantly, **neorepublicanism and critical pedagogy** not only reject traditional liberalism, but **are** **explicitly opposed to the growing trend of neo-liberalism, conservatism and authoritarianism** (Giroux, 2011: 8). Although the presence of a shared rival does not mean that the differences between the two approaches are insignificant, we believe that **neo-republicanism and critical pedagogy belong to the same ‘‘anti-hegemonic bloc’**’ (Apple, 2005: 106), and that **dialogue** between them **can be mutually productive**. This article facilitates such dialogue by attempting to accomplish a twofold goal: (1) to help neo-republicans draw a clearer line between republicanism and traditional liberalism by highlighting the political and educational implications of the unique republican conception of freedom; and (2) to offer critical pedagogy a clear conception of freedom, which may assist in its ongoing effort to catch up with changing reality and be relevant to the contemporary world. In the first part of the article we present the neo-republican theory (sometimes referred to as civic republicanism), and contrast it with traditional liberalism. In the second we focus on existing neo-republican theories of education, and claim that they do not take the republican presuppositions to their necessary conclusion, namely to an educational theory fully committed to the idea of freedom as non-domination. **A republican educational theory**, we argue, **must take into consideration not only the freedom students will have in the future, but also their freedom in the present: it should think of school as a small-scale republic, which prepares its inhabitants to be future citizens of the state while at the same time treating them as free citizens in their own right**. In the third part we use insights taken from critical pedagogy to chart the direction republican education must take by applying three key republican notions—democratic control, civic contestation, and trust. In the fourth and last part we outline four aspects in which neo-republicanism can shed new light on contemporary debates in critical pedagogy: the connection between democracy and justice, the multiplicity of forms of domination, critical education within schools, and work with students from relatively privileged backgrounds. Neo-republican political theory The renewed interest in the republican political tradition owes a great deal to the influential work of British historian Quentin Skinner. After a long period in which republicanism had been understood as an early, underdeveloped branch of liberalism, Skinner found in thinkers like Niccolo` Machiavelli, James Harrington, Algernon Sidney, and James Madison an independent tradition of thought that originates in Republican Rome and offers a 760 Policy Futures in Education 14(6) conceptual framework distinct from liberalism. At the heart of this tradition lies a unique concept of freedom, meriting it a place of its own as a political theory—freedom as nondomination (Skinner, 1998, 2002). In the terms of Isaiah Berlin’s (2002) famous distinction between the positive and negative concepts of liberty, freedom as non-domination is negative by nature, for it is defined in terms of absence. But unlike liberal freedom, according to which a person is free so long as no-one interferes with his or her actions, here the relevant absence is that of domination, namely relations in which one is capable of interfering with another’s actions at will. Republican freedom emphasizes the existence of the power to interfere, not its exercise; it is not actual interference that matters, but rather the capacity to interfere, which amounts to domination (Skinner, 2002: 247). A person is free, therefore, only as long as he or she is not dominated, namely not subjected to another’s will. The difference between the two negative conceptions of freedom, the liberal and the republican, carries serious implications. Consider a slave whose master is benevolent enough so as not to interfere with his actions. According to the liberal conception of freedom as non-interference, we cannot but conclude that the slave is free as long as his master stays out of his way, and that slaves in general can become liberated by learning how to avoid intervention by their masters (Lovett, 2010). On the other hand, according to the republican conception of freedom as non-domination, modeled after the free Roman citizen, the slave is not free so long as the master is capable of interfering with his life; freedom is not a matter of contingent intervention but of structural inequality. This point is far from being hypothetical or relevant to ancient history only: it is the situation of the colonized under an ‘‘enlightened’’ colonial regime, of a woman married to a gentleman in a patriarchal society, or of an employee in a society which does not provide proper protections against the employer’s whim. Thus, the decline of the republican concept of freedom and the rise of liberal freedom to an exclusive position makes it possible to reproduce various forms of domination while maintaining that the dominated are free. The republican conception of freedom, brought back to the intellectual arena by Skinner and other historians (Bobbio and Viroli, 2003; Pocock, 2003), was taken up by contemporary political philosophers, primarily Philip Pettit. In a series of publications, Pettit