# BFI LD 2017 - Unions

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## Topic Introduction

“Resolved: In the United States, workers ought to have a civil right to unionize”

This topic asks debaters to examine unionization of workers in the US, and the ability to access unionization. Before understanding the potential viewpoints of the topic, it is important to fully understand the context behind the resolution. After the Great depression, alongside the progressive legislation of the New Deal also came the National Labor Relations Act to empower workers and strengthen the middle class. The bill allows for private sector workers to form a trade union, engage in collective bargaining for better terms and conditions for work, and utilize collective actions such as striking. Workers were empowered, and their voices were influential in politics. Organized labor worked alongside other campaigns for progressive causes, such as the fight for civil rights alongside the African-American community. Despite this, the right to unionize was never in the legislation, even though that was an important belief that Dr. Martin Luther King Jr. advocated for himself. However, as decades went by, US union participation rates fell sharply, now behind almost every major developed nation. So why should unionization be a civil right? Many scholars argue that the consequences for firing a worker for being interested in or joining a union are too weak to be upheld. Since the worse scenario for an employer who fired a worker is reinstating them and providing back-pay for when they didn’t work, many employers have used this tactic to scare other workers from even considering being pro-union. According to Union Member Summary from the Bureau of Labor Statistics, the percentage of workers belonging to a union in 2013 was 11.3%, where in 1983, 20.1% were union members. These scholars note, that when you compare these number to those who desire union membership but are not in them, 53% of non-union workers according to a study from the Economic Policy Institute in 2005, that it seems as if something is preventing people from accessing union membership. More conservative scholars disagree, and believe that the economic competitiveness of globalization has shrunk unions due to foreign labor out-competing US labor. Some also believe that the major policy changes that unions pushed for has already been accomplished, which has made them irrelevant to modern workers. Some skeptics to this frame have pointed out that conservative policies, such as right to work legislation, has shrunk the funds of unions by allowing workers to opt out of union dues, which has resulted in union’s inability to fund politicians who wish to push forward pro-labor policies.

A policy focus on this topic will deal with questions regarding the differences between protecting the right of unionization between the current NLRA protections, versus the protections of a civil right. It is likely there will be discussions on the economic effects of increased union participation on the economy. Solid affirmative ground will likely be the faster and more effective legal protections of worker’s ability to unionize, and problematizing the current protections under the NLRA. The affirmative can also argue that increased union participation is beneficial to a middle class democracy. Some scholars have analyzed that minority groups especially benefit from union membership, which makes union accessibility a racial issue. The negative could argue that current laws in place are sufficient to protect worker’s ability to unionize, and that unions drain worker’s money and don’t provide them with any additional benefits. The negative could also argue that making unionization a civil right could increase the number of times employers are sued for firing employees, which could slow down the process.

A more philosophical prospective would grapple with questions of freedom of association, and similar protections established by the First Amendment. Potential affirmative ground is to argue that the freedom of association is a key tenet to a strong democracy, as it incentivizes participation in civil society. Negative ground can borrow insight from critical theory, and problematize the notions behind a civil right, and its connection to citizenship. Clashing with the affirmative, the negative could also argue that freedom to association also protects hate groups ability to express their beliefs such as the rise of the alt-right. Another philosophical perspective that could be analyzed is intersectionality - the ways in which oppression is web-like by many causes: race, gender, ethnicity, religion, disability, among others. Affirmative’s could uphold this value by arguing from a policymaking perspective, whereas the negative could challenge the utilization of the legal system of the state as an anti-intersectional action.

For the purpose of this file, you will find arguments that approach this topic primarily from radical perspectives. The affirmative is a more traditional defense of collective rights, and more specifically freedom of association, linked to the constitutional readings of labor laws, arguing for unionization to be defended as a civil right. There is much more research to do here, but this is a starting point for which you can develop a more competitive strategy. Similarly, the negative arguments approach questions of civil rights by focusing on the justifications behind individuals possessing human rights - which is the legal term *habeas corpus,* meaning, “you own the body” - and presents this as a problematic process. Through questioning the logic of inclusion and post-racial progress, the negative stages a criticism that the utilization of rights based on what the ideal liberal citizen is, always continues violence against those who do not fit that image. Whereas this is a brief introduction into some of the possible starting points for this resolution, there is a lot more literature on the topic out there. Further analysis such as comparative international political effects of unions, as well as more philosophical and policymaking based justifications for unionization. I believe this file is a good starting point for folks. Good luck, and enjoy the debates y’all!

### Further Reading

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## Affirmative

### Top of Case

FROM the 1940s to the 1970s, organized labor helped build a middle-class democracy in the United States. The postwar period was as successful as it was because of unions, which helped enact progressive social legislation from the Civil Rights Act to Medicare. Since then, union representation of American workers has fallen, in tandem with the percentage of income going to the middle class. Broadly shared prosperity has been replaced by winner-take-all plutocracy.

Kahlenberg and Marvit 2012 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “A Civil Right to Unionize”, The New York Times, *The Opinion Pages*, Feburary 9th 2012.)

#### Because of this insight from Richard Kahlenberg and Moshe Marvit that I affirm the following resolution:

#### *In the United States, workers ought to have a civil right to unionize.*

To offer clarity for this debate, I present the following definitions:

#### Civil Right

Cornell Law Legal Information Institute (online)

A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury.

#### Unionize

Cambridge Dictionary (online)

To form a labor union, or to organize workers into a labor union

#### For today’s debate I offer the value of collective rights, which

The American Civil Liberties Union explains that (“Collective Bargaining and Civil Liberties”, ACLU, no date)

Why are the rights to form a union and engage in collective bargaining civil liberties? Collective action is often necessary to protect individual rights. Unions by their nature facilitate and enhance the exercise of core civil liberties, such as the right of association, speech, and petition. Collective rights are necessary to protect individual rights. Collective bargaining statutes take into account the economic reality that individual workers typically lack the economic bargaining power to stand up meaningfully for their individual rights. Collective bargaining statutes recognize the principle that collective action is often necessary to protect individual rights. The ACLU has consistently stood up for this principle. For example, we recently filed a brief in the Supreme Court in Wal-Mart Stores, Inc. v. Dukes, a case involving the use of class actions to challenge gender discrimination. We argued that the ability of workers to challenge gender discrimination in the workplace through class action litigation is critical to realizing the promise of our nation's civil rights laws because retaliation and economic barriers to litigation often render individual enforcement efforts impracticable. In both litigation and negotiation, collective action helps to promote robust enforcement of individual rights.

#### In order to promote collective rights, I propose a criterion of freedom of association, which

Democracy Web explains that (“Freedom of Association: Essential Principles”, Democracy Web: Comparative Studies in Freedom, no date)

The exercise of freedom of association by workers, students, and others in society has always been at the heart of the struggle for achieving and defending democracy around the world. Without freedom of association, other freedoms lose their substance. It is impossible to defend individual rights if citizens are unable to organize in groups around common needs and interests. Tom Kahn, a noted civil rights and worker rights activist, wrote, "Freedom of expression without freedom of association is the right to speak freely in the wilderness." Most political theorists consider freedom of association to be essential to the development of civil society and thus to the strength of democracy. Through his exploration of the United States, Alexis de Tocqueville came to believe that the manifold organizations and associations that made up civic life in every community were "the mother of science" of any democracy, the social development upon which all other progress depended. Civil society, by organizing citizens outside of state control, also guards against tyranny. Dictatorships typically view free organizations of citizens, and especially trade unions, as threats and target them for repression, takeover, or closure. Totalitarian states go further: they not only destroy all existing forms of free association but also coerce citizens’ participation in state-controlled institutions and mass-mobilization campaigns in order to exert control over the society.

### Contention 1: The right-wing attack on unions shows the dangers of neoliberal logic and policy

#### With Republican control of governmental power, Trump and the GOP are preparing an all-out assault on unions

Miller 2017 (Justin, a writing fellow for the American Prospect, “Kentucky’s Attack on Unions Provides a Glimpse into the GOP’s Impending War on Workers”, the American Prospect, January 10)

While Donald Trump supporters celebrated their candidate’s massive upset on Election Day, Kentucky Republicans were joyous for an additional reason: They had just seized control of what had been the last majority Democratic legislative chamber in the South. For 95 years—all the way back to 1921, when Warren G. Harding was president—Kentucky Democrats had maintained control of the state House of Representatives. When Tea Party darling Matt Bevin, who ran as the “right-to-work” candidate, rode the national GOP wave and succeeded Democratic Governor Steve Beshear in 2014, the Kentucky House became the sole bulwark blocking the implementation of his anti-union agenda. Naturally, heading into the 2016 elections, the right wing turned all its firepower against the Democrats’ six-seat house majority. It worked—and it wasn’t even close. Republicans won an astounding 13 seats to gain a commanding 64-36 majority, making Kentucky one of 25 states with GOP trifecta-control. It didn’t take long for Republican legislators to introduce their stable of anti-union measures: a right-to-work bill that bans unions from requiring mandatory dues for all workers covered by their contracts; a repeal of the state’s prevailing wage law, meaning that public construction projects would no longer be required to pay their workers based on a community survey (usually meaning a union pay-scale); and banning public-employee unions from striking and from using member dues for political contributions. With Democrats completely out of power, unions had little recourse—beyond workers protesting in the chambers—to combat the legislative onslaught. With Democrats completely out of power, unions had little recourse—beyond workers protesting in the chambers—to combat the legislative onslaught. Over the weekend, Republicans passed all three bills (in addition to a 20-week abortion ban) with emergency clauses ensuring they would be implemented immediately after Bevin signs them into law. Kentucky is now the 27th right-to-work state, and the last state in the South to pass such a law. “It’s an attack on the working people,” Chris Kendall, a member of a Kentucky Plumbers and Steamfitters Union local told the Lexington Herald-Leader as he protested right-to-work at the state capitol in Frankfort on Saturday. “It’s almost like we’re the enemy somehow, that it’s the politicians against us. And all we’re trying to do is earn an honest day’s wage.” It’s also the first of many attacks on unions that will materialize during the Trump presidency. In public, conservatives argue that right-to-work is about ensuring freedom in the workplace by using fear-mongering rhetoric about mandatory union membership. But they fail to mention that, by law, union membership can’t be mandatory; it’s the payment of union dues for collective bargaining services—which benefit all workers in unionized shops—that is required with union security clauses. The reality, as research consistently shows, is that, on average, workers make less—about 3.1 percent—in states with right-to-work laws compared with states without those laws. Right-to-work’s other effect is to create a “free rider” problem for unions, which are forced to provide services for all workers in union shops without any compensation from the non-members they bargain for and represent in disputes with management. Conservatives also argue that prevailing wage laws are a leading cause of bloated government spending. What surveys have shown, however, is that there are no adverse affects associated with government projects that pay a prevailing wage. Attacking unions is a top GOP priority not because of actual concern for workers or public services. Rather, it’s about undermining the left’s most effective tool for convincing working people to vote for more pro-worker candidates, who are almost invariably Democratic, and curtailing unions’ ability to finance Democratic candidates. Right-to-work laws and bans on political contributions from dues are primarily about draining unions’ coffers and breaking up concentrated worker power. Kentucky was once a union stronghold, thanks to strong membership density in the state’s heavy-industry sectors like coal mining and manufacturing. But, as those types of jobs have disappeared and the GOP’s war on unions ramped up, Kentucky’s union membership dramatically eroded—a trend that has played out across the country. The state’s union membership reached its peak in 1989, but has fallen since then. In 2015, 11 percent of Kentucky’s workforce— about 187,000 workers—was unionized, according to the Bureau of Labor Statistics. Right-to-work will only further accelerate that decline. The Bevin-led attack on Kentucky workers comes straight out of the right-wing playbook for states. The Bevin-led attack on Kentucky workers comes straight out of the right-wing playbook for states. Since the 2010 elections, Republicans, with ample funding from the Koch brothers, have pushed through right-to-work and prevailing wage repeals in such former union strongholds as Indiana, Michigan, West Virginia, and Wisconsin. With statehouse gains in 2016, Republicans are also expected to pass right-to-work measures in Missouri and New Hampshire. But that’s not all. With Trump’s win and the GOP’s continuing majorities in the House and Senate, the party now has unified federal control for the first time since 2006—and in those 10 years, the party’s anti-union strain has become even more mainstream and vitriolic. Republicans in the House and Senate will soon begin pushing for a national right-to-work law and a repeal of the Davis Bacon Act (the federal prevailing wage), bringing to the national stage what has for the past decade been limited to state-level fights. Trump has already indicated his support for a national right-to-work law and his top allies, from Vice President-elect Mike Pence on down, have close ties to the Kochs’ anti-union political crusade in the states. The challenge for unions in a right-to-work landscape becomes a battle for relevance—and convincing members that the services unions provide are still important. Whether they can do that in Kentucky, and soon, nationwide, is a question that looms large for the future of the labor movement.

