## 1

#### Counterplan: A just government ought to recognize an unconditional right of workers to strike except in the instance that strikes directly demand discrimination towards certain groups of individuals

**BPSC** [Unfair Labor Practices by Union, http://bpscllc.com/unfair-labor-practices-by-unions.html, N.D., Business & People Strategy Consulting Group, California's trusted source for workplace human resources and employment law] [SS]

Causing or Attempting to Cause Discrimination: Section 8(b)(2) makes it an unfair labor practice for a labor organization to cause or attempt to cause an employer to discriminate against an employee in violation of Section 8(a)(3). The section is violated by agreements or arrangements with employers, other than lawful union-security agreements, that condition employment or job benefits on union membership, on the performance of union membership obligations or on arbitrary grounds. But union action that causes detriment to an individual employee does not violate Section 8(b)(2) if it is consistent with nondiscriminatory provisions of a bargaining contract negotiated for the benefit of the total bargaining unit, or if the action is based on some other legitimate purpose. A union’s conduct, accompanied by statements advising or suggesting that action is expected of an employer, may be enough to find a violation of this section if the union’s action can be shown to be a causal factor in the employer’s discrimination. Contracts or informal arrangements with a union under which an employer gives preferential treatment to union members also violate Section 8(b)(2). However, an employer and a union may agree that the employer will hire new employees exclusively through the union hiring hall if there is no discrimination against nonunion members on the basis of union membership obligations. In setting referral standards, a union may consider legitimate aims such as sharing available work and easing the impact of local unemployment. The union may also charge referral fees if the amount of the fee is reasonably related to the cost of operating the referral service. A union that attempts to force an employer to enter into an illegal union-security agreement, or that enters into and keeps in effect such an agreement, also violates Section 8(b)(2), as does a union that attempts to enforce such an illegal agreement by bringing about an employee’s discharge. Even when a union-security provision of a bargaining contract meets all statutory requirements, a union may not lawfully require the discharge of employees under the provision unless they were informed of the union-security agreement and their specific obligation under it. A union violates Section 8(b)(2) if it tries to use the union-security provisions of a contract to collect payments other than those lawfully required, such as assessments, fines and penalties. Other examples of Section 8(b)(2) violations include: Causing an employer to discharge employees because they circulated a petition urging a change in the union’s method of selecting shop stewards Causing an employer to discharge employees because they made speeches against a contract proposed by the union Making a contract that requires an employer to hire only members of the union or employees “satisfactory” to the union Causing an employer to reduce employees’ seniority because they engaged in anti-union acts Refusing referral or giving preference on the basis of race or union activities when making job referrals to units represented by the union Seeking the discharge of an employee under a union-security agreement for failure to pay a fine levied by the union

#### Racist union strikes have happened before and renders marginalized voices as ungrievable

Allison **Keyes**, JUNE 30, **2017**, "The East St. Louis Race Riot Left Dozens Dead, Devastating a Community on the Rise," Smithsonian Magazine, https://www.smithsonianmag.com/smithsonian-institution/east-st-louis-race-riot-left-dozens-dead-devastating-community-on-the-rise-180963885/ //SR

Racial tensions began simmering in East St. Louis—a city where thousands of blacks had moved from the South to work in war factories—as early as February 1917. The African-American population was 6,000 in 1910 and nearly double that by 1917. In the spring, the largely white workforce at the Aluminum Ore Company went on strike. Hundreds of blacks were hired. After a City Council meeting on May 28, angry white workers lodged formal complaints against black migrants. When word of an attempted robbery of a white man by an armed black man spread through the city, mobs started beating any African-Americans they found, even pulling individuals off of streetcars and trolleys. The National Guard was called in but dispersed in June.