provides a detailed philosophical analysis of the notion of freedom as nondomination, attempting to make it the cornerstone of contemporary democratic theory—one that is inspired by the republican tradition yet rejects the problematic aspects attendant on this tradition, particularly the elitist, exclusive nature of Roman citizenship, which was restricted to propertied males (Pettit, 2012: 8). Pettit points to important implications of the difference between the liberal and republican conceptions of freedom in terms of the state and its institutions (Pettit, 2012: 134–135, 164). According to the liberal conception, freedom is a natural property, for men and women are free so long as they are not interfered with. The state, in this approach, necessarily impinges upon the freedom of its citizens, for the laws it enforces always intervene with people’s wills and actions. Freedom and state—even a democratic state—are therefore essentially contradictory in the eyes of genuine liberals; state interventions may be justified on different grounds, but they always limit freedom. In the republican conception, on the other hand, state laws and institutions do not necessarily limit freedom. In fact, they constitute it: freedom as non-domination can only be brought about by a political structure in which no-one is subordinated to the will of another. Republican freedom is not natural and circumstantial like the liberal one, but rather Snir and Eylon 761 institutional: it is a result of the structural relationship between people and is meaningless in a hypothetical state of nature. In other words, freedom, as the Romans saw very clearly, is the freedom of the citizen of a republic (Pettit, 2014: 4). Pettit makes clear that just as domination is possible without intervention, so is intervention possible without domination: not every intervention involves domination, for when I control the intervention, when it expresses a will that is not alien but is rather my own, I am dominated by no-one. The state, therefore, ought to express the will of the citizens and protect them—sometimes through forced interventions—against both dominium, namely domination by other citizens, and imperium, domination by governmental institutions. In Pettit’s words, the republic should be ‘‘a legal regime stopping people from dominating one another without itself dominating anyone in turn’’ (1997: 273). Hence, unlike liberal freedom, **republican freedom is inherently egalitarian**: it is thwarted **when some** people **are freer than others,** for this means that **the former dominate the later** (Pettit, 2012: 17, 88). This implies a deep, necessary connection between republican freedom and democracy: while various theorists suggested that democracy is not necessary for maintaining liberal freedom, since non-democratic governments can refrain from interfering with the lives of their citizens (Berlin, 2002: 177; Kant, 1991), republican freedom requires a democratic regime in which no person or authority can intervene illegitimately with citizens’ lives, while the citizens—the people, the demos—decide which interventions are legitimate (Pettit, 2012: 22). Pettit claims that the elements necessary for republican freedom to prevail are both objective and subjective: the objective elements are laws and institutions, based on the principle of mixed constitution (Pettit, 2012: 5); but these institutions ‘‘are dead, mechanical devices, and will gain life and momentum only if they win a place in the habits of people’s hearts’’ (Pettit, 1997: 241). In other words, the institutional body of the republic must be accompanied by a republican spirit in the form of values, norms, and civic dispositions that are constantly applied by the citizens in order to guard against domination. Although republican freedom does not consist in active political engagement—that is to say, the freedom of the individual is not dependent on his or her own activity, as in some political theories that adhere to ‘‘positive’’ conceptions of liberty (Arendt, 2006; Sandel, 1996) – it is dependent on the ability of the citizenry as a collective to be actively involved in protecting their freedom. The kind of active citizenship that republicanism advocates requires willingness and capacity for civic commitment and involvement, and these are certainly not natural dispositions. They have to be learned and practiced. **Education, therefore, has a crucial role to play in fostering the republican spirit.** Although school—as a generic term for state educational institutions—is by no means the only place where education takes place (Peterson, 2011: 2) it is undoubtedly an institution of the highest importance in a republic: the nurturing of public spirit is best facilitated in a public institution. **However, school is often presented as a site of domination, surveillance, and lack of freedom** (e.g. Foucault, 1995; Gray, 2013; Illich, 2000). Must freedom as non-domination be bought at the price of domination within schools? The republican understanding that not all intervention amounts to domination suggests a negative answer. **If schools can be thought of as small-scale republics, they may be redesigned as places in which freedom is constituted rather than violated.