#### This attack on labor has stemmed from the neoliberal logic of rugged individualism, which has resulted in financial meltdowns, environmental insecurity, and Trumpism - the only way to resist is through empowering collective associations

Monbiot 2016 (George, “Neoliberalism - the ideology at root of all our problems”, The Guardian, April 15th 2016)

Imagine if the people of the Soviet Union had never heard of communism. The ideology that dominates our lives has, for most of us, no name. Mention it in conversation and you’ll be rewarded with a shrug. Even if your listeners have heard the term before, they will struggle to define it. Neoliberalism: do you know what it is? Its anonymity is both a symptom and cause of its power. It has played a major role in a remarkable variety of crises: the financial meltdown of 2007‑8, the offshoring of wealth and power, of which the Panama Papers offer us merely a glimpse, the slow collapse of public health and education, resurgent child poverty, the epidemic of loneliness, the collapse of ecosystems, the rise of Donald Trump. But we respond to these crises as if they emerge in isolation, apparently unaware that they have all been either catalysed or exacerbated by the same coherent philosophy; a philosophy that has – or had – a name. What greater power can there be than to operate namelessly? Inequality is recast as virtuous. The market ensures that everyone gets what they deserve. So pervasive has neoliberalism become that we seldom even recognise it as an ideology. We appear to accept the proposition that this utopian, millenarian faith describes a neutral force; a kind of biological law, like Darwin’s theory of evolution. But the philosophy arose as a conscious attempt to reshape human life and shift the locus of power. Neoliberalism sees competition as the defining characteristic of human relations. It redefines citizens as consumers, whose democratic choices are best exercised by buying and selling, a process that rewards merit and punishes inefficiency. It maintains that “the market” delivers benefits that could never be achieved by planning. Attempts to limit competition are treated as inimical to liberty. Tax and regulation should be minimised, public services should be privatised. The organisation of labour and collective bargaining by trade unions are portrayed as market distortions that impede the formation of a natural hierarchy of winners and losers. Inequality is recast as virtuous: a reward for utility and a generator of wealth, which trickles down to enrich everyone. Efforts to create a more equal society are both counterproductive and morally corrosive. The market ensures that everyone gets what they deserve. We internalise and reproduce its creeds. The rich persuade themselves that they acquired their wealth through merit, ignoring the advantages – such as education, inheritance and class – that may have helped to secure it. The poor begin to blame themselves for their failures, even when they can do little to change their circumstances. Never mind structural unemployment: if you don’t have a job it’s because you are unenterprising. Never mind the impossible costs of housing: if your credit card is maxed out, you’re feckless and improvident. Never mind that your children no longer have a school playing field: if they get fat, it’s your fault. In a world governed by competition, those who fall behind become defined and self-defined as losers. Among the results, as Paul Verhaeghe documents in his book What About Me? are epidemics of self-harm, eating disorders, depression, loneliness, performance anxiety and social phobia. Perhaps it’s unsurprising that Britain, in which neoliberal ideology has been most rigorously applied, is the loneliness capital of Europe. We are all neoliberals now.

### Contention 2: Status quo labor laws are ineffective at protecting labor organization

#### Current federal law has failed at protecting freedom of association, punishments are too weak

Blumgart 2012 (Jake, freelance reporter and editor, “Should Joining a Union be a Civil Right?”, AlterNet, March 9th 2012)

Contemporary American businesses show little compunction at breaking the central pillar of American labor relations, the National Labor Relations Act (NLRA), and firing workers who express a desire for representation. Terminate a few prominent union supports, let fear keep the rest of the workforce in check, and let the vast majority of profits flow to management and shareholders, instead of to the workers who create them. A recent study by Kate Brofennbrenner of Cornell University’s School of Industrial and Labor Relations, shows that employees are fired in more than one in three union organizing drives. And that may be an underestimate. By Bronfenbrenner’s accounting less than half of unfair labor practices (firings, wage cuts, harassment, and surveillance) are reported, often because the remaining employees fear further reprisals. Employers ignore the NLRA with impunity because labor cases are arbitrated under a substantially weaker legal regime than the rest of American law. There is no jury and pre-trial discovery is not allowed, meaning the prosecutors have to solely rely on publicly available information, documents the company offers, and witness accounts, which probably includes testimony from (nervous) workers still employed at the firm. No recourse is allowed outside the NLRB and claims cannot be taken up in federal court. The process can take up to three to five years and, in 2009, the fines paid by lawbreaking firms only averaged $5,149 per employee. (Employees terminated for organizing are required to look for work and wages are then deducted from the NLRB settlement.) Compare that paltry sum to the wages and benefits the employers would have to pay to the whole workforce if the union won. The incentives are entirely in favor of breaking the law.

#### Making unionization a civil right provides necessary legal protections for labor, making it an essential collective right

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Want to Realize the Civil Rights Act’s Dream? Apply it to Union Rights, Too”, New Republic, February 16th 2014)

What is to be done? To reduce discrimination and to give genuine choice to workers, the Civil Rights Act of 1964 should be updated to outlaw the firing or demotion of employees for union organizing activities. This would help advance the original goal of the Civil Rights Act— reducing racial discrimination and broadening the black middle-class—while also helping workers of all colors. And amending the Civil Rights Act to help protect workers trying to unionize offers two critical advantages over existing labor laws. First, sanctions under the Civil Rights Act pack more punch than those under the National Labor Relations Act. An employee wrongfully terminated under labor laws gets back pay and reinstatement, while those wrongfully fired under the Civil Rights Act get much more: injunctive, compensatory and punitive damages in federal court. These penalties can have an important deterrent effect on employers. Indeed, research by Stanford University’s Gavin Wright finds that the Civil Rights Act had a significant beneficial economic effect for African Americans in the region of the United States most blighted by discrimination. In the South, Wright found important gains, especially in the large southern textile industry. From 1930-1964, the percentage of African American males in the South Carolina textile industry hovered around 5%, and the percentage of African American females was virtually zero. However, starting after the passage of the Act, the number grew precipitously, such that by 1981 the textile industry workforce was 19% African American male and 15% African American female. Beyond textiles, the data on Southern cities similarly bears out Wright’s conclusion that the Act led to increased levels of employment and upward mobility for African Americans on a regional basis. For example, in 1960, the percentage of black managerial employees in Charlotte, Atlanta, and Birmingham was 4%, 4.3%, and 7% respectively. By 2000, the figures were 16.2%, 23.9%, and 50.3% respectively. Second, connecting a worker’s right to organize with the Civil Rights Act could revive the stigma that was once associated with union busting. “One of the great achievements of the Civil Rights Revolution,” Harvard Law professor Randall Kennedy has written, “was its delegitimization of racial prejudice.” Indeed, it did so in a surprisingly rapid pace. As Wright notes: “acquiescence in the Civil Rights revolution has been so complete, at least in public discourse, that it is difficult to find white southerners willing to acknowledge, much less explain and defend their earlier choices.” It is now considered shameful to be found guilty of violating the Civil Rights Act and employers hire human resource managers to avoid the prospect. Including labor protections under a civil rights rubric could help make discrimination against union organizers culturally unacceptable.

### Contention 3: The assault on unions disproportionately effects marginalized people, which further stratifies the accessibility for quality of life

#### Unionization must be a civil right - it’s uniquely a racial issue

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Want to Realize the Civil Rights Act’s Dream? Apply it to Union Rights, Too”, New Republic, February 16th 2014)

This rise in union discrimination and decline in union membership hurts all workers, but it hurts African American workers disproportionately. At the precise historical moment when blatant racial discrimination began to wane, black workers began to lose what had been for white workers a key ladder enabling social mobility: access to a union job with good wages. Researchers at the Center for American Progress have found that the decline in the percentage of unionized workers tracks very closely to the decline in the share of the nation’s income that goes to the middle class. Moreover studies have shown that the wage premium accompanying union membership is highest for African Americans, women, and people of color. Because collective bargaining contracts reduce employer discretion, racial and gender discrimination is generally lower in workplaces where employees have union representation.

#### Unions are the collective structure for labor power, which is needed to resist ongoing wealth inequality

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Making Workers Rights a Civil Right”, The Hill, July 30th 2014)

More broadly, labor unions fight for workers of all races to receive a fair share of productivity gains. Not surprisingly, researchers have found that as the strength of organized labor has declined, so has the proportion of income going to the middle class. International competition has also eroded labor’s strength, but our weak laws play an independent role, as other countries, subject to the same globalization pressures, have not seen a comparable decline in unions or a comparable rise in income inequality. People think of inequality as inevitable, “like the weather,” Ellison suggests, but the German example shows that a society, with strong unions, can be both highly competitive and equitable. A half-century ago, the AFL-CIO was a political powerhouse that aided in the cause of civil rights. Former Missouri Democratic Rep. Richard Bolling argued, “We would never have passed the Civil Rights Act without labor. They had the muscle; the other civil rights groups did not.” Today, with labor on the defensive, representing fewer than 7 percent of private-sector workers, civil rights advocates in Congress are lending their moral authority to suggest that civil rights tools be employed to help strengthen the bargaining position of workers. In doing so, leaders are picking up the mantle of Dr. King, who saw the strong connections between the union and civil rights movements. “The two most dynamic and cohesive liberal forces in the country are the labor movement and the Negro freedom movement,” he suggested in 1961. “Together we can be architects of democracy.”

### Extensions

#### The most comprehensive study on worker’s ability to unionize and employer response has shown the legal system is currently failing to protect the right to collective bargaining

Bonfrenbrenner 2009 (Kate, “NO HOLDS BARRED: The Intensification of Employer Opposition to Organizing”, The Economic Policy Institute, Briefing Paper #235, May 20)

This study is a comprehensive analysis of employer behavior in representation elections supervised by the National Labor Relations Board (NLRB). The data for this study originate from a thorough review of primary NLRB documents for a random sample of 1,004 NLRB certification elections that took place between January 1, 1999 and December 31, 2003 and from an in-depth survey of 562 campaigns conducted with that same sample. Employer behavior data from prior studies conducted over the last 20 years are used for purposes of comparison. The representativeness of the sample combined with the high response rate for both the survey (56%) and NLRB unfair labor practice (ULP) charge documents (98%) ensure that the findings provide unique and highly credible information. In combination, the results provide a detailed and well-documented portrait of the legal and illegal tactics used by employers in NLRB representational elections and of the ineffec- tiveness of current labor law policy to protect and enforce workers rights in the election process. Highlights of the study regarding employer tactics in representational elections include: • In the NLRB election process in which it is standard practice for workers to be subjected to threats, inter- rogation, harassment, surveillance, and retaliation for union activity. According to our updated findings, employers threatened to close the plant in 57% of elections, discharged workers in 34%, and threatened to cut wages and benefits in 47% of elections. Workers were forced to attend anti-union one-on-one sessions with a supervisor at least weekly in two-thirds of elections. In 63% of elections employers used supervisor one-on-one meetings to interrogate workers about who they or other workers supported, and in 54% used such sessions to threaten workers. • In combination, our survey and ULP findings reveal that employer opposition has intensified: the incidence of elections in which employers used 10 or more tactics more than doubled compared to the three earlier periods we studied, and the nature of campaigns has changed so that the focus is on more coercive and punitive tactics designed to intensely monitor and punish union activity. • Many of these same tactics have been key elements of employer anti-union campaigns that we have studied for the last 20 years.1 Although the use of management consultants, captive audience meetings, and supervisor one-on-ones has remained fairly constant, there has been an increase in more coercive and retaliatory tactics (“sticks”) such as plant closing threats and actual plant closings, discharges, harassment and other discipline, surveillance, and altera- tion of benefits and conditions. At the same time, employers are less likely to offer “carrots,” as we see a gradual decrease in tactics such as granting of unscheduled raises, positive personnel changes, promises of improvement, bribes and special favors, social events, and employee involvement programs. • Unions filed unfair labor practice charges in 39% of the survey sample and 40% of the NLRB election sample. e survey and NLRB documents both show that the most aggressive employer anti-union behavior—that is, the highest percentage of allegations—were threats, discharges, interrogation, surveillance, and wages and benefits altered for union activity. • e character of the process in the private sector is illuminated by survey data from the public-sector campaigns, which describe an atmosphere where workers organize relatively free from the kind of coercion, intimidation, and retaliation that so dominates in the private sector. Most of the states in our public-sector sample have card check certification as the primary means through which workers are organizing, where the employer is required to recognize the union if the majority of workers sign cards authorizing the union to represent them. Highlights of the study regarding NLRB ULP charges include: • Twenty-three percent of all ULP charges and 24% or more of serious charges—such as discharges for union activity, interrogation, and surveillance—were filed before the petition for an election was filed, and 16% were filed more than 30 days before the election petition was filed. ese data confirm that employer campaigning, including the employer free speech provision, does not depend on a petition to kick into effect. • Forty-five percent of ULP charges resulted in a “win” for the union: either the employer settled the charges or the NLRB or the courts issued a favorable decision. • irty-seven percent of ULP charges result in the issuance of a complaint by the NLRB. Twenty-six percent are withdrawn by the union prior to the complaint being issued, and 23% are found to have no merit. Just under a third of all charges are resolved in whole or in part at the settlement level with 14% settling before the complaint is issued, with 18% settling after the complaint but before the Administrative Law Judge (ALJ) hearing process is complete. e content of the settlements is very similar except that settlements prior to merit determination are less likely to include reinstatement than those settled after the complaint. • Employers tend to appeal most ALJ decisions, particularly Gissel bargaining orders and orders for second elections. is means that in the most egregious cases the employer is able to ensure that the case is delayed by three to five years, and in all the cases in our sample the worst penalty an employer had to pay was back pay, averaging a few thousand dollars per employee. • Our findings and previous research suggest that unions are filing ULPs in fewer than half the elections for three main reasons: filing charges where the election is likely to be won could delay the election for months if not years; workers fear retaliation for filing charges, especially where the election is likely to be lost; and the weak remedies, lengthy delays, and the numerous rulings where ALJ recommendations for reinstatement, second elections, and bargaining orders have then been overturned, delayed, or never enforced, have diminished trust that the system will produce a remedy. In 2007 there were only 1,510 representation elections and only 58,376 workers gained representation through the NLRB. Even for those who do win the election, 52% are still without a contract a year later, and 37% are still without a contract two years after an election. Yet researchers such as Freeman (2007) are showing that workers want unions now more than at any other time in the last three decades. Our findings suggest that the aspirations for representation are being thwarted by a coercive and punitive climate for organizing that goes unrestrained due to a fundamentally flawed regulatory regime that neither protects their rights nor provides any disincentives for employers to continue disregarding the law. Moreover, many of the employer tactics that create a punitive and coercive atmosphere are, in fact, legal. Unless serious labor law reform with real penalties is enacted, only a fraction of the workers who seek representation under the National Labor Relations Act will be successful. If recent trends continue, then there will no longer be a functioning legal mechanism to effectively protect the right of private-sector workers to organize and collectively bargain.

