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## Advantage

#### The US currently refuses incarcerated workers the right to strike

Harvard Law Review, 19 - ("Striking the Right Balance: Toward a Better Understanding of Prison Strikes," Harvard Law Review 03/8/2019, <https://harvardlawreview.org/2019/03/striking-the-right-balance-toward-a-better-understanding-of-prison-strikes/)>II. LEGAL FRAMEWORK GOVERNING PRISON

STRIKES: STATE LAW AND FEDERAL STATUTES¶ A. Statutes and Regulations¶ As a threshold matter, state and federal statutory law provides no recourse for protecting prison strikes. Incarcerated individuals are not included as protected “employees” in the text of federal labor laws like the Fair Labor Standards Act78 and the National Labor Relations Act,79 and courts have refused to extend the protections that these statutes offer to those confined within prison walls.80 Further, this Note is aware of no state labor laws, or for that matter any state constitutional provisions, that have been interpreted to allow prisoners to strike. ¶Not only are prison strikes not protected by statutory law — they also are often explicitly prohibited. State statutes and prison regulations pose the most immediate barrier to prison strike activity, as states across the union appear to categorically bar prison strikes and other forms of inmate collective organizing. For instance, Alaska’s administrative code lists “participation in an organized work stoppage” and “encouraging others to engage in a food strike” as “[h]igh-moderate infractions.”81 The same is true at the federal level, as the Bureau of Prisons has made “[e]ngaging in or encouraging a group demonstration” and “[e]ncouraging others to refuse to work, or to participate in a work stoppage” prohibited acts.82 ¶ Further research is certainly necessary to develop a fuller, more nuanced treatment of the various state and federal statutory schemes that impact prison strikes.83 But even this brief overview drives home a clear bottom line: that state and federal laws, in their current forms, likely offer no viable protection for prison strikes and indeed often prohibit them outright. ¶B. Constitutional Law ¶ The Supreme Court has not spoken directly on the question of whether peaceful prison protests merit constitutional protection. However, two areas of constitutional analysis — prisoners’ rights broadly and prisoners’ First Amendment rights specifically — suggest that under current law, the answer to this question is likely also a resounding no.¶ 1. Prisoners’ Constitutional Rights Generally. — Section 1 of the Thirteenth Amendment states: “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”84 By its express terms, the amendment creates an explicit exception for persons serving a sentence pursuant to conviction of a crime, and it therefore offers prisoners no basis to refuse to work or to engage in other forms of peaceful strikes.85 ¶ Despite the Thirteenth Amendment’s clear textual carve-out, courts have not, in modern times, read the wording of the amendment literally to allow the State to treat inmates like slaves.86 According to the Court, “[t]here is no iron curtain drawn between the Constitution and the prisons of this country.”87 Instead, as neither slaves nor free people,88 inmates retain some (but not all) of their constitutional rights when they cross into the prison.89 The Supreme Court has time and again asserted that “[l]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights.”90 This is the case not only because of the inherently “deprivat[ory]” nature of imprisonment,91 but also because prison administrators must be accorded wide latitude in the complex and difficult task of operating a penal institution.92 This deference, however, “yield[s] to the strictures of the Constitution.”93 Indeed, courts recognize that inmates, despite being incarcerated, retain particular constitutional rights “that the courts must be alert to protect.”94 Such rights that an inmate retains are those “that are not inconsistent with his status as a prisoner or with the legitimate penological objective of the corrections system.”95

#### Prison labor uniquely fuels inequality. Two internal links:

#### Working environments are highly unsafe, leading to injury and massive debt

Eisen 20 (“Covid-19 Highlights the Need for Prison Labor Reform” April 17, 2020, Lauren-Brooke Eisen is director of the Brennan Center’s Justice Program where she leads the organization’s work to end mass incarceration. Her team focuses on exposing the profound social and economic hardships that impact those who encounter the justice system while creating policies that ultimately shrink its size and scope. )[https://www.brennancenter.org/our-work/analysis-opinion/covid-19-highlights-need-prison-labor-reform]