** We now turn to discuss the republican approach to education. Paulo Freire’s critical pedagogy will inform us in developing the idea of schools as free communities, thereby making neo-republican education more consistent and allowing its differences from liberal education to appear with greater clarity. 762 Policy Futures in Education 14(6) The neo-republican approach to education Although the two most influential republican theorists, Skinner and Pettit, have hardly touched upon the subject of education, other contemporary republicans have stressed its importance for every functioning republic (Dagger, 1997; Honohan, 2002; Maynor, 2003; Peterson, 2011). In the words of Andrew Peterson, ‘‘it is not too strong to suggest that **without civic education, civic republican projects are seriously undermined**’’ (2011: 119). And yet, Peterson observes that ‘‘there is currently little detailed exploration of the links between civic republicanism and education and how such links might help to build a better understanding of the purposes and content of civic education’’ (Peterson, 2011: 5). In line with this observation (and notwithstanding Peterson’s own work), we believe that except for general statements, attempts to develop a republican educational theory are still hesitant, and fail to take the republican radical conception of freedom to its full conclusions. The existing neo-republican discourse of education attempts to distinguish itself from the classical-liberal approach to education. Liberal educationalists traditionally argue that the state must not promote concrete values or specific conceptions of the good, and that education ought to be politically neutral, focusing only on acquainting students with their civil rights (Honohan, 2006: 203; Peterson, 2011: 13). The politicization of education, according to this liberal view, not only borders on political indoctrination, but also interferes with students’ lives, thereby illegitimately impinging on their freedom. Nevertheless, most liberal educationalists are well aware that full political neutrality is impossible (Frazer, 1999), and insist that civic education aimed at developing virtues such as individuality, autonomy, and critical thinking is the responsibility of the state (Callan, 1997; Gutmann, 1999). These virtues are taken to be the necessary minimum for freedom and democracy, but it is argued that education must not pour substantive contents into them, lest it lapse into political indoctrination. **The republican approach is much less reluctant to introduce politics to the field of education.** **The emphasis it places on the concept of citizenship**, as opposed to the concept of humanity that stands at the heart of liberalism, obliges republicans to acknowledge the need for political education and the state’s responsibility to provide it: Taking a cue from the classical republican approach, **a modern republican state must play an active role in the content of public education by educating its citizens in the substance and forms of nondomination, and the necessary values and virtues that accompany it.** In doing so, a **modern republic hopes to cultivate** certain types of **individuals** **who locate their good with that of the greater community to foster group-level commitments that will reduce the amount of arbitrary interference within society**. (Maynor, 2003: 181) That is to say, **civic education is critical to ensuring** a reality in which society is not a battlefield of conflicting interests but rather an arena in which **citizens cooperate** to achieve a common good. However, we believe that the current republican discourse of education still does not realize the full potential of the notion of freedom as non-domination, and fails to draw all the necessary conclusions from this starting point. We will attempt to illuminate the blind spots of this discourse, which are probably a result of a reluctance to break with the prevailing liberal discourse, with the help of Freire’s critical pedagogy. Although republicanism and critical pedagogy seem to belong to two very distinct discursive worlds – liberal democracy and Marxism, respectively – their conceptual points of departure are in fact quite close, as freedom is central to both. Snir and Eylon 763 To be sure, Freire’s and Pettit’s concepts of freedom are by no means identical. Freire, who starts with observing a reality of oppression, conceives of freedom in active terms of liberation from existing domination, while Pettit thinks of freedom as constituted by a political structure, and his concept is consequently static by nature. Yet in both cases **the heart of the matter is objection to unequal, hierarchical relations, and reflection on ways to engage in a political struggle against them**. One of the most important lessons of critical pedagogy is that **school is** no mere training ground for future political engagement, but rather **a political arena in its own right and that those who attend it**—both young and old—**do** so **already as political agents** (Freire, 1996: 36, 49; Giroux, 1988, 2009). Freire suggests that the mechanisms of oppression that tear contemporary society apart do not stop outside the school gates, and that students suffer from systematic oppression in school no less and often even more than anywhere else. Hence, the struggle against oppression must also take place in school: Freire aspires to turn schools from sites that reproduce the oppressive relations prevailing in society into sites of freedom and equality