# NC v Marlborough

## OFF

### 1

#### First off is the Locke NC

“I object to violence because when it appears to do good, the good is only temporary; the evil it does is permanent.”

Gandhi 62—Mohandas “Mahatma” Gandhi (Indian Lawyer and anti-colonial activist). “The Essential Gandhi: An Anthology of His Writings on His Life, Work, and Ideas.” Ed. Louis Fischer. Allen & Unwin 1962. JDN.

#### Because I agree with Mahatma Gandhi, I negate today’s resolution.

#### I agree with their observation that the topic is about the nature of a hypothetical just government, but this means that only framework arguments that speak to the constitutive features of just government apply—the generic validity of self-ownership is irrelevant.

#### Only Locke’s social contract can explain the necessary features of just government

Olsthoorn and Apeldoorn 20

Johan Olsthoorn (University of Amsterdam, The Netherlands) and Laurens van Apeldoorn (Leiden University, The Netherlands). “‘This man is my property’: Slavery and political absolutism in Locke and the classical social contract tradition.” European Journal of Political Theory 0(0) 1–23, 2020. JDN. https://journals.sagepub.com/doi/full/10.1177/1474885120911309

Filmer’s theory of sovereignty, Locke objects, involves a category mistake. **Despotic rule is not a form of** political **rule at all.** Operative here is Aristotle’s (1984) distinction in Politics (1255b16-20) between the political government of a statesman (politikos) over free citizens and the domestic rule of the master (despotes) over slaves (Maloy, 2009; Schochet, 1975: 1–15, 115–158). Following Aristotle, Locke characterizes political rule as the power of ‘Governours’ who **govern by public consent** and ‘for the Benefit of their Subjects, to secure them in the Possession and Use of their Properties’ (ST §173). Power is properly called ‘political’ only because and insofar as it is exercised in order to ‘preserve the Members of that Society in their Lives, Liberties, and Possessions’ (ST §171). Despotic power, conversely, is the power of ‘Lords’ who rule ‘for their own Benefit, over those who are stripp’d of all property’ (ST §173). Filmer, Locke contends, failed to see that despotic and political power are fundamentally distinct in character and origin. Indeed, ‘Absolute Monarchy ... can be no Form of Civil Government at all’ (ST §90).

#### The social contract requires citizens to cede the right to unilateral violence and resolve disputes via the law

Woods 10

Joshua Woods (Division of Sociology and Anthropology, West Virginia University). “Medieval Security in the Modern State.” Space and Polity, Volume 14, Issue 3. 2010. JDN. https://www.tandfonline.com/doi/abs/10.1080/13562576.2010.532953

From Hobbes’s perspective, **the state receives its monopoly on violence out of necessity**, given the mutual need of citizens to maintain conditions of peace. Without a sole proprietor of coercive means, embodied by the state and the rule of law, life would be, as Hobbes famously noted, “nasty, brutish and short” ... “a war of every man against every man”. Locke also recognised the necessity of the state’s monopoly on violence, but placed limits on its power and described its relationship **with** citizens as **a social contract involving mutual obligations.** The spirit of Locke’s writing stresses the need for normative judgements of state actions and the use of ‘reason’ to distinguish between legitimate and illegitimate functions of institutions. From Locke’s perspective, the state exists not simply for the physical safety of citizens, but because people need security and order to build civil society. As Bislev wrote in his treatment of Locke Society is an association of citizens, and the maintenance of security is a necessary function for that association, something without which it cannot exist and thrive (Bislev, 2004, p. 283). In this way, **the** state’s **monopoly on violence** supports the common good and **represents a building-block of democratic society.** The legitimacy of the state’s use of violence is ultimately based on its accountability to the public at large, as opposed to non-state organisations that answer to private interests.

#### Therefore, the standard is maintaining the state’s monopoly on violence

#### I contend that violent strikes subvert the monopoly on violence

#### At their most extreme, strikes can devolve to violence and even murder, subverting the state’s interest in public order

Tenza 20

Mlungisi Tenza (Senior Lecturer, University of KwaZulu-Natal). “The effects of violent strikes on the economy of a developing country: a case of South Africa.” Obiter vol.41 n.3 Port Elizabeth 2020. JDN. <http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004>

Even though the right to strike and the right to participate in the activities of a trade union that often flow from a strike 17 are guaranteed in the Constitution and specifically regulated by the LRA, it sometimes happens that the right to strike is exercised for purposes not intended by the Constitution and the LRA, generally.18 For example, it was not the intention of the Constitutional Assembly and the legislature that violence should be used during strikes or pickets. As the Constitution provides, pickets are meant to be peaceful.19 Contrary to section 17 of the Constitution, the conduct of workers participating in a strike or picket has changed in recent years with workers trying to emphasise their grievances by **causing disharmony and chaos in public.** A media report by the South African Institute of Race Relations pointed out that between the years 1999 and 2012 there were **181 strike-related deaths**, 313 injuries and 3,058 people were arrested for public violence associated with strikes.20 The question is whether employers succumb easily to workers' demands if a strike is accompanied by violence? In response to this question, one worker remarked as follows:

"[T]here is no sweet strike, there is no Christian strike ... A strike is a strike. [Y]ou want to get back what belongs to you ... you won't win a strike with a Bible. You do not wear high heels and carry an umbrella and say '1992 was under apartheid, 2007 is under ANC'. You won't win a strike like that."21