For decades, prisoners in American correctional facilities have worked for no wages or mere pennies an hour. As the United States attempts to reduce transmission of Covid-19, more than a dozen states are now relying on this captive labor force to manufacture personal protective equipment badly needed by healthcare workers and other frontline responders.¶ Prisoners in Missouri are currently earning between $0.30 and $0.71 an hour to produce hand sanitizer, toilet paper, and protective gowns that will be distributed across the state. In Louisiana, prisoners are making hand sanitizer for about $0.40 an hour. And in Arkansas, where incarcerated workers are producing cloth masks for prisoners, correctional officers, and other government workers, their labor is entirely uncompensated.¶ This unprecedented health emergency is re-exposing how our country’s long-held practice of paying nothing or next-to-nothing for incarcerated labor, with no labor protections, is akin to modern-day slavery.¶ Prisoners are not protected by the Fair Labor Standards Act (FLSA), the federal law establishing minimum wage and overtime pay eligibility for both private sector and government workers. In 1993, a federal appeals court held that it is up to Congress, not the courts, to decide whether the FLSA applies to incarcerated workers.¶ Courts have also ruled that the National Labor Relations Act, which guarantees the right of private sector employees to collective bargaining, does not apply in prisoners.¶ Even worse, prisoners are excluded from the U.S. Occupational Health and Safety Administration protections that require employers to provide a safe working environment. This dehumanizing lack of protection for prison workers has long subjected them to conditions that have endangered their physical safety.¶ Amid a health threat that worsens in crowded environments, many prisoners are working without any mandated protections. Congress must amend the language of federal employment protections to explicitly extend to work behind bars.¶ Forced labor in prisons has its roots in the post-Civil War Reconstruction period, when Southern planters faced the need to pay the labor force that had long worked for free under brutal conditions to produce the economic capital of the South.¶ Though the 13th Amendment abolished “involuntary servitude,” it excused forcible labor as punishment for those convicted of crimes. As a result, Southern states codified punitive laws, known as the Black Codes, to arbitrarily criminalize the activity of their former slaves. Loitering and congregating after dark, among other innocuous activities, suddenly became criminal. Arrest and convictions bound these alleged criminals to terms of incarceration, often sentenced to unpaid labor for wealthy plantation owners.¶ In the following decades, Southern states — desperate for cheap labor and revenue — widely began leasing prisoners to local planters and Northern industrialists who took responsibility for their housing and feeding, a practice known as convict leasing.¶ Under this system, the captive labor market worked long hours in unsafe conditions, often treated as poorly as they had been as slaves. Records approximate that on an average day between 1885 and 1920, 10,000 to 20,000 prisoners — the overwhelming majority of them Black Americans — continued to toil under these insufferable circumstances.¶ In the 1930s, a series of laws prohibited state prisons from using prison labor, but the federal government continued to rely on this workforce to meet the demands of the rapidly changing markets of mid-century. By 1979, Congress passed legislation allowing state corrections officials to collaborate with private industries to produce prison-made goods, birthing the modern era of prison labor. ¶ Today, approximately 55 percent of the American prison population works while serving their sentences. Prison jobs are broadly divided into two categories: prison support work — such as food preparation, laundry services, and maintenance work — and “correctional industries” jobs, in which prisoners might make license plates, sew military uniforms, or staff a call center. It is prisoners in correctional industries who are currently being deployed to help meet the nation’s need for protective gear.¶ While so many behind bars are manufacturing items the country desperately needs to combat our current health crisis, their low wages and lack of labor protections — among myriad other factors — mean they are not accorded the same benefits or recognition as other workers.¶ What’s more, the measly cents per hour that is typical compensation across often-dangerous prison jobs is not nearly enough to cover the court fees and fines, restitution, child support, and room and board expenses that most state departments of corrections deduct from prisoners’ earnings. When there is anything left, it is barely enough to pay for commissary goods such as food, hygienic products, and toiletries, let alone marked-up email services that prisoners rely on to stay in touch with their loved ones. Despite working for years, many prisoners are left with thousands of dollars in crippling debt by the time they complete their sentences.¶ In 2018, prisoners in dozens of facilities across the country went on strike and issued a list of demands, which included “an immediate end to prison slavery” and that prisoners be “paid the prevailing wage in their state or territory for their labor.”¶ This time of national emergency requires that everyone do their part to slow the spread of coronavirus. The significant shortage of face masks, protective gowns, and hand sanitizer that is putting the lives of our frontline workers in jeopardy necessitates bold and swift action. But if the states and federal government are going to rely on correctional labor to manufacture this equipment, they need to improve the wages and labor protections of our incarcerated workers. To fail to do so is not far off from the devaluation and brutalization of slave labor that was ostensibly abandoned a century and a half ago.

