

## Non-ideal Teacher Layoffs in an Unjust World

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I am very pleased to have the opportunity to respond to this interesting and morally relevant essay. Victoria Theisen-Homer and Meira Levinson should be praised for their efforts here to better understand what a “least-unjust” approach to Reduction in Force (RIF) layoffs might be given what they accurately describe as the “patently unjust circumstances” in which they take place. I should come clean from the outset, however, and confess that my support for their work here derives not just from my own interests in the often complex and tangled relationships between political theory, public policy, and education, but also from my previous work in the labor movement.

In a former life I was trained as a high school social studies teacher, and while substitute teaching to pay the bills and attending graduate school at York University in Toronto, I was very actively involved with CUPE, the Canadian Union of Public Employees. My involvement in the labor movement was serious and focused: I went to meetings, handed out pamphlets, contributed to strategy sessions, and across two prolonged strikes spent almost seven snowy months picketing outdoors, where for four hours a day, five days a week, I joined my union brothers and sisters and used my body to block traffic on some of Toronto’s busiest streets. I remember this as a heady and intense time, fueled by constant doses of neo-Marxist and anarchist literature, plus plenty of late night conversations with other self-styled radicals. I became deeply convinced back then, and continue to believe, despite the undermining of unions and fair collective bargaining at every level, and Richard Rorty’s apocalyptic warning in *Philosophy and Social Hope* that there are “plausible reasons for believing that neither democratic freedom nor philosophical pluralism will survive the next century,”<sup>1</sup> that one of the best responses to the prejudice and greed that continue to harm so many people is to join with others in solidarity and work together peacefully and democratically for real and lasting change.

Theisen-Homer and Levinson open with a brief yet gripping narrative description of the last day of the school year at “Skyline,” a pseudonym that cleverly evokes, at least for a moment, a sense of expansive possibility that comes when we look to the horizon. Yet the depressing reality is that twenty teachers were laid off at Skyline in 2012, which raises vital questions about the impact of budget cuts on the lives of both teachers and students, as well as exactly *how* such layoffs should be carried out.

Defining non-ideal theory as “theory that accounts for existing injustices and has the capacity to be action-guiding,” Theisen-Homer and Levinson advance their analysis by posing four interconnected questions, all rooted in a commitment to justice. They then proceed to build their discussion through what they call the “ground-level dilemma about RIFs at Skyline.” They assert that “students have a claim to being taught by the most effective teachers,” and the crux of the problem here as they

see it, if I have them right, seems to be best captured when they go on to say “If teachers must be fired, then we should attempt to let the least effective teachers go while retaining those who are best able to foster students’ learning and well-being.”

Recognizing that there are issues with seniority-based layoffs (SBLs), and even that “it is not obvious that a just system of performance-based layoffs could ever *be* created,” Theisen-Homer and Levinson nonetheless argue for what they describe as “a system of non-arbitrary firings that would reduce school-level upheaval, target the least-effective teachers, and reward those teachers who teach the least privileged students and/or teach in the hardest schools in such a way that incentivizes success rather than failure.”

In the final paragraph they draw their essay to a close by offering three conclusions. Methodologically, they claim that careful reflection on a specific case study can help develop non-ideal theory. Their theoretical assertion is that “justice toward students and teachers is more coextensive than would be assumed *a priori*.” And their policy point is that “the *least unjust* way to RIF teachers is based on their score on a holistic evaluation.”

I agree with their claim that analysis of a specific case can help generate insights into non-ideal theory. It was John Rawls, it should be noted, who first coined the term *non-ideal theory* in *A Theory of Justice*, and who explained how it was directly tied to contextual circumstances, since in a non-ideal situation “the parties ask which principles to adopt under less happy conditions.”<sup>22</sup> I would be surprised if anyone would want to argue that the layoffs at Skyline were somehow not covered here. However, I am not so convinced about the soundness of their other two conclusions.

On a pragmatic level it is not surprising that judges have been reluctant to overturn seniority as the sole basis of discrimination in labor disputes, and unions themselves have fought against more complicated formulas. The judges are concerned about the avalanche of grievances and legal disputes that a more complex approach to layoffs would engender, and the unions have always been suspicious of how administrators would be tempted to use overly nuanced assessment protocols to get rid of certain teachers for political reasons. Unions recognize that some teachers are weaker than others, but their approach to this issue has been to fight for money for professional development, and to try to work positively with the conviction that any teacher can become better. Also a more “holistic” approach would encourage a spirit of divisiveness among union members, who really need to be united against social and political conditions that make layoffs a reality in the first place.

While I also appreciate their non-ideal approach in not trying to apply what they describe as “pre-established principles that were formulated to address ideal contexts and circumstances,” and their single *a priori* claim that “schools should serve children’s interests,” it is nonetheless true that different conceptions of justice, when applied to the Skyline case, would suggest different principles of justice that would speak to the interests of teachers and students in different ways. For example, a consequentialist moral outlook would see budget cuts and potential layoffs in ways that maximize the well-being and minimize the harm to the entire moral community,

and would not just consider teachers and students, but also fellow citizens and the entire budgetary constraints faced by governments at different levels.<sup>3</sup> An argument *could* be made that RIFs based on seniority are actually, all things considered, the least damaging for everyone involved. Alternatively, consider the work of Martha Nussbaum and Amartya Sen, who, drawing on Aristotle, argue for a view of justice that they call “the capabilities approach,” which focuses on “what people are actually able to do and to be, in central areas of human functioning.”<sup>4</sup> From this perspective, an education could be viewed as central to the principle of developing “capabilities,” and therefore any layoffs would violate the just demands of all students to receive an education that provides them with the opportunity to function at the highest possible level. What I am driving at here is that the principles of justice we could potentially invoke to discuss the injustice of RIFs in any specific context will always be plural, and they will inevitably make competing demands on what we should actually do, even if we are searching for the “least-unjust” option.

Overall, I want to thank the authors for tackling such a difficult and even painful reality as RIFs, and I hope their work here might encourage others to use their philosophical training and insight to address other pressing educational problems. The future of public education should never be taken for granted, and this non-ideal world that we all share needs all the help it can get.

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1. Richard Rorty, *Philosophy and Social Hope* (London, UK: Penguin, 1999), 274.

2. John Rawls, *A Theory of Justice: Revised Edition* (Cambridge, MA: Belknap Press, 1999), 216.

3. See Russ Shafer-Landau, *The Fundamentals of Ethics* (Oxford, UK: Oxford University Press, 2012).

4. Martha C. Nussbaum, “Public Policy and International Feminism,” in *What Is Philosophy?*, eds. C.P. Ragland and Sarah Heidt (New Haven, CT: Yale University Press, 2001), 126.