The use of violence during industrial action affects not only the strikers or picketers, the employer and his or her business but it also affects **innocent members of the public,** non-striking employees, the environment and the economy at large. In addition, striking workers visit non-striking workers' homes, often at night, threaten them and in some cases, assault or even **murder** workers who are acting as replacement labour.22 This points to the fact that for many workers and their families' living conditions remain unsafe and vulnerable to damage due to violence. In Security Services Employers Organisation v SA Transport & Allied Workers Union (SATAWU),23 it was reported that about **20 people were thrown out of moving trains** in the Gauteng province; most of them were security guards who were not on strike and who were believed to be targeted by their striking colleagues. Two of them died, while others were admitted to hospitals with serious injuries.24In SA Chemical Catering & Allied Workers Union v Check One (Pty) Ltd,25striking employees were carrying various weapons ranging from sticks, pipes, planks and bottles. One of the strikers Mr Nqoko was alleged to have threatened to cut the throats of those employees who had been brought from other branches of the employer's business to help in the branch where employees were on strike. Such conduct was held not to be in line with good conduct of striking.26

#### It happens in prisons- Florida and Michigan prove

Lopez, 16 -- Senior Correspondent and Cohost of The Weeds

[German, "We’re in the midst of the biggest prison strike in US history," Vox, 10-19-16, https://www.vox.com/identities/2016/10/19/13306178/prison-strike-protests-attica, accessed 11-17-21]

For the past couple of months, prison inmates across the country have been striking and protesting, in what organizers have called the largest prison strike in US history.

The little-known protests were organized around September 9 in commemoration of the 45th anniversary of the bloody uprising at the Attica Correctional Facility in New York. But the demonstrations have continued in potentially dozens of states since then, and there’s talk of more concerted protests beginning anew later in October.

The demonstrations have broadly targeted dismal prison conditions. But they have generally focused on a few specific issues — particularly prison labor practices in both public and private prisons that can force inmates to take jobs for little to no pay, which inmates have characterized as modern slavery.

“What you see is a lot of people who are being incarcerated sort of recognizing the broader social, political, and historical context in which they are positioned,” said Clint Smith, a doctoral candidate in Harvard focused on incarceration issues. “And [they are] fundamentally rejecting the idea that they are devoid of any agency, that they are not able to push back and protest against the conditions in which they live.”

He added, “So often in this broader conversation about mass incarceration that’s been happening more so in the last four, five, or six years, you rarely see people who are incarcerated or formerly incarcerated at the forefront of that conversation. And many people in prison are recognizing that their voices are being silenced — not only in the general population but also in the conversation around them.”

The protests, however, have been varied in their approach. So far, they have taken place in as many as 50 prisons in at least 12 states, involving at least 24,000 people in these facilities. As John Washington explained for the Nation, the hard numbers are hard to come by, in large part because prisons are so secretive. But we do have some details of what’s going on.

So far, the protests have taken a few forms. There have been work stoppages in which inmates refuse to take part in prison labor. There have also been hunger strikes, which mostly came about among inmates who don’t have jobs in prison. In some cases, there have also been bouts of violence — in which inmates take over parts of the prison and destroy property.

Here are some of the bigger protests, based on the Incarcerated Workers Organizing Committee’s tracker, the Nation’s breakdown, and other news reports:

Alabama: Starting on September 9, inmates went on strike as part of the Free Alabama Movement, an advocacy group for prisoners. Some reports suggested that prison guards also joined the strikes to speak out against unsafe conditions, but higher-ups deny it. Perhaps in response, the US Department of Justice on October 6 announced that it will investigate Alabama’s prisons for men.

California: At least 100 inmates in Merced County Jail went on a hunger strike starting on September 9, with inmates in Santa Clara County Jail planning to join on October 1.

Florida: Hundreds of inmates rose up in at least five state prisons in early September, refusing orders while taking over dorms and cellblocks. The Miami Herald has found deplorable conditions in Florida prisons for years: understaffing, violence, and lack of air conditioning in scorching hot weather.

Michigan: Inmates began striking in Kinross Correctional Facility on September 9. But after discussing their demands with the warden, a tactical team used guns, rifles, tear gas, and shields to subdue and handcuff around 150 inmates, leaving them in the rain for five to six hours. Prison officials told the Detroit Free Press that inmates started a fire and damaged several buildings during the demonstrations.

South Carolina: There were several weeks of work stoppages in state facilities. After one inmate died in the McCormick Correctional Institution, some inmates also rose up in what one prisoner described to the Nation as an “active rebellion.”

Texas: Although prison officials have denied strike activity, multiple prisons in Texas have reportedly gone on lockdown in the past few months due to inmates refusing to work.

Wisconsin: Before September 9, prisoners were already on hunger strike in protest of solitary confinement. Some inmates were force-fed through a nasal tube throughout the protests, but the strikes were reportedly still going on as of September 23.

### 2

#### Second off is the violent strikes counterplan

#### Text: A just government ought to recognize a right of workers to strike, conditioned only on propensity for violence.

#### The counterplan establishes a proportional balancing test allowing courts to restrict strikes if violence reaches a level that subverts the function of collective bargaining.