#### Incarceration and forced labor disproportionally affect people of color – the prison industrial complex is crucial in fueling work segregation

Leung 18 (“Prison Labor as a Lawful Form of Race Discrimination” Fall 2018, Harvard Civil Rights-Civil Liberties Law Review, Vol. 53 no. 2, Fall 2018, pp. 681-708. Katherine E. Leung is a field attorney with the National Labor Relations Board. She holds an A.B. from Wellesley College and a J.D. from Harvard Law School. )[https://harvardcrcl.org/wp-content/uploads/sites/10/2018/11/Leung.pdf]

These results are in direct conflict with the supposed rationale for prison work programs as a form of job training or skills building that is designed to help prisoners reintegrate into their communities upon their release from prison.146 While prison work programs are frequently lauded as a way of giving prisoners marketable job skills that will help them attain financial stability after the end of their sentence,147 financial instability remains a significant cause of recidivism.148 But this has not drawn increased interest from policymakers to address the ways in which these programs are failing to serve their intended purpose.149 This suggests that either the programs were never intended to help prisoners gain marketable skills, or that lawmakers do not care whether or not these programs achieve their stated goals. While lawmakers could impose safeguards or attach strings to prison funding that would protect prisoners from exploitation through prison work programs, thus far, they have failed to do so.

For lawmakers and many voters, it may not matter whether prisoner job training or work programs are effective, but the implications for the prisoners who rely on these programs to help them succeed after prison are profound. Financial instability remains among the most significant factors in recidivism,150 and the inability to find or hold a job is a huge contributor to financial instability. In the rare cases when prison work programs provide prisoners with new marketable skills, they can be key to helping rehabilitate prisoners and giving them tools to establish a financially stable life outside of prison.151 Academic research on the subject of jobs programs and postincarceration employment rates is virtually nonexistent, but logic dictates that where jobs programs fail to provide prisoners with new skills and instead simply outsource low-skill jobs, workers are not gaining the kinds of new skills that would increase their marketability as prospective employees after they leave prison. This contributes to a cycle of recidivism and a constant pool of prisoner-workers who these employers can rely on to perform the lowest wage work.

As made clear by hiring statistics,152 failed prison job training programs have contributed to circumstances in which, particularly with respect to lower-skill, lower-wage jobs, Black and Latinx workers hav[ing]e a disproportionately difficult time finding work.153 This is a challenge that is exaggerated for workers with criminal records.154 Some of that disparate impact is inherent in application procedures that screen applicants based on their criminal records because of the astronomical rates at which the United States incarcerates people of color, and particularly Black people.155 Yet, we see similar dynamics at play even in states that have “banned the box,” as employers use race as a proxy for questions about criminal background.156 But job or task segregation amongst workers who are hired is not a natural result of this screening process. The shift of certain manufacturing jobs into prisons, where corporations can pay its prisoner-workers—largely workers of color—much lower wages, flies directly in the face of federal anti-discrimination laws. Still, it is allowed to continue, arguably because this segregation largely impacts individuals who are incarcerated. By its very nature, segregation of work between prison and non-prison laborers requires the existence of two separate job tracks or pools. These separate pools could not legally exist without the prison labor system, because any other designation separating jobs on the basis of race would be a direct violation of Title VII, whether on the basis of disparate treatment or disparate impact. But because the disparate treatment of prisoner-workers is baked into the very foundations of our laws, the prison labor market can function as that second pool of jobs.

Courts have yet to prohibit screening applicants for criminal records, despite the disparate impact that that policy has on communities of color, and such a prohibition could trigger even more overt racial discrimination in hiring. In many cases, the employer treats the lack of a criminal record as a fundamental qualification, determining whether or not an applicant will even be considered for the position.157 But the “ban the box” hiring data indicates that, even if courts were to ban the use of criminal records as an application screening tool, disparate treatment of young Black and Latinx people in hiring for low-wage, low-skill jobs would persist.158 This data suggests that, so long as employers can profit from low-wage prison labor, they will continue to segregate jobs that are performed by prisoners and those that are not, which requires segregation of jobs along racial lines. Not only are there significant racial disparities in the populations that employers treat as eligible for these different types of jobs, but the wages, benefits, and conditions of employment remain extraordinarily different as well.