#### **The current laws under the NLRA cannot protect workers - this is why it needs to be a civil right**

Bonfrenbrenner 2009 (Kate, “NO HOLDS BARRED: The Intensification of Employer Opposition to Organizing”, The Economic Policy Institute, Briefing Paper #235, May 20)

The most important part of the Rugby story is not the most dramatic—the discharges and layoffs—but rather the full arc of the employer’s plan, which in fact started not with the meeting with the supervisors, but as Bogas points out in his decision, with its aggressive union-free policy. This policy was clearly outlined in the employee handbook, and read out loud to all new employees upon hiring. It made it clear that unions would not be tolerated, laying the groundwork for the aggressive and intense effort that followed. But the model that Rugby and so many others of these campaigns adopt is one in which the priority task of frontline supervisors is to ascertain through whatever means possible the leanings of every worker and then use the more aggressive retaliatory tactics to sway those leaning toward unionization. A case such as Rugby reminds us of the great deficiencies of the regulatory regime under which private- sector workers organize in this country. e United Steel- workers did file multiple unfair labor practices at Rugby for the discharges, interrogation, no solicitation policy, threats, layoffs, and denial of recall. It took a year to finally get a consolidated complaint, another year before the ALJ decision, and it was not until January 2003 (more than two years after the election) that the ALJ decision was fi- nally enforced. e decision is what by NLRB standards would be considered “favorable” for the workers and the union. Rugby was found to have violated the NLRA on all charges except one of the discharges, and so was or- dered to offer full reinstatement and a back pay award totaling more than $217,000 to be divided up among the 16 workers who lost their jobs (one discharged and the rest laid off and not recalled). In addition, Rugby had to post a notice in all its facilities stating it would cease and desist from all such violations from that point forward.14 However, in a case like this, where two years had gone by before the final NLRB decision, most laid-off workers had had to leave town to find employment and weren’t coming back. Ultimately, only one of the 16 union activists was reinstated, and the union was unable to win a second elec- tion. In July 2007, six years after the workers first tried to organize at Rugby, they did win representation with a different union (NLRB Reports 2007), but 15 out of 16 workers who had been wrongfully terminated for leading the first organizing effort at Rugby, and had to move out of town to even find another job, never obtained union representation at Rugby. The Rugby story comprises the key elements of our new survey findings. Employer campaigns have become more coercive, with an early emphasis on interrogation and surveillance to identify supporters, followed by threats and harassment to try to dissuade workers from supporting the unions, moving then to retaliation against employees who continue to move forward with the union campaign. Employers may still use promises, wage increases, social events, and other softer tactics, but with much less fre- quency and not as the focus of their campaigns.

#### Status quo labor laws are ineffective at protecting labor unionization

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Making Workers Rights a Civil Right”, The Hill, July 30th 2014)

Today, it is technically illegal under the National Labor Relations Act to fire individuals for trying to organize a union, but employers routinely break the law because the penalties are extremely weak. Even if employees win a judgment from the National Labor Relations Board, they just receive back pay and reinstatement in their jobs. Freedom House notes that U.S. laws are particularly ineffective in protecting the right to organize compared to other advanced democracies. By contrast, our civil rights protections are relatively strong and include compensatory and punitive damages, as well as the right to engage in legal discovery and to win attorneys’ fees, when one prevails in federal court. Discriminating against those trying to organize can be an extremely effective employer tactic, as the union ringleaders are jettisoned from the workplace and most other employees get the message and become paralyzed with fear. “Most people want a union, but they need a job,” Ellison said. Harvard labor economist Richard Freeman completed a large study in 2007 that found if workers were provided the union representation they desired, the overall unionization rate would have been 58 percent, whereas the actual rate was 12 percent. Another study that same year found almost 1 in 5 union activists could expect to be fired as a result of their organizing activity. Many have linked employers’ ability to discriminate against union activity to the significant gap between employee desire for unionization and declining rates of union density. This type of discrimination has increased significantly in the decades since passage of the Civil Rights Act, even as outright discrimination based on race and national origin has declined.

#### It has become culturally acceptable to attempt to bust unions

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Want to Realize the Civil Rights Act’s Dream? Apply it to Union Rights, Too”, New Republic, February 16th 2014)

Those protections used to be embedded in the American social contract. In the 1950s, when labor was strong, there was a cultural norm of not firing people simply for trying to join a union. There was a bipartisan acceptance of labor. Republican President Eisenhower recognized that "Workers have a right to organize into unions and to bargain collectively with their employers. And a strong, free labor movement is an invigorating and necessary part of our industrial society." However, beginning in the 1960s, employers significantly increased their discrimination, openly flaunting weak laws that protect labor rights. Where anti-union consultants used to be minor players, by 2004 76% of employers hired such consultants prior to a union election, making such anti-union work a $4 billion-a-year industry. Indiana law professor Kenneth Dau-Schmidt has found that between 1955 and 1978, the number of complaints brought before the NLRB increased from approximately 6,000 to 40,000. Similarly, Harvard law professor Paul Weiler found that between 1957 and 1980, the number of employees entitled to reinstatement after being fired for their union activity increased 1,000%. Employers have discovered that the best way to stop a union organizing drive in its tracks is to fire the ringleaders and scare everyone else. Although this is technically illegal under the National Labor Relations Act (NLRA), employers pay the small penalties assessed as a cost of doing business. Essentially, we’ve seen a major cultural flip: While it used to be unacceptable to fire based on union participation, and acceptable to fire based on race, today, employers are reluctant to openly discriminate based on race, given the social stigma and legal sanctions associated with violating the Civil Rights Act. But firms routinely discriminate against people trying to form a union, and few people outside the labor movement raise concerns when individuals are illegally terminated.

#### Unions are key for minority empowerment in the economy

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Making Workers Rights a Civil Right”, The Hill, July 30th 2014)

Discrimination based on organizing hurts all workers but minority workers in particular, as they are more likely than whites to support joining a union and receive a larger wage premium from collective bargaining. Lewis, probably the nation’s most revered civil rights figure alive today, and Ellison, a rising star of the progressive movement, argue that, in order to finish the job set out by civil rights advocates — bringing economic equality to disadvantaged minorities — the right to engage in collective bargaining must be protected.

### A2: Unions Decrease Jobs

#### Unions haven’t caused a loss in US manufacturing - many other alternative causes

Bivens 2009 (Josh, “SQUANDERING THE BLUE COLLAR ADVANTAGE: Why Almost Everything Except Unions and the Blue-Collar Workforce Are Hurting U.S. Manufacturing”, The Economic Policy Institute, Briefing Paper #229, February 12)

It has become convenient in some circles to blame unions for the hemorrhaging of jobs in the manufacturing sector. The facts, however, simply do not support that argument. Instead, the main culprit for manufacturing’s troubles over the past decade is an overvalued U.S. dollar. Smaller contributors to manufacturing’s decline include a dysfunctional health care system and the high labor costs of managers and executives. What is equally clear is that the pay and productivity of blue-collar workers in manufacturing are clearly not a competitive drag. In fact, these workers actually earn lower wages than many of the most important U.S. trading partners while simultaneously posting higher productivity levels. In short, the relatively low pay and high productivity of the blue-collar workforce in the U.S. manufacturing sector provides an important competitive edge over its trading partners. is report documents that competitive edge and how it has been squandered. • U.S. manufacturing workers are not overpaid. Of the 20 richest countries tracked by the U.S. Bureau of Labor Statistics, the United States ranks 17th in hourly pay for production workers in manufacturing. is group of trading partners accounts for almost half of total U.S. trade ows. • U.S. manufacturing workers are highly productive. Of the 16 nations with higher compensation for produc- tion workers in manufacturing, the United States ranks behind only Ireland (a nation with a manufacturing workforce less than 2% as large as that of the United States) in terms of “value-added per employee” (a rough measure of productivity). • Pay and productivity levels should translate into a competitive edge. e combination of relatively low compen- sation and high productivity means that U.S. manufacturing leads the world in terms of competitiveness of per unit costs of manufacturing output. The overvalued U.S. dollar hurts U.S. competitiveness. is competitive advantage has, however, largely been o set in the past decade by the overvalued dollar. Exchange rates in the last 10 years have essentially given U.S. trading partners a 10-16% cost advantage compared to the previous decade. • Health care costs hurt U.S. manufacturers. If average health care costs in the United States were the same as those of its comparable trading partner, U.S. manufacturing workers could earn what they do today and still reap a 4.6% cost advantage relative to our major trading partners. • U.S. managers are overpaid. If the wages claimed by managerial and supervisory labor in the United States were the same as the median of comparable countries, U.S. manufacturing would have a 6.4% cost advantage over major trading partners. This briefing paper shows that the dollar’s value relative to other currencies is the single most important reason for manufacturing’s problems over the past decade. It also identi es other likely factors undermining U.S. manufacturing competitiveness. High wages for blue-collar workers in manufacturing is not among them.

### A2: Globalization Shrunk Unions

#### Globalization is not the cause of shrinking unions, other global powers still legally protect workers

Kahlenberg and Marvit 2014 (Ricard, a senior fellow at the Century foundation. Moshe, a labor and job discrimination lawyer. Both are authors of “Why Labor Organizing Should be a Civil Right: Rebuilding a Middle-Class Democracy and Enhancing Worker Voice”. “Want to Realize the Civil Rights Act’s Dream? Apply it to Union Rights, Too”, New Republic, February 16th 2014)

Organized labor’s collapse is usually attributed to technological changes and the rise of globalization, but those explanations are incomplete. Freedom House has found that the United States is an outlier among industrial democracies in failing to protect labor rights. Other advanced nations, also subject to the forces of globalization, have significantly higher unionization rates because their laws and culture honor worker rights.

### A2: Court Clogging

#### **Making unionization a civil right is the fastest and most effective for administering justice**

Blumgart 2012 (Jake, freelance reporter and editor, “Should Joining a Union be a Civil Right?”, AlterNet, March 9th 2012)

It is for these reasons that Kahlenberg and Marvit argue that Title VII of the Civil Rights Act should be extended to cover labor organizing. In Why Labor Organizing Should be a Civil Right (available April 1), the authors claim it is time to change both the broken legal system that ineffectually “protects” American workers like Ballard, and the tactics of reformers who want to change it. Kahlenberg and Marvit first argue the legal case. Title VII provides a powerful defense against discrimination based on race, sex, age, and religion (among others). Under the Civil Rights Act the employee can opt out of the Equal Employment Opportunity Commission process (close to the civil rights equivalent of the NLRB) and take the case to a federal court, before a jury, where they are provided with the means to retain a lawyer if they do not have the necessary funds. Such suits are not an easy win. The opponent is almost always a business with substantial legal and monetary resources. But the incentives are not one-sided: Employees stand to win much more than $5,000. As Kahlenberg and Marvit note, “a plaintiff may be awarded a variety of remedies, including back pay (with interest), reinstatement or front pay, equitable relief, compensatory damages, and punitive damages.” Lost overtime, health and pension benefits are included, as are “money damages to cover emotional pain, suffering, inconvenience, mental anguish.” These cases also make the right of “discovery” available, opening up internal documents and data to the court and the public—a prospect many companies dread. In short, firing workers would no longer be a painless way to stamp out a union organizing drive.

### A2: Freedom of Association Protects Nazis

#### **Protecting freedom of speech and association for everyone is key to democracy, even if the beliefs are controversial**

Uddin 2010 (Asma, “Even Controversial Views Should Be Protected by Freedom of Speech”, Huffington Post, July 6th 2010)

As a human rights advocate, I recognize that defending speech I do not agree with comes at a personal cost. I struggled with this issue when I wrote about Geert Wilders’ trial in Holland, where he has been charged for violating Articles 137(c) and (d) of the Dutch criminal code for group insult of Muslims, inciting hatred of and discrimination against Muslims due to their religion, and fomenting hatred of non-Western immigrants. Wilders is by any measure completely biased against immigrants and Muslims, and saying anything remotely in his defense was painful. However, just as Voltaire is supposed to have said, “I disapprove of what you say, but I will defend to the death your right to say it,” I recognized that defending Wilders’ right to speak without legal limitations is necessary to protect everyone else’s right to speak freely as well. Anyone committed to freedom of speech should use a similar lens when viewing incidents like this past Sunday’s arrest of 42-year-old Baptist preacher Dale McAlpine, who was charged in Workington, Cumbria, UK with violating the Public Order Act. The Act, introduced in 1986 to regulate violent rioters and football hooligans, outlaws “the unreasonable use of abusive language likely to cause distress.” McAlpine’s crime? While giving a public sermon on Biblical sins from atop a stepladder, he mentioned to a passerby his religious belief that homosexuality is sinful. He was handing out leaflets about the Ten Commandments when a woman approached him and engaged him in a theological debate. During their conversation, McAlpine claims that he quietly mentioned that homosexual behavior is listed in the Bible among several other acts that are sinful. According to the arresting police officer, himself a homosexual man as well as the Cumbria police’s Lesbian, Gay, Bisexual and Transgender liaison officer, McAlpine expressed his views loudly enough for others to hear. For this, McAlpine was arrested and charged with using “abusive language” unreasonably to cause “harassment, alarm, or distress.” This is not the first time the Public Order Act has been used against individuals expressing religious views on sexuality. One man was convicted under Section 5 of the Act for holding a sign reading, “Stop Immorality. Stop Homosexuality. Stop Lesbianism. Jesus is Lord” while he was preaching publicly. Another man was arrested for handing out religious literature during a Gay Pride festival. Similar cases are seen in other countries, too. In Sweden, for instance, the government jailed Pastor Ake Green for preaching to his congregation that homosexuality is sinful. The Becket Fund for Religious Liberty filed an amicus brief on behalf of the Pastor, arguing that while his views on homosexuality are controversial and at odds with the beliefs, including religious beliefs, of many of Sweden’s citizens, that fact alone does not remove his speech from the protection of international religious freedom and free speech law. The right to religious liberty protects the expression of religious beliefs, as long as the speech is peacefully expressed. Valid limitations on such expression include threats to public order, safety, health, morals, or the fundamental rights and freedoms of other people. In the United States, the Supreme Court has held that the government can punish speech if it constitutes incitement to imminent violence, including, for example, terrorism or the speech of extremists who conspire to attack abortion doctors or destroy abortion clinics. The line in each case is drawn between violent and non-violent speech. The Public Order Act enforced in McAlpine’s case was presumably intended to regulate precisely these sorts of violations, but it is being used to limit non-violent, religious speech interpreted as “abusive” because it contravenes the prevailing opinion on homosexuality. This is a blatant misuse of the Act. Because human rights are universal and inalienable, they are not limited by relevance to a specific culture, time, or place. What is “controversial” varies according to circumstances, and just because it is controversial does not make it “bad” — sometimes a controversial statement is precisely what’s needed to push conversations in productive directions. Consider, for example, statements by activists like Arianna Huffington or Desmond Tutu that the U.S. wars in Afghanistan and Iraq are immoral. If the right to free expression was limited by time and culture-bound circumstances, such statements could never be made, and in time the right itself would be completely obliterated.