1**] It’s competitive – unconditional, Oxford Dictionary 21’**

[**https://www.lexico.com/en/definition/unconditional?locale=en**](https://www.lexico.com/en/definition/unconditional?locale=en) **//**Last Accessed 10/18/21

/ˌənkənˈdiSH(ə)n(ə)l/ adjective adjective: **unconditional not subject to any conditions**. "unconditional surrender"

## 2

#### Interpretation – the affirmative may not claim that CX checks for interps. To clarify, they may not claim CX checks

#### Violation – they do – its in the advocacy right before the first contention

#### [1] Norming – cx checks kills the ability to read theory like spec shells which have the strongest internal link to good norms – spec shells are good because it checks back aff abuse, if we stop reading spec shells then people will stop specifying anything in the 1AC for me to check in CX, means people will come to rounds with no specified framework, offense, or anything which kills norming and neg strat construction because everyone is incredibly shifty and we can’t call it out with a spec shell

#### [2] Strat skew – there are two internal links a) I lost 6 minutes of prep time for strat construction if I have to wait till CX b) this norm causes a race to the bottom of shiftiness for infinite CX clarification – two implications 1 is that it loses my ability to construct a strategy and 2 is that novices will forget to ask which is the strongest internal link to inclusion – that’s an independent voter because you can’t debate if you’re excluded

#### Fairness – a) debate is a game which requires fairness b) it’s jurisdictional of the judge’s role

#### DTD – a) deterrence b) punishment and c) norming

#### CI>Reasonability – a) it’s arbitrary so there is no norm set b) collapses because you’re defending your model of debate which is your counterinterp just with no offense c) causes a race to the bottom because everything is seen as reasonable so we don’t find better norms

#### No RVIs on NC theory – a) norming because neg’s will be afraid to read theory against the aff that always has the 2ar for new responses and new implications that means neg never wins b) they have 2 speeches to recontextualize answers that I could never respond to because I don’t have a 3NR which means good affs will always win their norm

## 3

**Interp: On this resolution, the aff debater must have an advocacy text which specifies what it means for a just government to recognize an unconditional right to strike and support that policy action.  
  
They violate – they don’t have an advocacy text.  
  
1] Topic lit – most authors writing about strikes talk about the consequences of different laws regarding strikes meaning that the context that authors are writing in is key to understand the core lit of the aff’s case.  
2] Ground – consequentialist disads and solvency indicts are core neg ground that require aff specification to have stable links.  
3] Clash – aff can duck offense by shifting their solvency, and delink disads by ignoring the policy action. That encourages shiftiness over clash, and kills depth of argumentation. The ROB is to consider the affirmative’s policy proposal through the aff and neg world, this cannot be done if the neg cannot interact with the case.  
  
The voters are  
  
1] Fairness bc debate is a game, if it’s unfair no-one will want to play.  
2] Education bc it’s the only takeaway and the constitutive purpose of debate.  
Drop-the-debater, deterring further abuse and substance is skewed bc I had to spend time on theory.  
Competing interpretations, a) reasonability is bad it requires judge intervention and b) arguing about the norms is the only way to get to the best norms possible.  
And don’t give them an RVI. You don’t win for being fair and it incentivizes the aff to be purposefully abusive to bait out theory and win on RVI.**

## Case

#### refusal to engage material circumstance in favor of abstraction ensure its political failure

**Hallward 6** [Peter Hallward, Professor in the Centre for Research in Modern European Philosophy at Middlesex University, London, 06, Out of This World: Deleuze and the Philosophy of Creation, p. 7]

