

**Work, the Law, and the World: Realizing Worker & Social Justice**  
**Reading Group**  
**Spring 2021**  
**Tuesdays, 6 - 7:20 PM (held remotely on Zoom)**

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**Course Description:**

Law governs the workplace in myriad ways. Though many regulations concerning work are concentrated in the fields of employment and labor law (“ELL”), issues of workplace *justice* intersect with almost every legal field and subfield conceivable, from criminal law to environmental law to education law to immigration law to First Amendment law and beyond.

This reading group will begin with an overview of how “labor” and “employment” law are precisely defined in the United States: what are unions, which workers are allowed to organize unions, what are unions allowed to do, and what does it have to do with law? What protections do workers in the U.S. have (or not have) from discrimination, harassment, and termination—and how are those protections impacted by things like immigration status or industrial sector?

Each subsequent session will focus on the relationship between ELL and a separate area of law with its own vast implications for working life. An intersectional, interdisciplinary lens on ELL will illuminate the key, complex questions that central figures of the U.S. movement for worker justice—whether they be conventional trade unions or emergent worker collectives—must answer with respect to the future of their movement, and the role that lawyers might play in that future. We will invite guests—including labor activists, legal scholars, and policy experts—to join us for several sessions and enliven our discussions with their experiences, perspectives, and expertise.

**Attendance and Facilitation Policy:**

There will be 13 meetings of 80 minutes each. Students enrolled for credit must attend at least 750 minutes to receive credit, and therefore must be present for at least 10 meetings.

Facilitation of reading group meetings will be a shared endeavor, and at the beginning of the term, students will be able to sign up to facilitate session(s) that interest them.

**Reading Group Materials:**

Reading assignments are listed below. PDFs will be made available at <http://www.bit.ly/spr21workerjusticegroup-yls>. Readings are subject to change, so participants should monitor the “live” version of the syllabus available in this Google Drive over the course of the semester. Students are also welcome to suggest additions/modifications to the syllabus.

## Reading Assignments:

### Recommended Introductory Materials:

- [Why unions are good for workers—especially in a crisis like COVID-19](#), Economic Policy Institute (August 25, 2020).
- Kate Andrias, [The New Labor Law](#), Yale L.J. (October 2016).
- [The Clean Slate Agenda](#), Clean Slate for Worker Power, Harvard Law School Labor and Worklife Program.
- Bureau of Labor Statistics, [Labor Law Highlights, 1915-2015](#)

### Week 1: Welcome and Common Good Bargaining (2/2)

- *Required Readings:*
  - o Merrie Najimy and Joseph McCartin, "[The Origins and Urgency of Bargaining for the Common Good](#)," *The Forge* (March 31, 2020). **[12 pages]**
  - o Kimberly M. Sánchez Ocasio & Leo Gertner, [Fighting for the Common Good: How Low-Wage Workers' Identities are Shaping Labor Law](#), 126 Yale L.J. (2017). **[23 pages]**
  - o Kate Andrias, [The New Labor Law](#), 126 Yale L.J. (2016): Introduction (pp. 5-13) and pp. 70-100. **[38 pages]**
- *Optional Readings:*
  - o Sarah Jaffe, "[The Chicago Teachers Strike was a Lesson in 21st-Century Organizing](#)," *The Nation* (November 16, 2019).

### Week 2: Labor and Gig Workers (2/9)

- *Required Readings:*
  - o Veena Dubal, "[Gig Worker Organizing for Solidarity Unions](#)," LPE Blog (June 19, 2019). **[3 pages]**
  - o Veena Dubal, [Winning the Battle, Losing the War?: Assessing the Impact of Misclassification Litigation on Workers in the Gig Economy](#), Wisconsin Law Review 739 (2017). **[65 pages]**
  - o Daria Roithmayr, "[Racism is at the Heart of the Platform Economy](#)," LPE Blog (November 16, 2018). **[3 pages]**
- *Optional Readings:*
  - o Sanjukta Paul, *Uber as For-Profit Hiring Hall: A Price-Fixing Paradox and Its Implications*, Berkeley Journal of Employment and Labor Law Vol. 38, No., 1, 2017.
  - o V.B. Dubal, "The Drive to Precarity: A Political History of Work, Regulation & Labor Advocacy in San Francisco's Taxi & Uber Economies" Berkeley Journal of Employment & Labor Law 38:1 (2017).
  - o For a good overview of policy dimensions of labor and gig work: R.B. Collier, V. B. Dubal, C. Carter, *Labor Platforms and Gig Work: The Failure to Regulate*, Institute for Research on Labor and Employment Working Paper (2017).