### A2: Unions are Lazy

#### The lazy union worker trope is a myth - bad management turns a company downhill, not the workers

Democratic Underground 2014 (“The myth of the lazy, overpaid union employee”, Democratic Underground, September 5th)

(In response to comments about janitorial staff earning $30 per hour as an example of union abuses). First of all, realize that the idea of $30/hour toilet cleaner is an extreme end of the anti-union argument. Yes, the janitorial staff could be considered overpaid, but in reality no one walks into the plant and just picks-up an easy job. Those who "clean toilets" are often older, or injured workers who simply cannot handle the physical labor of climbing in and under the dashboard of a moving vehicle 60-65 times an hour (or running a stamping press, machining gears, pouring molten metal in a foundry). And, yes you do get injured on these jobs whether immediately, or over time. This is no different than putting a cop who has been shot in the leg on desk-duty. So yes, to a certain extent "we take care of our own". At the other end of the scale you have the lazy worker who just doesn't give a damn, and deserves no "sympathy". But where do you assign the blame that allows such a worker to keep his/her job? I've worked with MANY of these types of people and VERY RARELY have I seen management follow through on the established discipline procedures. So who's the lazy one in the example? Management likes to grumble about how hard the union makes it to fire people, and then does nothing. Well, it isn't a case of "hard", it's a case of doing the job you agreed to (and get paid for) as a supervisor. You might think of the union (at the shop-floor level) as defense attorneys. To return to the example if the police; if the cops/prosecution do their jobs correctly, even the best lawyer won't set you free. If management does their job right, you can fire a bad worker. The UAW at the international (HQ) level, is much closer to corporate management than they'll ever admit. Joint union-corporate "training" funds have turned the UAW rotten to the core. CEOs and union leaders now play golf together, and have a good laugh about the workers who pay the dues. But this is a separate argument. ...Unless you've ever worked in an assembly plant -- I did, in both the "jungle" and the paint line at Belvedere and couldn't stand working there more than 18 months -- you really don't know what these people go through each day and why they get the wages they do. Remember, the company agreed to pay them the wages, so Management must understand and agree that the wages they are paying out are justified! Because Management doesn't do anything it doesn't want to! If it were not for unions, everyone in America would be working for less than minimum wage -- because minimum wage laws would not exist. Everyone would also be working 7 days a week -- "24/7" the new mantra for business -- because no "seventh day of rest provisions" would exist in labor law! You also would not have any holidays, vacations, health insurance or retirement benefits -- all union pushed ideas. So please, lay off the unions and focus on saving American jobs before it is too late! With regard to wage-scales, I'd have to rank labor costs at the bottom of things to be concerned about. The average production worker makes under $50,000 without overtime, while DCX VPs cash-in to the tune of tens-of-millions, whether they do a good job or not. And for the last 30-years, auto execs have done run the domestic industry pretty poorly. I don't want to hear industry execs making excuses about labor costs, unions, overcapacity, etc.! Start designing cars that people want to buy, build a good reputation, and image, and the public will beat-down the door and keep those factories running at full-capacity. Toyota pays its workers nearly the same wage as GM/Ford/DCX. Don't turn out a boring product like the current Concorde, market it poorly, watch it fail, do nothing to "tweak" sales or keep it fresh and then put it into competition with a car like the Toyota Camry. When the car gets slaughtered in the market, don't try and blame the workers who build it. WE didn't keep it the same since 1998! WE didn't make it look like a beached whale! WE didn't drag our feet for years on a warranty program! And most of all, WE THE WORKERS didn't turn a successful company upside down for personal gain, as did Robert Eaton, Dennis Pawley, Jim Donlon, and yes even the sainted Robert Lutz. This is Enron, Worldcom, Global Crossing without the high-tech dazzle. When our domestic industry buys a clue, and begins trying to sell more cars, rather than figuring out ways to shave .50 cents off the price of an ever-shrinking number of sales; I'll entertain arguments about labor costs. We can either argue amongst ourselves about the relative "crumbs" of a few bucks an hour, OR WE CAN WAKE UP AND GET WISE THAT A SELECT FEW WOULD TURN THE U.S. INTO A THIRD-WORLD NATION FOR THEIR OWN PERSONAL GAIN. In the big picture, this is what we're fighting against.

## Negative

### Top of Case

“When June Tyson repeatedly intones, “It’s after the end of the world. . . . Don’t you know that yet?” at the beginning of the Sun Ra Arkestra’s 1974 lm Space Is the Place, she directs our attention to the very real likelihood that another world might not only be possible but that this universe may already be here in the now.21 The only question that remains: do we have the tools required to apprehend other worlds such as the one prophesied by June Tyson and Sun Ra, or will we remain infinitely detained by the magical powers of Man’s juridical assemblage as a result of having consumed too much of his treacly Kool-Aid?

Weheliye 2014 (Alexander G. Weheliye, professor of African American studies at Northwestern University, “Habeas Viscus”, pg. 132)

#### It is because I agree with this insight from Alexander Weheliye, that I negate today’s resolution:

#### *In the United States, workers ought to have a civil right to unionize.*

In order to add clarity to this debate, I offer the following definitions: (or agree with the Affirmative’s definitions)

#### Civil Right

Cornell Law Legal Information Institute (online)

A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury.

#### Unionize

Cambridge Dictionary (online)

To form a labor union, or to organize workers into a labor union

#### For today’s debate I offer the value of intersectionality, which

Uwujaren and Utt in 2015 explain that (Jarune and Jamie, “Why Our Feminism Must be Intersectional”, Everyday Feminism, January 11; both are writers on topics of gender and racial issues, and their intersections)

What Is Intersectionality? It makes sense in many ways that those of us with identity privilege would have a harder time including in our feminism those who are oppressed. Privilege conceals itself from those who have it, and it’s a lot easier to focus on the ways that we are marginalized or oppressed. But without an intersectional lens, our movements cannot be truly anti-oppressive because it is not, in fact, possible to tease apart the oppressions that people are experiencing. Racism for women of color cannot be separated from their gendered oppression. A trans person with a disability cannot choose which part of their identity is most in need of liberation. Yet there is regularly confusion about what intersectionality really is. Renowned law scholar and critical race theorist Kimberlé Crenshaw introduced the term in 1989 in her paper “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics.” She noted that “problems of exclusion” of Black women from both mainstream anti-racist politics and feminist theory “cannot be solved simply by including Black women in an already established analytical structure. Because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated.” While her immediate focus was on the intersections of race and gender, Crenshaw highlights in “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color” that her “focus on the intersections of race and gender only highlight the need to account for multiple grounds of identity when considering how the social world is constructed.” In short, intersectionality is a framework that must be applied to all social justice work, a frame that recognizes the multiple aspects of identity that enrich our lives and experiences and that compound and complicate oppressions and marginalizations. We cannot separate multiple oppressions, for they are experienced and enacted intersectionally. Thus, in the words of Flavia Dzodan, “My feminism will be intersectional or it will be bullshit.”

#### In order to promote intersectionality, I propose the criterion of habeas viscus, which

Weheliye in 2014 explains that (Alexander G. Weheliye, professor of African American studies at Northwestern University, “Habeas Viscus”, pg. 135-136)

The poetics and politics that I have been discussing under the heading of habeas viscus or the flesh are concerned not with inclusion in reigning precincts of the status quo but, in Cedric Robinson’s apt phrasing, “the continuing development of a collective consciousness informed by the historical struggles for liberation and motivated by the shared sense of obligation to preserve [and I would add also to reimagine] the collective being, the ontological totality.”31 Though the laws of Man place the flesh outside the ferocious and ravenous perimeters of the legal body, habeas viscus defies domestication both on the basis of particularized personhood as a result of suffering, as in human rights discourse, and on the grounds of the universalized version of western Man. Rather, habeas viscus points to the terrain of humanity as a relational assemblage exterior to the jurisdiction of law given that the law can bequeath or rescind ownership of the body so that it becomes the property of proper persons but does not possess the authority to nullify the politics and poetics of the flesh found in the traditions of the oppressed. As a way of conceptualizing politics, then, habeas viscus di- verges from the discourses and institutions that yoke the flesh to political violence in the modus of deviance. Instead, it translates the hieroglyphics of the flesh into a potentiality in any and all things, an originating leap in the imagining of future anterior freedoms and new genres of humanity.

### Contention 1: Strengthening unions only reifies perceptions of ethical capitalism which makes extinction inevitable

#### Their pro-union stance is not revolutionary - status quo unions foster an acceptance of wealth inequality in workers which only allows the cogs of capitalism to keep turning

Fisk 2015 (Milton, “Unions and the Road to Socialism”, Solidarity: A Socialist, Feminist, Anti-racist organization, January/February)

It was supposed, since early times, that the product of labor did not belong to hired laborers but to those who hired them. On this assumption, the reward to labor was detached from the value of its product. A labor market could then emerge based on scarcity of labor, parallel to a product market based on the scarcity of products. This separation of labor from its product rules out talk about labor’s getting its fair share of the product of labor. For labor, though, sharing in the gains of production is a common demand. Should that share be enough for a decent living? Or should it be enough to equalize the gains of the average worker with those of the average investor? But no one on the corporate side wastes time on such a question. For them, sharing gains is never more than a means of attracting the workforce they need and of keeping it peaceful. In thinking about reforms, most unions are not yet posing the possibility of sharing the results of labor in some sense equally with investors. If they were, they would be running against a longstanding trend within capitalism. This trend is for the rate of profit made on capital investment to exceed the growth rate of output by a worker. In good periods and bad for capitalists, the rate of profit for the capitalist stays ahead of productivity of the worker. In recent times, the productivity of workers has grown but the separation between their income and that of investors widens.(2) Union members, as well, seem accepting of gains dwarfed by those made by capitalists. When the economy falters, they are generally accepting of losses deeper than those suffered by capitalists. As regards the losses, this is evident in concessionary bargaining by unions dating before and certainly since the Great Recession of 2008. Figures appear showing, in good times and bad, that collectively the top few percent in income and wealth make and have more than all those together who earn what workers do. As a rule, there is an inverse relation in a given period, when gains or losses of capital are paired with lesser gains or greater losses by labor.(3) In sum, even when business sales generate a higher rate of return on investment, there is in general no automatic increase of a comparable size in total worker remuneration. Indeed, without a struggle it is doubtful that they get an increase. In addition, when business sales generate a smaller rate of return on investment, businesses try to offset the loss by cutting workers’ wages, benefits, hours or jobs. How is the inverse relation relevant to the question of the revolutionary potential of unions? To seek an answer, we do well to begin with a broader question, one about the relation of unions to capitalism. Unions tend to guide workers far enough to create an awareness (and implicit acceptance) in them of the inverse relation between capitalist and worker gains. The close tie of unions to capitalism — expressed in the inverse relation between increases in total profits and increases in total wages — lets us classify unions as “organizations of capitalism.”(4) This tolerance on the part of capitalism for unions as junior partners came not from high-mindedness but from capitalism’s recognition of its need for social stability. So unions, as watchdogs for labor rights, became state-sanctioned and regulated organizations within capitalism. They tended to become as much a part of the structure of capitalist society as outfits that supply factors of production other than labor.