To insist in this way on the logic of creation as the primary if not exclusive focus of Deleuze’s work is undeniably to simplify aspects of his thought. My goal in this hook is not to engage in the detailed analysis of particular sequences or problems in Deleuze’s texts, but to characterise the dominant movement of his philosophy as a whole. For the sake of clarity and economy this characterization will pay little attention to the complex¬ities of context or the occasional inconsistencies that must accompany the development of so large and wide-ranging a body of work. Despite these shortcomings, I think it’s fair to say that this approach remains broadly in line with Deleuze’s own way of reading other philosophers. Like Leibniz or Bergson, Deleuze assumes that every philosopher is animated by just one fundamental problem, and that to read a work of philosophy ‘does not consist in concluding from the idea of a preceding condition the idea of the follow¬ing condition, but in grasping the effort or tendency by which the following condition itself ensues from the preceding “by means of a natural force”’)7 Every ‘philosophy’s power is measured by the concepts it creates’, ‘concepts that impose a new set of divi¬sions on things and actions’. On the basis of the concepts they create, philosophers ‘subordinate and submit things to a question in such a way that, in this forced and con¬strained submission, things reveal to us an essence, a nature. The main virtue of the question to which Deleuze’s project will itself be submitted in the following pages may be to reveal in a somewhat unexpected way the degree to which his **work, far from engaging in a description or transformation of the world, instead seeks to escape it.** The Deleuze that has long fascinated and troubled me is neither a worldly nor even a ‘relational’ thinker. If (after Marx and Darwin) materialism involves accept¬ance of the fact that actual or worldly processes inflect the course of both natural and human history then Deleuze may not be a materialist thinker either. **As Deleuze presents it, the destiny of thought will not be fundamentally affected by the mediation of society, history or the world; although Delenze equates being with the activity of creation, he orients this activity towards a contemplative and immaterial abstraction. More than a hundred and fifty years after Marx urged us to change rather than contemplate the world, Deleuze, like so many of his philosophical contemporaries, effectively recom¬mends instead that we settle for the alternative choice.** The real preoccupation of this book concerns the value of this advice.

#### Their aff inevitably turns into an affirmation of ambivalence

**Nail 13** [Thomas Nail, Post-doctoral Lecturer in European Philosophy at the University of Denver, 2013, Deleuze, Occupy, and the Actuality of Revolution, Theory & Event Volume 16, Issue 1]

(1) Political Ambivalence

“Affirming Difference in the state of permanent revolution [affirmer la Différence dans l’état de révolution permanente],” as Deleuze says in Difference and Repetition (75/53),8 may escape the previous problems of vanguardism and the party-state, **but it also poses a new danger: that the “pure affirmation of Difference” will be ultimately ambivalent**. Revolution may provide a new non-representational space of liberty, or it may provide a ruptured “open” domain for a new discourse of rights and military occupation by the state, or it may merely reproduce a complicity with the processes of capitalist deterritorialization necessary for new capitalist reterritorializations. Slavoj Žižek, in particular, frequently attributes this capitalist ambivalence to Deleuze and Guattari’s politics (2004, 184). But to say, with Alain Badiou, that **affirming the potentiality for transformation as such is to affirm a “purely ideological radicality” that “inevitably changes over into its opposite**: **once the mass festivals of democracy and discourse are over, things make place for the modernist restoration of order** among workers and bosses,” would be to overstate the problem (Badiou and Balmès 1976, 83).

Rather, it would be much more appropriate to say, with Paolo Virno, that “[t]he multitude is a form of being that can give birth to one thing but also to the other: ambivalence” (Virno 2003, 131). Accordingly, the affirmation of this ambivalence as a political commitment, and the “politico-ontological optimism and unapologetic vitalism” it assumes in Hardt, Negri, and Deleuze’s work, according to Bruno Bosteels, remains radically insufficient (2004, 95). While the purely creative power of the multitude may be the condition for global liberation from Empire, it is also the productive condition for Empire as well. With no clear political consistency to organize or motivate any particular political transformation “vitalist optimism” is politically ambivalent, speculative, and spontaneous. Showing the non-foundational or ungrounded nature of politics provides no more of a contribution for organized politics than does the creative potentiality of desire. “A subject’s intervention,” Bosteels suggests, “cannot consist merely in showing or recognizing the traumatic impossibility, void, or antagonism around which the situation as a whole is structured” (2004, 104). Rather, following Badiou, a “political organization is necessary in order for the intervention, as wager, to make a process out of the trajectory that goes from an interruption to a fidelity. In this sense, organization is nothing but the consistency of politics” (Badiou 1985, 12). And in so far as Deleuze and Guattari, and those inspired by their work, do not offer developed concepts of political consistency and organization that would bring differential multiplicities into specific political interventions and distributions, they remain, at most, ambivalent toward revolutionary politics.

