## Circumvention

### Plan Text---1AC

#### Plan: The United States federal government should substantially strengthen collective bargaining rights for workers in the United States with respect to automation-related bargaining.

### Should---1AR

#### The resolution says should.

Court of Appeals of Arizona, Division 1, Department D. 02. IN RE: the Marriage of Vanessa A. McNUTT, Petitioner-Appellee, v. Shane M. McNUTT, Respondent-Appellant. No. 1 CA-CV 01-0255. Decided: June 27, 2002 https://caselaw.findlaw.com/az-court-of-appeals/1315322.html

¶ 26 The word “should” is most commonly used to express obligation or duty.   See The American Heritage Dictionary 1670 (3d ed.1992).   We conclude that, based on the intent of the Guidelines and the interest of parents in the allocation of the federal tax exemption, the word “should” as used in § 25 of the Guidelines is mandatory rather than discretionary.   See Lincoln v. Lincoln, 155 Ariz. 272, 276, 746 P.2d 13, 17 (App.1987) (holding that the trial court abused its discretion by refusing to allocate the dependency exemption).   Thus, the trial court abused its discretion by failing to allocate the federal tax exemption, and we direct the trial court to allocate the exemption on remand.

### Strengthen---1AR

#### And strengthen.

Marian B. Horn 03, JD, Judge, United States Court of Federal Claims, Blue Cross & Blue Shield United of Wisconsin & Subsidiaries v. United States, United States Court of Federal Claims, No. 98–727T, 06/12/2003, Westlaw. [italics in original]

On the basis of this regulation, the Supreme Court concluded that: “In short, any net additions to reserves (with two exceptions not here at issue, § 1.846–3(c)(3)(ii)) constitute ‘reserve strengthening[.]’ ”17 *Atl. Mut. Ins. Co. v. Comm'r*, 523 U.S. at 386, 118 S.Ct. 1413. The Court held that the Treasury regulation “represents a reasonable interpretation of the term ‘reserve strengthening[.]’ ” *Id*. at 391, 118 S.Ct. 1413.

Therefore, the ambiguity in the term “reserve strengthening” has been resolved by the Supreme Court, which found that “reserve strengthening” is defined as any net additions to reserves. The words of § 1.846–3 indicate that reserve weakening is merely the converse of reserve strengthening; when strengthening is mentioned in the regulation, it is immediately followed by the word, “weakening,” in parentheses. The term, “reserve weakening,” therefore, logically refers to any net reductions in reserves.

The plaintiff, however, argues that the term, “reserve strengthening,” at issue in *Atlantic Mutual Insurance Company v. Commissioner of Internal Revenue* actually referred to a different provision, TRA § 1023(e)(3)(B), not the reserve weakening provision at issue here, TRA § 1012(c)(3)(C): “[d]efendant's argument is based on the definition of the term ‘reserve strengthening’ in TRA § 1023(e)(3)(B), as implemented by Treas. Reg. § 1.846–3(c). Defendant assumes, without analysis, that Treas. Reg. § 1.846–3(c) can be used to interpret the term ‘reserve weakening’ under TRA § 1012(c)(3)(C).” While it is true that § 1.846–3(c) does not explicitly refer to TRA § 1012(c)(3)(C), there is no evidence to suggest that the IRS intended reserve weakening to mean one thing in one part of the statute (TRA § 1023(e)(3)(B)), and something else in another part of the same statute (TRA § 1012(c)(3)(C)).18

\*710 This court, therefore, concludes that, in the context of TRA § 1012(c)(3)(C), “reserve weakening” is defined as a decrease in reserves. The Supreme Court's decision in *Atlantic Mutual Insurance Company v. Commissioner of Internal Revenue*, the words of § 1.846–3, and logic dictate that reserve weakening is defined as any net reductions in loss reserves.

Given the definition of reserve weakening as any net reductions in reserves, the next question to be addressed is, whether reserve weakening actually occurred in this case, so as to require resort to TRA § 1012(c)(3)(C) in the first place. The defendant contends that BCW's unpaid loss reserve was “strengthened,” not weakened, in the amount of $2,833,129.00 by the end of 1986. Indeed, the “Addendum to the Report of the Examination of Blue Cross & Blue Shield United of Wisconsin, Milwaukee, Wisconsin, As of June 30, 1986, by Office of the Commissioner of Insurance, State of Wisconsin,” supports defendant's position. The Addendum is entitled: “Statement Of Assets, Liabilities, Reserves and Unasigned [sic] Funds per the December 31, 1986 Annual Statement.” The first entry under “Liabilities” is “Claims unpaid,” which refers to the loss reserve for incurred-but-not-paid claims. According to the statement, the claims unpaid as of December 31, 1985 was $75,588,265.00, while the claims unpaid as of December 31, 1986 was $78,421,394.00. The claims unpaid figure for 1986 was larger than that for 1985; BCW reported “reserve strengthening,” as opposed to reserve weakening, in the amount of $2,833,129.00 at the end of 1986.19

### Rights---1AR

#### And rights.

Laurence R. Helfer & Dr. Karen J. Alter 14, JD, Professor, Law, Duke University; PhD, Professor, Political Science & Law, Northwestern University. #gocats, "The Influence of the Andean Intellectual Property Regime on Access to Medicines in Latin America," in Balancing Wealth & Health: Global Administrative Law & the Battle Over Intellectual Property & Access to Medicines in Latin America, Chapter 9, pg. 1-13, 03/13/2014, Brill.

In response, domestic generic drug producers successfully lobbied lawyers at the Andean General Secretariat to file a noncompliance suit against Ecuador alleging that the pipeline decree violated the absolute novelty requirement Andean Decision 344, which regulated patents and trademarks. Ecuador defended the domestic decree as consistent with a provision of the Decision authorizing members to adopt domestic legislation or international agreements that “strengthen the industrial property rights” (Andean Decision 344, Article 143 (1993)). The General Secretariat countered that the decree contradicted an unambiguous restriction in Andean patent rules and created an incentive for foreign firms to seek pharmaceutical patents in Ecuador but not in other member states. In a judgment issued in 1996, the ATJ sided with the Secretariat. The Tribunal interpreted the word “strengthen” in a teleological fashion, reasoning that national laws and treaties must complement the regional IP system, not contradict it. Ecuador had thus violated Andean IP law “by establishing an exceptional regime . . . granting advantages to patenting in its own country, in a manner that was unfair under the common regime applied in the other Andean countries” (Manrique, 1998, at 217). The ATK also categorically rejected Ecuador’s claim that “an international commitment [could] be invoked as a reason to validate noncompliance with a prior Community obligation” (Case 1–AI–96 (Oct. 30, 1996), at 30).

## CP

### Movements Bad---1AR

#### Movements get crushed and ensure a MAGA 2028. Legal protections are a pre-requisite to effective labor power.

Casey 25 – Veteran educator, teacher unionist, and left activist.

Leo Casey, “Charting Labor’s Path in Hard Times: A Call For Grounded Strategy” Convergence 6-2-2025. https://convergencemag.com/articles/charting-labors-path-in-hard-times-a-call-for-grounded-strategy/

The historical reality of general strikes in the US cannot sustain this faith. In close to 200 years of American unionism, there have only been three significant general strikes, all citywide (in Seattle, San Francisco, and Minneapolis); the last of them was in 1934. These strikes were called not to fulfill syndicalist dreams of radical transformation, but in reaction to government repression of private sector strikes; both the San Francisco and Minneapolis general strikes were called after local police attempted to violently crush a strike, firing on workers and killing a number of them.

There has never been a nationwide, political general strike in US, much less one announced four years in advance. Nothing in our history suggests that a general strike along such lines is feasible. A successful general strike that is both national and political in character would require political preparations that have not been undertaken, such as millions of people in the streets in protests, and a most serious and grave casus belli that could only be addressed through such an action: if the January 6th insurrection had been successful in preventing the certification of the 2020 election and the peaceful transfer of power, one could conceive of a necessary and efficacious general strike around the single demand of accepting the election results and installing in office the choice of the voters. Barring such groundwork and extraordinary circumstances, it is little more than a pipedream.

Embarking on such an adventure with unclear objectives and vague justifications would be a political gift to the neo-fascists, allowing them to portray unions in the most negative terms as forces of chaos that were seeking to overthrow a democratically elected government. It would be a ready-made justification for undertaking repressive measures, with unions as the primary target. It would almost certainly damage the Democratic Party candidates in the 2028 elections, and in all likelihood, ensure the re-election of a MAGA Republican ticket.

### States Fail---1AR

#### State laws can’t solve.

Elmore 24 – Professor of Labor Law and Barreca Labor Relations Scholar at Boston University, J.D. from the University of California, Los Angeles.

Andrew Elmore, “Confronting Structural Inequality in State Labor Law,” Maryland Law Review, https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=4008&context=mlr

While companies have substantial labor market power to unilaterally impose terms and conditions in the workplace, most individual workers require affirmative state support to collectively press their workplace demands.1 But employers can often mobilize private capital and property, with judicial deference, to fend off government intrusions into the workplace.2 This structural inequality is reproduced in labor law, especially in the deference that courts give to employers to fire employees at will and to exclude union organizers from the workplace.3

The New Deal architects of the National Labor Relations Act (“NLRA”) understood this structural problem as “inequality of bargaining power,” and sought to reduce it through economic democracy, by protecting the rights of workers to join unions, strike, and bargain collectively.4 As its New Deal champions understood, labor rights can also strengthen political democracy.5 But, despite historic, recent collective bargaining agreements in union-dense industries, the NLRA insufficiently protects collective efforts by low-wage workers to improve their workplace standards through unionism.6 Most workers in the United States report that they would join a union or similar form of organization if they could.7 But the NLRA is stunted by its weak enforcement powers, lengthy delays, inability to impose penalties, and other judicially-imposed weaknesses.8 The NLRA also excludes many low-wage workers, including agricultural and domestic workers and workers classified as independent contractors, from its protections.9 Despite recent, successful union organizing campaigns by low-wage employees in the workplaces of corporate titans like Amazon and Starbucks, few of these historic victories for organized labor have (so far) led to collective bargaining agreements.10 Meanwhile, private-sector union density in the United States remains at an historic low, and unions are virtually absent in many low-wage sectors.11

Observers, instead, look for signs of labor renewal from below, exemplified by the Fight for $15 legal mobilization12 strategy of lifting wages and other working conditions through state and local labor lawmaking to build collective power for fast-food workers.13 These economic and racial justice campaigns seek to overcome weaknesses in federal labor law by leveraging state and local law, instead of or in addition to the NLRA, to build political power and extend the reach of these labor contests beyond the single-workplace campaigns contemplated by labor law.14