#### You should have a high threshold for believing their claims about unions ability to improve the conditions of workers - many union leaders are siding with Trump, not labor

Klein 2017 (Naomi, “Labor Leader’s Cheap Deal with Trump”, The New York Times, February 7th)

For progressives, Donald J. Trump’s presidency so far has been a little like standing in front of one of those tennis ball machines — and getting hit in the face over and over again. Yet looking back, the blow that still has me most off-kilter didn’t come from the new president himself. It came two weeks ago, when several smiling union leaders strolled out of the White House and up to a bank of waiting cameras and declared their firm allegiance to President Trump. Sean McGarvey, president of North America’s Building Trades Unions, reported that Mr. Trump had taken the delegation on a tour of the Oval Office and displayed a level of respect that was “nothing short of incredible.” Mr. McGarvey pledged to work hand in glove with the new administration on energy, trade and infrastructure, while one of the other union leaders described the Inaugural Address as “a great moment for working men and women.” When Mr. Trump issued executive orders to smooth the way for construction of the Keystone XL and Dakota Access pipelines, the same leaders rejoiced. A new administration can always count on many organizations to issue pro forma statements expressing a nonpartisan willingness to work with the new leader. Let’s be clear: This was not that. This was a new alliance. As Terry O’Sullivan, head of Laborers’ International Union of North America, put it on MSNBC: “The president’s a builder. We’re builders.” But the edifice that Mr. Trump is building is rigged to collapse on the very people these unions are supposed to defend. His cuts to regulations will make them less safe on the job, and he may well wage war against the National Labor Relations Board, an agency that recently ruled that Mr. Trump violated the rights of the workers in his Las Vegas hotel to unionize and bargain collectively. His proposed cuts to corporate taxes will eviscerate the public services on which they depend, not to mention public sector union jobs. He supports “right to work” legislation that poses an existential threat to unions. His pick for labor secretary, the fast-food magnate Andrew Puzder, has a long record of failing to pay his workers properly, and he has praised the idea of replacing humans with machines. And Mr. Trump’s nominee for the Supreme Court, Neil Gorsuch, has ruled in favor of employers far more frequently than workers. Indeed, the more cleareyed unions are openly questioning whether their organizations will survive this administration. The Labor Network for Sustainability, in a report, warns this could be “an ‘extinction-level event’ for organized labor.” All this is an awful lot of ground to lose in exchange for mostly temporary jobs repairing highways and building oil pipelines.

#### Civilization is unsustainable without major reorientation of the economic system – statistical and empirical models prove resource use and inequality make collapse inevitable

Ahmed 14 (Nafeez Ahmed, executive director of the Institute for Policy Research & Development, The Guardian, “Nasa-funded study: industrial civilisation headed for 'irreversible collapse'?”, 3/14/14)

A new study sponsored by Nasa's Goddard Space Flight Center has highlighted the prospect that global industrial civilisation could collapse in coming decades due to unsustainable resource exploitation and increasingly unequal wealth distribution. Noting that warnings of 'collapse' are often seen to be fringe or controversial, the study attempts to make sense of compelling historical data showing that "the process of rise-and-collapse is actually a recurrent cycle found throughout history." Cases of severe civilisational disruption due to "precipitous collapse - often lasting centuries - have been quite common." The research project is based on a new cross-disciplinary 'Human And Nature DYnamical' (HANDY) model, led by applied mathematician Safa Motesharri of the US National Science Foundation-supported National Socio-Environmental Synthesis Center, in association with a team of natural and social scientists. The study based on the HANDY model has been accepted for publication in the peer-reviewed Elsevier journal, Ecological Economics.¶ It finds that according to the historical record even advanced, complex civilisations are susceptible to collapse, raising questions about the sustainability of modern civilisation: "The fall of the Roman Empire, and the equally (if not more) advanced Han, Mauryan, and Gupta Empires, as well as so many advanced Mesopotamian Empires, are all testimony to the fact that advanced, sophisticated, complex, and creative civilizations can be both fragile and impermanent." By investigating the human-nature dynamics of these past cases of collapse, the project identifies the most salient interrelated factors which explain civilisational decline, and which may help determine the risk of collapse today: namely, Population, Climate, Water, Agriculture, and Energy. These factors can lead to collapse when they converge to generate two crucial social features: "the stretching of resources due to the strain placed on the ecological carrying capacity"; and "the economic stratification of society into Elites [rich] and Masses (or "Commoners") [poor]" These social phenomena have played "a central role in the character or in the process of the collapse," in all such cases over "the last five thousand years." Currently, high levels of economic stratification are linked directly to overconsumption of resources, with "Elites" based largely in industrialised countries responsible for both: "... accumulated surplus is not evenly distributed throughout society, but rather has been controlled by an elite. The mass of the population, while producing the wealth, is only allocated a small portion of it by elites, usually at or just above subsistence levels." The study challenges those who argue that technology will resolve these challenges by increasing efficiency: "Technological change can raise the efficiency of resource use, but it also tends to raise both per capita resource consumption and the scale of resource extraction, so that, absent policy effects, the increases in consumption often compensate for the increased efficiency of resource use." Productivity increases in agriculture and industry over the last two centuries has come from "increased (rather than decreased) resource throughput," despite dramatic efficiency gains over the same period. Modelling a range of different scenarios, Motesharri and his colleagues conclude that under conditions "closely reflecting the reality of the world today... we find that collapse is difficult to avoid." In the first of these scenarios, civilisation:¶ ".... appears to be on a sustainable path for quite a long time, but even using an optimal depletion rate and starting with a very small number of Elites, the Elites eventually consume too much, resulting in a famine among Commoners that eventually causes the collapse of society. It is important to note that this Type-L collapse is due to an inequality-induced famine that causes a loss of workers, rather than a collapse of Nature." Another scenario focuses on the role of continued resource exploitation, finding that "with a larger depletion rate, the decline of the Commoners occurs faster, while the Elites are still thriving, but eventually the Commoners collapse completely, followed by the Elites." In both scenarios, Elite wealth monopolies mean that they are buffered from the most "detrimental effects of the environmental collapse until much later than the Commoners", allowing them to "continue 'business as usual' despite the impending catastrophe." The same mechanism, they argue, could explain how "historical collapses were allowed to occur by elites who appear to be oblivious to the catastrophic trajectory (most clearly apparent in the Roman and Mayan cases)."Applying this lesson to our contemporary predicament, the study warns that: "While some members of society might raise the alarm that the system is moving towards an impending collapse and therefore advocate structural changes to society in order to avoid it, Elites and their supporters, who opposed making these changes, could point to the long sustainable trajectory 'so far' in support of doing nothing."

### Contention 2: Civil rights fall victim to legal dogmatism that equates personhood to property which reifies the harms it tries to alleviate

#### Rights based logic relies on the legal notion that personhood is property which is always denied to certain bodies based on their ability to assimilate into a system of whiteness that makes racial genocide possible

Weheliye 2014 (Alexander G. Weheliye, professor of African American studies at Northwestern University, “Habeas Viscus”, pg. 77-82)

Congruently, much of the politics constructed around the effects of political violence, especially within the context of international human rights but also with regard to minority politics in the United States, is constructed from the shaky foundation of surmounting or desiring to leave behind physical suffering so as to take on the ghostly semblance of possessing one’s personhood. Then and only then will previously minoritized subjects be granted their humanity as a legal status. Hence, the glitch Brown diagnoses in identity politics is less a product of the minority sub- ject’s desire to desperately cling to his or her pain but a consequence of the state’s dogged insistence on suffering as the only price of entry to proper personhood, what Samera Esmeir has referred to as a “juridical humanity” that bestows and rescinds humanity as an individualized legal status in the vein of property.5 Apportioning personhood in this way maintains the world of Man and its attendant racializing assemblages, which means in essence that the entry fee for legal recognition is the acceptance of categories based on white supremacy and colonialism, as well as normative genders and sexualities. We need only to consult the history of habeas corpus, the “great” writ of liberty, which is anchored in the U.S. Constitution (Article 1, Section 9), to see that this type of reasoning leads to reducing inclusion and person- hood to ownership.6 The Latin phrase habeas corpus means “You shall have the body,” and a writ thereof requires the government to present prison- ers before a judge so as to provide a lawful justification for their continued imprisonment. This writ has been considered a pivotal safeguard against the misuse of political power in the modern west. Even though the Mili- tary Commissions Act of 2006, which denied habeas corpus to “unlawful enemy combatants” imprisoned in Guantanamo Bay, remains noteworthy and alarming, habeas corpus has been used both by and frequently against racialized groups throughout U.S. history, as was the case when habeas cor- pus was suspended during World War II, allowing for the internment of Jap- anese Americans. The writ has also led to gains for minoritized subjects as, for instance, in the well-known Amistad case (1839), in which abolitionists used a habeas corpus petition to free the “illegally” captured Africans who had staged a mutiny against their abductors. Likewise, when Ponca tribal leader Standing Bear was jailed as a result of protesting the forcible removal of his people to Indian Territory in 1879, the writ of habeas corpus affected his release from incarceration as well as the judge’s recognition that, as a general rule, Indians were persons before U.S. law, even though Native Americans were not considered full U.S. citizens until 1924. Nevertheless, the benefits accrued through the juridical acknowledgment of racialized subjects as fully human often exacts a steep entry price, because inclusion hinges on accepting the codi cation of personhood as property, which is, in turn, based on the comparative distinction between groups, as in one of the best-known court cases in U.S. history: the Dred Scott case. In 1857, the Supreme Court invalidated Dred Scott’s habeas corpus, since, as an escaped slave, Scott could not be a legal person. According to Chief Jus- tice Taney: “Dred Scott is not a citizen of the State of Missouri, as alleged in his declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves.”8 In order to justify withdrawing Dred Scott’s legal right to ownership of self, Chief Justice Taney’s opinion in the decision contrasts the status of black subjects with the legal position of Native Americans vis- à-vis the possibility of U.S. citizenship and personhood: “The situation of [the negro] population was altogether unlike that of the Indian race. These Indian Governments were regarded and treated as foreign Governments. . . . [Indians] may, without doubt, like the subjects of any other foreign Govern- ment, be naturalized . . . and become citizens of a State, and of the United States; and if an individual should leave his nation or tribe, and take up his abode among the white population, he would be entitled to all the rights and privileges which would belong to an emigrant from any other foreign peo- ple.”9 While slaves were not accorded the status of being humans that be- longed to a different nation, Indians could theoretically overcome their law- ful foreignness, but only if they renounced previous forms of personhood and citizenship. Hence, the tabula rasa of whiteness—which all groups but blacks can access—serves as the prerequisite for the law’s magical tran- substantiation of a thing to be possessed into a property-owning subject.10 The judge’s comparison underscores the dangers of ceding definitions of personhood to the law and of comparing different forms of political subjugation, since hypothetical Indian personhood in the law rests on attaining whiteness and the violent denial of said status to black subjects. Additionally, while the court conceded limited capabilities of personhood to indigenous subjects if they chose to convert to whiteness, it did not pre- vent the U.S. government from instituting various genocidal measures to ensure that American Indians would become white and therefore no lon- ger exist as Indians. In other words, the legal conception of personhood comes with a steep price, as in this instance where being seemingly granted rights laid the groundwork for the U.S. government’s genocidal policies against Native Americans, since the “racialization of indigenous peoples, especially through the use of blood quantum classi cation, in particular follows . . . ‘genocidal logic,’ rather than simply a logic of subordination or discrimination,” and as a result “whiteness constitutes a project of dis- appearance for Native peoples rather than signifying privilege.”11 Begin- ning in the nineteenth century the U.S. government instituted a program in which Native American children were forcibly removed from their fami- lies and placed in Christian day and boarding schools, and which sought to civilize children by “killing the Indian to save the man,” representing one of the most signi cant examples of the violent and legal enforced assimi- lation of Native Americans into U.S. whiteness.12 Though there is no clear causal relationship between Taney’s arguments in the Scott decision and the boarding school initiative, both establish that legal personhood is available to indigenous subjects only if the Indian can be killed—either literally or guratively—in order to save the world of Man (in this case settler colo- nialism and white supremacy). Furthermore, the denial of personhood qua whiteness to African American subjects does not stand in opposition to the genocidal wages of whiteness bequeathed to indigenous subjects but rather represents different properties of the same racializing juridical assemblage that differentially produces both black and native subjects as aberrations from Man and thus not-quite-human. The writ of habeas corpus—and the law more generally—anoints those individualized subjects who are deemed deserving with bodies even while this assemblage continually enlists new and/or different groups to exclude, banish, or exterminate from the world of Man. In the end, the law, whether bound by national borders or spanning the globe, establishes an international division of humanity, which grants previously excluded subjects limited access to personhood as property at the same time as it fortifes the supremacy of Man.

#### Remember that their proposal for ethical laws for workers came from a system that uses established legal norms to continue oppressive violence

Weheliye 2014 (Alexander G. Weheliye, professor of African American studies at Northwestern University, “Habeas Viscus”, pg. 82-84)

Considering that corporations enjoy the bene ts of limited per- sonhood and the ability to live forever under U.S. law, corporate entities are entrusted with securing the immortal life of biological matter, while human persons are denied ownership of their supposed essence.21 My interest here lies not in claiming inalienable ownership rights for cells derived from human bodies such as Lacks’s and Moore’s but to draw attention to how thoroughly the very core of pure biological matter is framed by neoliberal market logics and by liberal ideas of personhood as property. We are in dire need of alternatives to the legal conception of personhood that dominates our world, and, in addition, to not lose sight of what re- mains outside the law, what the law cannot capture, what it cannot magi- cally transform into the fantastic form of property ownership. Writing about the connections between transgender politics and other forms of identity- based activism that respond to structural inequalities, legal scholar Dean Spade shows how the focus on inclusion, recognition, and equality based on a narrow legal framework (especially as it pertains to antidiscrimination and hate crime laws) not only hinders the eradication of violence against trans people and other vulnerable populations but actually creates the condition of possibility for the continued unequal “distribution of life chances.”22 If demanding recognition and inclusion remains at the center of minority politics, it will lead only to a delimited notion of personhood as property that zeroes in comparatively on only one form of subjugation at the expense of others, thus allowing for the continued existence of hierarchical differ- ences between full humans, not-quite-humans, and nonhumans. This can be gleaned from the “successes” of the mainstream feminist, civil rights, and lesbian-gay rights movements, which facilitate the incorporation of a privileged minority into the ethnoclass of Man at the cost of the still and/or newly criminalized and disposable populations (women of color, the black poor, trans people, the incarcerated, etc.).23 To make claims for inclusion and humanity via the U.S. juridical assemblage removes from view that the law itself has been thoroughly violent in its endorsement of racial slavery, indigenous genocide, Jim Crow, the prison-industrial complex, domestic and international warfare, and so on, and that it continues to be one of the chief instruments in creating and maintaining the racializing assemblages in the world of Man. Instead of appealing to legal recognition, Julia Oparah suggests counteracting the “racialized (trans)gender entrapment” within the prison-industrial complex and beyond with practices of “maroon abo- lition” (in reference to the long history of escaped slave contraband settle- ments in the Americas) to “foreground the ways in which often overlooked African diasporic cultural and political legacies inform and undergird anti- prison work,” while also providing strategies and life worlds not exclusively centered on reforming the law.24 Relatedly, Spade calls for a radical politics articulated from the “‘impossible’ worldview of trans political existence,” which rede nes “the insistence of government agencies, social service pro- viders, media, and many nontrans activists and nonpro teers that the ex- istence of trans people is impossible.”25 A relational maroon abolitionism beholden to the practices of black radicalism and that arises from the in- compatibility of black trans existence with the world of Man serves as one example of how putatively abject modes of being need not be redeployed within hegemonic frameworks but can be operationalized as variable lim- inal territories or articulated assemblages in movements to abolish the grounds upon which all forms of subjugation are administered.