(2) Virtual Hierarchy

In addition to this first danger of revolutionary ambivalence, Deleuze’s concept of revolution, according to Badiou and Hallward, risks a second danger; namely, that of creating a political hierarchy of virtual potential. Badiou argues at length in The Clamor of Being that,

… contrary to all egalitarian or “communitarian” norms, Deleuze’s conception of thought is profoundly aristocratic. Thought only exists in a hierarchized space. This is because, for individuals to attain the point where they are seized by their preindividual determination and, thus, by the power of the One-All—of which they are, at the start, only meager local configurations—they have to go beyond their limits and endure the transfixion and disintegration of their actuality by infinite virtuality, which is actuality’s veritable being. And individuals are not equally capable of this. Admittedly, Being is itself neutral, equal, outside all evaluation … But ‘things reside unequally in this equal being’ (Deleuze 1994, 60/37). And, as a result, it is essential to think according to ‘a hierarchy which considers things and beings from the point of view of power’

(Deleuze 1994, 60/37; Badiou 1999, 12–13).

**The political thrust of this argument is that, if we understand revolutionary change as the pure potential for change as such, and not actual change** for or against certain forms, **then, contrary to any kind of egalitarianism, there will instead be a hierarchy** of actual political beings that more or less participate in this degree of pure potential transformation. The more actual political beings renounce their specific and local determinations and affirm their participation in the larger processes of difference-in-itself, the more powerful they become. Thus, if the point of examining any local political intervention is in every case to show to what degree it renounces its concrete determinations and might “become other than it is” (as a virtuality or potentiality), there is, according to Badiou, a risk of “asceticism” and hierarchy in such a relationship of potential (Badiou 1999, 13).

Similarly, Peter Hallward has argued that Deleuze’s political philosophy is “indifferent to the politics of this world” (2006, 162). Hallward claims that “once a social field is defined less by its conflicts and contradictions than by the lines of flight running through it” any distinctive space for political action can only be subsumed within the more general dynamics of creation, life, and potential transformation (2006, 62n16). And since these dynamics are “themselves anti-dialectical if not anti-relational, there can be little room in Deleuze’s philosophy for relations of conflict and solidarity” (2006, 162). If each concrete, localized, actual political being is important only in so far as it realizes a degree of pure potentiality of a virtual event, “and every mortal event in a single Event” (Deleuze 1990, 178/152), then the processional “telos” of absolute political deterritorialization is completely indifferent to the actual politics of this world (2006, 97). By valorizing this pure potentiality for transformation as such against all actual political determinations, Hallward argues, Deleuze is guilty of affirming an impossible utopianism. “By posing the question of politics in the starkly dualistic terms of war machine or state,” Hallward argues, “by posing it, in the end, in the apocalyptic terms of a new people and a new earth or else no people and no earth—the political aspect of Deleuze’s philosophy amounts to little more than utopian distraction” (2006, 162).

#### Exclusive causal focus on affect is a theoretical shortcut to avoid examining the concrete nature of politics.

Grossberg 10 – (2010, Lawrence, PhD, Morris Davis Distinguished Professor of Communication Studies and Cultural Studies; Adjunct Distinguished Professor of Anthropology; Director of the University Program in Cultural Studies at UNC, “Affect’s Future,” in The Affect Studies Reader, p. 315-6)

Gs ac MG: Yes, that's something that we were going to ask about: is it possible that affect itself has been overinvested by theory? Is there a way that affect lets one off the hook in the way, as you've sometimes argued, that theory does?