Tenza 20

Mlungisi Tenza (Senior Lecturer, University of KwaZulu-Natal). “The effects of violent strikes on the economy of a developing country: a case of South Africa.” Obiter vol.41 n.3 Port Elizabeth 2020. JDN. <http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004>

4 1 Strikes should only be allowed to continue if they are lawful

The definition of "strike" lends itself any obstruction of work that is lawful.51So, if workers refuse to undertake "work" that is illegal and unlawful, this will not constitute a strike.52 Where employees refuse to work in support of an unlawful demand (for example the removal of a supervisor without following due process), this will also not constitute a strike.53 Therefore, where the action involved does not constitute a strike, participants do not enjoy the protection offered by section 67(1) of the LRA.54 If the means used by strikers to obstruct work constitute unlawful conduct such as violence,55then the conduct will not qualify as a strike, and will thus not be protected.55 **If a strike becomes violent** and no longer pursues legitimate or lawful demands, **the court should intervene** as violent and unruly conduct is the antithesis of the aim of a strike, which is to persuade the employer through peaceful withholding of work to agree to the union's demands.56 For a court to intervene, Rycroft argues that the following question needs to be asked: "has the misconduct taken place to an extent that the strike no longer promotes functional to collective bargaining, and is therefore no longer deserving of its protected status."57 The Labour Court in National Union of Food Beverage Wine Spirits & Allied Workers v Universal Product Network (Pty) Ltd58adopted Rycroft's functionality test which entails that the Labour Court could assume the power to alter the59protected status of a strike to unprotected action on the basis of violence.59 This entails the weighing up of the level of violence against the efforts of the trade union to curb it in order for a court to determine whether a strike's protected status is still functional to collective bargaining.60

Rycroft further argues that there is an inseparable link between strikes and functional collective bargaining and justifies this on three grounds. First, the Interim Constitution of South Africa 200 of 1993 provided that "workers have the right to strike for the purposes of collective bargaining."61 Secondly, strikes must be orderly. And lastly, the strike must not involve misconduct. This he infers from the fact that employees engaged in misconduct can be dismissed irrespective of whether the strike is protected or not.62 Informed by the decision of Afrox Ltd v SACWU 2,63Rycroft argues that **a strike can lose its protection** if it is no longer functional to collective bargaining. So if a strike is no longer functional to collective bargaining, it is bound to lose protection, and those who participate in such activities will face dismissal or an action for damages can be instituted against those responsible.

#### It competes—proportional balancing tests legally constitute a condition

Fabbrini 2012

Federico Fabbrini (PhD Researcher in the Law Department at the European University Institute) “Europe in Need of a New Deal: On Federalism, Free Market, and the Right to Strike.” Georgetown Journal of International Law, Vol. 43, 2012. JDN. https://www.iuscommune.eu/html/activities/2012/2012-11-29/workshop5\_Fabbrini.pdf

The most characteristic feature of the German regulatory model, however, is represented by the so-called principle of ultima ratio. This principle represents the application in the field of labor law of the general constitutional principle of Verhaltnismaßigkeit, or **proportionality.**70 According to this principle, “a strike is only legal if it is necessary and the ultimate measure to solve the industrial conflict.”71 As a consequence, trade unions **do not enjoy an unconditional right** to pursue collective action, even when, in their view, a strike would be the most effective tool to strengthen their bargaining position. “In keeping with the principle of last resort, all possibilities of a peaceful negotiation for settlement must have been exhausted” before a trade union can go on strike.72 Labor courts are therefore empowered to assess the proportionality of the industrial action undertaken by the trade unions and can sanction illegal strikes by requiring offending trade unions to pay damages. Historically, industrial relations between employees’ unions and employers’ associations have been very cooperative in Germany, and this has kept industrial action to a minimum.73 Yet by permitting strikes only when they are proportionate, German law designs a rather **restrictive** model of **regulation of the right to strike**, which ensures wide protection for other constitutional values, such as the right to property and freedom of commerce.74

#### To clarify, a large-scale strike might only involve isolated instances of violence, in which case the government can punish the individual violators but respect the right to strike itself. However, there must be a threshold at which violence committed in the name of a strike becomes so prevalent that the government can step in and break up the strike itself. This is what distinguishes the counterplan’s prohibition on violent strikes from a generic prohibition on violent individuals.

### 3

#### Third off is topicality-

#### A topical affirmative would defend that workers, in general, deserve an unconditional right to strike

#### The missing modifier means it’s a generic term. Linguistics, logic, and common usage prove.

Bile 87

Bile, Jeff (Former head coach of Southern Illinois University, where he coached 4 consecutive national championship). "When the Whole is Greater than the sum of the Parts: The Implications of Holistic Resolutional Focus". In CEDA Yearbook. Vol. 8, Edt., Brenda Logue. JDN. 1987.