#### Inequality results in cycles of recidivism against minorities

Fulcher 15 Patrice A. Fulcher [Associate Professor at The John Marshall Law School], 15 - ("," Journal of Civil Rights and Economic Development, Winter 2015 https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1759&context=jcred)

B. Reallocate Greater Wealth To Working Prisoners and Decrease Recidivism ¶ Working for slave wages or as a slave without compensation is the harsh economic reality for millions of prisoners in the U.S. Then after succumbing to living a life as a slave for the duration of their sentence, these prisoners are released back to society, without any means of financial support from their labors. Often indigent, homeless, and unable to overcome the challenge of obtaining employment with a conviction, many former inmates reoffend.192 Moreover, for those who do secure jobs, their earnings are greatly limited by their criminal records. A recent PEW study revealed "past incarceration reduced subsequent wages by 11 percent, cut annual employment by nine weeks and reduced yearly earnings by 40 percent."1 93 As a result, U.S. recidivism rates will remain high unless former prisoners have economic resources immediately upon release. Thus, the FLSA should be emancipated from the constraints imposed, not by Congress, but by rigid and unsupported judicial interpretation that wrongly exclude working prisoners from its provisions. Free the FLSA and compensate working inmates; allow prisoners to accumulate capital while they are incarcerated, so they will have a means of support to help them rebuild their lives, and not have to commit crimes to survive. ¶ Hence, I propose the following basic guidelines in providing FLSA coverage to working inmates: (1) employment should be voluntary; those who do not wish to work must take vocational classes for their entire prison sentence, (2) working inmates should be paid at least minimum wage, (3) automatic wage deductions shall be allowed for taxes and other previous court ordered obligations only, and (4) a forced 80 percent wage deduction will be deposited into an outside interest bearing bank account, accessible only upon release. In adopting this payment scheme, the economic reality for working prisoners will be greatly improved.¶ Utilizing the total PIE quarterly statics from 2012 mentioned above in section III(B)(1)(only subtracting family costs and taxes), each of the, 4,700 inmates working in PIE programs would have received approximately $356.00 a month instead of $70.00.194 This figure represents net wages after an 80 percent deduction of $1,427.00 is transferred into an interest bearing account.1 95 Additionally, since today's prisoners serve an average of 5.2 years in prison, 196 each of the 4,700 inmates under the proposed new FLSA guidelines would have at least $3,567.50 upon his or her release if the 80% were placed in an account with an interest rate of at least a 3%. Granted, this amount may not seem significant, but it is better than expecting that a bus ticket and a knapsack of clothes will be enough to enable a person who has been incarcerated to build his life in free society. ¶

## Plan

#### Thus, the plan: The United States federal government should to recognize the unconditional right of incarcerated workers to strike.

#### Unconditionality is key -- conditions on the right to strike make it ineffective.

Reddy 21 [Diana S. Reddy. Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law. “There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy”. 01-06-2021. Yale Law Journal. https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy. Accessed 11-14-2021]

The National Labor Relations Board—the institution charged with enforcing the policies of the Act—summarizes these “qualifications and limitations” on the right to strike on its website in the following way:

The lawfulness of a strike may depend on the object, or purpose, of the strike, on its timing, or on the conduct of the strikers. The object, or objects, of a strike and whether the objects are lawful are matters that are not always easy to determine. Such issues often have to be decided by the National Labor Relations Board. The consequences can be severe to striking employees and struck employers, involving as they do questions of reinstatement and backpay.[93](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy" \l "_ftnref93)

The “right” to strike, it seems, is filled with uncertainty and peril.

Collectively, these rules prohibit many of the strikes which helped build the labor movement in its current form. Ahmed White accordingly argues that law prohibits effective strikes, strikes which could actually change employer behavior: “Their inherent affronts to property and public order place them well beyond the purview of what could ever constitute a viable legal right in liberal society; and they have been treated accordingly by courts, Congress, and other elite authorities.

## Solvency

#### Prison strikes create media attention on injustices which stimulates political change

Vara 18 (“The Viral Success of a Strike No One Can See” August 30, 2018, Vauhini Vara is a story editor at The New York Times Magazine, has worked as a Wall Street Journal technology reporter and as the business editor for The New Yorker’s website.) [https://www.theatlantic.com/business/archive/2018/08/prison-strike/568948/]