LG: Yes, I think that is a nice way of putting it. I do think that affect can let you off the hook. Because it has come to serve, now, too often as a "magical" term. So, if something has effects that are, let's say, non-representational then we can just describe it as "affect:' So, I think there is a lot of theorizing that does not do the harder work of specifying modalities and apparatuses of affect, or distinguishing affect from other sorts of non-semantic effects, or, as I said, analyzing the articulations between (and hence, the difference between, as well as how one gets from) the ontological and the "empirical."

The last is a vexing problem, and crucial I think if we are ever going to sort out a theory of affect. It's like people who say the world is "rhizomatic:' The world isn't rhizomatic! I mean, as virtual, the world is rhizomatic. On the plane of consistency then, the world is rhizomatic. But there is always a plane of organization and that's what you have to describe because that is what you have to de-territorialize and decode, and then of course it will always be re-territorialized and you will of course never get back to the plane of consistency.' And whether or not Deleuze and Guattari thought you could become a body without organs, I have never had the desire .. . and I see nothing particularly political about it anyway.

Gs & MG: But is it that these planes (virtual/actual or consistency/organization) are so separable or is it that they persist alongside one another in the manner of Spinoza's monism? That is, is there another way perhaps to think the spatiality of their relationship?

LG: Yes, I do assume that these two planes are the same thing. It's like Nietzsche's will: it is the ontological condition of possibility of any empirical reality. But that doesn't mean that it is a description of any empirical reality. There is a difference between the transcendental condition of possibility and the actualization of those conditions. So, I think that sometimes affect lets people off the hook because it lets them appeal back to an ontology that escapes. And, it often ends up producing a radically de-territorializing politics that I have never been particularly enamored of anyway.

But it also lets me too much off the hook, because what we need to do is take up this work and rethink it. You know that brilliant chapter in A Thousand Plateaus ( 1987) where Deleuze and Guattari talk about regimes of signification, or what Foucault would have called discursive apparatuses, different forms of discursive apparatuses. Machinic assemblages produce different kinds of effects. We know that. Foucault would say that. Deleuze would say that. And Spinoza too, you know. Some of those kinds of effects are useful to group together and call affect. But then you have to do the work of specifying the particular regime of signification, and the particular machinic effectivity that is being produced.

In too much work done by people who talk about affect -or at least I get the feeling when reading some of it anyway-there is a kind of immediate effectivity of affect on the body. Despite constant denials, I can't escape the feeling that Brian Massumi's recent work, for example, on the color-coding of terror alerts reduplicates a kind of old-fashioned media-effects model. You know, you flash these lights at people and there is some kind of bodily response. Well, there isn't! Affect then becomes a magical way of bringing in the body. Certainly, there is a kind of mediation process but it is a machinic one. It goes through regimes that organize the body and the discourses of our lives, organize everyday life, and then produce specific kinds of effects. Organizations of affect might include will and attention, or moods, or orientation, what I have called "mattering maps:' and the various culturally and phenomenological constituted emotional economies. I say it this way because I am not sure that emotions can simply be described as affect, even as configurations of affect. I have always held that emotion is the articulation of affect and ideology. Emotion is the ideological attempt to make sense of some affective productions.

So, I don't think that we've yet done the actual work of parsing out everything that is getting collapsed into the general notion of affect. Basically, it's become everything that is non-representational or non-semantic – that's what we now call affect. And, so, yes, I think you are right: it is letting us off the hook because then we don't end up having to find the specificity.

#### Workers don’t care about legality – strikes are on the rise absent the aff.

Notes 19 [Labor Notes; Media and organizing project that has been the voice of union activists who want to put the movement back in the labor movement since 1979; “Why Strikes Matter,” LN; 10/17/19; <https://labornotes.org/2019/10/why-strikes-matter>]//SJWen