### Week 3: Labor and Climate Justice (2/16)

- *Required Readings:*
  - o [Workers: The Climate Canaries](#), Cora Roelofs and David Wegman, American Journal of Public Health (2014) | 1799-1801 **[2 pgs]**
  - o "[Fighting for Farmworkers & Our Environment: National Hispanic Leadership Agenda & Farmworker Justice Statements on EPA Nomination and Proposed Pesticide Applicator Rules](#)." **[7 pgs]**

- [Environmental Justice at Work: The UAW, the War on Cancer, and the Right to Equal Protection from Toxic Hazards in Postwar America](#), Josiah Rector, *Journal of American History* (2014) | PG 480-502 [12 pgs]
- H.Res.109 - Recognizing the duty of the Federal Government to create a Green New Deal. 116th Congress (2019-2020) <https://www.congress.gov/bill/116th-congress/house-resolution/109/text> [6 pgs]
- *Environmental Inequalities: Class, Race, and Industrial Pollution in Gary, Indiana, 1945-1980*, Andrew Hurley | Chapter 4: “Tired of Working in Pollution and Having It Follow Us Home” | 77-110  
[https://www.jstor.org/stable/10.5149/9780807898789\\_hurley](https://www.jstor.org/stable/10.5149/9780807898789_hurley) [33 pgs]
- *Garbage Wars: The Struggle for Environmental Justice in Chicago*, David Pellow | Chapter 4 | 67-130 [63 pgs]

#### **Week 4: Labor and #MeToo (2/23)**

- *Required Readings:*
  - Ana Avendano, [#MeToo Inside the Labor Movement](#), NewLaborForum (January 2019) [16 pgs]
  - Michael Cooper, [“Caught in the Middle of #MeToo: Unions That Represent Accusers and Accused,”](#) N.Y. Times (May 17, 2019) [3 pgs]
  - Jane McAlevey, [What #MeToo Can Teach the Labor Movement](#), *In These Times* (Dec. 27, 2017) [6 pgs]
  - Ann C. Hodges, [Strategies for Combating Sexual Harassment: The Role of Labor Unions](#), 15 *Texas J. Women & L.* 183 (2006). [46 pgs]

#### **Week 5: Labor and International Solidarity (3/2)**

- *Required Readings:*
  - Manoj Dias-Abey, [“International Labor Solidarity in a Time of Pandemic,”](#) *Boston Review* (April 28, 2020). [7 pages]
  - David Bacon, “The Cross-Border Farmworker Rebellion,” *The American Prospect* (October 31, 2018). [6 pages]
  - Manoj Dias-Abey, [“Using Law to Support Social Movement-Led Collective Bargaining Structures in Supply Chains,”](#) *Australian Journal of Labour Law* (2019) [21 pages]
  - Richard P. Appelbaum and Nelson Lichtenstein, *Achieving Workers’ Rights in the Global Economy*, Cornell University Press (2016): Introduction. [14 pages]
  - Annelise Orleck, *“We Are All Fast-Food Workers Now”: The Global Uprising Against Poverty Wages*, Beacon Press (2018): pp. 1-45. [44 pages].
- *Optional Readings:*
  - B. Rogers, “Law and the Global Sweatshop Problem” in Richard P. Appelbaum and Nelson Lichtenstein, *Achieving Workers’ Rights in the Global Economy*, Cornell University Press (2016). [15 pages].

#### **Week 6: Labor and Immigration (3/9)**

- *Required Readings:*
  - [“Union Representation of Immigrant Janitors in Southern California: Economic and Legal Challenges”](#), Catherine L. Fisk, Daniel J. B. Mitchell, and Christopher L. Erickson, in *Organizing Immigrants* ed. Ruth Milkman (2018) | 213-224 [9 pgs]

- [“Immigrant Workers: Vital to the U.S. Covid-19 Response, Disproportionately Vulnerable,”](#) Julia Gelatt (2020) **[14 pgs]**
- [“Suspending Employers' Immigration-Related Duties During Labor Disputes: A Statutory Proposal,”](#) Annie Decker, Comment in YLJ (2006). **[9 pgs]**
- [“Protecting Worker Rights in the Context of Immigration Reform,”](#) Arthur Read, Journal of Law and Social Change (2006) **[28 pgs]**
- [20 CFR Part 655](#) (implementing the H2-A program), all subparts **[~48 pgs]**