The strike began on August 21 and is set to last through September 9, the anniversary of the Attica prison uprising of 1971. In addition to calling for prisoners to be paid the prevailing wage where they live (under the current regime, they can be paid a couple of dollars an hour, or, in some states, nothing at all), the strikers’ list of 10 demands includes voting rights for “ex-felons” and better funding for rehabilitation services. Thus far, it’s not clear how widespread the protest has been. Organizers report that prisoners are striking in Washington, Georgia, South Carolina, and California, among several other states, where prisoners are refusing to work and eat. That’s a conservative estimate, Terpstra told me, as organizers want to remain cautious in order to maintain credibility. Early on, one organizer suggested in an interview that non-prisoners should demonstrate their solidarity by protesting outside prison gates, which appears to have happened at some facilities. In general, prison officials have largely countered the organizers’ claims, saying they’re not aware of any strikes at their facilities.\*

Still, the strikers’ strategy, designed for the current media moment, has proved extraordinarily successful by the measures set by the strikers themselves. Following initial pieces in publications like Shadowproof and the Bay View, mainstream outlets including The New York Times, The Washington Post, and NPR started covering the protest. Social-media posts from the strike organizers and their supporters have gone viral. People are talking about the strike and, by extension, about poor prison conditions across the U.S. and prisoners’ demands to see them changed. In an era in which most people experience public events by reading, hearing, and watching videos about them online, the inability to get an inside look at the current prison protest doesn’t seem to have hampered its reach.

“Just as the men in Attica knew that it was important to reach out to the media when they protested inhumane prison conditions in 1971, so too do the folks inside today,” Heather Ann Thompson, a historian and the author of Blood in the Water: The Attica Prison Uprising of 1971 and its Legacy, told me in an email. “Prisons are allowed to be the terrible places they are because, despite being public institutions that we fund and are run in our name, we are allowed no look at what goes on inside.”

For all the public attention, Terpstra pointed out that mainstream lawmakers and political organizations, including labor unions, haven’t said much. A day after the strike began, Ro Khanna, a Democratic congressman representing Silicon Valley, tweeted his support. “Instead of focusing on rehabilitation, inmates are exploited for cheap labor,” he wrote, noting that prisoners working for a dollar an hour are fighting wildfires in his home state. “That is simply inexcusable.” Alexandria Ocasio-Cortez, the Democratic congressional candidate from New York, wrote, “I don’t believe slavery should exist anywhere in the United States. Including in our prison system.” But many higher-profile politicians have remained silent.

Terpstra says that this is to be expected. He argues that typical political processes tend to defang, and eventually kill, movements such as this one. Still, barring successful legal action on the part of prisoners, conditions aren’t likely to change much without politicians’ involvement. As Christie Thompson has written at The Marshall Project, several of the most prominent work stoppages of recent decades have ended with mixed results, and any gains have typically been achieved as the result of policy changes or legal action.

At the same time, if strikers are indeed generating considerable awareness of their issues among the voting public, that may be more valuable than any single politician’s tweets. And in an age of declining union membership in the U.S., they may be onto something that other labor groups can learn from: If strikers can use the internet to spread their message, such that the online propagation of that message overtakes the fact of the strike itself, perhaps it doesn’t matter how many people are actually carrying picket signs.

#### Right to strike is key to improving prison conditions and preventing exploitation

Kelly 18

(“How the Ongoing Prison Strike is Connected to the Labor Movement” SEPTEMBER 4, 2018, Kim Kelly is a freelance journalist and organizer based in Philadelphia. Her work on labor, class, politics, and culture has appeared in the New Republic, the Washington Post, the Baffler, and Esquire, among other publications, and she is the author of FIGHT LIKE HELL, a forthcoming book of intersectional labor history). [https://www.teenvogue.com/story/labor-day-2018-how-the-ongoing-prison-strike-is-connected-to-the-labor-movement]

