**Nov/Dec 2021: Structural Violence AC**

**I affirm**

**Observation: The resolution does not specify a specific state which means that the resolution must be generalized to states as a whole. Disadvantages to specific countries should be weighed against universal advantages to a worker’s right to strike**

#### **Right to strike is defined as according to the French Constitution:**

**Morgan et al 18:**

(Morgan, Lewis & Bockius Llp, 4-23-2018 (International Law Firm, "Strikes in France: A Manual for Navigating the Maelstrom," Lexology, https://www.lexology.com/library/detail.aspx?g=ccf252fb-d4f3-406d-9fa6-cdbf0eb2f98c, Published 4-23-2018 Accessed 10-7-2021 Wally)

THE DEFINITION OF **THE RIGHT TO STRIKE** A strike is **defined** under French labor law **as** the **collective and concerted cessation of work by** the **employees** of one or more companies in order to make professional claims. When the strike falls within this definition, **employees are protected against** any **sanction or dismissal** action. This protection is, however, lifted in the case of unlawful strike actions or abuse in the exercise of the right to strike. For civil servants and staff with special status, such as those at the SNCF, the conditions for engaging in lawful strikes are more restrictive. For example, they must be initiated by a trade union, and a strike notice must be given. The rules set out below mainly concern private-sector companies. In the private sector, a strike can be triggered at any time and without formality. The employer cannot command compliance with a notice period or specific formalities to exercise the right to strike, including by collective agreement. The suspension of the striker’s employment agreement The exercise of the right to strike suspends the performance of the employment agreement. Therefore, the employer does not have to pay salaries to strikers, provided that the payroll deduction is proportional to the actual working time that was spent on strike. (Otherwise, it will constitute a financial penalty, which is prohibited by French law.) The employer also does not have to provide paid days off or bank holidays that fall within the strike period. The employer cannot unilaterally order the strikers to catch up on the working hours lost due to the exercise of their right to strike. However, the employer whose employees were late or absent because of an external strike (such as a strike in the transport or electricity sectors) may force employees to make up for lost time. If, during the exercise of the right to strike, the employee is on a trial or notice period, this period must be extended for the duration of the strike. The prohibition of sanctions The employer cannot take any discriminatory measure or sanction against strikers because of their strike, in particular with regard to remuneration and social benefits. For instance, a specific bonus cannot be granted to non-striking employees only because they are not on strike. The employer may not dismiss an employee for exercising his/her right to strike, except in case of wilful misconduct intended to cause harm to the employer or disrupt the company. For example, employees who have personally and actively participated in violent and unlawful acts, assault and battery, or sequestration may be dismissed. The replacement of strikers The **employer cannot hire** employees through fixed-term employment agreements (such as the Contrat à Durée Déterminée, or CDD) or **temporary work contracts to replace strikers**, subject to criminal sanctions. However, it is possible to reorganize the tasks of non-strikers to cover those of striking employees. A non-striking employee can thus be temporarily placed on the job of a striker. The employer may also use the services of another company (subcontracting, etc.). The lockout ban The temporary closure of the company decided upon by the employer during a strike or lockout is unlawful and requires the employer to compensate the employees for the subsequent loss of salary. An exception is when the employer is unable to provide work to employees and has to close the company, for the safety of staff, customers, and/or property, for instance. Moreover, if the strikers decide to occupy the premises of the company, the employer may file emergency summary proceedings to expel them in the case of risk to the safety of persons and property. (This is generally very difficult to obtain.) RIGHTS AND DUTIES OF THE EMPLOYEE ON STRIKE The notion of lawful strike To benefit from the protection, employees must ensure that the strike falls within the definition mentioned above. The strike must lead to a total cessation of work. Voluntarily defective performance of work is considered an unlawful exercise of the right to strike. In this respect, the plan by employees in the energy sector to switch some cities off-peak or cut off electricity for Carrefour stores is unlikely to be considered lawful. Strikes must be aimed at professional demands. Since strikers must be personally interested in these demands, a solidarity strike is in principle unlawful. A strike is unlawful if it is intended as part of protests of a political movement against government decisions. On the other hand, it would be lawful if the movement includes professional demands concerning all workers, such as pensions. Abuse in exercising the right to strike A lawful strike can degenerate into abuse and can be sanctioned if it causes or threatens to disrupt the company. This is the case, for instance, if strikers decide to perform many successive short strikes in order to disorganize the company or to harm its economic situation. The responsibility of striking employees. **Striking employees may incur** civil **liability if they** have personally **commit**ted **unlawful acts** during the strike. They may be required to compensate non-strikers for the loss of their wages if access to the company's premises had been blocked. Strikers may also be **criminally liabile in the case of** sequestration or **violence**. The French Penal Code also punishes any restriction to the freedom to work with imprisonment and a fine of up to 15,000 euros ($18,421), although such convictions are rare.