State and local legal mobilization by organized labor to build political and workplace power is not new.15 But the use of the direct democracy tools of state law—state grants of home rule authority to cities and state voter ballot initiatives in particular—has figured more prominently in recent efforts by organized labor to organize low-wage workers who cannot effectively access federal labor rights. The turn to state and local legal mobilization strategies has fueled important pro-worker policy innovations, such as state and local minimum wage laws and negotiated sectoral standard-setting, in which state and local agencies convene negotiations between worker and employer representatives for minimum work standards in a sector and adopt them as regulations. By diffusing and scaling up these innovations across political boundaries, unions and worker centers have enabled many low-wage workers, from home health care and fast-food workers to app-based drivers, to participate in labor policymaking notwithstanding NLRA weaknesses and exclusions.16

But this turn to state and local labor policymaking has not resolved the structural problem of successful employer mobilization of private capital and property to fend off government intrusions into the workplace. Instead, employer countermobilization reproduces structural inequality in state law in order to prevail in these labor contests, often by using the same state direct democracy tools as unions and worker centers, or by capturing administrative agencies or countermajoritarian state legislatures. States, to be sure, suffer from many of the same democratic deficits as the federal government, and vary in the extent to which state law and politics can reduce or reproduce structural inequality. But state politics are more polarized, and more vulnerable to capture by private interests, than previously understood. As federal legislative paralysis has shifted major policymaking to state and local governments, the national political parties and their constituent groups have shifted their resources to state and local policymaking.17 Political parties with minority voter support increasingly maintain majority control of state legislatures through partisan gerrymandering and voting restrictions.18 Countermajoritarian legislatures facilitate employer mobilization to advance anti-worker policies that lack popular support since these legislators are not electorally accountable for unpopular policymaking.19

These general trends have profound effects on state labor contests. Businesses can reproduce structural inequality by capturing state legislatures in order to nullify democratically enacted labor legislation sought by unions and worker centers.20 Companies can also reproduce structural inequality by capturing the process of state voter ballot initiatives.21 Employers in many recent state labor contests have leveraged state law and politics to (1) dismantle the power of state-regulated unions in right-to-work legislation; (2) nullify democratically enacted labor lawmaking by misleading voters in state initiatives and through gerrymandered state legislatures; (3) establish company-dominated sectoral standard-setting administrative regimes; and (4) block worker access to local lawmaking through state-law preemption.22 These strategies share the common goal of dismantling affirmative state support for collective worker access to state and local labor policymaking. While these strategies are most common in politically conservative states, business interests can capture or coopt legislative and initiative processes in politically liberal states, while unions and worker centers have built considerable countervailing power23 to engage in labor policymaking by state initiative despite politically conservative, countermajoritarian legislatures.

#### They obstruct local progress via Death Star bills.

Sherer et al. 25 – Director of the State Worker Power Initiative and Deputy Director of Economic Analysis at the Economic Policy Institute, PhD from the University of Iowa; Researcher at the Economic Policy Institute; Researcher at the Economic Policy Institute.

Jennifer Sherer, Emma Cohn, and Ruby Ahdoot, “Updated EPI tracker shows more states obstructing progress on workers’ rights,” Economic Policy Institute, 03-06-2025, https://www.epi.org/blog/updated-epi-preemption-tracker/

At the same time, the ability of local policymakers to innovate and address local economic conditions has increasingly faced obstruction from state legislatures through the abusive use of preemption—state laws that block, override, or limit local ordinances on workers’ rights.

For nearly a decade, the Economic Policy Institute has tracked the spread of state laws that preempt workers’ rights and limit local democracy. New updates to EPI’s workers’ rights preemption tracker document the most recent legislative changes and point to both troubling and promising developments:

Following a significant wave of copycat laws enacted in the early to mid-2010s, harmful state preemption laws have continued to spread to new geographies and issues. Though the pace of legislatures adopting new laws preempting local worker rights policies has slowed, the spread of preemption to other areas of local policymaking has only accelerated.

A longstanding trend of lawmakers in majority-white state legislatures obstructing local policymaking in majority-Black-and-brown communities has intensified in a few states, with sweeping “Death Star” bills that attempt to strip local control across a stunningly broad array of policy areas.

In a few recent instances, advocates have succeeded in reversing or resisting harmful state preemption laws, and recent workers’ rights ballot initiative victories continue to demonstrate that preemption laws blocking popular labor rights policies are counter to the democratic will of voters.

Abusive state preemption continues to deepen inequality for all workers, and especially widens racial and gender wage and wealth gaps

As EPI’s tracking map shows, abusive preemption of workers’ rights is most prevalent in the South followed by the Midwest, in states where conservative lawmakers have long used preemption to stifle local government action, often under pressure from corporate interests and right-wing groups like the American Legislative Exchange Council.

### No Follow On---1AR

#### No follow on! It’s extremely controversial.

Corbett 11 – Professor of Labor and Employment Law at LSU

William R. Corbett, J.D. from the University of Alabama, Professor of Torts at LSU, “The More Things Change: Reflections on the Stasis of Labor Law in the United States” Villanova Law Review, Vol. 56, Issue 2, 2011, https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=1006&context=vlr

First, union density has declined in this nation since the 1950s and even more precipitously since the 1970s, to the point that only about seven percent of the private sector is unionized.7 2 Perhaps politicians do not believe that collective bargaining law covers enough of the workforce to be worth the effort and political capital it takes to pass such laws.73 In exchange for the number of votes that organized labor can deliver, the political price of labor law reform is relatively high. It takes much effort and political capital to enact representation and collective bargaining laws because business interests concentrate their resources and lobbying efforts on killing such laws.7 4 Consider, for example, the fierce opposition of business organizations during the failure of the WFA75 and the EFCA.7 6 In contrast, employment laws do not attract the same level or intensity of opposition. Several employment discrimination laws were enacted at approximately the time the WFA and the EFCA were failing: the Americans with Disabilities Act of 1990; the Civil Rights Act of 1991; the ADA Amendments Act of 2008; and the Genetic Information Nondiscrimination Act of 2008. Moreover, two different Republican presidents named George Bush signed all four of those bills into law.77

### Strikes Fail---1AR

No mass movement. Even if they ban CBR, that doesn’t spill up.

#### People are risk averse.

Calnitsky 22 – Professor in the Department of Sociology at Western University. Ph.D. in Sociology from the University of Wisconsin-Madison.

David Calnitsky, “The Policy Road to Socialism,” Critical Sociology, Volume 48, Issue 3, May 2022, pp. 397-422, https://journals.sagepub.com/doi/epub/10.1177/08969205211031624

Why exactly is this true and what are the mechanisms to explain it? Why is the revolutionary strategy impossible for a country like the US? There are, at bottom, three reasons, each of which stands alone as a sufficient condition to snap the last threads of one’s revolutionary faith.23 The first two suggest that revolution is unachievable, and the last suggests that even if it is achievable, socialism by revolutionary means is unachievable. The revolutionary road is closed on the following grounds:

(1) Workers do not want it

(2) Capitalists would sooner grant reforms

(3) A smashed state is more likely to result in tyranny than deep democracy

Not only has there never been a successful revolution in a developed democracy, there has never been a working class that has wanted one (e.g. Erikson and Tedin, 2015; Sassoon, 1996).24 There are no clear cases where the dominant inclination of the working class in a developed democracy was revolutionary. Recall that the above graph also includes attempts and unsuccessful cases. It is self-evident that workers have not joined revolutionary groups en masse at any point in the context of a rich democracy. Nor were their aspirations to join such groups thwarted by violence or ideology. When gains inside a capitalist democracy are available—either individual or collective ones, and this has been true even through the neoliberal period, where median living standards have continued to (slowly) go up and not down—it is not worth risking everything for an uncertain future (Thewissen et al., 2015).25 More important than the dynamic point is the static one: When standards of living are moderately high, as shown in Figure 9, the modal worker has more to lose than her chains. This is not an argument against socialism; but to revise Werner Sombart, the life raft of revolution really was shipwrecked on shoals of roast beef and apple pie.

Therefore, the reasons workers are not revolutionary are materialist in character. Explaining their reformist politics does not require appeal to venal trade union leaders or false consciousness. Most people wish to minimize risk in their lives, and revolution involves taking on colossal risks. For example, home-ownership in the developed world hovers around 70%; this means that a lot of people have a lot to lose.

By contrast, the materialist case for revolution proposes that people favor it when their expected post-revolutionary standards of living are greater than their current standard (Roemer, 1985). But when we add moderate risk- and loss-aversion the calculation changes (Kahneman and Tversky, 1991). Say you have a low income, but own a few assets, maybe a house, a car, and perhaps you also have a child; what risk profile would you require to gamble your modest holdings for an uncertain future which might be better but might be worse? Even if you are certain that the probability of better is greater than the probability of worse, you have to envision workers as a class of inveterate gamblers to take the bet. Moderately cautious people who prefer a bird in the hand will still view the downside risk as too great. Equal gains and losses are not experienced equally. This is the loss aversion phenomenon. But the assumption of a population confident about improved standards of living—and a willingness to take risky strategies to achieve them—is itself unwarranted. This is the risk aversion phenomenon. The modal worker is of course correct to suspect that her post-revolutionary welfare is uncertain; socialists after all do not have satisfactory answers to the problems of coordination, motivation, and innovation under socialism (for attempted answers that are provocative and oftentimes brilliant, see Albert, 2004; Cottrell and Cockshott, 1992; Corneo, 2017; Roemer, 1994; and Wright and Hahnel, 2016). When one compares the status quo to a future where both heaven and hell are seemingly plausible, it is perfectly rational that people everywhere would abandon the barricades. And abandon them they did.

#### BUT, if it does, it bankrupt unions and workers.

Velazquez 25. [Alven Velazquez is Associate Professor of Law, Indiana University Maurer School of Law. “Bankrupting Labor Power” 78 STAN. L. REV, forthcoming 2026. https://papers.ssrn.com/sol3/cf\_dev/AbsByAuth.cfm?per\_id=6971537]

The doctrinal point this Article makes about dischargeability of union torts in labor management relations has massive implications for the future of the currently ossified labor law framework, insurgent worker movements, and the aggressiveness of the organizing strategies that they undertake.24 Even though unions previously represented over a third of the work force, today only six percent of the workforce is represented by a union, but according to a 2022 White House Report on Worker Organizing, over fifty-two percent of non-union workers (sixty million) would vote for a union if they could.” 25 To combat this decline, unions have explored a number of different organizing strategies26 including engaging in corporate responsibility campaigns,27 bottom-up campaigns using civil disobedience,28 innovative strike tactics such as the stand-up strikes, 29 and insurgent tactics such as engaging in illegal strikes as many teachers did during the Red for Ed campaign. 30 Workers have struck at the docks31, at universities,32 and/or by walking off the job during the middle of the workday while the machines were running. In all cases their unions were on the receiving end of a lawsuit.33 In today’s legal and regulatory climate, all these campaign styles bring significant legal risks that could bankrupt labor organizations and the workers who went on strike personally. 34 If unions are not allowed to go bankrupt and restructure because the economic damage that these actions bring is not dischargeable, then that reduces the campaigning tactics available to unions to only those that are most anodyne and agreeable to employers. The problem for those who care about collective worker power is that labor power in the United States has been built on the back of strife. As William Forbath,35 Desirée LeClercq, 36 Michael Duff,37 and other labor scholars have argued, conflict is a key part of labor law and has been a key part of organized labor’ growth. How does bankruptcy law accommodate the conflict that is inherent in labor law as part of its regime? How can it accommodate and incentivize labor organizing in the same way that the Code incentivizes businesses to take risks and fail?