It’s a tough time to be a worker in America. The Trump administration has slashed important workplace safety regulations to ribbons; the economic gap between the poor and working classes and the 1% continues to widen at an alarming rate; poverty remains rampant; and overall, union membership, which affords protection to workers throughout the country, hovered around only 11% for 2017. Headlines alleging worker exploitation at Silicon Valley giants like Amazon, Tesla, and Uber bombard our screens; even “progressive” media organizations swept up in the digital media organizing wave are struggling, as BuzzFeed founder Jonah Peretti has repeatedly spoken out against unionizing, while Slate and Thrillist employees who have unionized have accused the companies of using anti-union tactics and stalling the process. And the most vulnerable worker populations—sex workers, immigrants, and undocumented people—face increased repression from the government. There is hope, though. For centuries, a worker’s most potent weapon against exploitation from capitalism and oppression from the powers that be has been direct action: the strike. And right now, America’s prisoners are on strike. Incarcerated workers across the nation are standing up to protest their inhumane living conditions and buck the horrific yoke of prison slavery with organized labor’s strongest weapons—solidarity and collective action. The prison strike was organized by workers both inside and outside detention facilities, spearheaded by Jailhouse Lawyers Speak (JLS), and supported by the Incarcerated Workers Organizing Committee (IWOC) and the Free Alabama Movement (FAM), and sparked by [deadly uprisings at Lee Correctional Institution in South Carolina earlier this year that cost seven prisoners’ lives. The strike began on August 21 and ends on September 9, dates that reflect the legacy of rebellion in American prisons: on August 21, 1971, George Jackson was killed by prison guards in San Quentin, and his death was met by protests from other prisoners across the country, culminating in the famed September 9 uprising at the Attica Correctional Facility in upstate New York. By choosing these dates, participants in the prison strike of 2018 are drawing a direct line between their current struggle and the struggles of those who have come before, emphasizing the stark fact that very little has changed in terms of conditions or opportunities for those who are locked up and held by the state since the birth of the modern prison system. The striking prisoners of today have released a list of ten demands, which calls for improvements to the current living conditions in prisons, increased rehabilitation programs, educational opportunities, and specific policy goals. This essentially articulates the idea of non-reformist reforms, a central plank of prison abolition. By illuminating the barbarity of the current prison system and calling for its abolishment while advocating for an improvement in current conditions, they are—to paraphrase French socialist André Gorz—asking not for what can be achieved within a current system, but for what should be possible. As of August 21, across 17 states (and one Canadian province), these incarcerated workers are demanding real, tangible prison reform, and the abolition of one of America’s great enduring shames—the loophole enacted by the 13th amendment that decrees slavery can be used to penalize those convicted of a crime. This is where the term “prison slavery” originates, as director Ava DuVernay laid out in her groundbreaking 2016 documentary 13th, which argues that slavery never ended — it was just repurposed by the prison industrial complex and blossomed as mass incarceration. Her documentary argued that the new American plantations don’t grow cotton, they work prison jobs churning out license plates and other cheap goods, for which prisoners are paid mere pennies on the hour—if at all. Meanwhile, prison labor generates an estimated $1 billion per year, proving to be quite a profitable business for the private companies and corporations who benefit from prisoners’ work. Prison labor is used to manufacture a vast array of consumer goods, from Christmas toys and blue jeans to military equipment, lingerie, and car parts. Incarcerated people also frequently serve as a captive labor force for prisons themselves as kitchen and maintenance workers, and for a variety of other services, from shoveling snow after a Boston blizzard to harvesting oranges in Florida. (California recently made headlines when it was revealed that it was using prison labor to fight its deadly wildfires, which it has done since the 1940s; the prisoners (which included some juvenile offenders) were reportedly paid $1 per hour plus $2 per day to risk their lives, and are barred from becoming firefighters after their release.) Prisoners are paid very little for their work; the average wage in state prisons ranges, on average, from 14 cents to 63 cents per hour for “regular” prison jobs, and between 33 cents and $1.41 per hour for those who work for state-owned businesses, and while they are working full-time jobs, prisoners do not always have the benefit of basic labor protections, such as minimum wage, sick leave, or overtime pay. Given that the United States has the highest incarceration rate in the world, with 2.3 million people currently behind bars, the prison industrial complex would collapse were it to pay incarcerated workers the minimum wage—which creates further incentive for them to keep locking people up. Many prisoners welcome the chance to work during their incarceration, because it gets them out of their cells, allows them to make purchases from commissary, and gives them the opportunity to send money home to their loved ones, but not everyone is given a choice: according to Newsweek, some prisoners in eight states—Alabama, Arkansas, Florida, Georgia, Mississippi, Oklahoma, South Carolina, and Texas—are not paid at all for their labor in government-run facilities. Unlike most other workers, prisoners cannot simply walk off the job; they are forced to get more creative. Participants in the strike have several options available to them, according to Mother Jones, including commissary boycotts, work stoppages, sit-ins, and hunger strikes, and reports of participation are continually coming in from different facilities. In addition, these workers also have much more to fear in terms of retaliation, and several organizers say that they have already endured punitive measures. Participating in a prison strike is a matter of life or death, but for prisoners seeking justice, if not freedom, there is really no other option. There has been a huge amount of media coverage over this prison strike, a massive contrast to the last major national prison strike in 2016, which was said by some to be the largest prison strike in American history and involved what one organizer estimated as roughly 20,000 incarcerated workers and across at least 20 facilities yet received little to no mainstream media coverage. The tide seems to be turning, buoyed by a number of factors, from the continuing outcry over police brutality and more visible conversations over the horrors of the prison industrial complex to the overtly racist practices of the Trump regime. More people on the outside are waking up to the terrible plight of our siblings behind the walls, but awareness isn’t enough: they need support, solidarity, and action. It bears remembering that, above all, this strike is a human rights campaign. Ending prison slavery and supporting incarcerated workers is absolutely a labor issue, and every union and labor activist in the nation should be standing up to support their efforts. The companies who profit off of this modern day slavery have blood on their hands, just like history’s craven factory owners and coal bosses who oversaw the deaths and degradation of previous generations. We need to equate monetarily supporting companies that use prison labor with crossing the picket line, and to scabbing for enslavement. The fact that there are human beings housed in cages who are forced to work for slave wages is completely unacceptable by any metric, and fixing (if not completely abolishing) this wretched system should be a priority for those who consider themselves part of the labor movement, or on the right side of history. An injury to one is an injury to all, and our fellow workers on the inside are bleeding out.