**The value is justice because it allows us to adjudicate between two competing values as per the resolutional context**

**The value criterion is minimizing structural violence**

**First, evaluating structural violence comes first- prevents moral exclusion and is key to just action.**

**Winter and Leighton 99:**

(Deborah DuNann Winter and Dana C. Leighton. Winter|[Psychologist that specializes in Social Psych, Counseling Psych, Historical and Contemporary Issues, Peac3e Psychology. Leighton: PhD graduate student in the Psychology Department at the University of Arkansas. Knowledgable in the fields of social psychology, peace psychology, and ustice and intergroup responses to transgressions of justice] “Peace, conflict, and violence: Peace psychology in the 21st century.” Pg 4-5)

Finally, to recognize the operation of structural violence forces us to ask questions about how and why we tolerate it, questions which often have painful answers for the privileged elite who unconsciously support it. A final question of this section is how and why we allow ourselves to be so oblivious to structural violence. Susan Opotow offers an intriguing set of answers, in her article Social Injustice. She argues that **our normal perceptual cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice** that would be instantaneously confronted if it occurred to someone we love or know **is barely noticed** if it occurs to strangers or those who are invisible or irrelevant. We do not seem to be able to open our minds and our hearts to everyone, so **we draw conceptual lines between those who are in and out of our moral circle. Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer.** Moral exclusion is a human failing, but Opotow argues convincingly that it is an outcome of everyday social cognition. To reduce its nefarious effects, we must be vigilant in noticing and listening to oppressed, invisible, outsiders. Inclusionary thinking can be fostered by relationships, communication, and appreciation of diversity. Like Opotow, all the authors in this section point out that **structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects.** Learning about structural violence may be discouraging, overwhelming, or maddening, but these papers encourage us to step beyond guilt and anger, and begin to think about how to reduce structural violence. All the authors in this section note that the same structures (such as global communication and normal social cognition) which feed structural violence, can also be used to empower citizens to reduce it. In the long run, reducing structural violence by reclaiming neighborhoods, demanding social jus- tice and living wages, providing prenatal care, alleviating sexism, and celebrating local cultures, will be our most surefooted path to building lasting peace.

**Second, racism is a violation to all morals. It makes all forms of violence inevitable and must be rejected in every instance as possible.**

##### **Memmi 2000:**

(Albert Memmi is a Professor Emeritus of Sociology at the University Of Paris Albert. RACISM, translated by Steve Martinot, pp.163-165. 2000)

The struggle against racism will be long, difficult, without intermission, without remission, probably never achieved. Yet, for this very reason, it is a struggle to be undertaken without surcease and without concessions. **One cannot be indulgent toward racism**; one must not even let the monster in the house, especially not in a mask. To give it merely a foothold means to augment the bestial part in us and in other people, which is to diminish what is human. **To accept the racist universe to the slightest degree is to endorse fear, injustice, and violence.** It is to accept the persistence of the dark history in which we still largely live. it is to agree that the outsider will always be a possible victim (and which man is not himself an outsider relative to someone else?. Racism illustrates, in sum, the inevitable negativity of the condition of the dominated that is, it illuminates in a certain sense the entire human condition. The anti-racist struggle, difficult though it is, and always in question, is nevertheless one of the prologues to the ultimate passage from animosity to humanity. In that sense, we cannot fail to rise to the racist challenge. However, it remains true that one’s moral conduit only emerges from a choice: one has to want it. It is a choice among other choices, and always debatable in its foundations and its consequences. Let us say, broadly speaking, that **the choice to conduct oneself morally is the condition for the establishment of a human order, for which racism is the very negation.** This is almost a redundancy. **One cannot found a moral order,** let alone a legislative order, **on racism, because racism signifies the exclusion of the other,** and his or her subjection to violence and domination. From an ethical point of view, if one can deploy a little religious language, racism is ‘the truly capital sin. It is not an accident that almost all of humanity’s spiritual traditions counsels respect for the weak, for orphans, widows, or strangers. It is not just a question of theoretical morality and disinterested commandments. Such unanimity in the safeguarding of the other suggests the real utility of such sentiments. All things considered, **we have an interest in banishing injustice, because injustice engenders violence and death**. Of course, this is debatable. There are those who think that if one is strong enough, the assault on and oppression of others is permissible. Bur no one is ever sure of remaining the strongest. One day, perhaps, the roles will be reversed. All unjust society contains within itself the seeds of its own death. It is probably smarter to treat others with respect so that they treat you with respect. “Recall.” says the Bible, “that you were once a stranger in Egypt,” which means both that you ought to respect the stranger because you were a stranger yourself and that you risk becoming one again someday. It is an ethical and a practical appeal—indeed, it is a contract, however implicit it might be. In short, **the refusal of racism is the condition for all** theoretical and practical **morality** because, in the end, the ethical choice commands the political choice, a just society must be a society accepted by all. If this contractual principle is not accepted, then only conflict, violence, and destruction will be our lot. If it is accepted, we can hope someday to live in peace. True, it is a wager, but the stakes are irresistible.

**Third, you MUST look at framework rejecting racism in an educational space.**

##### **Alston and Timmons 14:**

(Jonathan Alston, Head Debate Coach at Newark’s Science Park High School, and Aaron Timmons, Head Coach at the Greenhill School. “Nobody Knows the Trouble I See (And In National Circuit Lincoln-Douglas Debate, Does Anyone Really Care?” April 2014, VBriefly.)

