# NC

#### I negate the Resolved: A just government ought to recognize an unconditional right of workers to strike. First, a few definitions to clarify the round:

#### The right to strike is defined by Gourevitch 16:

Alex Gourevitch (Assistant Professor of Political Science at Brown University). “Quitting Work but Not the Job: Liberty and the Right to Strike.” American Political Science Association Vol. 14, No. 2. June 2016. JDN. <https://www.cambridge.org/core/journals/perspectives-on-politics/article/abs/quitting-work-but-not-the-job-liberty-and-the-right-to-strike/27B690FEDDBCF002FB20FB50E852D6A3>

The right to strike is peculiar. It is not a right to quit. The right to quit is part of freedom of contract and the mirror of employment-at-will. Workers may quit when they no longer wish to work for an employer; employers may fire their employees when they no longer want to employ them. Either of those acts severs the contractual relationship and the two parties are no longer assumed to be in any relationship at all. The right to strike, however, assumes the continuity of the very relationship that is suspended. Workers on strike refuse to work but do not claim to have left the job. After all, the whole point of a strike is that it is a collective work stoppage, not a collective quitting of the job. This is the feature of the strike that has marked it out from other forms of social action.

#### Unconditional is defined by Merriam-Webster as:

“Unconditional.” Merriam-Webster Dictionary. No Date. URL: https://www.merriam-webster.com/dictionary/unconditional

un·​con·​di·​tion·​al | \ ˌən-kən-ˈdish-nəl  , -ˈdi-shə-nᵊl \ Definition of unconditional: 1: not conditional or limited : ABSOLUTE, UNQUALIFIED unconditional surrender unconditional love; 2: UNCONDITIONED sense 2

## Framing

#### I value upholding governmental obligations. A just government has several obligations to its citizens, as Wenar explains in 2021:

Wenar, Leif, "John Rawls", The Stanford Encyclopedia of Philosophy (Summer 2021 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/sum2021/entries/rawls/>.

Because there are many reasonable interpretations of “free,” “equal” and “fair,” there will be many liberal political conceptions of justice. Since all the members of this family interpret the same three fundamental ideas, however, all liberal political conceptions of justice will share certain basic features: 1. A liberal political conception of justice will ascribe to all citizens familiar individual rights and liberties, such as rights of free expression, liberty of conscience, and free choice of occupation; 2. A political conception will give special priority to these rights and liberties, especially over demands to further the general good (e.g., to increase national wealth) or perfectionist values (e.g., to promote a particular view of human flourishing); 3. A political conception will assure for all citizens sufficient all-purpose means to make effective use of their freedoms. These abstract features must, Rawls says, be realized in certain kinds of institutions. He mentions several demands that all liberal conceptions of justice will make on institutions: a decent distribution of income and wealth; fair opportunities for all citizens, especially in education and training; government as the employer of last resort; basic health care for all citizens; and public financing of elections.

#### To best satisfy governmental obligations, governments must look to consequences that best promote the common good. Tuckness 2020:

Tuckness, Alex, "Locke’s Political Philosophy", The Stanford Encyclopedia of Philosophy (Winter 2020 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/win2020/entries/locke-political/>.

A second part of the debate focuses on ends rather than institutions. Locke states in the Two Treatises that the power of the Government is limited to the public good. It is a power “that hath no other end but preservation” and therefore cannot justify killing, enslaving, or plundering the citizens (2.135). Libertarians like Nozick (1974) read this as stating that governments exist only to protect people from infringements on their rights. An alternate interpretation, advanced by Tuckness (2002b, 2008a), draws attention to the fact that in the following sentences the formulation of natural law that Locke focuses on is a positive one, that “as much as possible” mankind is to be preserved. On this second reading, government is limited to fulfilling the purposes of natural law, but these include positive goals as well as negative rights. On this view, the power to promote the common good extends to actions designed to increase population, improve the military, strengthen the economy and infrastructure, and so on, provided these steps are indirectly useful to the goal of preserving the society. This would explain why Locke, in the *Letter*, describes government promotion of “arms, riches, and multitude of citizens” as the proper remedy for the danger of foreign attack (*Works* 6: 42).

#### Thus, my criterion is maximized societal welfare. Prefer for 2 reasons:

#### Actor Specificity – the actor of the resolution is a just government ought to do, so the criterion that best measures the obligations of a just government should be used. Just governments have an obligation to first and foremost preserve societal welfare for 3 reasons:

#### Trade-offs – governments must consider trade-offs between policies based on the consequences

#### States lack individual wills and intentions because their policies are representative of collective action amongst citizens.

#### No act omission distinction – people can individually choose to act or not act, but governments cannot because by choosing to not act to stop something, then implicitly approve its continuation

#### Weighing– consequences are necessary to explain the degrees of wrongness of actions. It is worse to break a promise to take someone to the hospital than it is to break a promise to have lunch with a friend because of the consequences.