## Framework

#### The standard is maximizing expected wellbeing.

#### 1] Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first.

#### 2] Actor specificity—governments must aggregate because their policies benefit some and harm others. The only non-arbitrary way to prioritize is by helping the most amount of people

#### 3] Structural Violence impacts come first – the state distracts the public from growing structural inequality which outweighs and is the most probable impact. People are more likely to die from SV than from large scale threats of violence.

Jackson 12 - 8/5/12 - Director of the National Centre for Peace and Conflict Studies, the University of Otago. Former Professor of International Politics at Aberystwyth University (Richard, The Great Con of National Security, http://richardjacksonterrorismblog.wordpress.com/2012/08/05/the-great-con-of-national-security/)

It may have once been the case that being attacked by another country was a major threat to the lives of ordinary people. It may also be true that there are still some pretty serious dangers out there associated with the spread of nuclear weapons. For the most part, however, most of what you’ve been told about national security and all the big threats which can supposedly kill you is one big con designed to distract you from the things that can really hurt you, such as the poverty, inequality and structural violence of capitalism, global warming, and the manufacture and proliferation of weapons – among others.¶ The facts are simple and irrefutable: you’re far more likely to die from lack of health care provision than you are from terrorism; from stress and overwork than Iranian or North Korean nuclear missiles; from lack of road safety than from illegal immigrants; from mental illness and suicide than from computer hackers; from domestic violence than from asylum seekers; from the misuse of legal medicines and alcohol abuse than from international drug lords. And yet, politicians and the servile media spend most of their time talking about the threats posed by terrorism, immigration, asylum seekers, the international drug trade, the nuclear programmes of Iran and North Korea, computer hackers, animal rights activism, the threat of China, and a host of other issues which are all about as equally unlikely to affect the health and well-being of you and your family. Along with this obsessive and perennial discussion of so-called ‘national security issues’, the state spends truly vast sums on security measures which have virtually no impact on the actual risk of dying from these threats, and then engages in massive displays of ‘security theatre’ designed to show just how seriously the state takes these threats – such as the x-ray machines and security measures in every public building, surveillance cameras everywhere, missile launchers in urban areas, drones in Afghanistan, armed police in airports, and a thousand other things. This display is meant to convince you that these threats are really, really serious.¶ And while all this is going on, the rulers of society are hoping that you won’t notice that increasing social and economic inequality in society leads to increased ill health for a growing underclass; that suicide and crime always rise when unemployment rises; that workplaces remain highly dangerous and kill and maim hundreds of people per year; that there are preventable diseases which plague the poorer sections of society; that domestic violence kills and injures thousands of women and children annually; and that globally, poverty and preventable disease kills tens of millions of people needlessly every year. In other words, they are hoping that you won’t notice how much structural violence there is in the world.¶

#### 4] Structural Violence is Equivalent to an Ongoing Nuclear War against the Poor. It is also the Root Cause of All Other Violence..