The writers of the article seem deeply offended and or confused by an argument that many students around the country have recently found it necessary to make. Students pushing back against the idea that they have to prove that rape or genocide is bad have taken to routinely using the works of Dr. Shanara Reid Brinkley, Tim Wise, Henry Giroux, Tommy Curry, Chris Vincent, (former CEDA and NDT Champion), Elijah Smith and others to warrant the benefit to making arguments that challenge structural oppression. Though **debate is** a game, it is a game **about issues that have real consequences. We teach future generations how to deal with issues of** freedom and **oppression.** Often the evidence shows that **debaters go on to** become leaders and **impact** policy in **the** real **world.** This means that **it is appropriate for the judge’s role to be an educator** responsible for training future generations. **Justifications of moral frameworks that don’t preclude rape, slavery and genocide are dangerous because rights are only important so long as a critical mass of society believes that they should exist**.

**Sole Contention: Marginalized Representation**

#### **Current right to strike under the NLRA is pigeonholed by loopholes that inhibit effective striking.**

**Reddy 21:**

(Diana S. Reddy, Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law, PhD candidate in UCB's Jurisprudence and Social Policy Program and former Fellow in the General Counsel's Office of the AFL-CIO, “There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy,” Yale Law Journal, https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy)

To say that a strike is ostensibly legal, though, is not to say whether it is sufficiently protectedas to make it practicable for working people. Within the world of labor law, this distinction is often framed as the difference between whether an activity is legal and whether it is protected. So long as the state-as-regulator will not punish you for engaging in a strike, that strike is legal. But **given** that **striking is protest against an employer**, rather than against the state-as-regulator, **being legal is insufficient protection** **from** the **repercussion** most likely to **[or] deter** it—**job loss**. **Employees technically cannot be fired for** protected concerted activity under the NLRA, including protected **strikes**. But in a distinction that Getman and Kohler note “only a lawyer could love—or even have imagined,”82, judicial construction of the **NLRA permits employers to permanently replace them** in many cases. Consequently, under the perverse incentives of this regime, **strikes can facilitate deunionization**. Strikes provide **employers** an opportunity, unavailable at any other point in the employment relationship, to **replace** those **employees who most support the union**—those who go out on strike—in one fell swoop. As employers have increasingly turned to permanent replacement of strikers in recent decades, strikes have decreased.83 A law with a stated policy of giving workers “full freedom of association [and] actual liberty of contract” offers a “right” which too many workers cannot afford to invoke.84 It is not just that the right is too “expensive,” however; it is that its scope is too narrow, particularly following the Taft-Hartley Amendments. Law cabins legitimate strike activity, based on employees’ motivation, their conduct, and their targets. The legitimate purposes are largely bifurcated, either “economic,” that is to provide workers with leverage in a bargain with their employer, or to punish an employer’s “unfair labor practice,” its violation of labor law (but not other laws). A host of reasons that workers might want to protest are unprotected—Minneapolis bus drivers not wanting their labor to be used to “shut down calls for justice,” for instance. **Striking employees** also **lose** their limited **protection if they act** in ways that are deemed “**disloyal to** their” **employer**,85 or if they engage in the broad swath of non-violent activity construed to involve “violence,” such as mass picketing.86 Tactically, intermittent strikes, slow-downs, secondary strikes, and sit-down strikes are unprotected.87 **Strikes are** also **unprotected if** unionized **workers engage in them without** their **union’s approval,**88 if they concern nonmandatory subjects of bargaining,89 or if they are inconsistent with a no-strike clause.90 Independent contractors who engage in strikes face antitrust actions.91 Labor unions who sanction unprotected strikes face potentially bankrupting liability.92 The National Labor Relations Board—the institution charged with enforcing the policies of the Act—summarizes these “qualifications and limitations” on the right to strike on its website in the following way: The lawfulness of a strike may depend on the object, or purpose, of the strike, on its timing, or on the conduct of the strikers. The object, or objects, of a strike and whether the objects are lawful are matters that are not always easy to determine. Such issues often have to be decided by the National Labor Relations Board. The consequences can be severe to striking employees and struck employers, involving as they do questions of reinstatement and backpay.93 The “right” to strike, it seems, is filled with uncertainty and peril. Collectively, these rules prohibit many of the strikes which helped build the labor movement in its current form. Ahmed White accordingly argues that **law prohibits effective strikes**, strikes **which could** actually **change employer** **behavior**: “Their inherent affronts to property and public order place them well beyond the purview of what could ever constitute a viable legal right in liberal society; and they have been treated accordingly by courts, Congress, and other elite authorities.”94 B. The Limits of Legal Categories

#### **Status quo model of an RTS is dominated by exclusive singular unions – that undermines effectiveness and detracts from substantive labor movements, only an unconditional R.T.S solves**

**Pope et al 17:**

(James Gray Pope. Distinguished Professor of Law Emeritus, Rutgers University. Ed Bruno, labor attorney. and Peter Kellman is a lifelong trade union activist who participated in the Civil rights and Anti-war movements of the 1960s, the anti-nuclear/safe-energy, environmental movements of the 1970/80s and is currently part of the New Agriculture Movement of the twenty-first century. The Right to Strike and the Perils of Exclusive Representation (2017). Boston Review, Forum 2, 2017, at 107, Available at SSRN: <https://ssrn.com/abstract=3074092> Accessed 10/7/2021 Wally)