#### Decades of crackdown and no public support means legal labor organization is a pre-requisite.

Tucker 25 – Professor at Osgoode Hall Law School.

Eric Tucker, “Labour Against the Law? Contesting the Restrictive Norms of Industrial Legality through Unlawful Strikes” *Comparative Labor Law & Policy Journal*, vol. 45, issue 2. https://doi.org/10.60082/2819-2567.1039

These case studies indicate that even when Canadian workers have evinced a willingness to engage in unlawful political strikes when outraged by government legislation attacking what they view as fundamental rights, union leaders are not prepared to go beyond organizing limited protests. This reluctance is, no doubt, partially rooted in a prudential calculation of the serious penalties that might be imposed on the union and its leadership for engaging in a full-blown political strike, but it also likely reflects a discomfort with extra-parliamentary political opposition more generally.

5. Conclusion: whither labour against the law?

This article began with what at first glance appears to be an outstanding example of the potential for unlawful strikes to challenge repressive regimes of industrial legality that sharply limit the freedom to strike. Ontario education workers struck in defiance of pre-emptive back-to-work legislation and the government backed down. But the strike was not without its ironies. Perhaps the most significant was that in many ways it was a strike to defend the existing, very restrictive regime of industrial legality, not change it. Arguably, the most offensive aspect of the government’s bill was its invocation of the notwithstanding clause to preclude the union from challenging its constitutionality. Thus, not only did the law violate norms of industrial legality, but it also transgressed a constitutional norm by denying workers the opportunity to vindicate their Charter rights. Second, the legislation was exceptional even by the recent standards because it imposed a contract rather than referring outstanding matters to binding interest arbitration. Had the law been enacted after the strike commenced, referred outstanding matters to binding interest arbitration, and not invoked the notwithstanding clause it is unlikely that, even if education workers had continued to strike illegally, they would not have enjoyed massive public and labour support. Nevertheless, a successful unlawful strike, even one defending a highly restrictive regime of industrial legality from further attacks, still demonstrates that, in the right circumstances, unlawful strikes can be a potent weapon in labour’s repertoire and contribute to a revitalization of labour militancy. The very fact that workers defied the law and won is likely to build confidence that militant action can succeed.

It is impossible to prescribe the right circumstances for unlawful strikes given the variety of regimes of industrial legality, the forms of illegal action and the different historical practices of labour movements and states. 24 Perhaps the most general lesson is that the decision to engage in unlawful action should be treated as a tactical choice rather than ruled out entirely or limited to being a safety valve, as now seems to be the predominant attitude of most labour leaders. No doubt the regime’s highly coercive framework for enforcing restrictions on the freedom to strike explains much of the leadership’s reticence. Not only may they be punished personally, so too may the union as an institution. However, that reticence is also reinforced by the fact that todays unions have been shaped by the legal frameworks that gave them legitimacy and facilitated their recognition as bargaining agents. As Offe and Wiesenthal (1980, 106-09) argued, while union power derives initially from the demonstrated willingness of workers to strike, concessions are premised on the ability, and sometime the legal obligation, of unions to restrain that militancy. The resulting commitment to industrial legality is perhaps reinforced by a belief that playing strictly by the rules and being responsible trade unionists, pays material dividends, a belief reinforced by faith that workers’ interests will be adequately protected by the election of socialdemocratic or liberal leaning governments. Building a militant labour movement with a transformative vision, therefore, is not a goal and unlawful strikes are to be opposed.

However, if the compromise with capital begins to unravel and external support from liberal and social democratic governments becomes attenuated, as arguably has happened in recent decades, then rebuilding grassroots militancy may become a strategic priority, and breaking out of the bounds of industrial legality, including by engaging in unlawful strikes, a tactic. But militancy and a willingness to defy the law cannot be turned on like a switch; it must be built from the ground up, based on the lived experience of workers. Successful unlawful action requires unions to have tapped into workers’ discontent and built a culture of solidarity (Fantasia 1988) that will help withstand the pressure that employers and the state will likely bring to bear. But while internal preparedness and broad participation are necessary, they may not be sufficient as demonstrated by the PATCO strike. Unions must also seek strong public support for their action, as well as support from the broader labour movement. Public sector workers, particularly education and health care workers, have been quite successful in linking their collective bargaining demands to the protection of public services. Private sector unions face bigger challenges in defeating the mainstream media image of them as self-interested organizations benefitting their members at the expense of others, but the recent lawful strike by the UAW provides an example of how unions can explain their fight as one for fairness for all workers. Re-building support within the North American labour movement for sympathy strikes, particularly in the private sector, is perhaps even more challenging than convincing the broader public of the justness of union demands, but the experience of seeing that even threat of a general strike helped force the Ontario government to back down might contribute to labour’s reorientation.

In sum, unlawful strikes are hardly a panacea for a labour movement whose militancy has been eroded by decades of neo-liberal and neo-authoritarian assaults on labour rights and collective bargaining. Nevertheless, historically strikes, both legal and illegal, have been the crucible in which the labour movement was built. Rebuilding the capacity to strike and reviving unlawful strikes as a tactical choice should be part of an iterative process in which action and changing consciousness of what is possible can be mutually reinforcing.

## 1AC

### 1AC!

#### Capitalism is “too big to fail but too monstrous to survive.” Transition away is good BUT requires walking a knife’s edge. Globalization and interdependence mean we aren’t in Kansas anymore. Prolonged disruption in the flows of capital would wipe out two-thirds of the global population within weeks. Failure to grapple with that is apocalyptically bad Leftism.

Harvey 20 – Distinguished Professor of Anthropology and Geography at the Graduate Center of the City University of New York, holds a Ph.D. in Geography from the University of Cambridge (UK),

David Harvey, “Global Unrest,” *The Anti-Capitalist Chronicles*, Jordan T. Camp and Chris Caruso (eds.), pub. Pluto Press, ISBN 9781786807748, p. ebook

There are many contradictions in the capitalist system, and some are more salient than others. The incredible class and social inequalities and collapsing environmental conditions are obvious priorities. But then comes the “too big to fail, too monstrous to survive” contradiction. Neither the social inequality nor environmental degradation issues can be addressed without taking on this underlying contradiction. A socialist and anti-capitalist program will have to negotiate a knife-edge path between preserving that which services the world’s population and which appears too big and foundational to fail while confronting the fact that it is becoming too monstrous to survive without sparking geopolitical conflicts that will likely turn the innumerable small wars and internal struggles already raging across the planet into a global conflagration.

This is the core of the problem. In Marx’s time, if there was a sudden collapse of capitalism, most people in the world would still have been able to feed themselves and reproduce. They were reasonably self-sufficient in their local area procuring the kinds of things they needed to live and reproduce. People could put some sort of breakfast on their table irrespective of what was going on in the global economy and in global markets. Right now, that’s no longer the case in many parts of the world. Most people in the United States, in much of Europe, in Japan, and now increasingly in China, India, Indonesia, and in Latin America are depending more and more on the delivery of food through the circulation of capital. In Marx’s time, perhaps 10 percent of the global population was vulnerable to disruptions in the circulation of capital, as opposed to many more who were subject to famines, droughts, epidemics, and other environmental disruptions. The crisis of European capitalism in 1848 was part a product of harvest failures and part produced by a speculative crash focused on railroad finance. Since then, capital operating in the world market has largely eliminated the prospect of starvation due to supposedly natural causes. If there is famine the underlying causes (as opposed to the immediate triggers) can invariably be traced to failures in the social and political system of capitalist governance and distribution. Much of the world’s population is now dependent upon the circulation of capital to procure and ensure its food supply, access the fuels and the energy required to support daily life, and to maintain the elaborate structures and equipment of communication that facilitate the coordination of basic production requirements.

Capital, right now, may be too deeply implicated in the reproduction of daily life to fail. The economic consequences and social impacts and costs of a massive and prolonged failure in the continuity of capital circulation will be catastrophic and potentially lethal for a significant portion of the world’s population. To be sure, indigenous and peasant populations in the Andean highlands may survive quite well, but if the flow of capital shuts down for any prolonged period, then maybe two-thirds of the world’s population would within a few weeks be threatened with starvation, deprived of fuel and light, while being rendered immobile and deprived of almost all capacity to reproduce their conditions of existence effectively. We cannot now afford any kind of sustained and prolonged attack upon or disruption of capital circulation even if the more egregious forms of accumulation are strictly curbed. The kind of fantasy that revolutionaries might once have had – which was that capitalism could be destroyed and burned down overnight and that something different could immediately be built upon the ashes – is impossible today even supposing there ever was a time when such a revolutionary overthrow might have happened. Some form of the circulation of commodities and therefore of money capital has to be kept in motion for some considerable time lest most of us starve. It is in this sense that we might say that capital appears to be now too big to fail. We may aspire to make our own history, Marx observed, but this can never be done under conditions of our own choosing. These conditions dictate a politics that is about sustaining many existing commodity chains and flows while socializing and perhaps gradually modifying them to accommodate to human needs. As Marx noted in his commentary on the Paris Commune,

in order to work out their own emancipation, and along with it the higher form to which present society is irresistibly tending by its own economical agencies, they [the working classes] will have to pass through long struggles, through a series of historic processes, transforming circumstances and men. They have no ideals to realize, but to set free the elements of the new society with which old collapsing bourgeois society is pregnant.

The task is to identify that which lays latent in our existing society to find a peaceful transition to a more socialist alternative. Revolution is a long process not an event.

#### Specifically, that requires steering capitalism in the direction of pro-worker automation, which will uniquely produce the conditions of possibility for post-capital transition. Illiberal political economies preclude that, as would implosion of productivity growth and tech progress.