### On-Case Cards

#### The freedom of association is a protection of white supremacy - liberal ethics would argue that we should preserve the right for people to associate with Nazi’s or the KKK, as if it were the same as a labor union

Abolition Journal 2017 (“For Antifa, No Platform for Fascism”, Abolition Journal, Feburary 14th 2017, transcription from an interview with Mark Bray from WNYC’s “On the Media”)

Brooke Gladstone (WNYC): Those who subscribe to liberal values are supposed to “defend to the death the right, not only of their friends, but of their foes to speak their minds.” But anti-fascist protesters, or as they’re more commonly known, Antifa, follow a different path. Mark Bray is a visiting historian at Dartmouth College and the author of Translating Anarchy: The Anarchism of Occupy Wall Street. Mark, welcome to the show. Mark: Thanks for having me. Brooke: Tell me about the origins of anti-fascism – when it first began, I assume back in the 20s? Mark: Sure, well, anti-fascism is as old as… fascism. And, so, certainly in the 1920s and 1930s, as fascist regimes in Italy and Germany started to gain political prominence, a number of left political groupings—socialists, anarchists, communists—started to organize primarily self-defense units, initially, because part of the Nazi and the Italian fascist modus operandi was to organize paramilitary units that would terrorize their left opponents. So, the different communist parties and socialist parties would organize their own anti-fascist militias—one of which was called Anti-Fascist Action, the first group to use the name that’s now become common for anti-fascist organizations around the world, and the derivation of the shortened term, Antifa. Moving into the 1930s, the Spanish Civil War and the struggle against Franco spread anti-fascist organizing around the world. Then, in the 1980s and 1990s, you have a re-birth of anti-fascist organizing, especially starting in Britain and Germany, as neo-Nazis started to target migrants and other marginalized communities. What we see today is the spread of that to the United States and beyond. Brooke: One of the most frequently cited actions in Antifa history is what’s referred to as the Battle of Cable Street, right? Talk about that, because it begins to set the stage for what we’re seeing now. Mark: It certainly does. In 1936, the leader of the British Union of Fascists, Mosley, organizes a march of a couple thousand fascists through the East End of London which is a predominately Jewish neighborhood. In response to that, a whole group of leftists and Jewish residents of the area and other ethnic minorities organized a militant demonstration against this fascist march. Brooke: How many? Mark: Between 15 and 20 thousand people. This was a massive response. The police did what they could to defend the fascists from the anti-fascist demonstrators but ultimately were overpowered. The fascists had to cancel the march and essentially back down. So, this Battle of Cable Street is an emblematic example of anti-fascist politics put into practice, in terms of preventing fascists from marching through a Jewish area. Brooke: But not just that, right? Antifa is fundamentally against the right of fascists to speak and be heard. Mark: That’s entirely correct. So, in your open you mentioned the popular slogan that liberals have adopted from Voltaire that, “I may disagree with what you have to say but I will defend to the death your right to say it.” Anti-fascists fundamentally disagree with that premise. They argue that, given the horrors of Auschwitz and Treblinka, the destruction that Nazis have caused, that fascists, white supremacists shouldn’t be granted the right to express their ideas in public, in part because, they argue, had that been done earlier in the 1920s, the 1930s, we might have been able to bypass what ended up happening. Brooke: I get that as a tactic, but I’m still not sure how the philosophy of anti-fascism squares with the liberal values of free speech and open dialogue, and I guess it doesn’t. Mark: To some extent, it doesn’t. The question is: if we want to prevent something along the lines of what happened in the 1930s and 40s from happening again, how do we do it? And the liberal prescription for doing it is, essentially, free and open debate and dialogue, and if Nazis do something illegal then hopefully the police will stop them. Antifascists recognize that in the 1930s, 1940s, the police supported fascism. The fascists didn’t actually stage a revolution to come to power; they worked within the political system. And all the reasonable dialogue and debate that one could muster did not do the job. The argument is that, if we want such a horrific crime to not reoccur, it needs to be nipped in the bud, through a variety of tactics, but one of which is through violently disrupting Klan rallies, neo-Nazi speeches, and so forth. The other thing to remember is that anti-fascists identify as communists, as anarchists, as socialists, and want to organize for a revolutionary rupture with the prevailing political system, and that this is in-line with that. That’s also another reason why the two philosophies don’t quite jibe. Brooke: So, the liberal idea that in a marketplace of ideas the good ideas will rise to the top and the bad will drop out the bottom—they don’t buy that. You don’t buy that either? Mark: Well, unfortunately, terrible ideas have risen to the top throughout history. The liberal ideal is that the government is a referee in a game that all parties are invited to play. But, in actual fact, whenever left groups have become threatening, you get Red Scares, you get repression, you get COINTELPRO in the 1960s and 70s. And so, anti-fascists are arguing that we want a political content to how we look at speech and society which is drastically different from a liberal take, and that this entails shutting down the extreme manifestations of fascism and neo-Nazism. We need to recognize that this is not simply a question of whether a fascist government will come to power or not. (I’m skeptical that such an explicitly fascist government would come to be.) But that those who carry out hate crimes, they feel emboldened when their ideas become mainstream. So, the idea with anti-fascist politics is to prevent those ideas from having that opportunity.

#### Adding to Civil Rights Act causes court clogging - too many cases would be submitted, slowing down the process for everyone

Leef 2014 (George, a writer for the John W. Pope Center for Higher Education Policy, “Should Union Organzing Be a Civil Right?”, Forbes, August 28th 2014)

Let’s assume that it is true that the NLRA and NLRB enforcement is too slow and weak to scare anti-union employers into neutrality. Is the Ellison/Lewis bill a proper fix? I think not. Putting more “teeth” into the law by bringing union organizing under the Civil Rights Act would encourage abusive litigation where workers who were not hired or were fired for good cause to claim that the employer had been motivated by anti-union animus. The Civil Rights Act has proven to be a two-edged sword with regard to alleged racial discrimination in employment and would be the same for alleged hostility to pro-union workers. If enacted, this bill would no doubt lead to many harassing suits based on claims that a worker was terminated only because the employer wanted to get rid of a union advocate. And bad workers would discover that if they become union zealots, the company will fear to take any action against them. And yet, there is something wrong with the status quo. It can be a trap for workers who are led by union leaders to think that they can safely talk up unionization because the law protects them, only to soon find themselves unemployed. The union’s determination to proceed with an unfair labor practice complaint and possible back-pay and reinstatement is not a good substitute for a job.

#### Unions decrease US jobs - unemployment is a substantially bigger impact than marginal benefits and you have to have a job to be in a union

Sherk 2009 (James a research fellow in labor economics, “What Unions Do: How Labor Unions Affect Jobs and the Economy”, the Heritage Foundation, May 21)

Unions Reduce Jobs Lower investment obviously hinders the competitiveness of unionized firms. The Detroit automakers have done so poorly in the recent economic downturn in part because they invested far less than their non-union competitors in researching and developing fuel-efficient vehicles. When the price of gas jumped to $4 a gallon, consumers shifted away from SUVs to hybrids, leaving the Detroit carmakers unable to compete and costing many UAW members their jobs. Economists would expect reduced investment, coupled with the intentional effort of the union cartel to reduce employment, to cause unions to reduce jobs in the companies they organize. Economic research shows exactly this: Over the long term, unionized jobs disappear. Consider the manufacturing industry. Most Americans take it as fact that manufacturing jobs have decreased over the past 30 years. However, that is not fully accurate. Chart 1 shows manufacturing employment for union and non-union workers. Unionized manufacturing jobs fell by 75 percent between 1977 and 2008. Non-union manufacturing employment increased by 6 percent over that time. In the aggregate, only unionized manufacturing jobs have disappeared from the economy. As a result, collective bargaining coverage fell from 38 percent of manufacturing workers to 12 percent over those years. Manufacturing jobs have fallen in both sectors since 2000, but non-union workers have fared much better: 38 percent of unionized manufacturing jobs have disappeared since 2000, compared to 18 percent of non-union jobs.[24] Other industries experienced similar shifts. Chart 2 shows union and non-union employment in the construction industry. Unlike the manufacturing sector, the construction industry has grown considerably since the late 1970s. However, in the aggregate, that growth has occurred exclusively in non-union jobs, expanding 159 percent since 1977. Unionized construction jobs fell by 17 percent. As a result, union coverage fell from 38 percent to 16 percent of all construction workers between 1977 and 2008.[25] This pattern holds across many industries: Between new companies starting up and existing companies expanding, non-union jobs grow by roughly 3 percent each year, while 3 percent of union jobs disappear.[26] In the long term, unionized jobs disappear and unions need to replenish their membership by organizing new firms. Union jobs have disappeared especially quickly in industries where unions win the highest relative wages.[27] Widespread unionization reduces employment opportunities. More Contractions but Not More Bankruptcies Counterintuitively, research shows that unions do not make companies more likely to go bankrupt. Unionized firms do not go out of business at higher rates than non-union firms.[28] Unionized firms do, however, shed jobs more frequently and expand less frequently than non-union firms.[29] Most studies show that jobs contract or grow more slowly, by between 3 and 4 percentage points a year, in unionized businesses than they do in non-unionized businesses.[30] How can union firms both lose jobs at faster rates than non-union firms and have no greater likelihood of going out of business? Unions try not to ruin the companies they organize. They agree to concessions at distressed firms to keep them afloat. However, unions prefer layoffs over pay cuts when a firm does not face imminent liquidation. Layoffs at most union firms occur on the basis of seniority: Newer hires lose their jobs before workers with more tenure lose theirs. Senior members with the greatest influence in the union know that they will keep their jobs in the event of layoffs but that they will also suffer pay reductions. Consequently, unions negotiate contracts that allow firms to lay off newer hires and keep pay high for senior members instead of contracts that lower wages for all workers and preserve jobs.[31]

#### **Globalization has deflated the benefits of union membership - making it a civil right doesn’t change the incentives to be a union worker**

Hessami and Baskaran 2013 (Zohal, an assinatnt professor in Political Economy, and Thushyanthan, an assistant professor in public finance, “The Demise of Labor Unions in the Era of Globalization”, Adapt International, March 12th)

The decline of unionization rates has been predicted by a number of theoretical models and is a logical consequence of the tumbling benefits of union membership in a globalized world. A worker’s choice to be a union member can be perceived as the result of weighing the benefits of union membership against its costs. With constant union dues and a constant level of time and effort required for union activities, a decline in the benefits of being unionized induces some members to leave the union or not to sign up for membership in the first place. To see how globalization has depleted the benefits of union membership, one needs to understand how globalization has affected the relative bargaining power of employees. In a globalized world, high-skilled labor crosses national borders more easily. On the other hand, employees who have traditionally been organized in a union (public sector employees, civil servants, and low-skilled workers) remain mostly immobile. This in turn leads to a decline in the bargaining power of unionized employees and an increase in their vulnerability to global forces. In contrast, the relative bargaining power of employers increases because employers can threaten to close down their plants and to move elsewhere. This shift in power has led employers to adopt a more confrontational stance towards unions. Public policies further reduce the benefits of union membership. Policy- makers are under pressure to design labor markets to be attractive for investors. They are compelled to ensure low levels of union penetration, to allow part-time work and fixed-term contracts, and to offer weak employment protection legislation.

### Extensions

#### Calls for inclusion in regimes of citizenship are based on a logic of inclusion which ultimately reify oppressive structures

Chavez 2015 (Karma R. [Associate Professor of Communication Arts at the University of Wisconsin, Madison] “Beyond Inclusion: Rethinking Rhetoric’s Historical Narrative” Quarterly Journal of Speech 101:1; DOI 10.1080/00335630.2015.994908)

Citizenship is the quintessential example of this kind of inclusionary process that serves not to transform structures, but to enhance them.19 In discussing the specific instances of amnesty and other expansions of citizenship’s parameters, Patchen Markell argues that such expansions are often viewed from a universalist perspective that emphasizes only their emancipatory potential. Such expansions are often restrictive for the newly included, even as they bolster the idea of a benign and sovereign state. Of course, disciplinary inclusion is not the same as national inclusion, yet all inclusionary logics seem to share the fact that they reinforce the existing structures and tend to obscure those structures’ flaws. Furthermore, inclusion also reinscribes the system in a way that makes posing alternatives to it or offering critiques of it much harder. But alternatives and critique are precisely what are necessary to counter the persistent reinscription of this narrative in Rhetoric.