We propose that the **unionism** decreed **by** the **NLRA is fatally flawed**; that although we tend to think today of the thirty-plus per cent union density of the 1950s as the good old days, it wasn’t; and that if it becomes politically possible to amend the NLRA sufficiently to make possible union revival, then it will also be possible to jettison the Act’s crabbed definition of unions. At the heart of the difficulty lies the system of exclusive representation. **Unions** that enjoy the government-conferred status of **exclusive representative have little incentive** and few legal avenues **to build the movement** as a whole. As amended by the Taft-Hartley Act of 1947, the NLRA carves workers up into government-defined “bargaining unit” boxes, anoints **a single union as** the **exclusive representative** of the workers in any particular box, and **restricts** that **union to bargaining over “terms** and conditions **of employment**,” a category that does not include a host of issues of vital concern to workers, including plant closings, automation, and control of pension funds.36 **Unions** stand on relatively solid legal ground when they attend to the immediate self interest of workers in a single box, but **risk** employer **retaliation and legal sanctions** if they act on the view that the fortunes of all workers rise and fall together.37 This fits right in with the flat ban on secondary boycotts, which blocks the workers in each bargaining unit box from acting in solidarity with workers in other boxes. But it gets worse. Unlike corporations, which must compete in the marketplace to retain their investors, Taft-Hartley unions enjoy government-conferred monopolies over their workers. (The fact that union busters repeat this point ad nauseum does not make it any less true.) Once a union establishes itself as the exclusive representative in a bargaining unit, it **extinguishes** the **freedom of workers** in that unit **to shift** their **allegiance to another union** except through an arduous process of “decertification” that **presents the employer with** a golden [The] **opportunity to dispense with unions altogether**. Union democracy can provide workers with considerable control in some settings (especially single-facility local unions, sites of some of the most vigorous popular democracy anywhere in the United States), but the law gives national union leaders enormous latitude to suppress or avoid democracy.38 This kind of power presents union leaders with an almost irresistible temptation to offer, in Bob Fitch’s memorable phrase, “solidarity for sale” to employers and politicians.39 When a union achieves the status of **exclusive representative**, it **takes ownership of the workers’ right to strike**. From that point on, **the union may trade the right away** **and** – even if it doesn’t – the **workers may be fired for striking without** the **union’s** **approval**.40 (**Compare France, where the right to strike belongs to workers**, not unions, **and is often exercised in support of class-wide demands**.) Even the most militant labor leaders have difficulty resisting the temptation to accept a blanket nostrike clause in exchange for stability in their bargaining unit boxes, whence all dues flow. As a result, most union workers are prohibited by contract from striking during all but the window periods between contracts. Because contracts expire at various times, sympathy strikes and political strikes are effectively precluded.41

**Exclusive representation results in racial and gender disparities caused by majoritarian union power--kills widespread radical bargaining/reform**

**Fisk 21:**

(Catherine Fisk teaches Employment Law, Labor Law, Civil Procedure, and Understanding the U.S. Legal Profession. She is a Faculty Director of the Berkeley Center for Law and Work and the Berkeley Center for Law & Technology. “The Once and Future Countervailing Power of Labor” The Yale Law Journal Forum. [https://www.yalelawjournal.org/pdf/FiskEssay\_z3d9e4jz.pdf Published 02-02-2021](https://www.yalelawjournal.org/pdf/FiskEssay_z3d9e4jz.pdf%20Published%2002-02-2021); Accessed 10-07-2021; Wally)

Government protection of labor organizing came with government regulation of labor organizations. The labor organizations to which the NLRA gave a special role in the self-regulation of industry were no longer just private-membership organizations but were now imbued with the public interest.18 Law therefore created a tangle of incentives towards less radical, less political, more self-interested behavior.19 The Norris-LaGuardia Act20 and the NLRA reduced outright repression of labor as a social movement, but they channeled union activism towards a state-preferred goal—collective bargaining—and away from more radical movement objectives. 21 The **NLRA’s** promotion of union organizing on a certain **model changed** the **structure under which unions organized**. 22 As Andrias and others have argued, it did this by requiring unions to adhere to the NLRB’s determination of what constituted an appropriate bargaining unit (typically based in a single location of a single enterprise), rather than what the union considered best for its organizational objectives and worker interests (which could have been industry-wide or sectoral).23 The protection of worker power through mandated union security based on **exclusive representation** **enable**d **racist unions to exclude people of colo**r24 **while empowering conservative** and quiescent **unions to push out** more **radical unions**.25 And, as we now see with police, **legal protections for majority unions** have **enable**d union **leaders to thwart challenges from reform-oriented or minority groups**.26 Antilabor interpretations of the NLRA increased the costs of movement activism, including sitdown strikes (which had been crucial to organizing Detroit in 1937), slowdowns (useful for workers who fear being fired for striking), and secondary picketing or boycotts (which are necessary to exert effective power in supply chains and in the service economy).27 Courts and, to a lesser extent, the NLRB, imported pre-NLRA notions from master-servant law into the new labor law in ways that **constrained** the **rights of workers to act collectively**.28 Regulation of the internal affairs of unions increased financial transparency but did not invariably make unions more democratic and in fact increased the power of government and union opponents to channel union activity.29 The vast literature on twentieth-century labor and civil rights shows how business skillfully deployed the menaces of radicalism, socialism, and communism to tar ambitious labor and civil-rights organizing. The Taf-Hartley Act’s anticommunist oath requirement removed all NLRA protections from unions whose leadership refused to sign oaths repudiating communism, and refused access to the NLRB for such unions.30 The statute thus leveraged the protections of law and administrative processes to force unions to push radicals out of leadership positions.31 The National Association for the Advancement of Colored People and some other civil-rights groups sought to preserve their legitimacy and influence by taking a strong stance against communists in their ranks.32 Although there is plenty of blame to go around—indeed, some American communists did the cause of labor and civil rights no favors33—the **purge of progressives and radicals reduced** the **vigor of organizing and derailed** certain **efforts to end race and sex discrimination on the part of employers and unions**.34 History invites us to think about what happens after unions or other social movement organizations gain power. At the end of World War II, just as unions were poised to win (through a massive strike wave) the wage increases that had been long delayed by wartime wage and price controls, business used the labor upsurge as a wedge issue to win Congress for the first time since 1932. Congress scaled back labor protections over President Truman’s half-hearted veto, insisting that labor had become too powerful. The Taf-Hartley Act of 1947 adopted a multipronged approach to reducing union power. It granted legal protections to workers who resisted unionization (thus enabling employers to undermine solidarity).35 It denied unionization rights to independent contractors and lowlevel supervisors, even though they historically had belonged to unions and needed the protections of collective representation.36 It prohibited certain forms of labor protest.37 It forced lefists out of leadership positions.38 It made unions subject to suit as entities.39 It made collective-bargaining agreements enforceable by judges40 who used that power to enjoin strikes in violation of collectively bargained no-strike clauses and to award damages against unions that were insufficiently vigorous or competent in enforcing contracts against employer breach.41 The Landrum-Griffin Act continued the work of the Taf-Hartley Act by eliminating legal protection for secondary protests and by regulating internal union affairs.42 The ostensible purpose of this legislation was to curb union abuses of power and corruption, and make unions more responsible to their members and to their contracts with employers.43 But an important purpose and effect was also to weaken unions and reduce labor protest. As I have documented elsewhere, the legislation used unions’ institutional power as leverage to reduce their activism by punishing union picketing with crushing damages liability and injunctions.44 This, in turn, required union lawyers to protect the union by counseling against certain forms of protest, reviewing the content, timing, and location of union picket signs and other protest tactics, and even censoring union newspapers.45