“Why do you rob banks?” a reporter once asked Willie Sutton. “Because that’s where the money is,” the infamous thief replied. Why go on strike? Because that’s where our power is. Teachers in West Virginia showed it in 2018 when they walked out, in a strike that bubbled up from below, surprising even their statewide union leaders. No one seemed concerned that public sector strikes were unlawful in West Virginia. “What are they going to do, fire us all?” said Jay O’Neal, treasurer for the Kanawha County local. “Who would they get to replace us?” Already the state had 700 teaching vacancies, thanks to the rock-bottom pay the strikers were protesting. After 13 days out, the teachers declared victory and returned to their classrooms with a 5 percent raise. They had also backed off corporate education “reformers” on a host of other issues. The biggest lesson: “Our labor is ours first,” West Virginia teacher Nicole McCormick told the crowd at the Labor Notes Conference that spring. “It is up to us to give our labor, or to withhold it.” That’s the fundamental truth on which the labor movement was built. Strikes by unorganized workers led to the founding of unions. Strikes won the first union contracts. Strikes over the years won bigger paychecks, vacations, seniority rights, and the right to tell the foreman “that’s not my job.” Without strikes we would have no labor movement, no unions, no contracts, and a far worse working and living situation. In short, strikes are the strongest tool in workers’ toolbox—our power not just to ask, but to force our employers to concede something. DISCOVER YOUR POWER The key word is “force.” A strike is not just a symbolic protest. It works because we withhold something that the employer needs—its production, its good public image, its profits, and above all its control over us. As one union slogan has it, “this university works because we do”—or this company, or this city. A strike reveals something that employers would prefer we not notice: they need us. Workplaces are typically run as dictatorships. The discovery that your boss does not have absolute power over you—and that in fact, you and your co-workers can exert power over him—is a revelation. There’s no feeling like it. Going on strike changes you, personally and as a union. “Walking into work the first day back chanting ‘one day longer, one day stronger’ was the best morning I’ve ever had at Verizon,” said Pam Galpern, a field tech and mobilizer with Communication Workers Local 1101, after workers beat the corporate giant in a 45-day strike in 2016. “There was such a tremendous feeling of accomplishment. People were smiling and happy. It was like a complete 180-degree difference from before the strike,” when supervisors had been micromanaging and writing workers up for the smallest infractions. In a good strike, everyone has a meaningful role. Strikers develop new skills and a deeper sense that they own and run their union. New leaders emerge from the ranks and go on to become stewards. New friendships are formed; workers who didn’t know or trust one another before forge bonds of solidarity. A few stubborn co-workers finally see why the union matters and sign on as members. Allies from faith groups, neighborhood groups, or other unions adopt your cause. You and your co-workers lose some fear of the boss—and the boss gains some fear of you. In all these ways and more—not to mention the contract gains you may win—a strike can be a tremendous union-building activity.

#### only illegal strikes have the potential to be successful and change minds

Reddy 21-- Diana S. Reddy [Diana Reddy is a Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law]; “There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy; Jan 6 2021; 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>. (AG DebateDrills)