The second rationale for holistic focus is that generic interpretation is **most compatible** with “rules" of interpretation in light of a "missing modifier." Most of us would consider the proposition “birds can fly" as true even though we are aware of some that can’t, because we intuitively insert the generic modifier "most” in front of birds" or "typically/ generally" in front of "fly." This intuition is semantically “correct." Linguist John Lyons (1981) argues: What is meant by 'generic' may be seen by considering such sets of sentences as the following: 1) The lion is a friendly beast. 2) A lion is a friendly beast. 3) Lions are friendly beasts. Each of these sentences may be used to assert a generic proposition: i.e. a proposition which says something, not about this or that group of lions or about any particular individual lion, but about the class of lions as such . . .' (p. 193). Lyons continues by indicating that the "kind of adverbal modifier that suggests itself for insertion" is one "that approximates in meaning to ‘generally,’ 'typically,’ ‘characteristically,’ or ‘normally’" (p. 195). While semantic rules support generic interpretation, the field of logic provides additional supportive “rules." Logicians tend to interpret "indesignate form" propositions with missing quantification modifiers as universal or as expressing "group tendency" (Barnstable. 1975). Van Der Auwera (1985. p. 188) argues that when choosing "between the generic or the non-generic or particular" reading of the statement “A whale lives in the sea," that **in "most contexts," the "preferred interpretation" is generic.** He further argues that while interpretation should be guided by context that **there "are some cases**, however, **where the choice is independent of context**." He gives the statement “Kangaroos have no tails” as a statement which “is **always generic**.” Logical conventions would certainly reject a particularized topic rendering.

#### Vote neg for precision. The neg interp is the one with the best explanatory power for why the topic has precisely the wording that it does. “Workers” was used without a modifier because the Bile evidence indicates that’s the most common way to express a generic generalization. By contrast, the aff interp can’t explain why if the topic is about plans it isn’t worded as “the right of some workers to strike” or “that there are workers with the right to strike” which would mean the same as the aff’s interp but less ambiguously.

#### Precision is a ceiling, not a floor. You should vote for the most intuitive and straightforward reading, not just any one that is minimally plausible, because the fundamental function of the topic is to keep everyone on the exact same page when coordinating research expectations, and that breaks down if each person has their own pet interp they think is most pragmatic.

#### Second is Limits. The economy is massive and has dozens of sectors, compounded by the fact that there are hundreds of governments where those economic conditions change. The neg interp solves by reciprocally limiting both sides to core topic principles. That also solves PICs, because my interp doesn’t mandate that the aff defend workers categorically, just generically, so isolated exceptions wouldn’t negate. Any tiny PIC loses to “perm do the CP” in the neg interp because it still affirms on balance

#### Drop the debater—the damage was done and I can’t regive the 1NC after a 1AR shift. Use competing interps; it avoids arbitrariness and judge intervention.

### 4

#### Fourth off is the advantage counterplan-

#### Counterplan: The United States ought to:

#### apply the FLSA and OSHA protections to prisoners;

#### implement the following basic guidelines in providing FLSA coverage including that employment should be voluntary, working inmates should be paid at least minimum wage, automatic wage deductions shall be allowed for taxes and other previous court ordered obligations only, and a forced 80 percent wage deduction will be deposited into an outside interest bearing bank account, accessible only upon release.

#### It’s not a PIC because it doesn’t recognize an unconditional right to strike.

#### The first plank solves the aff- their author

1AC Eisen, 20 -- director of the Brennan Center’s Justice Program

[Lauren-Brooke Eisen, "Covid-19 Highlights the Need for Prison Labor Reform," Brennan Center for Justice, 4-17-20, https://www.brennancenter.org/our-work/analysis-opinion/covid-19-highlights-need-prison-labor-reform, accessed 11-17-21]

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.

#### The second plank solves recidivism- also their author

Fulcher, 15 -- Associate Professor at The John Marshall Law School

[Patrice A., Emancipate the FLSA: Transform the Harsh Economic Reality of Working Inmates, Journal of Civil Rights and Economic Development, Issue 4, Volume 27, Winter 2015, <https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1759&context=jcred>, accessed 11-17-2021]

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.

#### It solves literally every AC internal link. They have zero warrant for “strikes good” independent of wages and working conditions, which the counterplan obviously captures.

#### Net benefit is- prisoner backlash- prisons will retaliate and strip prisoners of basic rights- AND aff can’t solve- they will plant evidence and fabricate excuses to crackdown

Hitt, 18 -- Power Trip reporter at the Daily Beast

[Tarpley, "Prisons Retaliate Against Inmates Protesting ‘Modern Slavery’," Daily Beast, 8-27-18, https://www.thedailybeast.com/prisons-are-already-retaliating-against-inmates-protesting-modern-slavery, accessed 11-17-21]

Inmates are already experiencing retaliation for alleged participation in the nation-wide prison strike that launched August 21, representatives from the prison labor advocacy group Incarcerated Workers Organizing Committee (IWOC) told The Daily Beast.

The strike, organized by a prisoners’ rights group called Jailhouse Lawyers Speak and backed by IWOC, started Tuesday and will run until September 9. The strikers are calling for an immediate end to what they call “modern slavery,” a prison labor system that forces inmates to work for as little as four cents per hour, as well as nine other demands, detailed in a statement from April.

As part of the protest, participants are implementing a range of nonviolent tactics, including boycotts on work, collect phone calls, commissary snacks, package purchases, and electronic visitation—the major economic drivers of prison budgets.

But only three days into the strike, inmates are already facing backlash from correction officers.