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David Harvey, “The Collective Response to a Collective Dilemma” in *The Anti-Capitalist Chronicles*, Pluto Press. 2020. https://doi.org/10.2307/j.ctv17ppcd0

Further on, Marx homes in on what it is that the collapsing bourgeois order is pregnant with that might redound to the benefit of labor. And it’s this. Capital “quite unintentionally – reduces human labor, expenditure of energy to a minimum. This,” he says, “will redound to the benefit of emancipated labor and is the condition of its emancipation.” In other words, in Marx’s view, the rise of something like automation or artificial intelligence creates conditions and possibilities for the emancipation of labor. In the passage I cited from Marx’s pamphlet on the Paris Commune, the issue of the self-emancipation of labor and of the laborer is central. That condition is something which needs to be embraced. But what is it about this condition that makes it so potentially liberatory? The answer is simple. All of this science and technology is increasing the social productivity of labour. One labourer, looking after all of those machines, can produce a vast quantity of commodities in a very short order of time. Here again is Marx in the Grundrisse:

To the degree that large industry develops, the creation of real wealth comes to depend less on labour time and on the amount of labour employed than on the power of the agencies set in motion during labour time, whose “powerful effectiveness” is itself in turn out of all proportion to the direct labour time spent on their production, but depends rather on the general state of science and on the progress of technology, or the application of this science to production ... Real wealth manifests itself, rather – and large industry reveals this – in the monstrous disproportion between the labour time applied, and its product.

But then, and here Marx quotes one of the Ricardian socialists writing at that time, “Truly wealthy a nation, when the working day is 6 rather than 12 hours. Wealth is not command over surplus labour time ... but rather disposable time outside that needed in direct production, for every individual and the whole society.”

It is this that leads capitalism to produce the possibility for “the free development of individualities” including that of the workers. And by the way, I’ve said this before but I’m going to say it again. Marx is always, always emphasizing that it’s the free development of the individual which is going to be the endpoint of what collective action is going to push for. This common idea that Marx is all about collective action and the suppression of individualism is wrong. It’s the other way around. Marx is about mobilizing collective action in order to gain individual liberty. We’ll come back to that idea in a moment. But it’s the potentiality for the free development of individualities that is the crucial objective here.

#### That solves, but it requires doing CBR *properly*. AND, centralized state control or elimination of the state each only reproduce the harms, while externally guaranteeing *Fahrenheit 451* via hypersurveillance.

--*Empowered* worker bargaining over AI and automation, complete with a mandatory duty to meet needs and aggressive protection of labor’s economic weapons, forces the harnessing of those technologies exclusively to serve *worker interests*, and categorically halts the development of capitalist AI. In contrast, *statist* control over AI—even if by the Party—necessarily devolves into “bureaucratic alienation, *AI edition*.”

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Tim Christiaens, “Nationalize AI!,” AI & Society, 03-28-2024, https://link.springer.com/article/10.1007/s00146-024-01897-0

If we wish to secure a human-centric use of AI, then the best option is to nationalize it. However, this is not a naïve call to simply transfer the overwhelming powers of AI from industry to the state. Government use of personal data can be just as dangerous to citizens as private Big Data analytics. The Chinese government already amasses personal data for its social credit system, and we must not also forget the Snowden revelations about the US government’s mass surveillance systems. Handing the keys to AI-driven technologies to state bureaucracies rarely ensures the implementation of public values in technological design. The monopoly of techno-capitalist private interests is rather superseded by the dominance of bureaucratic private interests.

A better strategy of nationalization entails the establishment of state ownership over AI development without state control. Rather than directly letting the state govern AI, the state should hand over decision-making responsibilities to independent social bargaining institutions. In those venues, technology developers, employers, and worker organizations collectively negotiate over which technologies are developed and how they are implemented in the workplace. Organized labor would acquire a veto over technological decision-making (Ferreras 2023). This would look like social bargaining forums in some Western European countries, where governments only authorize wage and labor agreements sealed separately by employer organizations and trade-unions. Just like economists often defend central bank independence to stop politicians from abusing monetary policy for their own private agenda, one can separate the technological innovation regime from direct governmental influence to avoid subordinating AI technologies to politicians’ personal interests.

These bargaining institutions might not grant direct democratic control over AI development to the population at large, but they would at least offer a buffer against AI innovation employed as a weapon against rather than a support to worker interests. Big Tech and employers would, at least, need the consent from trade-unions before implementing new workplace technologies. The race to the bottom currently enacted unilaterally under the name of ‘innovation’ would be halted and repurposed to serve worker concerns. Only those technologies that actually support rather than undermine public interests could move beyond the veto power of worker organizations. Under those circumstances, powerful new instruments and human-centric tools could be developed for workers without turning workers themselves into the living instruments of their tools.

#### That’s an existential threat. It’s try-or-die for a carefully-navigated, nuanced political economy.

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Julian Cribb, “The Urbanite (Homo Urbanus),” *Surviving the 21st Century*, Springer, Cham, pp. 147–169, Springer

\*Edited for problematic language

Th ese are, of course, no less than the enabling technologies for a global surveillance state—though nobody is admitting as much. While it is logical that a complex society of ten billion people requires more laws, regulations and enforcement that a nineteenth century world of half a billion humans, the advent of quantum surveillance will over-ride and eliminate most aspects of individual freedom. Without strict safeguards, transparency and public oversight, it could potentially render everyone, in effect, state property. On present trends, this will probably be accomplished with the co-operation of the private sector, via internet companies and banks, and with the gullible consent of voters reassured by government claims that spying on everyone is ‘essential to national security’. With many transnational corporations now larger, wealthier and more powerful than individual countries or governments, one of the chief and most intrusive objectives of universal surveillance will be marketing—to precisely target every individual with an avalanche of products and services to anticipate their every whim, before they even know they have it. And finally, political parties and religious bodies may exploit the technology not only to spy on their opponents but to ensure the loyalty of supporters, who may then be coerced by threats to expose aspects of the private lives. This is the dawn of the nanocracy, the rule of the Dwarf Lords (see Pamlin et al. 2015 ).

Like all advanced technologies—and despite all the self-serving hype by the scientists working on it—there is no guarantee such omnipotence will be used wisely, benignly, ethically or well, be regulated, publicly supervised or even its details widely known. Indeed, the odds are it will first be employed by political, economic and religious elites to spy on and control those they deem a threat to their power, beliefs, wealth or freedom of action—or else an opportunity to spot customers, recruits or agents of infl uence. Edward Snowden, who witnessed the birth of the secretive age of universal espionage and blew the whistle on it, told Australia’s ABC in May 2015 that the power to search both our content and metadata is “incredibly empowering for governments, incredibly disempowering for civil society”. It could lead to what he termed a ‘turnkey tyranny’ in which governments claim to follow due process but secretly ratchet-up their level of intrusion into private lives without disclosing it. “Th ey are collecting information about everyone, in every place, regardless of whether they have done anything wrong,” he warned (Snowden 2015).

While most people will regard such electronic intrusion mainly as threats to individual liberty or privacy, there is in fact a far more dangerous aspect to them, which affects the fate of our species. One of the most striking lessons from communism, Nazism, McCarthyism, Jacobinism or the religious fanaticism of the past two centuries is the way they enforced surveillance on their societies, compelling citizens to inform on one another, and driving individuals to self-censor even to the point of suppressing private thoughts contrary to the prevailing doctrine.

The risk such a development on a universal scale poses to the human future in the twenty-first century is its potential to chill or prevent the very debate and change which are vital to our survival. Evidence that surveillance can discourage public discussion or the expression of opinion has already appeared in a study by Wayne State University’s Elizabeth Stoycheff which found “the ability to surreptitiously monitor the online activities of … citizens may make online opinion climates especially chilly”, adding “While proponents of (mass surveillance) programs argue surveillance is essential for maintaining national security, more vetting and transparency is needed as this study shows it can contribute to the silencing of minority views that provide the bedrock of democratic discourse” (Stoycheff 2016 ).

Many people are by nature explorers of new ideas, adventurers, challengers of accepted opinion, reformers, liberals, researchers, conservationists, pioneers, creators and innovators. These gifted individuals have led every major social and technological transformation since civilization began. They are the foil to our natural conservatism and apathy, the navigators and sources of inspiration in the human ascendancy. Progressive, prosperous and dynamic societies rely on such individuals to inspire and lead us to greater, bolder, wiser futures.

However, under the nanocracy such people will be easily picked out and ‘discouraged’, especially if the changes they propose threaten those who most profit from the status quo. Even if they are not directly censored, most people will self-censor rather than invite scrutiny. Historically, reformers, visionaries and dissidents from Socrates and Jesus to Galileo, Martin Luther King and Nelson Mandela often pay a high personal price. Under the nanocracy such people won’t even have the opportunity. Th ey will be quietly identified by AI and hushed long before they have a chance to cause trouble.

A human race deprived of its radicals, visionaries, liberals, evangelists, innovators and adventurers will be a [destroyed] species, more like a termite mound than a society. It may be stable, organised and industrious—but it will also be less progressive, less creative and less resilient, because it would tend to suppress warning voices and views that contest social norms or which argue for reform. It will be a species less able to avoid the main existential threats because—as with climate change and pandemic poisoning—to do so may threaten the self-interest of ruling elites.

The advent of quantum computers and universal surveillance may thus herald a profound fork in the path of human evolution, creating a species less wise, less fit for survival at the precise moment in history when that survival is most in play (Cribb 2016 ).

#### Marxist theory provides a useful analytic for theorizing collective bargaining and informing its protection. What it cannot do, especially in the modern day, is provide a viable political or economic blueprint. The structural contradictions inherent in direct transition to socialism—whether centrally-planned or anarchist—guarantee that it can only ever substitute the alienation of *laissez-faire* capital with a new bureaucratic alienation. In *every historical example*, that has culminated in forced labor, gulags, mass famines, unchecked totalitarianism, and productivity collapse.

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Linglan Xia and Maoyue Zhang, "An attempt to eliminate the alienation of labor: interpretation of Marx’s view of labor in the socialist countries’ legal practice," *Trans/Form/Ação*, Vol. 48, No. 5, 2025, https://doi.org/10.1590/0101-3173.2025.v48.n5.e025054

Karl Marx’s labor theory is a seminal critique of capitalistic economic systems, highlighting legal and social establishments in perpetuating labor alienation. The crux of this theory is based on the laborer’s alienation from labor, commodities, other laborers and human potential. In this respect, legal systems, in capitalistic economies, perpetuate alienation by commodifying labor, hence reinforcing ownership rights and perpetuating obligations based on agreements, which benefit the ruling class in a large part. Marx argues law must not be examined in a standalone capacity, for it is a tool for class oppression. This allows for an introspection of legal systems in a socialist system, which, in theory, sought to end labor alienation by substituting individual ownership for collective ownership. The legal systems in the Soviet Union, China and Cuba, however, failed in these objectives, being bogged down by bureaucratic overreach, political meddling and economic struggles (Jonna; Foster, 2016).