that serve as a starting point for the broader social struggle (Freire, 1996: 135–136). Under the conventional approach, which Freire refers to as the ‘‘banking’’ concept of education (pp. 52–53), teachers are the only sources of knowledge, and their task is to ‘‘deposit’’ it in the empty minds of passive students. This kind of education reestablishes time and again the hierarchical relations between teachers and students and dehumanizes the latter by not treating them as active, responsible persons. In the kind of education Freire advocates, on the other hand, teachers and students are learning partners: the differences between them are not ignored, but the starting point is a concept of learning as a common endeavor of producing knowledge, to which all parties have much to contribute (Freire, 1996: 45, 61; Freire, 2000: 30). Neo-republican educational theory is also aware that schools often reproduce unequal social relations. But unlike critical pedagogy, the primary concern of existing republican discussions of education is society in general, while everything that occurs in school is considered first and foremost in terms of its relevance to what lies outside it in space and time: the students as adult citizens living in society. Concern for democracy and active citizenship, to be more precise, is aimed at creating a future society of free citizens, and the freedom of schoolchildren is, if anything, only a means to this end. Consequently, contemporary republican theory is not sensitive enough to various kinds of relations of domination that often exist within school. That is to say, existing theories tend too easily to allow education to take the form of domination if it seems that dominating students can contribute to non-domination in a future society. Although Richard Dagger, for example, explicitly objects to any approach that tries to mold students after a pre-given image (1997: 117), and Iseult Honohan warns against education that produces obedient citizens (2006: 205–206), they both conceive of education as one-way flow of knowledge and patterns of action, from teachers to students. Even when they emphasize active participation of students, they clearly have in mind practice or simulation directed from above in order to bear fruit in the future. More recently, Neil Hopkins (2015) has pointed out that students are ‘‘stakeholders,’’ whose freedom is in danger if they do not take part in deliberative discussions on issues that concern them at school. But Hopkins limits his discussion to debates over school curriculum and does not apply the argument to other aspects of school life. Sure enough, freedom as non-domination is relevant only to autonomous subjects capable of independent reasoning. But as Freire has taught us, if we assume in advance that some 764 Policy Futures in Education 14(6) people—including the young—are incapable of thinking for themselves and need to be told what to think and to do, we risk reproducing the existing mechanisms of domination rather than challenging them. In order to realize the full political potential of the idea of nondomination, a republican theory of education must follow the path paved by critical pedagogy and reflect on the proper ways to make school a site of non-domination. In the next part of this article we try to outline a republican theory of education that applies three principles developed by Pettit to form a school model that is akin to a small-scale republic in which students are free citizens. School as a site of non-domination Pettit’s republican theory rests on a philosophical definition of freedom and develops principles that ought to guide a state in order for it to grant its citizens such freedom. But are these principles also valid for schools? The obvious differences have to do not only with the age of the people in question, but also with the fact that at school the division of roles is quite strict, and attendance is usually compulsory.2 We suggest that refusing to automatically see students as passive objects of intervention, namely realizing that students are potential subjects of domination, makes it possible as well as useful to think of school in terms of a state, and apply republican principles to it. This parallelism is not perfect, of course, but **if we want school to be a site of freedom, it would be beneficial to adopt some of the principles conceived in the context of republican states**. In what follows, **we will focus on** three basic principles found in Pettit: **democratic** **control, civic contestation, and trust**. Democratic control Pettit raises the notion of popular control over government as an answer to the question of state legitimacy. As the state is authorized to use power to enforce laws on its citizens, every political theory—let alone one that places the concept of liberty in its center—must confront the question of what legitimizes this authority (Pettit, 2012: 147). The common answer to this question, which originates with Hobbes (1996) but has become one of the cornerstones of liberalism, is consent: drawing on the idea of freedom of contract, this line of argument holds that if a person willingly consents to an arrangement, then every intervention that is part of the arrangement does not count as interference and does not impinge on the person’s freedom. From the republican point of view, this answer is highly problematic: past consent may leave the person under the dominating will of another (Pettit, 2012: 158); the freedom of contract does not allow one to willingly sell oneself to slavery, and such a ‘‘free’’ contract is certainly an abuse of freedom. Republican theory, therefore, answers that state interventions are legitimate so long as they are effectively controlled by the people: ‘‘The idea of controlled interference provides us with the core element for a republican theory of political legitimacy. It suggests that if the people governed by a state control the interference practiced by government... then they may not suffer domination at the hands of their rulers and may continue to enjoy their freedom in relation to the state’’ (Pettit, 2012: 153). To have a degree of control over a result, explains Pettit, means having some influence over the process leading to it, and using that influence to impose a desired direction on the process (for random, undesired influence does not give one control). It does not mean fully determining the process or the result (Pettit, Snir and Eylon 765 2012: 153). Control over government, therefore, does not erase the differences between the government and ordinary citizens, but rather gives the latter power to steer governmental activities. When popular control over government is effective and equally accessible to all, state legitimacy may properly be called democratic (Pettit, 2012: 169). In such a case we can say that every state intervention is carried out, as the title of one of Pettit’s books reads, ‘‘on the people’s terms.’’ The argument we wish to develop, following Pettit, is that school education is legitimate so long as the ‘‘citizens’’ of the school community, both teachers and students, have control over the power exercised in it. At first glance, the idea may appear to be quite problematic: schoolchildren should study on the teachers’ terms, rather than decide on their own when, what and how to learn. But control, as we have seen, does not imply full determination. Allowing students, together with teachers, to control school activities means letting them take some part in determining them**.** The degree of control may vary, of course, according to the students’ age and abilities. That is to say, **students’ control** over school processes **does not imply eliminating the differences** between students and teachers, **but developing mechanisms that make it possible for students to speak out and making sure their voices are heard**. **The call to involve students** in whatever takes place in their school is related to an important trend in contemporary theory of democratic and republican education that emphasizes **open processes of deliberation** (Gutmann, 1999). The deliberative democracy approach attempts to ground democracy in active participation of citizens in public forums of open communication and decision making (Christiano, 2008; Dryzek, 2003; Estlund, 2007; Gutmann and Thompson, 2004; Habermas, 1998). Education is of great importance for deliberative democracy, for it can develop the intellectual and emotional capacities needed for citizens to express themselves in discussion and listen to what others have to say (Peterson, 2011: 136–137). However, existing theories of deliberative education focus on preparing students to take part in future deliberative processes, as adult citizens; they are aware of the need to bring various themes to open discussions in school, but rarely view such discussions as an inherent aspect of decision-making in the present, behind school gates. Consequently, students have no effective control over the power exercised in school, and are in fact dominated. A genuine republican approach, one that views students as partners in processes of decision-making in the present, may benefit from thinking of deliberation in terms of Freirean dialogue: a dialogue (or rather multilogue) between teachers and students that recognizes that each party has relevant knowledge and ideas from which all others can learn (Apple, 2002; Freire, 1996: 71; Kincheloe, 2008). Children, just like the peasants and workers of which Freire often writes, may lack the capacity to articulate and sometimes even to be fully aware of their needs and interests.3 Nevertheless, the unique way in which they experience the world makes them an important source of knowledge rather than merely its recipients. Teachers should thus ‘‘establish an intimate connection between knowledge considered basic to any school curriculum and knowledge that is the fruit of the lived experience of students as individuals’’ (Freire, 2000: 36). This insight is relevant not only to theoretical learning but also to practical engagement. Deliberative processes which scaffold students in understanding and articulating their own views, and give these views due weight when determining school policies, will enable students to control the power exercised in school and make it a site of non-domination. 