Gilligan 96(James, professor of Psychiatry at the Harvard Medical School, Director of the Center for the Study of Violence, and a member of the Academic Advisory Council of the National Campaign Against Youth Violence. Violence: Our Deadly Epidemic and its Causes.. P. 191-196 )

The finding that structural violence causes far more deaths than behavioral violence does is not limited to this country. Kohler and Alcock attempted to arrive at the number of excess deaths caused by socioeconomic inequities on a worldwide basis. Sweden was their model of the nation that had come closes to eliminating structural violence. It had the least inequity in income and living standards, and the lowest discrepancies in death rates and life expectancy; and the highest overall life expectancy in the world. When they compared the life expectancies of those living in the other socioeconomic systems against Sweden, they found that 18 million deaths a year could be attributed to the “structural violence” to which the citizens of all the other nations were being subjected. During the past decade, the discrepancies between the rich and poor nations have increased dramatically and alarmingly. The 14 to 18 million deaths a year caused by structural violence compare with about 100,000 deaths per year from armed conflict. Comparing this frequency of deaths from structural violence to the frequency of those caused by major military and political violence, such as World War II (an estimated 49 million military and civilian deaths, including those by genocide—or about eight million per year, 1939-1945), the Indonesian massacre of 1965-66 (perhaps 575,000) deaths), the Vietnam war (possibly two million, 1954-1973), and even a hypothetical nuclear exchange between the U.S. and the U.S.S.R. (232 million), it was clear that even war cannot begin to compare with structural violence, which continues year after year. In other words, every fifteen years, on the average, as many people die because of relative poverty as would be killed by the Nazi genocide of the Jews over a six-year period. This is, in effect, the equivalent of an ongoing, unending, in fact accelerating, thermonuclear war, or genocide, perpetrated on the weak and poor every year of every decade, throughout the world. Structural violence is also the main cause of behavioral violence on a socially and epidemiologically significant scale (from homicide and suicide to war and genocide). The question as to which of the two forms of violence—structural or behavioral—is more important, dangerous, or lethal is moot, for they are inextricably related to each other, as cause to effect.

#### 5] Reject calc indicts; they’re nonsense and philosophers laugh at them.

Hardin 90 Hardin, Russell (Helen Gould Shepard Professor in the Social Sciences @ NYU). May 1990. Morality within the Limits of Reason. University Of Chicago Press. pp. 4. ISBN 978-0226316208. JDN.

One of the cuter charges against utilitarianism is that it is irrational in the following sense. If I take the time to calculate the consequences of various courses of action before me, then I will ipso facto have chosen the course of action to take, namely, to sit and calculate, because while I am calculating the other courses of action will cease to be open to me. **It should embarrass philosophers that they have ever taken this** objection **seriously.** Parallel considerations in other realms are dismissed with eminently good sense. Lord Devlin notes, “If the reasonable man ‘worked to rule’ by perusing to the point of comprehension every form he was handed, the commercial and administrative life of the country would creep to a standstill.” James March and Herbert Simon escape the quandary of unending calculation by noting that often we satisfice, we do not maximize: we stop calculating and considering when we find a merely adequate choice of action. When, in principle, one cannot know what is the best choice, one can nevertheless be sure that sitting and calculating is not the best choice. But, one may ask, How do you know that another ten minutes of calculation would not have produced a better choice? And one can only answer, You do not. At some point the quarrel begins to sound adolescent. It is ironic that the point of the quarrel is almost never at issue in practice (as Devlin implies, **we are** almost all **too reasonable** in practice **to bring the world to a standstill**) but only in the principled discussions of academics.

## U/V

#### 1AR theory

[A] AFF gets it because otherwise the neg can engage in infinite abuse, making debate impossible. No 2nr theory – kills resolvability because judge has to intervene in weighing interp and 2ar counterinterp.

[B]drop the debater – the short 1AR irreparably skewed from abuse on substance and time investment on theory.

[C] no RVIs – the 6-minute 2nr can collapse to a short shell and get away with infinite 1nc abuse via sheer brute force and time spent on theory.

[D] Use competing interps – 1AR interps aren’t bidirectional and the neg should have to defend their norm since they have more time.

Yes Aff RVIs

[A] I have a 4 minute 1AR to answer T or Theory which skews my time from other arguments. T bites out of a higher percentage of my rebuttal time.

[B] No risk issue for the negative, you can go for it in the 2nr if I undercover but if I overallocated you can just kick it.

Fairness is a voter – debate is a competitive activity and needs both debaters to be on an equal playing field.