Two Florida incarcerated men were sentenced to 18 months of “close management,” a Florida legal term for a kind of solitary confinement, according to IWOC spokesperson and organizer Karen Smith. A third inmate claims he was also confined, subject to three room raids, and had his personal mail confiscated, Smith Said. The Florida Department of Corrections says the inmate was never confined.

Julius Smith, a 30-year-old man serving 20 years at Santa Rosa Correctional Institution was sentenced to close management for alleged participation in organizing the strike. The charge against Julius stems from a cell phone and homemade weapon that guards allegedly found in his bunk, which the inmate claims were planted. The cell phone was on the ground, just thrown near his bunk, Smith told The Daily Beast.

Ezzial Williams, an inmate serving 10 years at Union Correctional Institution, was also placed in close management in the weeks before the strike began for “inciting a riot” related to the protest.

“Close Management is akin to solitary confinement and Ezzial is held in a 9x7 cell for 23 hours a day,” IWOC wrote on their website. “Ezzial would greatly appreciate mail and could use stamps and writing supplies.” For one hour per day, Williams is allowed to leave his cell to walk around in a caged outdoor area, Smith said.

In a statement emailed to the Daily Beast, a spokesperson from the Florida Department of Corrections wrote that there are “many factors” that contribute to an inmate’s movement to close management.

“Inmates are often moved if they commit acts that threaten the safety of others, threaten the security of the institution, or demonstrate an inability to live in the general population without abusing the rights and privileges of others,” the spokesperson wrote. “Inmate Smith was moved for multiple disciplinary infractions. Inmate Williams was moved for behavior that posed a security risk to staff and inmates.”

A third inmate, Corey Sutton, a 21-year-old housed at Franklin Correctional Institution, was sentenced to 58 years at the age of 14 for a sexual battery charge he says he didn’t commit. Tuesday, Sutton’s mother told IWOC that he was placed in “confinement” for charges of alleged gang activity and participation in the strike. The Florida Department of Corrections claims the boy was never confined.

Sutton says the complaints against him were based on an email he sent to his mother earlier this month which made reference to “black August,” a month-long celebration of black history started in the 1970’s by black liberation activists, Smith told The Daily Beast.

The group has so far only made the three individuals names public on their website, but there are likely more out there, Smith said. Inmates face substantial risks for coming forward with their stories.

“It’s dicey game to make people’s names public,” Smith said. “Once their names are out, they can get more heat on them. And if they’re in a position where they are fighting an allegation it can be pretty difficult.”

#### That also takes out aff solvency- prisons circumvent by punishing prisoners with false reports- AND they’ll initiate lockdowns, cut communication lines, transfer strike leaders, bribe prisoners, and break up strikes without criminalizing the strikes themselves

Nam-Sonenstein, 18 -- Publishing Editor at Shadowproof and columnist at Prison Protest

[Brian Nam-Sonenstein, "Florida Officials Deny Operation PUSH Is Ongoing, Even As They Retaliate Against Prisoners," Shadowproof, 1-25-18, https://shadowproof.com/2018/01/25/operation-push-update/, accessed 11-18-21]

Kevin “Rashid” Johnson, an activist and intellectual incarcerated at Florida State Prison, was charged with “inciting or attempting to incite a riot” five days before a nonviolent prison labor strike and boycott known as Operation PUSH.

A disciplinary report filed on January 10 states Warden Barry Reddish sent an article Johnson wrote about Operation PUSH and a “series of other articles” on the action to an administrative lieutenant. The article made “numerous allegations of mistreatment of inmates at Florida state prison and proclaims Florida to be the worst prison system of the four various states [where] he’s been incarcerated.”

It does not specify which passages specifically incited a riot and at no point does Johnson’s article include a call to action.

In an “emergency note” Johnson sent to his lawyers on January 19, he alleged Florida Department of Correction (FDC) officials tortured him.

“Am being literally tortured in retaliation for article on prison strike and conditions \*by the warden\*,” Johnson wrote. “No heat. Cell like \*outside\*, temp in 30s. Toilet doesn’t work. Window to outside doesn’t close and cold air blowing in cell.”

“Its daytime and so cold can barely write,” he wrote.

His supporters fear for his life and are asking members of the public to call Florida State Prison and demand they move him to a safer cell immediately.

“Nowhere is anyone told to do anything,” Johnson wrote in response to the riot charge. “It is only a piece of journalism, which is constitutionally protected exercise of speech and press. Also FDC prisoners have no internet access, so how is something published online inciting prisoners?”

Johnson’s article runs through the demands and motivations behind Operation PUSH. He describes slave labor conditions, violence and abuse, and a lack of medical care in the Florida system, connecting these conditions to the establishment of the state’s first penitentiary just three years after slavery was abolished for all with the ratification of the 13th Amendment (excluding those convicted of felonies).

He uses his own experiences over the last six months in the Florida prison system as context for Operation PUSH and compares it to three other states where he has been incarcerated.

“I can personally attest that conditions here are among the worst I’ve seen,” Johnson writes.

The department has a record of corruption and deception, Johnson notes, pointing to the 2012 murder of Darren Rainey by corrections officers.

Rainey was a mentally ill prisoner who burned to death because officers locked him in a shower rigged to reach 160 degrees Fahrenheit—40 degrees above the state limit—and then covered it up. His death led to further revelations about death, corruption, and abuse across the Florida prison system.