#### Human Rights discourse relies upon problematic views of universal individualism, hampering effective changes

Ramji-Nogales 2014 (Jaya [Associate Professor of Law and Co-Director of the Institute for International Law and Public Policy], “Undocumented Migrants and the Failures of Universal Individualism,” Vanderbilt Journal of Transnational Law, 47 Vand. J. Transnat’l L. 699)

These were noble and ambitious claims. But has human rights law lived up to its promises? This Article takes universal individualism on its own terms, measuring its success by the standards of universal content and coverage and individual applicability that this approach to human rights sets forth. In other words, this Article uses the case study of undocumented migrants to determine whether the story that universal individualism tells about itself is accurate. On paper, many human rights protections apply to all humans, whether or not they have lawful immigration status. But it is extremely difficult for migrants to exercise these substantive rights when they can be discriminated against based on their immigration status and deported at any time. These vulnerabilities must first be addressed so that undocumented migrants have the ability to claim other rights. n9 International human rights law offers undocumented migrants insufficient protection against deportation and discrimination, safeguarding instead sovereign interests in territorial control. Rather than protecting the vulnerable against sovereign abuses, universal individualism has entrenched existing power imbalances. The perspective of undocumented migrants is not adequately reflected in the ostensibly shared universal values manifested in current human rights law. These failures of protection raise larger questions about the universal individualist approach to human rights. This Article begins with a systematic critique of the failures of universal individualism. The current human rights project presents a false universalism that erases certain forms of suffering from popular discourse. These claims to transcendent universalism imply that human rights law is apolitical thereby disguising the political choices that determine its content. Human rights law's narrow focus on the individual obscures larger questions of structural inequality. The individualist approach presents an atomistic conception of society that overlooks the importance of social ties and group-based identities. After setting out this critical framework, the Article describes who undocumented migrants are and which rights and values they might prioritize if the universalist approach were to include their voices. It next explores the contested content of four such rights: the right to territorial security, the right to procedural due process in deportation proceedings, the right to nondiscrimination based on immigration status, and the right to family unity. The latter right is the most widely available to undocumented migrants, though still limited; the first is unavailable in any forum. The absence of a right to territorial security is particularly problematic because it renders [\*704] undocumented migrants vulnerable and unable to protect themselves against exploitation and abuse. This Article next briefly discusses why the universal individualist approach to human rights has failed to protect undocumented migrants. It suggests that, contrary to common perception, human rights law may actually reinforce sovereign interests and exacerbate the harmful effects of globalization on vulnerable populations. This Part begins with a critical history of the relationship between human rights and sovereignty, highlighting the evolution of the universal individualist approach over time. It then focuses on the interaction of globalization and human rights, illustrating the role of global economic inequity in creating migration flows and explaining how the universal individualist approach furthers this distributive inequality. In the world of social justice, universal individualism in the form of international human rights law has become the hegemon. Efforts to protect vulnerable populations begin and end with human rights. Particularly in legal scholarship, strategies to ameliorate the situation of vulnerable groups outside the scope of human rights law focus on how that law might be extended to cover these groups. Given the failures of universal individualism, this Article suggests instead other approaches outside of or alongside international human rights law that might more effectively protect undocumented migrants and other vulnerable populations.

#### Unions protect lazy workers and give them higher pay than other, more demanding jobs

Thompson 2012 (Derek, senior editor at the Atlantic and author of “Hit Makers”, “’Unnecessary’ and ‘Political’: Why Unions are Bad for America”, The Atlantic, June 12th)

I was in a union and 'unions are unnecessary'. I worked in a unionized refinery and my personal experience has been that unions are unnecessary. As an engineer, I was unable to touch any tools, provide any assistance to our technicians and operators for "taking work away from a union employee." While not always the case, the union gave protection to the laborer to be extremely lazy and unproductive because as long as he showed up to work on time, there was no way he could get fired. The technicians and operators started at $28.00 an hour, which was more than I made as an engineer. Obviously they have a much lower ceiling and top out pretty quickly, but that is an enormous amount of money for someone who can get away with being lazy as he wants. Also, during lead ups to labor negotiations (there were two big ones while I was there), there was ample evidence of sabotage to the plant while engineers were being trained to operate the refinery in the event of a strike. I cannot for the life of me understand why one would put people at risk in order to protect their job. There were several unionized technicians and operators that were very pleasant and worked hard when asked to do so, but this was not the norm. Additionally, often the best unionized workers were promoted to management and were no longer protected by the union. I understand that there was a time in the nation when we had fourteen year old kids working 18 hours a day, but we have long since moved past those days. I'm all for finding ways to close the income inequality gap (higher taxes, more efficient tax code), but I assure you that unionizing labor will not solve our problem.

#### Unions protect government employees right to not follow new, updated standards of procedure

Rosiak 2015 (Luke an investigative reporter, “Unions Say No Discipline For Feds Who Won’t Work”, The Daily Caller, December 28th)

Three cases before Federal Labor Relations Authority (FLRA) in recent years demonstrate the seemingly impossible tasks facing federal supervisors trying to manage the government efficiently and effectively. In the first case, federal firefighters in Arizona refused to abide by best-safety practices instituted after their firehouse failed a readiness inspection and their government employee union successfully fought to ensure that they could not be forced to observe the new procedures or be punished for refusing to do so. The union even had a significant role in drafting the “standard operating guidelines,” yet several members of the Fort Huachucha, Ariz., Army fire department didn’t want to follow the new procedures. Their boss said “that it was a critical safety issue that the firefighters read and understand the content of the SOGs” and gave them a month to initial the new guidelines. Then he gave them an extension. When they still refused, he initially decided to suspend them for three days, but relented and changed it to one day. Still, the American Federation of Government Employees was outraged that the recalcitrant firefighters would have to miss a day of work as punishment for refusing to follow upgraded safety procedures. The union filed a complaint with the Federal Labor Relations Authority, which found that suspending employees who refuse to do their jobs as required “did not promote the efficiency” of the federal workplace. An arbiter found that the firefighters “failed to carry out the instructions of the agency, but that the decision to suspend the grievants for one day did not promote the efficiency of the service,” according to an FLRA docket. He ordered them to be paid for the day they stayed home. The agency appealed the decision, saying that “the arbitrator’s ‘prohibition on requiring the reading of the SOGs and initialing as having read them’ interferes with the agency’s right to assign work.” But the FLRA’s top panel sided with the union on appeal.

### A2: Unions Benefit Society

#### **Unions do more harm than good - laundry list of reasons**

Hawkins 2011 (John, a columnist for the Hill, Townhall, the Washington Examiner, among others, “5 Reasons Unions Are Bad For America”, Townhall, March 8th)

At one time in this country, there were few workplace safety laws, few restraints on employers, and incredibly exploitive working conditions that ranged from slavery, to share cropping, to putting children in dangerous working conditions. Unions, to their everlasting credit, helped play an important role in leveling the playing field for workers. However, as the laws changed, there was less and less need for unions. Because of that, union membership shrank. In response, the unions became more explicitly involved in politics. Over time, they managed to co-opt the Democratic Party, pull their strings, and rewrite our labor laws in their favor. As Lord Acton noted, "Power tends to corrupt," and that has certainly been true for the unions. Unions have become selfish, extremely greedy, and even thuggish in their never-ending quest to take in as much as they can for themselves, at the expense of everyone else who crosses their path. That's why today, unions have changed from organizations that "look out for the little guy" into the largest, most rapacious special interest group in the entire country. Where unions go, disaster usually follows. Just to name a few examples: 1) Unions are severely damaging whole industries: How is it that GM and Chrysler got into such lousy shape that they had to be bailed out? There's a simple answer: The unions. The massive pensions the car companies paid out raised their costs so much that they were limited to building more expensive cars to try to get their money back. They couldn't even do a great job of building those cars because utterly ridiculous union rules prevented them from using their labor efficiently. America created the automobile industry, but American unions are strangling it to death. Unions also wrecked the steel and textile industries and have helped drive manufacturing jobs overseas. They're crippling the airline industry and, of course, we can't forget that... 2) Unions are ruining public education: Every few years, it's the same old story. The teachers’ unions claim that public education in this country is dramatically underfunded and if they just had more money, they could turn it around. Taxpayer money then pours into our schools like a waterfall and....there's no improvement. A few years later, when people have forgotten the last spending spree on education, the process is repeated. However, the real problem with our education system in this country is the teachers’ unions. They do everything possible to prevent schools not only from firing lousy teachers, but also from rewarding talented teachers. Merit pay? The unions hate it. Private schools? Even though everyone knows they deliver a better education than our public schools, unions fight to keep as many kids as possible locked in failing public schools. In Wisconsin, we've had whole schools shutting down so that lazy teachers can waste their time protesting on the taxpayers’ dime. Want to improve education in this country? Then you've got to take on the teachers’ unions. 3) Unions are costing you billions of tax dollars: Let's put it plain and simple: Government workers shouldn't be allowed to unionize. Period. Why? Because you elect representatives to look out for your interests. It's obviously in your interest to pay as little as possible to government workers, to keep their benefits as low as possible, and to hire as few of them as possible to do the job. However, because the Democratic Party and the unions are in bed with each other, this entire process has been turned on its ear. Instead of looking out for your interests, Democrats try to hire as many government workers as possible, pay them as much as possible, and give them benefits that are as generous as possible, all so that union workers will do more to get them re-elected. In other words, the Democratic Party and the unions are engaged in an open conspiracy to defraud the American taxpayer. There's no way that the American people should allow that to continue. 4) Unions are fundamentally anti-democratic : How in the world did we get to the point where people can be forced to join a union just to get a job at certain places? Then, after they're dragooned into the union, they have no choice other than to pay dues that are used for political activities which the unwilling dues-paying member may oppose. Add to that the fact that the Democrats and the government unions collaborate to subvert democracy at the expense of the taxpayer and it's not a pretty picture. Worse yet, unions have gotten so voracious that they even want to do away with the secret ballot, via card check, so they can openly bully people into joining unions. The way unions behave in this country is undemocratic, un-American, and it should trouble anyone who cares about freedom and individual rights. 5) Government unions are bankrupting cities and states: Government unions have bled billions from taxpayers nationally, but the damage they're doing on the local level is even worse. We have cities and states all across the country that are so behind on their bills that there have been genuine discussions about bankruptcy. There are a lot of irresponsible financial policies that have helped contribute to that sorry state-of-affairs, but unquestionably, the biggest backbreakers can be directly traced back to the unions. As the Washington Times has noted, union pensions are crushing budgets all across the country. Yet it comes as little surprise that the same profligacy that pervades the corridors of federal power infects this country’s 87,000 state, county and municipal governments and school districts. By 2013, the amount of retirement money promised to employees of these public entities will exceed cash on hand by more than a trillion dollars. So, what happens when these pensions can't be paid? They will come to the taxpayers with their hands out. When they stroll forward with their beggar's bowl in hand, the American people should keep their wallets in their pockets. That may not seem fair, but the public sector union members have gotten a great deal at everyone else's expense for a long time and if somebody has to take a haircut, and they do, it should be the union members instead of the taxpayers they've been bilking for so long.

### A2: Unions Historically Good

#### The bureaucracy of unions can no longer offer radical change to workers - only they themselves hold the power for social change

McArdle 2015 (Megan, “Unions are Powerless. Workers Aren’t.” Bloomberg View, March 23rd 2015)

The long-simmering dispute between West Coast port owners and the International Longshore and Warehouse Union had already been settled, but everywhere I went at the International Home and Housewares Show, people were still talking about it. The standoff left ships sitting offshore, unable to unload their cargo, and snarled everyone's supply chains into the kind of knot that you have to spend weeks in the basement untangling. Product launches were being delayed, and retailers were making nervous noises about empty shelves. The showdown at the ports was very bad for the U.S. economy, which lost an estimated $2 billion a day as food rotted and ships idled. But it seems to be good for the port workers, though the details of the tentative agreement are somewhat scarce. Through solidarity and aggressive bargaining, the ILWU won higher wages and other concessions from an employer group that is not afraid to play hardball. If you're hoping that trade unionism can be resurrected in the U.S. -- and along with it the high wage growth and lower inequality that characterized mid-century America -- this might seem like a hopeful sign. In fact, it's the opposite. The very factors that enabled the longshoremen to drive such a high bargain are the same factors that are killing unions and lowering wages for low- and medium-skilled workers in the rest of the economy; the ILWU's victory just tells you how bad their bargaining position is. Whither labor? The last year has been filled with interesting stories on this front: The United Automobile Workers union is still struggling to organize Volkswagen's plant in Chattanooga, Tennessee, despite the support of the company and its German unions; local governments are mandating massive hikes in the minimum wage supported by dubious readings of the available evidence; and meanwhile, the governor who won an epic showdown with Wisconsin's public-sector unions may well be the next president of the United States. And did I mention that Wal-Mart, after spending years strenuously resisting pressure to raise wages, went ahead and announced generous increases? What the flaming heck is going on with our labor markets? Well, let me see if I can boil it down for you: After years of flopping around on the ground and gasping that full employment is just too hard, labor markets have finally decided to shape up and start clearing. Nonetheless, unions are still dying, except in a few favored sectors that are shielded from competition. Wages will improve, but they won't improve much. Attempts to manhandle the markets into giving us the wages we would like to have risk serious disemployment. Confused, aren't you? If labor markets are getting better, why would Big Labor's prospects be getting worse? Bear with me and I promise it will all make sense. In February 2008, 138.3 million people were employed in the U.S. Six years later, in February 2014, that number was ... 137.8 million. The labor market had actually lost jobs over those six years, even as the working-age population grew by millions. Some of this can be explained by the aging of the baby boomers, but in fact, many workers delayed their retirements due to the financial crisis. Mostly, this is explained by the weakness of the U.S. job market. No, weak doesn't adequately describe it: America's labor market had to have its head propped up while it gingerly sipped some juice. Then suddenly, over the last year, the labor market has had the kind of turnaround that's usually only seen at the third-act break of inspiring movies about people who get their legs crushed in terrible car crashes, then go on to win the Olympics anyway. The labor market jumped out of bed and demanded a set of free weights so that it could get back into training. Over the past 12 months -- if the preliminary numbers are to be believed -- the economy has added some 3.3 million jobs. Many people think that's why Wal-Mart has decided to announce a major wage increase: It needs higher wages to maintain its labor force. When economic times are lean, you get better workers in not-so-great jobs, because a not-so-great job is better than no paycheck at all. As hiring picks up, those workers see their alternatives improve, so you have to raise wages to keep them in the building. This is, obviously, very good news for people who work at Wal-Mart. And yet, we're not necessarily seeing this same turnaround story in the earnings numbers. Average hourly wages did increase by almost 50 cents over the past year, but that's not a radical change from the previous two years. It's not even that much better than wage growth during the darkest days of the financial crisis. What's going on here? Well, for one thing, there's still a lot of slack in the labor market -- what Karl Marx called the reserve army of labor, who help keep wages down for the rest. They may not be officially unemployed; they may be "consulting" or "staying home to help Mom out" or "getting my third graduate degree." But whatever you call them, they are people who might like to work, if they could find a good enough job. Only they can't, so they're doing something else. In our reference month of February 2008, the employment-to-population ratio was 62.8. Today it's 59.3. And to reiterate, we can't blame this all on the baby boomers. That number undoubtedly represents some retirement, but it also represents millions of people who could be working, who would ideally like to be working but aren't. As those people flow back into the labor market, they put downward pressure on wages. Until our reserve army has been demobilized, booming employment numbers won't necessarily translate into booming wages. Even then, however, we can't expect a return to the robust wage growth that followed the Great Depression and World War II -- or even the go-go days of the 1990s. Which is why, as I say, unions are dying. At this point, it's unlikely that anything can revive them.