This study carefully considers the ways in which socialist states made attempts to integrate Marxist labor theory in legal systems and considers, in parallel, the success of these efforts in reducing labor alienation. While Marx’s thought laid down a conceptual groundwork for a redefinition of labor relations, its actual realization too often benefited states over labor freedom. Through an historical examination of labor legislation in its varied forms in socialism, this study contributes to current debates on precarious labor, digital one and legislative change. Comparative study of labor regulations, in socialism and in capitalism, contributes toward an assessment of legal mechanisms in reducing labor alienation in modern economies.

1 LABOR VIEW AND LEGAL THEORY IN MARXISM

1.1 Marx’s view of labor

Karl Marx’s conception of labor is central to his critique of capitalism, as he viewed labor not merely as an economic activity, but as a defining human characteristic. He argued that, through labor, individuals express their creativity and establish their connection with the world. However, under capitalist production, this natural relationship is disrupted, and workers become alienated from their labor, leading to a loss of autonomy and fulfillment.

Marx identifies four forms of labor alienation. First, alienation from the product of labor occurs when workers do not own or control the goods they produce. Instead, these goods belong to the capitalist, severing the connection between the worker and their creation. Second, alienation from the labor process happens when the production process is dictated by the employer, leaving workers with no control over their work conditions or creative input. Third, alienation from other workers emerges as workers are pitted against one another in a competitive labor market, diminishing solidarity. Finally, alienation from oneself takes place when work, which should be a source of self-expression, instead becomes monotonous and devoid of personal meaning, causing workers to lose their sense of identity and purpose.

In Capital, Volume I (1867), Marx introduces the distinction between concrete labor and abstract one, which is essential for understanding the commodification of labor under capitalism. Concrete labor refers to specific and purposeful work that creates use-values, meaning goods or services that have practical utility. For instance, a carpenter making a chair or a tailor sewing clothes performs concrete labor. Abstract labor, on the other hand, is the work reduced to a measure of economic exchange value. In capitalist society, labor is treated as a homogeneous commodity, valued only by the amount of time it takes rather than its intrinsic qualities (Trubetskoi, 1902, p. 124).

For instance, a good craftsman, who is proud of his work, does manual labor. However, once the same craftsman is working in a factory doing a repetitive and non-creative work, his labor becomes abstract - a mere component of economic activity, but not a manifestation of human creativity. The commodification of labor is facilitated by legal institutions, including employment contracts, property law and labor legislation, that reproduce capitalist relations of production. According to Marx, such legal stipulations are not neutral; rather, they work in the dominant class’s interests in reproducing the divide between labor and capital (Pashukanis, 2017).

1.2 Legal development in Marxist theory

Marxist legal theorists, particularly Evgeny Pashukanis, expanded on Marx’s ideas by asserting that law itself is a product of capitalist exchange relations. According to Pashukanis (2017), legal systems, in capitalist societies, emerged to regulate the buying and selling of labor power, thereby reinforcing alienation. In this view, legal formalism develops alongside capitalism, promoting the illusion of equal contractual relationships between employers and workers, even though structural power imbalances persist.

Historically, legal structures have evolved to protect property relations that benefit capitalists. In feudal societies, laws were based on lord-vassal obligations, while in capitalist societies, law promotes contractual autonomy and individual property rights (Tomlins, 2017). However, in both cases, law functions as a tool to legitimize existing economic hierarchies rather than as a neutral arbitrator of justice.

In socialist legal systems, Marx expected the law to gradually wither away as societies moved toward communism. In the initial phase of socialism, however, legal systems were still needed to restructure property relations, regulate labor and dismantle capitalist institutions (Stone, 1985, p. 39). The Soviet Union and China attempted to apply Marxist legal theory by nationalizing industries, collectivizing agriculture and restructuring labor relations through state-planned economies. These efforts sought to eliminate the commodification of labor, but bureaucratic inefficiencies and political centralization often undermined the workers’ autonomy (Vincent, 1993, p. 371).

A key contradiction in socialist legal theory is that, while Marxist ideology rejects the idea of law as a neutral framework, socialist states still relied on legal structures to manage labor relations and enforce productivity. This paradox created tensions between the state control and the workers’ empowerment, as seen in cases where labor laws were used to maintain political stability rather than the workers’ self-management.

2 LEGAL PRACTICES IN SOCIALIST COUNTRIES: CASE STUDIES

2.1 The Soviet Union

The Soviet Union was one of the first states to implement Marxist labor theory into its legal system following the Bolshevik Revolution of 1917. The newly established socialist state sought to abolish private property and create a legal environment that promoted collective ownership of the means of production. The Decree on Land (1917) and the Decree on Workers’ Control (1917) nationalized private industries and transferred workplace decision-making to the workers’ councils, or soviets. The Soviet Constitution of 1918 further reinforced the principle that labor was every citizen’s duty rather than a commodity to be bought and sold.

To institutionalize Marxist labor principles, the Soviet government enacted the Labor Code of 1922, which eliminated unemployment by guaranteeing the right to work for all citizens. This legal framework sought to end labor alienation by ensuring that employment was not a commodity, but a social obligation. The state controlled wages, working hours and employment assignments, enforcing strict labor discipline through policies, such as compulsory work quotas and prohibition of the workers’ strikes.

However, as the Soviet Union transitioned into a centralized command economy, worker autonomy diminished. The initial system of the workers’ self-management through soviets was gradually replaced by a hierarchical state bureaucracy that controlled production targets, wages and employment distribution. The Stalin era industrialization policies further intensified state control, with the introduction of forced labor in gulags and harsh penalties for workplace absenteeism (Vincent, 1993, p. 371). Despite legal guarantees of employment and social benefits, Soviet labor policies often reinforced the workers’ subordination to state planning rather than the workers’ true empowerment.

By the Brezhnev era, Soviet labor law had solidified into a rigid system that maintained full employment, but suppressed workplace democracy. Trade unions, though formally recognized, primarily functioned as the state’s extensions, lacking genuine independence to advocate for worker rights. While the Soviet labor system succeeded in eliminating open unemployment and providing social protections, such as housing and healthcare, it ultimately replaced capitalist alienation with bureaucratic alienation, wherein workers remained unable to control the conditions of their labor.

2.2 The People’s Republic of China

Following the establishment of the People’s Republic of China (PRC) in 1949, the Chinese Communist Party (CCP) sought to restructure labor relations in accordance with Marxist principles. Early legal reforms, such as the Land Reform Law of 1950, redistributed land to peasants and abolished feudal landlordism. In the industrial sector, private enterprises were nationalized, and the 1956 Socialist Transformation of Industry and Commerce consolidated the state ownership of production. These reforms aimed to eliminate capitalist exploitation and align labor with the state’s collective interests.

During the Great Leap Forward (1958-1962), the government introduced people’s communes, a system where rural workers labored collectively on state-managed agricultural projects. These communes were intended to eliminate private property and fully integrate workers into the socialist economy. However, rigid state planning and unrealistic production targets led to economic inefficiencies and widespread famine, demonstrating the practical limitations of centralized labor policies (Quigley, 1989).

The Cultural Revolution (1966-1976) further disrupted China’s labor structure by dismantling legal institutions and promoting ideological purity over legal stability. Courts and labor regulations were rendered ineffective, and mass political campaigns encouraged workers to challenge traditional hierarchies. While this period saw the workers’ temporary empowerment through “revolutionary committees”, it ultimately led to economic and legal instability, making labor relations highly unpredictable.

After Mao’s death, economic reforms by Deng Xiaoping, beginning in 1978, saw the move away from state control and towards a combined socialist-market type. The institution of Special Economic Zones (SEZs), during the 1980s, permitted private as well as foreign enterprise within China, thereby once again introducing capitalist labor relations in some sectors. Although collective ownership was the only sanctioned principle officially, the liberalization of the labor market facilitated increasing wage differences, insecure job practices, as well as dwindling the workers’ rights (Hart-Landsberg; Burkett, 2006).

The contemporary Chinese labor system is a hybrid of state socialism and market capitalism, and the workers’ legal protection coexists with increasing labor flexibilization. The expansion of gig economy work and digital platforms, in China, is indicative of the contradictions of Chinese labor law, with workers in informal sectors often lacking social protections, echoing Marx’s theories regarding labor alienation in capitalist economies.

2.3 Cuba

The Cuban legal labor system was greatly affected by the 1959 Revolution, which led to the nationalization of key industries and the redistribution of agricultural land. Under Fidel Castro’s leadership, the Cuban government established labor laws that sought to eliminate capitalist exploitation and ensure universal employment opportunities. The passage of the Fundamental Law of Labor, in 1962, brought about workplace democracy through the inclusion of the workers’ participation in decision-making and the prohibition of private ownership of key industries.

Cuban labor law emphasized the moral value of work over monetary incentives, aligning with Che Guevara’s concept of “New Man” socialism, where labor was seen as a duty to society rather than a means of personal gain (Backer, 2004, p. 337). Unlike in the Soviet Union and China, Cuban labor unions maintained a degree of influence, with the Cuban Workers’ Central (CTC) playing an active role in shaping labor policies.

However, Cuba’s labor system was not free from contradictions. While workers had job security and access to social benefits, wage structures remained uniform and unresponsive to productivity, leading to declining motivation and economic stagnation. Additionally, the lack of independent trade unions meant that workers had limited avenues to contest workplace decisions imposed by the state (Sáenz, 2007, p. 1).

The Special Period (1990s), following the Soviet Union’s collapse, forced Cuba to introduce economic liberalization measures, including the legalization of self-employment and private enterprises in limited sectors. These reforms created a dual labor economy, where state-employed workers earned fixed wages while private-sector workers had greater income potential, but fewer legal protections. Recent labor reforms have further expanded market-oriented policies, raising concerns about the long-term sustainability of socialist labor protections in Cuba.

2.4 Comparative analysis of socialist labor systems

The legal systems, implemented in the Soviet Union, China and Cuba, shared common ultimate goals: the elimination of private enterprise, the establishment of state control over labor relations and the promotion of collective ownership. Yet the enforcement of these labor policies often substituted state control for capitalist exploitation and thus limited the workers’ independence. Labor legislation, in the Soviet Union, was intended to instill discipline in workers, but eliminated democratic processes within the workplace. China witnessed oscillations between collectivization by the government and market-oriented reforms, resulting in a diluted dual legal system. Cuba, prioritizing social protection, encountered economic inefficiency in addition to state control over labor unions.

Despite their ideologically grounded origins in Marxist labor theory, these socialist governments faced built-in structural contradictions in trying to implement anti-alienation labor policies. The need for central economic planning often conflicted with the Marxist value of the workers’ self-management, creating bureaucratic alienation rather than the workers’ true empowerment.