In recent years, consistent with this vision, there has been a shift in the kinds of strikes [are] workers and their organizations engage in—increasingly public-facing, engaged with the community, and capacious in their concerns.178 They have transcended the ostensible apoliticism of their forebearers in two ways, less voluntaristic and less economistic. They are less voluntaristic in that they seek to engage and mobilize the broader community in support of labor’s goals, and those goals often include community, if not state, action. They are less economistic in that they draw through lines between workplace-based economic issues and other forms of exploitation and subjugation that have been constructed as “political.” These strikes do not necessarily look like what strikes looked like fifty years ago, and they often skirt—or at times, flatly defy—legal rules. Yet, they have often been successful. Since 2012, tens of thousands of workers in the Fight for $15 movement have engaged in discourse-changing, public law-building strikes. They do not shut down production, and their primary targets are not direct employers. For these reasons, they push the boundaries of exiting labor law.179 Still, the risks appear to have been worth it. A 2018 report by the National Employment Law Center found that these strikes had helped twenty-two million low-wage workers win $68 billion in raises, a redistribution of wealth fourteen times greater than the value of the last federal minimum wage increase in 2007.180 They have demonstrated the power of strikes to do more than challenge employer behavior. As Kate Andrias has argued: [T]he Fight for $15 . . . reject[s] the notion that unions’ primary role is to negotiate traditional private collective bargaining agreements, with the state playing a neutral mediating and enforcing role. Instead, the movements are seeking to bargain in the public arena: they are engaging in social bargaining with the state on behalf of all workers.”181 In the so-called “red state” teacher strikes of 2018, more than a hundred thousand educators in West Virginia, Oklahoma, Arizona, and other states struck to challenge post-Great Recession austerity measures, which they argued hurt teachers and students, alike.182 These strikes were illegal; yet, no penalties were imposed.183 Rather, the strikes grew workers’ unions, won meaningful concessions from state governments, and built public support. As noted above, public-sector work stoppages are easier to conceive of as political, even under existing jurisprudential categories.184 But these strikes were political in the broader sense as well. Educators worked with parents and students to cultivate support, and they explained how their struggles were connected to the needs of those communities.185 Their power was not only in depriving schools of their labor power, but in making normative claims about the value of that labor to the community. Most recently, 2020 saw a flurry of work stoppages in support of the Black Lives Matter movement.186 These ranged from Minneapolis bus drivers’ refusal to transport protesters to jail, to Service Employees International Union’s Strike for Black Lives, to the NBA players’ wildcat strike.187 Some of these protests violated legal restrictions. The NBA players’ strike for instance, was inconsistent with a “no-strike” clause in their collective-bargaining agreement with the NBA.188 And it remains an open question in each case whether workers sought goals that were sufficiently job-related as to constitute protected activity.189 Whatever the conclusion under current law, however, striking workers demonstrated in fact the relationship between their workplaces and broader political concerns. The NBA players’ strike was resolved in part through an agreement that NBA arenas would be used as polling places and sites of civic engagement.190 Workers withheld their labor in order to insist that private capital be used for public, democratic purposes. And in refusing to transport arrested protestors to jail, Minneapolis bus drivers made claims about their vision for public transport. Collectively, all of these strikes have prompted debates within the labor movement about what a strike is, and what its role should be. These strikes are so outside the bounds of institutionalized categories that public data sources do not always reflect them.191 And there is, reportedly, a concern by some union leaders that these strikes do not look like the strikes of the mid-twentieth century. There has been a tendency to dismiss them.192 In response, Bill Fletcher Jr., the AFL-CIO’s first Black Education Director, has argued, “People, who wouldn’t call them strikes, aren’t looking at history.”193 Fletcher, Jr. analogizes these strikes to the tactics of the civil-rights movement. As Catherine Fisk and I recently argued, law has played an undertheorized role in constructing the labor movement and civil-rights movement as separate and apart from each other, by affording First Amendment protections to civil rights groups, who engage in “political” activity, that are denied to labor unions, engaging in “economic” activity.194 Labor unions who have strayed from the lawful parameters of protest have paid for it dearly.195 As such, it is no surprise that some unions are reluctant to embrace a broader vision of what the strike can be. Under current law, worker protest that defies acceptable legal parameters can destroy a union. Recasting the strike—and the work of unions more broadly—as political is risky. Samuel Gompers defended the AFL’s voluntarism and economism not as a matter of ideology but of pragmatism; he insisted that American workers were too divided to unite around any vision other than “more.”196 He did not want labor’s fortunes tied to the vicissitudes of party politics or to a state that he had experienced as protective of existing power structures. Now, perhaps more than ever, it is easy to understand the dangers of the “political” in a divided United States. Through seeking to be apolitical, labor took its work out of the realm of the debatable for decades; for this time, the idea that (some) workers should have (some form of) collective representation in the workplace verged on hegemonic. And yet, labor’s reluctance to engage in the “contest of ideas” has inhibited more than its cultivation of broader allies; it has inhibited its own organizing. If working people have no exposure to alternative visions of political economy or what workplace democracy entails, it is that much harder to convince them to join unions. Similarly, labor’s desire to organize around a decontextualized “economics” has always diminished its power (and moral authority), given that the economy is structured by race, gender, and other status inequalities—and always has been. During the Steel Strike of 1919, the steel companies relied on more than state repression to break the strike. They also exploited unions’ refusal to organize across the color line. Steel companies replaced striking white workers with Black workers.197 Black workers also sought “more.” But given their violent exclusion from many labor unions at the time, many believed they would not achieve it through white-led unions.198