Data released this year shows the number of prisoner deaths in Florida rose 20 percent to 428 deaths in 2017, even as the number of prisoners declined. By comparison, more incarcerated people died in Florida prisons last year than have been executed in all of the United States since 2007.

Johnson called the riot charge “retaliation, plain and simple, for publicizing abusive conditions.”

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On January 15, when Operation PUSH was to begin (and also the day after Johnson’s disciplinary report), FDC canceled visitation at three facilities : Blackwater Correctional Institution, Everglades Correctional Institution and the Reception and Medical Center (RMC).

When the day arrived, RMC went on lockdown and sources indicate staffing levels were tripled at that facility. Around 50 protesters gathered outside to show solidarity with striking prisoners. Similar demonstrations took place around the state and in other parts of the country. News of Operation PUSH and its demands spread across U.S. and international media, including several mainstream outlets, like Newsweek and the Guardian.

The following day, as abolitionist scholar and activist Angela Davis announced her support of Operation PUSH at a speech in Florida, outside organizers for the Incarcerated Workers Organizing Committee (IWOC) reported they lost communication with their sources on the inside. (IWOC is a chapter organization under the Industrial Workers of the World that seeks to unionize incarcerated people and serves as a liaison for their political organizing.)

“The only logical answer is repression tactics,” IWOC organizers declared. Lockdowns and shakedowns had likely interrupted lines of communication. At least two organizers were thrown in solitary confinement “without reason,” and dozens more were isolated in the days before the strike began.

Meanwhile, a large protest assembled outside FDC headquarters in Tallahassee. Protesters took over the lobby for several hours, demanding a meeting with department head Julie Jones to present the demands and call for an end to the retaliation.

Around 3:00 PM, police officers attempted to break up the protest. One activist with the anti-racist organization The Dream Defenders was arrested and charged with property damage/criminal mischief of $1000 or more, resisting an officer, and trespassing. She was bonded out of jail later that night. Several others were injured in the scuffle as police tried to eject protesters from the building.

FDC made some of its first statements about Operation PUSH the next day, acknowledging the arrest and alleging “protesters became increasingly disruptive and breached the doors into a secure area of the building.”

“In attempt to enter the secure area, protesters battered FDC staff,” they claimed. FDC also said there was “no interruption to daily operations” and denied any prisoner resistance took place.

Meanwhile, Supporting Prisoners And Real Change (SPARC), which is a platform for Florida prisoners and families in Florida, reported “key organizers” were placed in solitary confinement and faced investigation for “no reason given.”

IWOC reported the Avon Park facility deactivated prison phones on the second day of the protest, “denying these political prisoners their right to inform their loved ones that they are safe.” They said “dozens” of suspected organizers were now in isolation.

Solidarity actions continued around the country. On January 19, members of Workers World held a teach-in on prison abolition and documentary film screening in Georgia. There were banner drops in Omaha, Nebraska, earlier that morning.

SPARC released a list of over 150 organizations, who expressed solidarity with Operation PUSH on January 20.

On January 22, outside activists flooded FDC phone lines with a call-in action demanding the department recognize prisoner demands. In response, the department released another statement denying any protest was happening and said normal operations continued in all prisons across the state.

“Despite recent reports, prisons and institutions across the state have had no interruption to daily operations. There were no inmate work stoppages or strikes,” the statement read.

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Publicly, FDC insists there is no Operation PUSH inside its facilities. Yet incarcerated people have reported “active participation or repression of some sort” in at least sixteen state prisons.

SPARC argues this is part of FDC’s strategy of severing communication to “create the perception of inactivity and break the spirits of those participating in the strike.” Incarcerated organizers have expressed the importance of solidarity and communication with those on the outside, both for morale and for protection, for many years.

FDC threatened organizers with “harsher retaliation” if they corresponded or in some cases merely received literature from advocacy groups like IWOC and Fight Toxic Prisons.

Lockdowns, disconnected phone lines, and mass searches interrupted lines of communication, and incarcerated people suspected of organizing resistance were split up and transferred to other facilities.

Multiple incarcerated people reported being given a choice: work with the FDC against Operation PUSH and receive a transfer to a so-called “sweeter” work camp. Otherwise, face solitary confinement for corresponding with organizers on the outside.

Prison officials used gang designations to stifle the nonviolent protest, labeling suspected organizers as members of a Security Threat Group (STG). This classification level subjects prisoners to further isolation, surveillance, harassment, and loss of rights and privileges.

In an interview with the website It’s Going Down, IWOC organizer Karen Smith said suspects were investigated and charged for using contraband phones. Investigators in some cases went so far as to decide certain social media posts were tied to particular individuals even if they didn’t have a phone.

Smith called the repression “harsh and complete.” The FDC is watching social media pages and keeping close tabs on people who receive literature from outside groups, she said.

FDC’s reaction to Operation PUSH is somewhat of a departure from how the state handled prisoner resistance in recent years.

When protesters changed their tactics for Operation PUSH to focus on a nonviolent economic protest, the FDC changed theirs, too, engaging in what SPARC called “low-intensity, psychological warfare rather than blunt force.” Given the authoritarian nature of prison systems, which are afforded total obscurity and practically unlimited control over prisoner movement and communication, the FDC is well positioned to adapt its forms of repression.