3 COMPARATIVE ANALYSIS OF SOCIALIST LEGAL SYSTEMS

The labor policies and laws, instituted in the Soviet Union, China and Cuba, were essentially rooted in Marxist ideals with the aim of eliminating the labor alienation of capital through collective control of the economy, centralized planning, as well as state regulation of the terms of work. These socialist regimes shared the same objectives: the elimination of private property, the elimination of joblessness through guaranteed work, as well as the introduction of work as a part of the broader socialist political as well as economic aims. Yet despite their ideational affirmations, actual implementation of these policies revealed considerable discrepancies with the theoretical approach of state socialism.

3.1 Structural similarities in socialist legal systems

One of the defining features of socialist labor law, across all three countries, was the abolition of private ownership of the means of production. The Soviet Union’s early labor reforms, including the Decree on Workers’ Control (1917), nationalized all major industries, granting formal control to the workers’ councils (soviets). Similarly, China’s 1956 Socialist Transformation of Industry and Commerce transferred ownership of private enterprises to the state. Cuba’s 1962 Fundamental Law of Labor ensured that key industries remained under government control. These policies aligned with Marx’s belief that the commodification of labor could only be eliminated through the collectivization of production.

Another key similarity was the state’s role in guaranteeing employment. In the Soviet Union, the Labor Code of 1922 enshrined the right to work, ensuring universal employment while prohibiting private wage labor. China’s Maoist-era work-unit system (danwei) tied the workers’ social benefits-housing, healthcare and education-to their place of employment, integrating labor into the socialist state structure. Similarly, Cuba’s revolutionary labor policies guaranteed jobs and social welfare benefits for all workers. These legal guarantees sought to prevent the precarity of capitalist employment and fulfill Marx’s vision of a classless society, where work was a social duty rather than an economic necessity.

Additionally, socialist labor models theoretically promoted the processes of collective decision-making. In the Soviet Union’s early days, the workers’ councils instituted workplace democracy. Later, as the economy grew more bureaucratized, state planners progressively centralized the process of labor decision-making. China’s communes sought the rural workers’ active participation in communal agricultural work. However, local self-governing power among workers was repeatedly curbed through state-mandated quotas. In Cuba, enterprise management featured the workers’ input mediated through unions. These unions, however, existed under state control, which limited their autonomy.

3.2 Divergent approaches and national contexts

Despite these congruencies, the adoption of Marxist labor legislation varied considerably across the three countries, reflecting their political systems, economies and histories. In the Soviet Union, labor policy was characterized by tight central control and extensive state regulation. Though work was guaranteed, labor policy took on more authoritarian characteristics with the implementation of draconian punishments for transgression at the workplace, notably for absenteeism and striking. Utilization of forced labor camps (gulags), under Stalin’s regime, deviated considerably from the ideals of voluntary and meaningful work, enunciated by Marx. By Brezhnev’s era, the labor system, in the Soviet Union, evolved as a hard and highly bureaucratic system, wherein the mechanisms of the law served the state’s domination more than the workers’ empowerment (Vincent, 1993, p. 371).

China, on the other hand, experienced more radical shifts in labor policy. During the Great Leap Forward (1958-1962), labor was collectivized into massive communes, but unrealistic production targets and state-enforced quotas led to economic failures. The Cultural Revolution (1966-1976) saw a temporary dismantling of bureaucratic structures, as Mao encouraged workers to challenge traditional hierarchies. However, after Deng Xiaoping’s reforms (1978 onward), China embraced a market-socialist hybrid, allowing private enterprises and foreign investment, which reintroduced capitalist labor dynamics alongside socialist legal protections (Hart-Landsberg; Burkett, 2006).

Cuba’s approach was more flexible compared to the Soviet Union and China. While Cuba maintained state control over labor and promoted ideological commitment to socialist work ethics, its legal framework also adapted to economic realities. Unlike the Soviet Union, where labor was strictly regulated, Cuban labor laws allowed for some degree of the workers’ participation through trade unions. However, as the Special Period (1990s) forced economic liberalization, Cuba introduced legal reforms allowing private businesses and self-employment, creating a dual labor market, where socialist guarantees coexisted with capitalist employment practices (Backer, 2004, p. 337).

3.3 The contradictions of Marxist labor theory in practice

While these socialist labor systems sought to eliminate alienation, they often replaced capitalist alienation with state-driven one. In theory, Marx argued that, in a socialist society, labor would be liberated from market exploitation and workers would collectively control production. However, in practice, socialist states often centralized economic planning under a bureaucratic elite, limiting the workers’ true autonomy.

One of the key contradictions, in socialist labor law, was the tension between centralization and the workers’ empowerment. In the Soviet Union, China and Cuba, state control over labor laws meant that workers had guaranteed employment, but little power to influence workplace conditions. Trade unions, though legally recognized, functioned as the state’s extensions rather than independent advocates for labor rights. In contrast to Marx’s vision of the workers’ self-management, labor laws, in these socialist states, often served to discipline the workforce rather than empower it.

Furthermore, productivity and worker motivation became significant challenges in socialist labor systems. Since wages were standardized and job security was guaranteed, there were fewer incentives for innovation or efficiency. In the Soviet Union, strict labor codes enforced discipline through legal penalties rather than economic incentives, leading to low morale and declining productivity. In China, the transition to a market-socialist model demonstrated that some degree of competition and wage differentiation was necessary to sustain economic growth. Cuba’s economic crises forced a partial retreat from strict socialist labor policies, further highlighting the challenges of maintaining the workers’ motivation in a centrally planned economy (Guthrie, 2002, p. 139).

3.4 Lessons for contemporary labor systems

The discrepancies in socialist legal models provide valuable insights to contemporary labor struggles, especially in light of precarious employment, platform labor and job displacement through automation. The rise of digital labor platforms is an eye-catching representation of capitalist exploitation, where labor is typified by alienation in employment, defined by precariousness and absence of societal protection. The inability of socialist labor models to effectively power labor demonstrates that state-oriented power and market liberalization cannot eradicate labor alienation completely. On the other hand, robust legal models, combining labor protection and economic flexibility, might demonstrate greater sustainability.

Research findings, concerning socialist labor structures, recognize the importance of independent trade unions, worker-controlled cooperatives and flexible labor regulations, prioritizing job protection while encouraging incentives for greater labor productivity. Future labor regulations have to address labor alienation in both socialist and capitalist settings, ensuring labor law promotes worker self-management, equitable remuneration and decent working conditions.

4 CHALLENGES AND CRITICISMS OF MARXIST LEGAL DEVELOPMENT

The application of Marxist legal theory, in socialist states, revealed several inconsistencies in theoretical and pragmatic contexts. The goals of abolishing private property, guaranteeing employment for everyone and encouraging collective property were supposed to overcome labor alienation. Nonetheless, their implementation in practice tended to strengthen the state’s authority over labor instead of enabling labor organization for the expropriation of means of production. Such contradictory actions provoke serious questions concerning whether, and to what extent, it is possible to realize Marxist legal theory in legal systems and if such theory is, by default, incompatible with state institutions.

4.1 The contradiction of state-enforced socialism

Marx envisioned a future when the state would “wither away”, leading to a classless and stateless society, in which workers collectively manage production. However, socialist states had to rely on legal frameworks to transition from capitalism to communism, creating a contradiction, in which law, a supposed tool of capitalist oppression, was used to regulate socialist labor relations (Pashukanis, 2017).

In the Soviet Union, China and Cuba, labor laws were designed to abolish labor as a commodity, but their implementation often resulted in bureaucratic control rather than the workers’ self-management. For instance, while Soviet labor laws guaranteed full employment, they also imposed harsh legal penalties for workplace absenteeism and strict production quotas that left workers with little autonomy. In China, Maoist policies, such as communal labor organizations, theoretically promoted collective ownership, but in practice, state planners dictated work assignments and production targets, limiting the workers’ true agency. Similarly, in Cuba, while labor laws emphasized worker participation through trade unions, these unions remained subordinate to state directives, preventing the independent the workers’ advocacy (Backer, 2004, p. 337).

This contradiction between Marxist theory and socialist legal practice suggests that state-led efforts to enforce Marxist labor ideals often led to new forms of alienation, where workers were controlled by state bureaucracies instead of private capitalists.

4.2 The lack of independent trade unions and the workers’ control

A major criticism of socialist labor law is that, while it abolished property rights, it did not construct the workers’ genuine self-organization. As per the Marxist labor theory, workers should have ownership over the means of production. However, in the socialist states, the trade unions were tightly linked to the state apparatus and became means of political and economic governance rather than the workers’ organizations.

For the Soviet Union, the All-Union Central Council of Trade Unions (AUCCTU) was a state organ that implemented the state policies in the labor relations rather than striving for the workers’ rights (Vincent, 1993, p. 371). Likewise in China, state-owned enterprises dominated employment and restrained freedom of labor associations and labor movements. In Cuba, the Cuban Workers’ Central (CTC) was involved in policy-making concerning employees, but it was not independent and subordinate to the government, which restricted its actions and influence for the workers’ complaints.

Without independent trade unions, workers in socialist countries had limited means to challenge workplace conditions or engage in meaningful decision-making. This undermined the workers’ empowerment that Marxist theory aimed to achieve, as labor relations were still dictated from above rather than shaped by the grassroots workers’ control.

4.3 Economic efficiency vs. the workers’ motivation

Another major challenge in socialist labor systems was balancing economic efficiency with the workers’ motivation. While capitalist labor markets rely on competition, wage differentiation and profit incentives, socialist economies sought to eliminate these mechanisms by standardizing wages and guaranteeing employment. However, these policies often led to low productivity and the workers’ disengagement, as there were few incentives for innovation or efficiency.

In the Soviet Union, the rigid structure of command economy made it difficult to adapt to changing labor demands, resulting in overstaffing, low worker morale and stagnant productivity. In China, Maoist labor collectivization initially sought to increase agricultural and industrial output, but state-imposed production targets often led to inefficiencies. The Great Leap Forward (1958-1962) exposed the limits of centralized labor planning, as unrealistic quotas and forced collectivization led to mass economic failure (Guthrie, 2002, p. 139).

Cuba faced similar issues, particularly after the Soviet Union’s collapse, which forced it to rethink labor policies. The introduction of limited market reforms, in the 1990s, created a dual labor market, where state-employed workers earned low fixed wages while those, in the private sector, had higher income potential. This shift demonstrated that some degree of wage differentiation and market flexibility was necessary for economic sustainability, challenging the socialist model of uniform labor rewards (Backer, 2004, p. 337).

4.4 Non-Marxist critiques of socialist labor law

Beyond internal contradictions, non-Marxist scholars have criticized socialist labor systems for undermining individual labor rights. While capitalist labor laws often protect freedom of contract, unionization and the workers’ mobility, socialist legal systems prioritized state control over labor relations, which sometimes resulted in coercive labor policies.