### A2: Unions Expand Middle Class

#### Capitalism is not a sustainable economic system, it will collapse inevitably - the question remains should we prolong it and risk more damage?

Knight 2009 (Alex, “1. Is This the End of Capitalism?”, The End of Capitalism, Word Press, no date).

Capitalism requires growth. A system that requires growth cannot last forever on a planet that is defined by ecological and social limits. Capitalism is therefore fundamentally unsustainable – sooner or later it will run up against those limits and the system will stop functioning. At this moment we are in the midst of a crisis which is calling into question the future of this system. Now is a perfect opportunity to envision a new way of living in the world that can meet human needs while also respecting the needs of the planet. It is time to build this new world. The current economic crisis which began in 2007 is unlike any previous crisis faced by global capitalism. In earlier downturns there remained a way to grow out of it by expanding production – there were new resources and energy supplies, new markets, and new pools of labor to exploit. The system just needed to expand its reach, because there was plenty of money to make outside its existing grasp. If we study what lies at the root of today’s crisis, we will discover very real limits to growth blocking that path this time. From extreme poverty alongside excessive consumption to exhaustion of resources and ecosystems, the system’s capacity for growth has reached a breaking point. The present economic recession might not be recorded in the history books as the final chapter of capitalism. But the ongoing crisis illustrates that like Humpty-Dumpty, the capitalist system is broken and there’s no sense continuing to use all the King’s horses and all the King’s men to try to put it back together again. It would be wiser to spend those resources developing an economy that works better for our communities and our planet. Contrary to what may be reported in the news, this is not merely a financial crisis. Professor Richard Wolff in his excellent video Capitalism Hits the Fan explains that this crisis did not begin in the financial markets and it hasn’t ended there. When the corporate media cast blame for the recession on abstractions like “toxic assets,” “collateralized debt obligations,” “credit default swaps,” or focus discussion of the problem on the crimes and errors of individual investors and firms, they obscure the true depth of the crisis. This is a crisis of the system itself, meaning the only solution is a total change in the structure of the economy. Capitalism cannot be “fixed,” it must be replaced. Despite unprecedented efforts on the part of the King’s men, who have spared no expense on his recovery, Humpty remains in critical condition today and his long-term prospects are not looking good. Journalist and former Goldman Sachs executive Nomi Prins has been tracking the extent of the Wall St. bailout, and reported in December ’09 that the US government has in the past year committed over $14 trillion to buy up worthless debt from troubled banks. (Putting this in perspective, the entire yearly economy of the United States is also $14 trillion.) Despite these unprecedented giveaways, businesses continue to close their doors or downsize their workforces, pushing the official US unemployment rate over 10% as of November ’09. But this number only includes those jobless workers who are currently looking for full-time employment. A more accurate figure, including the underemployed and those discouraged from actively seeking employment would be 17.5%, or nearly 1 of every 5 American workers out of a job. While the US Congress quickly gave out trillions of dollars to banks and corporations facing hardship, it has thus far created no new job training or unemployment programs to ease the suffering of the millions of workers losing their incomes. Nor does it appear willing to create a public health care program for the nearly 50 million Americans now without access to a doctor. At the same time the US government continues to drag its feet on the issue of climate change, recently joining with China to “wreck” the Copenhagen climate summit (in Bill McKibben’s words) that was attempting to curb global greenhouse gas emissions. Such favoritism towards banks and corporations while neglecting the basic well-being of the public and the planet reflects the sickness of capitalist priorities. In this system, profit is valued more highly than human and non-human life. Capitalism requires growth, and according to an article published in New Scientist, growth is “killing the Earth.” The article included the below graph, showing the size of the global economy (GDP) skyrocketing over the last fifty years. But this tremendous growth in economic output corresponds to an equally rapid growth in damage done to the global environment. Forest loss, fisheries depleted, ozone destruction, species extinctions, carbon dioxide emissions, and the rise of global temperatures all race towards the top of the page, suggesting that if capitalism were able to recover from its current fall and continue on a path of endless growth, there soon might not be any planet left to live on.

### A2: Civil right solves discrimination

#### Making something a civil right doesn’t resolve the issues, they just manifest in different ways - the CRA hasn’t reversed racial inequalities such as the wealth gap, housing segregation, voter discrimination, police killings, and the criminal justice system

Wolf 2014 (Richard, “Equality still elusive after 50 years after the Civil Rights Act”, USA TODAY, January 19th 2014)

When President John F. Kennedy called on Congress in June 1963 to pass what would eventually become the Civil Rights Act of 1964, he rattled off a string of statistics intended to highlight the nation's continuing racial divide a century after the Emancipation Proclamation. African Americans born that year, Kennedy said, had "about one-half as much chance of completing high school as a white baby born in the same place on the same day, one-third as much chance of completing college, one-third as much chance of becoming a professional man, twice as much chance of becoming unemployed, about one-seventh as much chance of earning $10,000 a year, a life expectancy which is seven years shorter, and the prospects of earning only half as much." Fifty years later, on the eve of Monday's observance of Martin Luther King Jr. Day, the battle to end overt discrimination has been far more successful than the effort to attain economic, educational or social equality. Blacks have made huge strides in high school education but still lag in college graduation rates. Their incomes have risen and poverty rates have declined, but a mammoth wealth gap remains, along with persistently high unemployment rates. So great has been the increase in political power that the black voter turnout rate surpassed that of whites in the 2012 presidential race, and the number of black elected officials has risen sevenfold. But while school segregation and workplace discrimination have declined, too many African Americans go home to segregated, often impoverished neighborhoods. "There has been a dramatic change in attitudes and in principles," says Michael Wenger, a senior research fellow at the Joint Center for Political and Economic Studies, the nation's leading think tank on African-American socioeconomics. "Change has been much less dramatic in actual behavior." The Civil Rights Act championed by Kennedy and signed into law by President Lyndon Johnson after JFK's death succeeded in opening public accommodations, such as hotels and restaurants. It took longer to reduce racial discrimination in the workplace, but that, too, counts as a success. And the law's threat to cut off federal funding forced the desegregation of schools in the South. "We shouldn't underestimate the importance of that," says Michael Klarman, a Harvard Law School professor specializing in constitutional law and civil rights. "Without that, we wouldn't have a black middle class as successful as it is. We wouldn't have a black president. We wouldn't have as many blacks going to law school or medical school." Public attitudes have changed dramatically. In the 1960s, most whites were tolerant of job discrimination and school segregation. Today, most say they accept the racial preferences required to rectify decades of discrimination.

### A2: Employer’s use illegal scare tactics

#### Yes, employer’s disincentive union participation, but almost all their tactics are legal according to the most comprehensive study on labor and employers during union elections - a civil right is useless without making these employer tactics illegal FIRST

Bonfrenbrenner 2009 (Kate, “NO HOLDS BARRED: The Intensification of Employer Opposition to Organizing”, The Economic Policy Institute, Briefing Paper #235, May 20)

This study is a comprehensive analysis of employer behavior in representation elections supervised by the National Labor Relations Board (NLRB). The data for this study originate from a thorough review of primary NLRB documents for a random sample of 1,004 NLRB certification elections that took place between January 1, 1999 and December 31, 2003 and from an in-depth survey of 562 campaigns conducted with that same sample. Employer behavior data from prior studies conducted over the last 20 years are used for purposes of comparison. The representativeness of the sample combined with the high response rate for both the survey (56%) and NLRB unfair labor practice (ULP) charge documents (98%) ensure that the findings provide unique and highly credible information. In combination, the results provide a detailed and well-documented portrait of the legal and illegal tactics used by employers in NLRB representational elections and of the ineffec- tiveness of current labor law policy to protect and enforce workers rights in the election process. Highlights of the study regarding employer tactics in representational elections include: • In the NLRB election process in which it is standard practice for workers to be subjected to threats, inter- rogation, harassment, surveillance, and retaliation for union activity. According to our updated findings, employers threatened to close the plant in 57% of elections, discharged workers in 34%, and threatened to cut wages and benefits in 47% of elections. Workers were forced to attend anti-union one-on-one sessions with a supervisor at least weekly in two-thirds of elections. In 63% of elections employers used supervisor one-on-one meetings to interrogate workers about who they or other workers supported, and in 54% used such sessions to threaten workers. • In combination, our survey and ULP findings reveal that employer opposition has intensified: the incidence of elections in which employers used 10 or more tactics more than doubled compared to the three earlier periods we studied, and the nature of campaigns has changed so that the focus is on more coercive and punitive tactics designed to intensely monitor and punish union activity. • Many of these same tactics have been key elements of employer anti-union campaigns that we have studied for the last 20 years.1 Although the use of management consultants, captive audience meetings, and supervisor one-on-ones has remained fairly constant, there has been an increase in more coercive and retaliatory tactics (“sticks”) such as plant closing threats and actual plant closings, discharges, harassment and other discipline, surveillance, and altera- tion of benefits and conditions. At the same time, employers are less likely to offer “carrots,” as we see a gradual decrease in tactics such as granting of unscheduled raises, positive personnel changes, promises of improvement, bribes and special favors, social events, and employee involvement programs. • Unions filed unfair labor practice charges in 39% of the survey sample and 40% of the NLRB election sample. e survey and NLRB documents both show that the most aggressive employer anti-union behavior—that is, the highest percentage of allegations—were threats, discharges, interrogation, surveillance, and wages and benefits altered for union activity. • e character of the process in the private sector is illuminated by survey data from the public-sector campaigns, which describe an atmosphere where workers organize relatively free from the kind of coercion, intimidation, and retaliation that so dominates in the private sector. Most of the states in our public-sector sample have card check certification as the primary means through which workers are organizing, where the employer is required to recognize the union if the majority of workers sign cards authorizing the union to represent them. Highlights of the study regarding NLRB ULP charges include: • Twenty-three percent of all ULP charges and 24% or more of serious charges—such as discharges for union activity, interrogation, and surveillance—were filed before the petition for an election was filed, and 16% were filed more than 30 days before the election petition was filed. ese data confirm that employer campaigning, including the employer free speech provision, does not depend on a petition to kick into effect. • Forty-five percent of ULP charges resulted in a “win” for the union: either the employer settled the charges or the NLRB or the courts issued a favorable decision. • irty-seven percent of ULP charges result in the issuance of a complaint by the NLRB. Twenty-six percent are withdrawn by the union prior to the complaint being issued, and 23% are found to have no merit. Just under a third of all charges are resolved in whole or in part at the settlement level with 14% settling before the complaint is issued, with 18% settling after the complaint but before the Administrative Law Judge (ALJ) hearing process is complete. e content of the settlements is very similar except that settlements prior to merit determination are less likely to include reinstatement than those settled after the complaint. • Employers tend to appeal most ALJ decisions, particularly Gissel bargaining orders and orders for second elections. is means that in the most egregious cases the employer is able to ensure that the case is delayed by three to five years, and in all the cases in our sample the worst penalty an employer had to pay was back pay, averaging a few thousand dollars per employee. • Our findings and previous research suggest that unions are filing ULPs in fewer than half the elections for three main reasons: filing charges where the election is likely to be won could delay the election for months if not years; workers fear retaliation for filing charges, especially where the election is likely to be lost; and the weak remedies, lengthy delays, and the numerous rulings where ALJ recommendations for reinstatement, second elections, and bargaining orders have then been overturned, delayed, or never enforced, have diminished trust that the system will produce a remedy. In 2007 there were only 1,510 representation elections and only 58,376 workers gained representation through the NLRB. Even for those who do win the election, 52% are still without a contract a year later, and 37% are still without a contract two years after an election. Yet researchers such as Freeman (2007) are showing that workers want unions now more than at any other time in the last three decades. Our findings suggest that the aspirations for representation are being thwarted by a coercive and punitive climate for organizing that goes unrestrained due to a fundamentally flawed regulatory regime that neither protects their rights nor provides any disincentives for employers to continue disregarding the law. Moreover, many of the employer tactics that create a punitive and coercive atmosphere are, in fact, legal. Unless serious labor law reform with real penalties is enacted, only a fraction of the workers who seek representation under the National Labor Relations Act will be successful. If recent trends continue, then there will no longer be a functioning legal mechanism to effectively protect the right of private-sector workers to organize and collectively bargain.