**Right to strike is key to legitimize non-exclusive unions that combat economic, racial and gendered inequities**

**Myall 19:**

(James Myall is a staff writer/reporter for the Maine Center for Economic Policy. “Right to strike would level the playing field for public workers, with benefits for all of us,” Maine Center for Economic Policy, April 17, 2019. <https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/>)

The right of workers to organize and bargain with their employer benefits all Mainers. **Collective bargaining leads to better wages, safer workplaces, and a fairer** and more robust **economy** for everyone — not just union members. The **right to strike is critical to** collective **organizing** and bargaining. Without it, Maine’s public employees are unable to negotiate on a level playing field. Maine’s Legislature is considering a bill that would give public-sector workers the right to strike. MECEP supports the legislation, and is urging legislators to enact it. **The right to strike would enable fairer negotiations between public workers and the government.** All of us have reason to support that outcome. Research shows that union negotiations set the bar for working conditions with other employers. And as the largest employer in Maine, the state’s treatment of its workers has a big impact on working conditions in the private sector. Unions support a fairer economy. **Periods of high union membership** are **associated with lower** levels of **income inequality**, both nationally and in Maine. Strong unions, including public-sector unions, have a critical role to play in rebuilding a strong middle class. Unions help combat inequities within work places. **Women and people of color in unions face less wage discrimination than** those in **nonunion workplaces**. On average, **wages for nonunionized white women in Maine are 18 percent less than** of those of **white men**. **Among unionized workers**, that **inequality shrinks to** just **9 percent.** Similarly, **women of color earn 26 percent less** than men **in nonunionized jobs; for unionized women of color**, the wage **gap shrinks to 17 percent**.[[i]](https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/#_edn1) All of us have a stake in the success of collective bargaining. But a **union without** the **right to strike loses much** of its **negotiating power.** The right to withdraw your labor is the foundation of collective worker action. When state employees or teachers are sitting across the negotiating table from their employers, how much leverage do they really have when they can be made to work without a contract? It’s like negotiating the price of a car when the salesman knows you’re going to have to buy it — whatever the final price is.

**Legitimized unions challenge power structures--reform is intrinsically linked to racial and gender justice**

**Bivens et al 17:**

(Josh Bivens, Lora Engdahl, Elise Gould, Teresa Kroeger, Celine McNicholas, Lawrence Mishel, Zane Mokhiber, Heidi Shierholz, Marni von Wilpert, Valerie Wilson, and Ben Zipperer. “How today’s unions help working people,” Economic Policy Institute, August 24, 2017. https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the-power-to-improve-their-jobs-and-unrig-the-economy/)