For instance, in the Soviet Union, legal mechanisms, such as internal passports (propiskas), restricted the workers’ mobility, forcing individuals to remain in assigned workplaces. In China, workers in state-owned enterprises often had limited ability to change jobs, as employment was tied to social benefits provided by the danwei system. In Cuba, the uniform wage system discouraged entrepreneurial activity and limited the workers’ ability to seek alternative employment opportunities (Vincent, 1993, p. 371).

Critics argue that these policies restricted economic freedom, creating dependency on state employment rather than genuine labor empowerment. From a legal perspective, the absence of independent judicial mechanisms to resolve labor disputes meant that workers had little recourse if they faced unfair treatment by state employers.

4.5 The relevance of Marxist labor critique in modern labor law

Nevertheless, the problems of socialist labor systems do not make the Marxist labor theory irrelevant in the modern legal discourse, especially with regard to precarious work, automation and the gig economy. New forms of work organization that include digital platforms, such as Uber and Deliveroo, have eroded standard employment relations and offer short-term and insecure employment relations (Fuchs, 2015). This corresponds with Marx’s critique of abstract labor, where workers are just reduced to mere commodities in terms of utility.

However, automation and artificial intelligence have raised issues of the worker’s alienation because more and more jobs are being automated and made to be done by machines. These modern labor issues indicate that, although the socialist labor law did not eliminate the workers’ alienation, the issues that Marx pointed out about labor under capitalism are still relevant. This paper concludes that the future of labor law is in a middle ground - the workers’ increased protection, collective bargaining and legal regulation of precarious work- which combines socialist labor values with realistic legal solutions that will guarantee the workers’ independence and economic feasibility of the adoption of these values.

5 THE FUTURE OF MARXIST LABOR THEORY IN LEGAL SCHOLARSHIP

Marxist labor theory continues to be of great relevance in modern legal theory, especially as labor markets are rapidly changing under the pressures of technological change, globalization and the emergence of precarious forms of labor. Although earlier experiments with Marxist labor ideals, in socialist legal orders, demonstrated practical shortcomings and governance problems, the critique inherent in labor alienation and exploitation continues to be an indispensable framework for analysis of current labor law. As economies are transformed into platform-mediated gig work, AI-powered automation and global supply chains, Marxist legal theory provides important insights for the future trajectory of labor law to combat emergent forms of the workers’ exploitation.

5.1 The gig economy and digital labor: a new form of alienation?

Arguably, one of the most contentious labor questions of the present is the phenomenon of the ‘gig economy’, which involves workers undertaking short-term and project-based work, facilitated by digital platforms, like Uber, Deliveroo and TaskRabbit. These platform-based jobs are not covered under conventional labor standards, such as minimum wages, medical cover, or unionization. Marx’s critique of labor commodification is also apt here because gig workers are considered merely usable inputs rather than valued employees with employment rights (Fuchs, 2015).

In legal scholarship, Marxist analysis has been used to critique the classification of gig workers as “independent contractors”, which denies them access to labor protections, such as unemployment benefits and sick leave (Cherry; Aloisi, 2016, p. 635). Recent legal reforms in the European Union, California’s Proposition 22 and China’s evolving labor regulations have attempted to extend some protections to gig workers, but the structural imbalance between platform corporations and individual workers persists. A Marxist-informed legal framework would advocate for collective bargaining rights, worker-owned cooperatives and stronger protections against labor misclassification to reduce the workers’ alienation in the digital economy.

5.2 Automation and the displacement of human labor

Marx predicted that technological advancements, in capitalist economies, would lead to the workers’ increased displacement, concentrating wealth in the capitalists’ hands while rendering human labor increasingly redundant. Today, the rise of artificial intelligence and automation is reshaping industries ranging from manufacturing to professional services. Algorithms and robotic systems are replacing human labor in warehouse operations, customer service, and even legal and medical professions, creating mass layoffs and economic insecurity (Virgillito, 2017, p. 240).

From a Marxist legal perspective, automation raises urgent questions about the right to work, economic redistribution and the regulation of corporate profit accumulation. Some scholars have proposed universal basic income (UBI) as a potential legal remedy to counter the effects of mass automation, aligning with Marx’s vision of reducing the necessity of labor for survival (Standing, 2017). Others advocate for the workers’ co-ownership models in automated industries, where employees retain control over production processes rather than being replaced by machines owned by corporate entities. Future labor laws must integrate the workers’ protections against automation, such as mandatory retraining programs, the workers’ participation in technological adoption decisions and profit-sharing models that distribute the benefits of automation more equitably.

5.3 The globalization of labor and the persistence of exploitation

In an era of globalized production, multinational corporations have relocated manufacturing to regions with weaker labor protections, taking advantage of low wages, minimal union representation and exploitative working conditions. This has created a “race to the bottom”, where countries compete for investment by deregulating labor markets, further alienating workers from fair wages, stable employment and safe working conditions (Boyer, 2018, p. 284).

Contemporary labor protests include the Amazon workers’ strikes, protests against sweatshop labor in South Asia and demands for a living wage in global supply chains. Marxist principles for labor rights on the international level would call for the promotion of international labor rights conventions, corporate accountability legislation and the workers’ international unity. Some advances have been made on some fronts, such as the ILO conventions and codes on corporate social responsibility. However, enforcement measures are still very weak. The future reforms in labor laws should also plug the legal gaps that allow the TNCs to avoid labor standards, and it should guard against capital that takes advantage of geographical and legal differences with a view to undermining the workers’ rights.

5.4 Hybrid legal frameworks: a path forward?

The historical socialist labor systems faced major problems in terms of over- centralization and bureaucratic rigidity. On the other hand, capitalistic labor markets still cause insecure employment, increasing income inequalities and labor dehumanization. A combination of Marxist labor principles with the present day legal framework may be a better solution to the workers’ rights and economic justice.

Some new trends show how to organize the labor process in a way that would allow workers to exercise self-organization and guarantee the economic viability of the undertaking. Promoting worker-owned cooperatives or organizations, the legal structures supporting labor management and socialized wage/salary or profit sharing can potentially minimize alienation while addressing efficiency (Schneider, 2018). Furthermore, some scholars have called for shorter working hours and four-day work week without a cut in pay, which is similar to Marx’s view of cutting unnecessary working hours and improving the workers’ quality of life (Weeks, 2020).

In contrast with supporting the reimposition of state control of the workforce through the state, contemporary scholarly literature enunciates a systemic approach, combining strong labor protections with the workers’ self-management. It is intended to ensure the flexibility of the laws of work with changing economic conditions, without the state-bureaucratic inefficacies associated with earlier forms of socialism.

5.5 The future of Marxist legal thought in labor law

Marxist labor theory remains relevant today in understanding the structural imbalances in the labor market, especially as capitalist economies grapple with labor insecurity, technological displacement of jobs and international exploitation. Although past experiences of attempting to establish Marxist labor policies on the legal level, in socialist countries, revealed such contradictions and issues, these experiences are useful for building further labor policies.

Moving forward, it is essential for legal theorists and policymakers to examine hybrid models of labor that combine protections for workers, democratic decision-making mechanisms and sustainable economic policies. The applicability of Marx’s critique of labor alienation remains an essential framework for creating fair and equitable labor relations in the 21st century, whether through the workers’ cooperatives, international labor protections, or platform-based employment reforms.

CONCLUSION

The Marxist theory of labor has provided a major analytical framework for the study of capitalism, particularly through its emphasis on the commodification of labor and the workers’ resulting alienation. This study explored the methods adopted by the Soviet Union, China and Cuba to institutionalize Marxist labor ideologies through legal frameworks, notably through the elimination of private property, nationalization of industry and guarantee of employment. While these efforts were intended to eliminate capitalist exploitation, they often resulted in a type of state-imposed alienation, where bureaucratic administration of labor relations limited the workers’ control instead of fostering true collective ownership.

The comparative assessment of the socialist regimes revealed considerable discrepancies in the implementation of the Marxist labor precepts. Lacking independent trade unions, as well as the state’s rigid planning mechanisms coupled with the coercion of work discipline, created new kinds of alienation. Workers found oppression at the behest of state bureaucracies, as opposed to private capitalists. Although there existed, at least, some level of the workers’ self-management in Cuba, the Soviet Union, as well as China, passed labor legislation, reinforcing state control of the workers, as opposed to enabling them. These earlier examples illustrate the difficulties inherent in achieving self-management in the labor force under highly centralized economies.

Despite these challenges, the Marxist critique of labor remains highly relevant in modern labor law, particularly in regards to precarious work, automation and the global exploitation of labor. The gig economy and work through digital platforms illustrate Marx’s fear of the commodification of labor, as digital workers face precarious wages, inadequate labor protections and are excluded from collective bargaining rights. Likewise, the rise of automation threatens to replace millions of workers, thus increasing economic disparity while concentrating wealth and power in the hands of corporations. These phenomena call for the creation of modern legal frameworks that not only include protections for workers, but also respond to the changing economic environment.

An integrated approach fusing the philosophies of Marxist labor analysis with functional legal models can be a plausible solution. Increased worker cooperatives, international labor standards, as well as labor protection for gig workers and platform workers under the law, can be substitutes for capital-driven exploitation as well as state-controlled labor. Additionally, policies like the four-day workweek, the provision of a universal basic wage, as well as profit-sharing models, can be in harmony with the Marx’s vision to reduce necessary labor with the aim of achieving economic stability.

In conclusion, the observations from socialistic experiments through history, as well as from present movements, state that the labor laws have to keep changing according to changing work patterns. Though state socialism as well as laissez-faire capitalism have failed in eradicating labor alienation, research work in the area can use the views from the Marxist paradigm in the formulation of more just labor policies. By combining the flexibility of economy with the protection of the workers’ rights, new labor policies can work toward the aims of reducing labor alienation as well as fostering just and sustainable work.

#### Thus, we affirm the following advocacy:

#### Plan: The United States federal government should substantially strengthen collective bargaining rights for workers in the United States with respect to automation-related bargaining.

#### We’ll clarify:

#### 1—Employers shall have a duty of mandatory collective bargaining with workers over automation.

#### 2—“Automation-related” shall be expansively construed to refer to all facets of automation which implicate in any manner, direct or indirect, workers’ wages, hours, and terms and conditions of employment.

#### 3—Decisions regarding the scope and nature of interpretation and enforcement shall be legally required to prioritize reduction of worker alienation in the Marxist sense.

#### 4—Nothing in this plan shall be understood as permanently requiring the employer-employee relationship, nor as precluding strengthening collective bargaining rights in other ways and/or over other subjects. Neither shall it be understood as precluding strengthening bargaining rights for workers elsewhere.

#### Affirming that is good:

#### FIRST: the plan makes automation and AI a subject of mandatory bargaining. That solves per the above, and is legally vital.