“It should come as no surprise that the [FDC] can’t be trusted to report strikes occurring in Florida state prisons, just as they have been lying, or to borrow from a PUSH prisoner, ‘using wordplay,’ around the rip-off of their canteen prices,” SPARC wrote. “They have been working for weeks to eliminate the chance of the strike’s success. Claiming that it never existed is another tactic for trying to stop it. Never trust the oppressors to adequately report the facts.”

SPARC found that building outside support in advance, which prisoners felt was necessary to boost morale and participation in Operation PUSH, “provided ample notification and time for the [FDC] to bribe, threaten, and gather scab labor.”

## CASE

### Presumption

#### Now the case-

#### Vote negative on presumption- they have zero “unconditional key” warrant- it doesn’t show up in any of their evidence. All of their ev is just about how incarcerated people lack basic labor protections now or how they should not be paid starvation wages. NONE of that is a warrant for “unconditionality key”! This is the aff’s burden of proof- they must prove that an unconditional right to strike is necessary and sufficient.

### Advantage

#### Now the advantage proper-

#### 1. Prisons would go down fighting – causes legal lobbying to extend prison sentences to secure the labor pool – turns case.

Serwer, 14

[Adam, Buzzfeed News National Editor: "California AG "Shocked" To Learn Her Office Wanted To Keep Eligible Parolees In Jail To Work," BuzzFeed News, 11-18-2014. https://www.buzzfeednews.com/article/adamserwer/some-lawyers-just-want-to-see-the-world-burn]//AD

Lawyers for California Attorney General Kamala Harris argued in court this fall against the release of eligible nonviolent prisoners from California's overcrowded prisons — because the state wanted to keep them as a labor force.

Harris, a rising star in the Democratic Party, said she learned about the argument when she read it in the paper.

"I will be very candid with you, because I saw that article this morning, and I was shocked, and I'm looking into it to see if the way it was characterized in the paper is actually how it occurred in court," Harris told BuzzFeed News in an interview Monday. "I was very troubled by what I read. I just need to find out what did we actually say in court."

The Supreme Court found California's prisons were so overcrowded in 2011 that the conditions violated the Constitution's prohibition on cruel and unusual punishment. Since then, California has been under federal court supervision as it seeks to comply with the order that the state reduce its prison population. In February, the state had agreed to reduce its population by releasing nonviolent prisoners with only two felonies who had served half their sentences.

Last week, the Los Angeles Times reported that attorneys in Harris' office had unsuccessfully argued in court that the state could not release the prisoners it had agreed to release because "if forced to release these inmates early, prisons would lose an important labor pool." Those prisoners, the Times reported, earn wages that range from "8 cents to 37 cents per hour."

In a Sept. 30 filing in the case, signed by Deputy Attorney General Patrick McKinney but under Harris' name, the state argued, "Extending 2-for-1 credits to all minimum custody inmates at this time would severely impact fire camp participation — a dangerous outcome while California is in the middle of a difficult fire season and severe drought."

Approximately 4,400 California prisoners help the state battle wildfires, at wages of about $2 a day. There is an exception in the agreement that allows the state to retain firefighters — but only firefighters — who are otherwise eligible for release.

Like incarcerated firefighters, inmates who perform "assignments necessary for the continued operation of the institution and essential to local communities" draw from the same pool of inmates who pose a limited threat to public safety, the state argued in a September filing. Therefore, reducing that population would require the prisons to draw more incarcerated workers away from its firefighting crews.

#### 2. Worker strikes empirically fail in prisons and there’s a laundry list of tactics non-employers use within the system to prevent effectiveness without technically violating the right to strike – prisons don’t even have strike task forces because they don’t criminalize the actual striking

Washington 18 (Robin Washington – former interim commentary editor for The Marshall Project interviewing a prison warden, The Marshall Project, “A Former Warden’s View on Prison Strikes”, https://www.themarshallproject.org/2018/08/22/a-former-warden-s-view-on-prison-strikes, 22 August 2018, EmmieeM)

This week, a prison strike has been called for inmates at 17 facilities nationwide in response to an April riot at South Carolina’s Lee Correctional Institution, where seven inmates were killed while prison staff failed to immediately respond.

Among 10 demands stated by the [Incarcerated Workers Organizing Committee](https://incarceratedworkers.org/campaigns/prison-strike-2018), one of several groups endorsing the strike, are improvements in prison conditions, prevailing wages for incarcerated workers, voting rights for all confined citizens and an end to the racial overcharging, over-sentencing and parole denials to people of color. The strike is planned to continue until Sept. 9, the 47th anniversary of [the Attica prison uprising](https://www.themarshallproject.org/records/292-attica-correctional-facility).

For a view into the nature of prison strikes and how authorities respond to them, The Marshall Project spoke with Cameron Lindsay, a retired warden of three federal facilities: the Federal Correctional Institution in Lompoc, California, the U.S. Penitentiary in Canaan, Pennsylvania, and the Metropolitan Detention Center in Brooklyn, N.Y. Lindsay also ran privatized institutions in Philipsburg and Glen Mills, Pennsylvania, and has taught at several colleges. He now serves as a consultant and an expert witness in corrections cases. He spoke with Interim Commentary Editor Robin Washington. The views expressed are his own, and this interview has been edited for brevity and clarity.