Today, government workers are central to the labor movement, representing nearly half of all union members.[[19]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn19) Yet this was not always the case. Excluded from the National Labor Relations Act of 1935, public sector unions represented only a small portion of government workers until the second half of the last century.[[20]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn20) This all changed beginning in the middle half of the last century as state and local policymakers reacted to an increasingly militant unionized government workforce by recognizing their right to collectively bargain. The history of public sector unionism is worth examining for two reasons. First, **public sector unions** changed the face of unions, organizing **an increasingly diverse group of workers** beginning in the middle half of the last century and **work[ed]**ing **with civil rights leaders to challenge** the **economic and racial power structures** of the United States. As a result, today’s union members reflect the growing diversity of the nation as a whole. Second, the history of **public sector bargaining** provides an example of how state and local policymakers today **can support** the country’s **diverse working class**. While state and local government workers never won collective bargaining protections at the federal level, worker advocates and progressive policymakers in many cities and states have collaborated over the last six decades to test new ways of organizing and adopt innovative policies to allow government workers a voice on the job. Prior to the late 1950s, public sector workers had no protected rights to negotiate collectively with their employers and, too often, little redress for unsafe or otherwise poor working conditions. Progressive reformers in many communities had successfully lobbied for a civil service system that helped to equalize pay and prevent nepotism, while public sector unions engaged in worker training and even informal negotiations with employers.[[21]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn21) However, these actions were no match for the power of private sector unions at the bargaining table. Private sector workers’ wages were booming during the economic expansion of the 1950s and 1960s, in large part due to strong unions. Public sector workers were falling behind, receiving lower wages, often lacking Social Security coverage, and paying more for benefits.[[22]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn22) According the U.S. Bureau of Economic Analysis, in 1960, the average annual wage of a manufacturing worker was 20 percent higher than that of a government employee.[[23]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn23) This gap motivated workers to join public sector unions, and government unions were increasingly recruiting and representing a more diverse cross section of American workers. While early public sector unionism had been dominated by a professional class in smaller cities and towns, **unions** such as the **American Federation of State, County, and Municipal Employees (AFSCME); the American Federation of Teachers (AFT); the National Education Association (NEA); and the Service Employees International Union (SEIU) were increasingly organizing** blue-collar workers, **workers of color, women, and urban residents**. In his research on the rise of AFSCME, labor historian Joseph E. Hower documents how many of these workers—frustrated by low pay, discrimination, and poor working conditions—wanted full bargaining rights and were willing to protest with walkouts, demonstrations, and illegal wildcat strikes.[[24]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn24). By the decade’s end, progressive state and local leaders began to respond to this growing pressure. In 1957, reformist Philadelphia Mayor Richardson Dilworth (D) recognized AFSCME as the official bargaining unit of nonuniformed municipal workers.[[25]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn25) One year later, New York City Mayor Robert F. Wagner (D) responded to a series of strikes and demonstrations by issuing an executive order recognizing unions as employee representatives and committing the city to engage in collective bargaining.[[26]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn26) And, in 1959, Wisconsin became the first state to recognize government workers’ right to bargain. [[27]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn27). During the decades that followed, government workers flooded into unions, winning state and local laws allowing them to bargain. Between 1960 and 1976, union density among state and local government employees grew from 5 percent to nearly 40 percent.[[28]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn28). At the time, support for public sector collective bargaining rights was not limited to Democrats. For example, in 1965, Michigan’s Republican governor, George W. Romney, signed the state’s Public Employee Relations Act into law.[[29]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn29) Three years later, then-Gov. Ronald Reagan (R-CA) signed into law California’s Meyers-Milias-Brown Act to grant government workers collective bargaining rights.[[30]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn30) And, in 1969, President Richard Nixon used his executive authority to expand on Kennedy-era protections of bargaining rights for federal government workers.[[31]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn31). **As** government **unions became** more **diverse,** public sector **union members and leadership** increasingly **saw economic justice as intrinsically linked to racial justice and gender equity.** Indeed, 2018 marks the 50th anniversary of the Memphis sanitation workers’ strike.[[32]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn32) **After** Echol Cole and Robert Walker were crushed to **death in a malfunctioning garbage truck** in February 1968, **Memphis’ African American sanitation workers staged** an unplanned wildcat **strike to protest** deplorable **working conditions** and demand **safety improvements** as well as **higher pay.**[[33]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn33). The workers, who were affiliated with AFSCME but never recognized by the city, had previously engaged in unsuccessful actions. Officials in the segregated city were recalcitrant, and national leadership feared that this strike would yield the same as the past. However, as the strike dragged on, organizers and the American public grew to understand that this was a fight for both labor and civil rights.[[34]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn34) AFSCME **worked with civil rights leaders**, such as Rev. James Lawson, **to organize support from** the **broader African American community**.[[35]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn35) Workers on the picket line carried signs that declared “I am a man” and won the nation’s attention after Rev. Dr. Martin Luther King Jr. joined their cause. The strike aligned with King’s new Poor People’s Campaign, which called for a radical shift in the distribution of economic power. King was a long-time supporter of organized labor, arguing that the needs of the African American community were “identical with labor’s needs.”[[36]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn36) Speaking before a crowd of sanitation workers on March 18, 1968, he declared: “You are here tonight to demand that Memphis will do something about the conditions that our brothers face as they work day in and day out for the well-being of the total community … You are here to demand that Memphis will see the poor.”[[37]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn37) King returned to Memphis two weeks later. Hours after delivering his famous “Mountaintop” speech, he was martyred.[[38]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn38) In the days that followed, then-President Lyndon B. Johnson sent an undersecretary of labor to resolve the strike.[[39]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn39) Facing mounting national pressure, the city agreed to workers’ demands of higher wages, improved workplace protections, and recognition of their union.[[40]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn40) The agreement, which **raised standards for a group of workers** who had long been **voiceless,** was **a historic win for both** the **civil rights and labor movements** and helped to propel a wave of organizing drives among sanitation workers. By the late 1960s, Hower estimates, African American workers accounted for a third of AFSCME’s membership.[[41]](https://www.americanprogressaction.org/issues/economy/reports/2018/06/27/170587/state-local-policies-support-government-workers-unions/#_edn41). Indeed, **public sector unions** at the end of the last century **help**ed to **change** the **racial and gender composition of** the **labor movement and** often **engage**d **in cross-movement activism.**