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Frederick Reiber, “AI in Court: Politico Workers Take the Boss to Court Over Forced Automation” Boston DSA. 8-21-2025. https://bostondsa.org/2025/08/21/ai-in-court-politico-workers-take-the-boss-to-court-over-forced-automation/

Artificial Intelligence—An Arena for Collective Bargaining

Politico argued in both cases that technological tools developed through the tech and business side of the company fall out of the purview of the journalist’s union. Thus, they aren’t subject to the collective bargaining agreement.

For the union, these rollouts constitute a violation of contract. Workers were not given the opportunity for impact bargaining nor the required 60 day notice of new workplace technologies. Workers also saw the use of AI as a challenge to journalistic integrity. A recent Wired report on the arbitration preceding cites Politico’s AI using phrases like “criminal migrants” or failing to recognize the overturning of Roe v. Wade. As PEN Guild member Ariel Wittenberg put it, “it certainly was disheartening as a journalist who has worked for Politico for 10 years to hear our top editors say that sometimes the homepage doesn’t have to be printing ethical journalistic content.”

AI providing false information is nothing new with scholars and journalists providing mountains of evidence. For instance in 2022, Meta took down Galactica, a tool designed to help researchers after it became apparent it was making up publications, and Stack Overflow the go-to question and answer website for coding questions ended up needing to ban AI responses due them having an incorrect rate of hallucinations. These issues have still persisted today. For instance ChatGPT, when asked today about labor leader Big Bill Haywood, manufactures quotes and pamphlets that I have been unable to find cited or discussed anywhere else.

AI is also famously ripe with political bias in a similar manner to Politico’s “criminal migrants”. For instance Grok, Elon Musk’s chatpot, recently referred to itself as ‘MechaHitler’ and going on inaccurate rants about a South African ‘white genocide’. Other more malicious cases include Amazon’s male favored hiring tool or Northpointe’s racist criminal assessment tool.

Important for fellow unionists is recognizing that we can and should be organizing against forced technology in the workplace. When dockworkers with ILA and USMX threatened to walk off the job earlier this year, they were able to win protections against forced automation. SAG-AFTRA is currently fighting against the use of AI to bring back the voice of the late James Earl Jones. Fighting against AI, however, is no easy battle. While workplace technology is not a mandatory subject of bargaining, workers do continue to fight and organize against harmful technology in large part because they recognize workplace technology for what it commonly is– a tool used to degrade working conditions and worker power.

AI Is the Boss’s Tool—Workers Are the Real Counterpower

As Marx famously argued, capital—and thus the exploitation of the working class—happens when value is put into motion. The forced implementation of workplace artificial intelligence is nothing new, another attempt to shift production and further extortion. As scholar Jathan Sadowski argues in his new book, The Mechanic and the Luddite: A Ruthless Criticism of Technology and Capitalism, AI is really a tool of the boss, with employers using AI as a mask for outsourcing or as a way to cheapen labor with deeper forms of extraction through workplace surveillance.

For workers everywhere, this moment demands clarity, courage, and collective resistance. The fight over AI isn’t about resisting technology for its own sake—it’s about resisting who controls it, who benefits, and who bears the cost. Whether in a newsroom, a factory, or a film studio, AI is not neutral. It reflects the priorities of those in power—speed over accuracy, profit over people, efficiency over ethics.

As more workplaces rush to adopt AI under the guise of innovation, unions must continue to insist on democratic control over technology; how it’s introduced, how it’s used, and who it serves. That means fighting for robust contract language, building coalitions across sectors, and standing firm when employers violate those agreements.

The PEN Guild’s arbitration fight is not just about Politico—it’s about setting precedent. If workers can’t win the right to bargain over technologies that directly shape their labor, then every workplace becomes fair game for digital dispossession. But if they succeed, they send a clear message: AI may be new, but the power of collective action remains timeless.

#### SECOND: it’s part-and-parcel of a much more nuanced and effective Marxist vision and orientation toward labor power and political economy—one much better grounded in history and nuance AND independently much better suited to the unique challenges of the modern era. That was above.

#### THIRD: reclaiming bargaining is key. Status-quo collective bargaining lacks solidarity BUT that is not intrinsic to bargaining itself! A re-politicized conception of bargaining uniquely allows for formation of critical solidarity and radical politics *against* capital, without which no resistance can ever get off the ground, much less survive. The process, not just the outcome, is key!

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Zaad Mahmood and Supurna Banerjee, “Towards what end? Collective bargaining and the making and unmaking of the working class,” Economic and Industrial Democracy, 05-31-2022, https://journals.sagepub.com/doi/full/10.1177/0143831X221096863?casa\_token=lGbWRZTWD10AAAAA%3AMCtlqFl4Scb4i\_aAEmyIH-e5q2HHFQjFNbTzmgrYF4YQL9vAuv6RmnHEOJGyVmsJtQA5eYySDeiS

The status of collective bargaining has been debated, if not doubted, in recent times, with the weakening of the bargaining power of labour vis-a-vis employers, enfeebled workplace solidarity (Wills, 2009) and increasing decentralization of bargaining (Marginson et al., 2014). Myriad factors ranging from economic crises, changes in the production system to policy-induced decentralization (International Labour Organization, 2015) are identified as responsible for such transformation. In this changed context, collective bargaining has been increasingly viewed as an instrument that promotes the interests of the privileged unionized workers at the expense of other workers (Rueda, 2014) and as a mechanism of labour control by building productivity alliances and tying the future of the trade union to that of the firm (Marginson and Galetto, 2016). Such readings align with theoretical premises that displace the idea of the proletariat as a radical class with more disparate political agents (Pierson, 2001) and highlight the incongruence of the post-World War industrial relations framework in the post-industrial society (Della Porta, 2006).

If collective bargaining is reduced to an instrument of control or at best serves as an instrument of labour segregation, it contradicts the widely-held assumptions and theoretical understandings of collective bargaining and action. Bargaining is not only about meeting economic demands but constitutes a concrete practice based on the recognition of interests of labour against capital facilitating the transformation from class-in-itself to class-for-itself (Cohen and Moody, 1998). Participation in bargaining has transformative potential for worker consciousness and working-class solidarity. It is no doubt embedded in a multiplicity of interests, but the workers themselves seek to reconcile the differences in their common struggles.

This article seeks to contribute to the discussion on collective bargaining by focusing on worker solidarity and considering the meanings of bargaining for trade unions and workers. We seek to widen the debate on collective bargaining from an outcome-oriented consideration to the transformative dimension for workers. By revisiting collective bargaining, looking at the nuances in the bargaining processes, we focus on the implications for worker participation and class solidarity. The question delves more deeply than mere incidence, coverage or agreement and focuses on the substantive and suggestive qualities of bargaining as collective action. We argue that the relevance of bargaining is not merely confined to instrumental economic goals but extends to politically constitutive action that needs to be explored.

We contribute to the understanding of collective bargaining, theoretically, by bringing into conversation the literature on new social movements (NSM) and industrial relations (IR). In NSM literature, trade unions are often portrayed as a remnant of the old social movement relevant to the centralized Fordist economy, characterized by bureaucratic hierarchical organization, fixed interest and concerted decision-making (Snow et al., 2004). In contrast, NSMs, characterized by loose network structures, disruptive repertoire and wide aims, are more appropriate for 21st-century flexible capitalism (Della Porta, 2006). By bringing these two scholarships into conversation in the reading of our empirical material, we argue that the differences between these two forms of movement are often exaggerated. There exists continuity between the non-institutional (new) and institutional politics of collective action (old) as both are embedded in interest politics and a shared sense of solidarity (Pizzorno, 1978; Tarrow, 1988). Drawing on NSM literature, particularly Sewell (1996) and Della Porta (2006, 2011; Della Porta and Diani, 2009), we examine the concepts of solidarity and eventful temporality to re-evaluate collective action.

Our case study of collective bargaining in West Bengal, India, shows that while an outcome-oriented reading suggests a disruptive role of bargaining, one can identify varying degrees of worker consciousness and solidarity in bargaining, which is complex and contingent. Manifestly, the workers in the firms we studied were divided along multiple trade unions, with contractual workers and permanent workers having their own unions, often affiliated with different political parties (Chakraborty et al., 2019). The contractual workers were usually members of unions with affiliation to the ruling and/or the locally dominant party, while permanent workers were affiliated to the all India trade union federations and not the locally dominant party. These different unions usually bargained separately, but also came together in the pursuit of common interests.

We argue and show that the fragmentation of trade unions underlined a deeper political consciousness and strategic negotiation by different classes of workers. The contractual workers affiliated with locally dominant parties, embedded in a patronage network, to offset their weakness in bargaining within the workplace. The permanent workers, due to their structural advantage in the workplace (permanent status, skill), retained affiliation to the all India trade union federations.

The division among workers, structured by the processes of production and employer preferences, was also transcended through participation in bargaining that engendered solidarity within and between classes of workers, focusing on their common economic conditions and common interests. We identify and classify three stages of solidarity: its absence, its limited presence, and its critical presence across cases of bargaining. In cases of absent solidarity, the fragmentation between permanent and contractual workers is evident as classes of workers who act separately in bargaining. Deeper interrogation however shows negotiation by the workers by employing both the logic of trade unionism and the logic of politics, i.e. negotiation through unionism and accommodation through local politics to ensure a voice in the firm. Instances of limited solidarity were actualized in the event of industrial disputes and suspension of work, and consequent erasure of differences between the worker categories. Different categories of workers, permanent and contractual, came together in serving their immediate survival needs. Such moments of limited solidarity often acted as resources for later solidarity building. Finally, the presence of critical solidarity, a sense of class interests as opposed to that of capital, was evident in instances of closure of firms. Either in looking for alternative livelihoods or in protesting the closure, the interests of different classes of labour aligned, making possible a united labour front against capital. These alliances were nurtured when the worksite and the community around came together. The manifest solidarity in such instances is not distinct from limited solidarity but rather a continuity in that the resources of solidarity created during moments of limited solidarity were actualized into bonds of critical solidarity.

Our case study shows that the political agency of workers does not eviscerate, nor is it completely replaced by a productivity-oriented logic of the market in their participation in bargaining. The workers resorted to various strategies and negotiations during bargaining that reflected a working-class consciousness with varying levels of worker solidarity. Importantly, the political consciousness and resultant solidarity networks remain embedded in the site of the local, in conjunction or opposition to the worksite. The arguments based on the study of West Bengal are generalizable widely as representative of labour surplus developing economies undergoing economic liberalization. The cases are not atypical but instantiate the realities of contemporary industrial relations in a large part of the developing world. The narrative of collective bargaining parallels developments elsewhere, particularly in terms of the breakdown of industry-level bargaining and its replacement by firm-level bargaining, emaciated and acquiescent trade unions and weakening of class solidarity in the context of technology-led fragmentation of work (Chakraborty et al., 2019).