Q: Have you experienced any strikes, hunger strikes, work strikes or other organized prisoner actions?

A: I’ve seen pretty much all of that over the course of 29 years. The most widespread strike that I ever saw that comes close to what I’m hearing about this week was in federal prisons in October of 1995. It was mostly African American inmates. They were protesting the vast disparity of sentencing laws between powder cocaine and crack cocaine.

It was the first and only time in history that (the federal prison system) announced a nationwide lockdown. The lockdown of a facility is something to be taken very, very seriously. It’s complicated and fraught with all kinds of problems. It’s not a decision to be made lightly.

I can promise you if these inmates do engage in some kind of systematic strikes that wardens will lock down the facilities.

Q: What have you experienced specifically?

In 1995, I worked at the Federal Correctional Institution, McKean, in Bradford, Pennsylvania. It started as a work strike. The first inmate called to duty is at 4 a.m. What we experienced on Oct. 24, 1995, was the inmate crew refused to go to work. There were some that wanted to but they didn’t because they feared retaliation. I have had others on a less severe scale. We had a very brief food strike at the (U.S. Penitentiary) in Lewisburg, Pennsylvania. It was small and isolated.

There are food strikes, work strikes, then all-out disturbances and/or riots, depending on the severity. You might have food service inmates who are upset about wages or the way they are being treated by staff. A work strike is the most common way — inappropriate, I might add — that inmates will demonstrate in an attempt to get the attention of the staff. Typically when it happens, the warden will lock down the facility until they have a chance to gauge what really is going on. They’ll gather intelligence, talk to informants, listen to telephone calls, until they can figure out what is going on out there. They may even reach out to certain inmate leaders. Usually, the next thing they do is remove the quote-unquote “agitators” from the general population and put them in isolation. Then they interview every single inmate so that nobody feels singled out.

Q: Does a strike ever work? From the inmate point of view?

In the short term, no. They don’t work because the ringleaders tend to get locked up, and after they are isolated they’re transferred to other facilities.

In the long term, they may be able to effect some change because they do get some media and political attention. In 1987 in Oakdale, Louisiana, and Atlanta, there were simultaneous riots. There was a specific cadre of Cuban inmates from the Mariel boatlift. Our government decided to repatriate them to Cuba. They did not want to go, so they raised hell in their facility. In the long term, their actions did lead to some changes.

Q: The cocaine sentencing disparities protested in the 1995 strike also were eventually changed.

There you go.

Q: Do prisons have a strike task force of some kind, with COs appointed to investigate?

That’s a tough answer. People talk about the “criminal justice system,” but it’s not one system, it’s a whole bunch of systems. There are local corrections, state corrections and federal corrections. There’s very rarely a coordinated effort on a widespread basis for a type of strike.

In the federal Bureau of Prisons, they are really good about gathering and cultivating intelligence. The staffers should be able to predict when one of these happens. Conversely, if you have a correctional facility that is not well operated and they don’t know that something is going to go down, when it does, they’re not going to know how to react.

#### 3. 2018 strike wave was largest ever in prison history – proves right to strike exists and strikes don’t solve

Lopez 18 (German Lopez – writing for Vox and has written for numerous other publications, “America’s Prisoners Are Going On Strike In At Least 17 States”, https://www.vox.com/2018/8/17/17664048/national-prison-strike-2018, 22 August 2018, EmmieeM)

America’s prisoners are going on strike.

The demonstrations are planned to take place from August 21 to September 9, which marks the anniversary of the bloody uprising at the Attica Correctional Facility in New York. During this time, inmates across the US plan to refuse to work and, in some cases, refuse to eat to draw attention to poor prison conditions and what many view as exploitative labor practices in American correctional facilities.

“Prisoners want to be valued as contributors to our society,” Amani Sawari, a spokesperson for the protests, told me. “Every single field and industry is affected on some level by prisons, from our license plates to the fast food that we eat to the stores that we shop at. So we really need to recognize how we are supporting the prison industrial complex through the dollars that we spend.”

Prison labor issues recently received attention in California, where inmates have been voluntarily recruited to fight the state’s record wildfires — for the paltry pay of just $1 an hour plus $2 per day. But the practice of using prison inmates for cheap or free labor is fairly widespread in the US, due to an exemption in the 13th Amendment, which abolished chattel slavery but allows involuntary servitude as part of a punishment for a crime.

For Sawari and the inmates participating in the protests, the sometimes forced labor and poor pay is effectively “modern slavery.” That, along with poor prison conditions that inmates blame for a deadly South Carolina prison riot earlier this year, have led to protests.

For prisons, though, fixing the problems raised by the demonstrations will require money — something that cash-strapped state governments may not be willing to put up. That raises real questions about whether the inmates’ demands can or will be heard.

The demonstrations come two years after what was then the largest prison strike in US history, with protests breaking out in at least 12 states in 2016. The new demonstrations could end up even larger than those previous protests.

Protests are planned in at least 17 states

There’s no hard estimate for how many inmates and prisons are taking part in the protests, as organizers continue to recruit more and more inmates and word of mouth spreads. But demonstrations are expected across at least 17 states.

The inmates will take part in work strikes, hunger strikes, and sit-ins. They are also calling for boycotts against agencies and companies that benefit from prisons and prison labor.