#### **Strikes spill-over to broader support of the labor movement and unions**

**Hertel-Fernandez et al. 20:**

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Strikes and Labor Power in an Era of Union Decline We examined the political consequences of **large-scale** teacher **strikes**, studying how firsthand exposure **changed mass attitudes and public preferences**. Across a range of specifications and approaches, we find that **increased exposure to** the **strikes led to greater support** for the walkouts, more support for legal rights for teachers and unions, and, especially, greater personal interest in labor action at people’s own jobs, though not necessarily through traditional unions. Returning to the theoretical expectations we outlined earlier, the teacher strikes appear to have changed the ways that parents think about the labor movement, generating greater public support. The **results** regarding workers’ interest in undertaking labor action in their own jobs also **suggests evidence in favor of** the **public inspiration** and imitation hypothesis, underscoring the role that social movements and **mobilization**s can play in **teach**ing **noninvolved** members **about** the **movement** and tactics. Still, an important caveat to these findings is that strike-exposed parents were not more likely to say that they would vote for a traditional union at their jobs, possibly reflecting the fact that the strikes emphasized individual teachers and not necessarily teacher unions as organizations either in schools or in parents’ own workplaces. Further research might explore this difference, together with the fact that we find somewhat stronger evidence in favor of the imitation hypothesis (i.e., support for labor action at one’s own work) than for the public support hypothesis (i.e., support for the striking teachers). Before we discuss the broader implications of our findings for the understanding of the labor movement, we briefly review and address several caveats to the interpretation of our results. One concern is whether the results we identify from a single survey can speak to enduring changes in public opinion about the strikes and unions. Given the timing of the teacher strikes in the first half of 2018, our respondents were reflecting on events that happened 7–12 months in the past. We therefore think that our results represent more durable changes in opinion as a result of the strikes, in line with other studies of historical mobilizations and long-term changes in attitudes (Mazumder 2018). The AFL-CIO time-series **polling** **data**, moreover, further **suggest** that there were **increases in** aggregate public **support for unions** in the strike states **after** the **strikes** occurred. Nevertheless, follow-up studies should examine how opinion toward, and interest in, unions evolve in the mass teacher strike states, and it would be especially interesting to understand whether unions have begun capitalizing on the interest in the labor movement that the strikes generated. We also note that, despite the large sample size of our original survey, we still lack sufficient statistical power to fully explore the effects of the strikes on all of our survey outcomes. Future studies ought to consider alternative designs with the power to probe the individual outcomes that were not considered in this study. Another question is how to generalize from our results to other strikes and labor actions. Although it is beyond the scope of this article to develop and test a more general theory of strike action, there are factors that suggest that the teacher strikes we study here represent a hard test for building public support. The affected states had relatively weak public sector labor movements, meaning that few individuals had personal connections to unions; most were also generally conservative and Republican leaning, further potentially reducing the receptivity of the public to the teachers’ demands. And lastly, the type of work we study —teaching—involves close interaction with a very sympathetic constituency: children and their parents. This should make strike disruptions more controversial and increase the likelihood of political backlash (and indeed, we do find that the strikes were less persuasive for parents who may have lacked access to childcare). Nevertheless, additional factors may have strengthened the effects of the strikes; namely, that education spending in the strike and walkout states had dropped so precipitously since the Great Recession, giving teachers the opportunity to connect their demands to broader public goods. Considering these factors together, we feel comfortable arguing that strikes are likely to be successful in other contexts where involved employees can successfully leverage close connections to the clients and customers they serve and connect their grievances to the interests of the broader community. This is likely to be especially true in cases where individuals feel they are not receiving the level of quality service they deserve from businesses or governments. The flip side of our argument is that strikes are less likely to be successful—and may produce backlash—when the mass public views striking workers’ demands as illegitimate or opposed to their own interests or when individuals are especially inconvenienced by labor action and do not have readily available alternatives (such as lacking childcare during school strikes). This suggests that teachers’ unions’ provision of meals and childcare to parents (as happened in a number of the recent strikes) is a particularly important tactic to avoid public backlash. In addition, our results suggest that future strikes on their own are unlikely to change public opinion if all they do is to provide information about workers’ grievances or disrupt work routines. Our exploratory analysis of the mechanisms driving our results suggests that it was not necessarily information about poor school quality or the strikes themselves that changed parents’ minds, but perhaps the fact that the teachers were discussing the public goods they were seeking for the broader community. We anticipate that strikes or walkouts that adopt a similar strategy—similar to the notion of “bargaining for the common good”—would be most likely to register effects like ours in the future (McCartin 2016). Notably, that is exactly the strategy deployed by teachers in Los Angeles, who spent several years building ties to community members and explaining the broader benefits that a stronger union could offer to their community in the run-up to a strike in early 2019 (Caputo-Pearl and McAlevey 2019). In all, our results complement a long line of work arguing for the primacy of the strike as a tactic for labor influence (e.g. Burns 2011; Rosenfeld 2006; Rubin 1986). Although this literature generally has focused on the economic consequences of strikes, we have shown that strikes can also have significant effects on public opinion. Even though private sector strikes have long sought to amass public support, public-facing strikes are even more important for public sector labor unions, given their structure of production and the fact that their“managers”are ultimately elected officials. But how should we view strikes relative to the other strategies that public sector unions might deploy in politics, such as campaign contributions, inside lobbying, or mobilization of their members (cf. DiSalvo 2015; Moe 2011)? Given the large cost of mass strikes in terms of time and grassroots organizing, we expect that public sector unions will be most likely to turn to public-facing strikes (like the 2018 teacher walkouts) when these other lower-cost inside strategies are unsuccessful and when their demands are popular in the mass public. Under these circumstances, government unions have every reason to broaden the scope of conflict to include the mass public (cf. Schattschneider 1960). But when unions can deploy less costly activities (like simply having a lobbyist meet with lawmakers) or when they are pursuing demands that are more controversial with the public, we suspect that unions will opt for less public-facing strategies (on the logic of inside versus outside lobbying more generally, see, for example, Kollman 1998). Indeed, our results complement work by Terry Moe and Sarah Anzia describing how teacher unions work through low-salience and low-visibility strategies, such as capturing school boards, pension boards, or education bureaucracies, when they are pushing policies that tend not to be supported by the public (Anzia 2013; Anzia and Moe 2015; Moe 2011). Our results yield a final implication for thinking about the historical development of the labor smovement: they suggest that the decline of strikes we tracked in Figure 1 may form a vicious cycle for the long-term political power of labor. As we have documented, strikes seem to be an important way that people form opinions about unions and develop interest in labor action. As both strikes and union membership have declined precipitously over the past decades, few members of the public have had opportunities to gain firsthand knowledge and interest in unions. Moreover, **strikes** appear to **foster** greater **interest in further strikes, feeding on one another**. If unions are to regain any economic or political clout in the coming years, our study suggeststhat the strike **must be a central strategy** **of the labor movement**.