766 Policy Futures in Education 14(6) Civic contestation **One** of the **key tenet**s **of republican political theory,** which differentiates it from most contemporary liberal-democratic theories, **is that deliberation is simply not enough** to secure democratic freedom. In republican terms, shared, equal and effective control of government is insufficient to provide for freedom as non-domination. Even when effective means of control are in place it is still possible that some people be subjected to unjust laws, or suffer from ‘‘the problem of the sticky minority,’’ in which certain individuals or groups are structurally in a position in which they are likely to be on the losing side of every vote, and are thus more or less permanently blocked from effectively controlling relevant processes (Pettit, 2012: 211–213). **The republican solution is ‘‘to introduce a system of individualized contestation... There ought to be openings for particular individuals and subgroups to test the laws or proposals** for how far the process in which they are generated respects the value of equal access to influence, and more generally, the value of equal status’’ (p. 213). That is to say, in addition to institutions of control and popular deliberation a republic should make available institutional channels—from designated courts and ombudsmen to support for public demonstrations—through which all those who feel they suffer injustice can contest any decision or law and receive fair, unbiased hearing. **This way more voices will be heard, and fewer will be subjected to domination** (Pettit, 1999, 2000). Pettit is well aware that the formal existence of institutions for contestation is not enough, for the appeal to these institutions is essentially voluntary and circumstantial. **There ought to be a ‘‘contestatory culture’’ that disposes people to oppose any instance of domination** (Pettit, 2012: 225). People must be on the watch for proposals or measures that are not suitably supported ... and they must be ready to organize in opposition to such policies. It is only ... in the presence of civic vigilance ...that we can have any assurance that government will be forced to remain responsive to popular inputs. (Pettit, 2012: 226; see also Eylon and Harel, 2006) To be sure, not everyone must be a political activist, but **the community in general must practice a high level of civic engagement**, which is the price to be paid for freedom as nondomination (Pettit, 2012: 174). Education obviously has a crucial role in fostering a republican spirit of readiness to challenge moral and political wrongs. In this vein, Honohan claims that school education must cultivate ‘‘an orientation to challenge infringements not only of one’s own rights, but also those of others’’ (2006: 205). Ways to challenge such infringements must be taught not only in theory, but also be actively practiced: **a truly republican school must allow its student-citizens open channels for contesting the decisions of teachers and management**, and make sure their views are given fair consideration. And yet, the nature of republican contestation can be easily misunderstood. Peterson’s discussion of the role of contestation in republican education, for example, relies on Pettit and Maynor to argue that the aim of ‘‘contestatory deliberation’’ is to strive to consensus and the formation of shared values (Peterson, 2009: 64–66). This interpretation, which understands contestation as an aspect of deliberation and popular control, misses an essential and unique element of republicanism. **Contestation**, like contemporary republicanism in general, is not so much a matter of agreement and consensus but rather **has to do with the conflictual, antagonistic nature of democratic politics: ‘‘freedom as nondomination supports a conception of democracy under which contestability takes the place usually given to consent**; what is of primary importance is not that government does what Snir and Eylon 767 the people tells it but ... that people can always contest whatever it is that government does’’ (Pettit, 1997: ix). The republican spirit requires not only that **citizens are taught how not to dominate others, but also that they be taught how not to be dominated**. We believe that this aspect of republican education will also be best understood if considered not in relation to liberal-democratic education but rather to critical pedagogy. **As an offshoot of Marxist politics, critical pedagogy conceives of politics first and foremost as a struggle**, and its addressees—or better, its agents—are primarily the oppressed, the ‘‘wretched of the earth’’ (Freire, 2000: 22). The emphasis on dialogue and cooperation in Freire’s theory and praxis must not blur this starting point: **the aim of politics is liberation, which means a radical change in existing relations of domination.** Moreover, Freire argues that as modern capitalist society denies people their freedom, it also dehumanizes them: it does not allow them to consider themselves to be human subjects capable of fighting for what is theirs and changing reality (Freire, 1996: 25–27). Its outcome notwithstanding, **political struggle**, therefore, **is intrinsically valuable as it rehumanizes the oppressed** (Freire, 2014: 74). Accordingly, **everything that takes place at school**, including the curriculum and the student-teacher multilogue, **should be thought of through the political prism of rehumanization through active struggle**. **Republican education** that places nondomination at its center must work along the same lines: it **must enable students to grow from children to citizens by way of civic engagement**, an essential aspect of which is the struggle for rights and liberties. It must realize that other aspects of school life, including the acquisition