#### Strikes in essential services hurt the patient but not the employer

Loewy 2K, Erich H. "Of healthcare professionals, ethics, and strikes." Cambridge Q. Healthcare Ethics 9 (2000): 513. (Erich H. Loewy M.D., F.A.C.P., was born in Vienna, Austria in 1927 and was able to escape first to England and then to the U.S. in late 1938. He was initially trained as a cardiologist. He taught at Case Western Reserve and practiced in Cleveland, Ohio. After 14 years he devoted himself fully to Bioethics and taught at the University of Illinois for 12 years. In 1996 he was selected as the first endowed Alumni Association Chair of Bioethics at the University of California Davis School of Medicine and has taught there since.) JG

“Essential” Work and Strikes Healthcare professionals, garbage collectors, and other “essential” workers have a responsibility that is considered to be different from, say, the responsibilities of workers in a supermarket chain. There are almost certainly other supermarkets, but there is generally only one municipal garbage collection service**, one police force, and one fire department; and in general, only one healthcare system available to us. In the medical setting, furthermore, workers are much more apt to deal with identified lives**: they know their patients and often have known them for some time. Striking against their employer (even if it is done in part to benefit the patient) is **denying meaningful and often essential services to some of these identified lives**. We tend to relate differently with those lives we know and therefore call “identified” from those whom we consider “unidentified” or statistical lives, in part, because we have obligations as a result of relationships; in part because we fail to recognize that these so-called unidentified lives are not in fact unidentified but are merely not identified by us.4 When strikes are called by healthcare professionals, both types of lives are apt to be injured or, at least, severely inconvenienced. Except in the pocketbook, strikes in the healthcare setting generally do not directly hurt the employer. The employer **is hurt through the** **patient**. The patient thus becomes a **means toward the employees’ ends**, a football being kicked between two contending parties—**even if one of the employees’ goals is to serve the good of patients in general.** Theoretically, patients will then bring pressure on the employer (be it the government or a managed care organization), thus, quite frankly, using the patient as a means toward the ends of the health professionals.5 The dilemma, of course, is that without significantly inconveniencing or even endangering patients, no pressure is likely to be brought and, therefore, no amelioration of working conditions is effected. To be effective, a strike of healthcare professionals has to “hurt” patients and often patients known to the healthcare professionals.

#### Freedom to strike cannot come at the expense of others AND they might not have ethical motivations.

Muñoz 14, Cristian Pérez. "Essential Services, Workers’ Freedom, and Distributive Justice." Social Theory and Practice 40.4 (2014): 649-672. (Assistant Professor of Political Science at the University of Florida) JG

The second objection suggests that the freedom to strike is a fundamental value for a liberal society. Restrictions or prohibitions on this par ticular freedom are equivalent to interfering with basic freedoms such as the freedom of speech and association. This objection presupposes, of course, that preserving individual freedom **possesses a value of high priority.** But it is difficult to defend this idea when the respect for this freedom **potentially causes harm to the recipient populations of essential services**. The only way to defend this position is to show that the benefits of protecting the freedom to strike (for the specific workers under question) are comparatively larger than the harm (for the recipient populations) it might potentially cause. For example, it should be shown that the objectives of a strike among physicians are in the best interest of the patients they service. The idea is that this bargaining instrument might aid physicians in obtaining the resources they require to improve the services they provide to their patients. However, **that is not always the case**. The motivation behind strikes may **not be directly associated** with the objective of improving the quality of the service that physicians provide.