#### **Recognition of an RTS is critical– its direct approach and potential challenge to economic growth makes it particularly effective in reforming the social order to protect human rights**

**Bartholomew-Smith** **21:**

(Jacob Samuel Bartholomew-Smith is an LLM Candidate at University of Oslo. “The Right to Strike In International Human Rights Law” <http://urn.nb.no/URN:NBN:no-88660> Published 2021; Accessed 10-07-2021; Wally)

This analysis has demonstrated that the **right to strike is an international human right**. However, in Chapter 1 it was shown that there are those who fear that rights discourse would do damage to labour rights by depoliticising the structural causes of workers’ oppression and eroding the basis of solidarity on which the labour movement was built. What has this analysis revealed about these claims? The right to strike has its roots in workers’ struggle against the injustices of capitalism. It is **premised on the imbalance of power between worker and employer**. That the freedom of association has been interpreted to include a right to strike in the supervisory bodies of the ILO, ECHR and to a lesser extent the ICCPR, shows that **the struggle** between labour and capital **has a role** to play **in shaping** the meaning of **human rights**. To this end, O’Connell’s claims that human rights should not dismissed as an “ideological mask for the status quo” is correct, and human rights 326 can be deployed in ways which challenge the logic of capital. 325 Ibid, 223-224 O’Connell (2018b: 983) 326 48 of 54 Candidate No.7015 Moyn expressed his concern that human rights are a “powerless companion”, rather than a “threatening enemy” which will prompt a new social bargain. It is suggested here that the development of the human right to strike, especially the **right to** take political **strike** action discussed in Chapter 4, might contribute to assuaging this concern. As Novitz observes, **the ability to inflict economic damage** means that the right to strike “is a more effective form of protest than marching in the streets.” If international human rights law is able to provide a source of protection for such 328 action, then **workers will** find themselves better equipped to seriously **challenge the extant social order**. Furthermore, **it is a weapon** which **workers can deploy** on their own, without reliance on lawyers and NGOs. Youngdahl and Kumar expressed their concerns that the discourse of human rights would be unable to encompass the most important value of the labour movement, solidarity. In order to eval 329 - uate this concern, Chapter 4 examined the extent to which solidarity strikes are permitted under international human rights law. It is in this area that human rights discourse is found wanting. The RMT judgment shows that courts steeped in the liberal tradition have not provided the right to strike with its fullest expression. Even in the ILO, where the representatives of workers’ join those of States and employers, it is the principle relating to solidarity action that remain the most underdeveloped. Youngdahl and Kumar have good reasons to be concerned and, as the Germanotta recognises,330 developing solidarity will be of fundamental importance in the struggle against globalised capital. However, the convergence of labour law and human rights law remains a promising site for developing transformative practices which challenge the extant social order. Although we should be concerned with what labour law has to lose, we must also pay attention to what human rights stand to gain. The **right to strike has at its core** the **demand for social justice**, the reduction in disparities of economic power. If the **convergence of labour** rights **and human rights impresses** the **importance of social justice** on the later, then the human rights community would do well to pay close attention to developments in this area. If the convergence of labour law and human rights law is to teach us anything, it must be that “**human rights cannot exist without social justice**.”

**Thus, I affirm**