of theoretical knowledge, will only be enhanced by active involvement of students in all aspects of the learning process. Contestation is clearly a delicate issue. Schools are small, fragile communities, and many of their members are highly vulnerable, as their personal and civic virtues are still in the process of formation. Hence, every challenge to authority might be dangerous for both the institution and the individuals within it. It is therefore especially important that the channels of contestation be jointly and judiciously developed by students and teachers. These channels can include joint student-teacher committees, as well as petitions and even strikes and demonstrations. But as forms of civic engagement, they must not be limited in advance. For school citizenship to be pluralist and inclusive, it must acknowledge that different students need different ways to express protest. In this manner, schools can become effective platforms for genuine citizenship – not merely places in which citizens are trained, but rather laboratories in which ever new ways of political engagement and contestation are explored. Just like in the vision of critical pedagogy, political engagement within school will be a source of inspiration and action that will promote freedom and equality in society in general. Trust Where and how should we draw the borderline between effective civil contestation and sheer rebelliousness? On the one hand, if the school administration has the right to determine when contestation is legitimate, this would blunt the edge of republican contestation and turn school citizenship into mere simulation. On the other hand, if students are allowed to contest everything that takes place at school as they please, the entire school system would be undermined. To deal with this problem, we will borrow one last concept from Pettit’s republicanism, which is of great relevance to education—trust. Trust among citizens, and between citizens and state, is a crucial element in a republic (Pettit, 1997: 262). At first sight trust may seem to clash with civic vigilance, since vigilance 768 Policy Futures in Education 14(6) implies constant refusal to automatically assume that all others respect the shared laws and norms. But Pettit insists that feeling trust does not necessarily mean expressing it, and that the citizens of the republic may certainly trust the state and their fellow citizens while publicly expressing distrust: The republican recommendation is that, whatever confidence people feel in the authorities, they will have all the more reason to feel such confidence ... if they always insist on the authorities going through the required hoops in order to prove themselves virtuous. To be vigilant in this sense will not be to feel an attitude of distrust towards the authorities – or at least not necessarily – but to maintain a demanding pattern of expectations in their regard. (Pettit, 1997: 264) That is to say, trust and vigilance, properly understood, are complementary: the possibility of effective contestation is the ground from which trust between citizens and state grows, while one of the fruits of trust is the citizens’ reluctance to protest in ways that might undermine the very foundations of the republic. As Freire makes clear, the notion of trust is especially relevant for the school community. Critical pedagogy, while explicitly calling for radical political action and undermining the traditional hierarchical relations between teachers and students, appeals to trust as the basis upon which dialogical cooperation must stand. It is often the case, according to Freire, that teachers bring their prejudices to school, and even the best-intended among them lack confidence in their students’ ability to think and learn (1996: 42). Therefore, ‘‘**it is necessary to trust in the oppressed and in their ability to reason’’** (p.48), just as it is necessary that the oppressed learn to trust their educators even if they happen to belong to the ranks of the oppressors. Furthermore, the process through which people gain civic consciousness makes them politically responsible subjects, thereby restraining fanatical tendencies (p.18) and making it possible for teachers to trust that their students’ political engagement will not become mere violent rebelliousness. This is of great importance also in the context of republican education. The way to making school a sustainable site of non-domination necessarily passes through the exhausting, dangerous effort of building mutual trust: if schools succeed in getting students to trust them, they will be able to trust students not to let contestation get out of hand. Neo-republicanism and contemporary debates in critical pedagogy Just as neo-republicanism can benefit from dialogue with critical pedagogy, so it can contribute to contemporary critical pedagogy. In the last couple of decades—following Freire’s demise and due to significant changes in sociopolitical realities and academic discourses—critical pedagogy has suffered from disorientation, sometimes termed ‘‘crisis’’ (Tubbs, 2005: 226), leading to claims that it should ‘‘reinvent itself’’ (Allen and Rossatto, 2009: 165). In the following section we present four issues on which post-Freirean critical pedagogy is engaged in heated debates and show how neo-republican theory can help adjust critical pedagogy to contemporary realities.