### **Week 7: Labor and the Carceral State I: Police Unions (3/16)**

- *Required Readings:*
  - Edgar B. Herwick III, [The Boston Police Strike That Impacted Labor for Generations](#), WGBH (Aug. 15, 2014)
  - [What’s Wrong With Police Unions?](#), Ben Levin, Columbia Law Review | PG 1340-1401 **[61 pgs]**
  - [“The Labor Movement Isn’t Ready to Expel Police Unions,”](#) Bill Fletcher Jr., *The Nation*. **[5 pgs]**
  - [“We Must Sever Law Enforcement from the Labor Movement,”](#) Kim Kelly, *The Nation*. **[5 pgs]**
  - [“Why and How SEIU Members are Calling On Our Unions to Expel Cops,”](#) Felix Thompson, Julia Wallace, & Mark Ostapiak, *Labor Notes* (2020) **[5 pgs]**
  - Matthew Cunningham-Cook, [The AFL-CIO’s Police Union Problem is Bigger Than you Think](#), The Intercept (Jun. 18, 2020)
  - Ben Mauk, [The Ludlow Massacre Still Matters](#), The New Yorker (Apr. 18, 2014)
- *Optional Readings:*
  - Stephen Rushin, [Police Union Contracts](#), Duke Law Journal (2017)
  - Chicago Tribune, [Cops Traded Away Pay for Protection in Police Contracts](#) (May 2016)
  - Data for Justice Project, ACLU of Massachusetts, [Unpacking the Boston Police Budget](#) (July 2020)
  - NAACP LDF, [Community Oversight of Police Union Contracts](#) (August 2020)
  - Ron DeLord and Ron York, *Law Enforcement, Police Unions, and the Future*

### **Week 8: Labor and the Carceral State II: Forced Prison Labor (3/23)**

- *Required Readings:*
  - Heather Ann Thompson (Guest Speaker), [The Prison Industrial Complex: A Growth Industry in a Shrinking Economy](#) **[31 pgs]**
  - Heather Ann Thompson, [Rethinking Working-Class Struggle through the Lens of the Carceral State: Toward a Labor History of Inmates and Guards](#) **[32 pgs]**
  - [“From Attica to South Carolina: Heather Ann Thompson and Amani Sawari on the Roots of the Nationwide Prison Strike,”](#) Democracy Now (2018) **[6 pgs]**
  - [Jones v. North Carolina Prisoners’ Labor Union, Inc.](#) S. Ct. (1977) (SCOTUS case holding that prisoners did not have right to join labor unions) **[17 pgs]**
  - [“How the Ongoing Prison Strike is Related to the Labor Movement,”](#) Kim Kelly, *Teen Vogue* (2018) **[6 pgs]**
  - Browse the website of the Incarcerated Workers Organizing Committee: <https://incarceratedworkers.org/news>
- *Optional Readings:*
  - Heather Ann Thompson, [Downsizing the Carceral State: The policy implications of prison guard unions](#) **[9 pgs]**

- Heather Ann Thompson, [The national prison strike is over. Now is the time prisoners are most in danger](#) (September 12, 2018)
- Heather Ann Thompson, [Prisons are Erupting and Why It Matters](#) (July 12, 2017)
- [The Trade-Union Attitude Towards Prison Labor](#), John P. Frey, *The Annals of the American Academy of Political and Social Science* (1913) [7 pgs]
- [Private Prisons and Investment Risks](#), a 2 part report/policy brief from the American Federation of Teachers. [19 pgs]

### **Week 9: Labor and the Movement for Black Lives (3/30)**

#### - *Required Readings:*

- Cherrie Bucknor, [“Black Workers, Unions, and Inequality,”](#) Center for Economic and Policy Research (August 2016). [23 pages]
- Maurice Weeks and Marilyn Sneiderman, [“Why Labor and the Movement for Racial Justice Should Work Together,”](#) *In These Times*, September 2, 2016. [4 pages].
- Bianca Cunningham, [“It’s Time to Make Black Lives Matter in Our Unions,”](#) *Labor Notes* (June 15, 2020). [2 pages]
- Robin D.G. Kelley, [“Building Bridges: The Challenge of Organized Labor in Communities of Color,”](#) *New Labor Forum* (Fall/Winter 1999), pp. 43-58. [17 pages].
- Keeanga-Yamahatta Taylor, *From #BlackLivesMatter to Black Liberation*, Haymarket Books (2016), Chapter 7. [28 pages]

#### - *Optional Readings:*

- Eric D. Larson, “Black Lives Matter and Bridge Building: Labor Education for a ‘New Jim Crow’ Era,” *Labor Studies Journal* (2016).
- Erik S. Gellman, “In the Driver’s Seat: Chicago’s Bus Drivers and Labor Insurgency in the Era of Black Power,” *Labor: Studies in Working-Class History of the Americas* 11:3 (2014).
- Robin D. G. Kelley, “‘We Are Not What We Seem’: Rethinking Black Working-Class Opposition in the Jim Crow South,” *The Journal of American History* 80:1 (1993).
- Ethan Corey, [“Connecting the Dots between ‘Identity Politics’ and Class Politics,”](#) *In These Times* (October 27, 2015).
- Marc Bayard, [“Partnership between the Labor Movement and Black Workers: The Opportunities, Challenges, and Next Steps,”](#) Institute for Policy Studies (April 2015). Jhacova Williams and Valerie Wilson, [“Black workers endure persistent racial disparities in employment outcomes,”](#) Economic Policy Institute Labor Day 2019 Series (August 27, 2019).
- Noah Zatz’s series of posts on *Bailey v. Alabama* ([1](#), [2](#), and [3](#)) on the Law and Political Economy Blog

### **Week 10: Workers Centers and Non-Union Organizing (4/6)**

#### - *Required Readings:*

- Janice Fine, [Worker Centers: Organizing Communities at the Edge of the Dream](#), Economic Policy Institute (December 13, 2015) [24 pgs]
- [The Future of the Workers’ Movement](#), NPR (May 20, 2013) [19 pgs]
- David Rosenfeld, [Worker Centers: Emerging Labor Organizations-Until They Confront the NLRA](#), Berkeley Journal of Employment & Labor Law [45 pgs]

- Janice R. Fine & Jennifer Gordon, [Strengthening Labor Standards Enforcement Through Partnerships with Workers' Organizations](#) [35 pgs]

### **Week 11: Public Sector Employees and Janus (4/13)**

- *Required Readings:*
  - Jeffrey Keefe, [Laws Enabling Public-Sector Collective Bargaining Have Not Led to Excessive Public-Sector Pay](#), Economic Policy Institute (Oct. 16, 2015) [19 pgs]
  - Dana Goldstein, [It's More than Pay](#), N.Y. Times (Oct. 24, 2019) [4 pgs]
  - Priscilla Murolo, [Five Lessons from the History of Public Sector Unions](#), LaborNotes (June 11, 2018) [6 pgs]
  - Gerald Mayer, [Selected Characteristics of Private and Public Sector Workers](#), Cong. Research Serv. (March 21, 2014) [36 pgs]
  - Alan M. Klinger & Dina Kolker, Public Sector Unions Can Survive Janus, 34 A.B.A. J. LAB. & EMP. L. 267 (2020) [20 pgs]

### **Week 12: NLRA Exempt Workers and Organizing (4/20)**

- *Required Readings:*
  - Lauren Hilgers, [Out of the Shadows](#), N.Y. Times (Feb. 21, 2019) [12 pgs]
  - Gosia Wozniacka, [Less Than 1 Percent of US Farmworkers Belong to a Union. Here's Why.](#), CivilEats (May 7, 2019) [35 pgs]
  - Lawrence Mischel & Celine McNicholas, [Uber Drivers Are Not Entrepreneurs](#), Economic Policy Institute (September 20, 2019) [20 pgs]
  - KL Griffith, [The Power of a Presumption: California as a Laboratory for Unauthorized Immigrant Workers' Rights](#), UC Davis L. Rev. [44 pgs]

### **Week 13: Labor at Yale and New Haven (4/27)**

- *Required Readings:*
  - [Workers to 'be first in line': New Haven adopts right-of-recall for hotel jobs](#), Brian Zahn, *New Haven Register* (2020) [5 pgs]
  - ["Yale Unions Celebrate Jobs Pact"](#), Thomas Breen, *New Haven Independent* (2019). [8 pgs]
  - [Cop Union Backs DeLauro Rival](#), Laura Glesby, *New Haven Independent* (2020). [4 pgs]
  - [Labor Unions](#) at Yale University.
  - [List](#) of City of New Haven Collective Bargaining Agreements with Unions.
  - ["Beyond Strike Support: Labor-Community Alliances and Democratic Power in New Haven"](#), Chris Rhomberg and Louise Simmons, *Labor Studies Journal* (2005) [29 pgs]
  - ["May Day New Haven: An Information Newspaper Published by View From the Bottom, Yale Strike News, and the Committee to Defend the Panthers"](#), available in the [Beinecke Reading Room](#) [11 pgs]