#### I have 2 additional observations:

#### Rights inherently cannot be unconditional. All rights in a just society are conditioned on whether the right contributes to societal welfare. For example, one’s right to free speech is limited when that free speech has dangerous consequences for others, such as shouting fire in a crowded theater, speech inciting violence, or hate speech. The same is true of ALL rights – they must at some point trade off with each other.

#### There are no empirical examples of the aff because there is no nation in the world that currently recognizes an unconditional right to strike. Thus, you should be skeptical of any empirical claims made by the aff because they are unlikely to be grounded in solid, experimental research.

## Contention 1 – A Right to Strike Shouldn’t be Unconditional

#### An unconditional right to strike is detrimental to societal welfare because it allows workers crucial to public safety to strike, such as health workers. Gruber and Kleiner 12:

(Gruber, Jonathan and Kleiner, Samule A,. February 2012.” Do Strikes Kill? Evidence from New York State.” American Economic Journal: Economic Policy 2012, https://dspace.mit.edu/bitstream/handle/1721.1/71824/Gruber\_Do%20Strikes.pdf?sequence=2&isAllowed=y)

Hospitals now represent one of the largest union sectors of the US economy, and there is particular concern about the impact of strikes on patient welfare. We analyze the effects of nurses’ strikes in hospitals on patient outcomes in New York State. Controlling for hospital specific heterogeneity, the results show that nurses’ strikes increase in-hospital mortality by 18.3 percent and 30-day readmission by 5.7 percent for patients admitted during a strike, with little change in patient demographics, disease severity or treatment intensity. The results suggest that hospitals functioning during nurses’ strikes do so at a lower quality of patient care.

**The impacts of hospital strikes aren’t avoidable on the part of the employer. Gruber and Kleiner 12:**

(Gruber, Jonathan and Kleiner, Samule A,. February 2012.” Do Strikes Kill? Evidence from New York State.” American Economic Journal: Economic Policy 2012, https://dspace.mit.edu/bitstream/handle/1721.1/71824/Gruber\_Do%20Strikes.pdf?sequence=2&isAllowed=y)

We find that patients with particularly nursing-intensive conditions are more susceptible to these strike effects, and that hospitals hiring replacement workers perform no better during these strikes than those that do not hire substitute employees

#### Some conditions on a right to strike are necessary to ensure societal welfare – remember that NO RIGHT is unconditional, and that currently, all rights are conditioned on their benefit to society. Thus, a just government shouldn’t recognize an unconditional right to strike, but rather some form of a conditional right to strike to ensure that all citizens will not be without essential services, Malebye 14:

Cynthia Dithato Malebye (Department of Mercantile Law, University of Pretoria). “The Right to Strike in Respect of Employment Relationships and Collective Bargaining.” Dissertation. University of Pretoria, April 2014. JDN. <https://repository.up.ac.za/bitstream/handle/2263/43163/Malebye_Right_2014.pdf?sequence=1>

Although the right to strike is enshrined in section 23(2)(c) of the Constitution, that right is not absolute and may be limited in terms of a law of general application to the extent that such limitation may be reasonable and justifiable in an open and democratic society. It is widely recognised, both in this country and abroad, that in certain circumstances, it will be reasonable and justifiable to limit the right to strike, particularly in times of national emergency or in services where a strike is likely to harm the public. In some countries like Canada, France and Italy, limitations on strikes in essential services are confined to the public sector, based on the notion that it is only the government which provides services, whose absence will endanger the community’s safety. The differentiation of workers should be made according to the functions they perform and not according to the nature of their employer’s legal status. This is so because a service provided by a worker in a private sector may be more harmful to the public compared to a service provided by a public sector worker.

## Contention 2 – A Right to Strike Harms Workers

#### Strikes alone do not change worker conditions - even with a recent increase in worker leverage, strikes still aren’t always effective. Semuels 21:

Semuels, Alana. October 8, 2021. “U.S. Workers Are Realizing It’s the Perfect Time to Go on Strike.” *Time Magazine.* URL: <https://time.com/6105109/workers-strike-unemployment/> accessed on 11/5/21 by bws kat

Carolyn Jackson, the CEO of St. Vincent’s, where Deyo and hundreds of other nurses are striking, says that the nurses are trying to push a 1:4 nurse to patient ratio that Massachusetts voters rejected by a large margin in 2018. The hospital has done research and decided its staffing is appropriate, and that its staffing ratios are in fact better than most other hospitals in the state, she says. Ryan says the hospital announced it was hiring 100 permanent replacement nurses in May during a COVID-19 surge, and that the striking nurses are insisting on getting their old positions back. That the hospital is not budging speaks to the fact that despite this increase in worker activism, workers may not gain much more power in the long run. Over the last 40 years, the government has made it much more difficult for workers to both form unions and to strike, says Heidi Shierholz, the president of the Economic Policy Institute, a progressive think tank. Amazon was able to effectively interfere in a union vote among its workers this spring, she says, preventing the union from succeeding. Of course, a hearing officer at the National Labor Relations Board has recommended that the board throw out the results of the Amazon election and do it over, which speaks to a resurgence of government support for labor. President Joe Biden said he wanted to be “the most pro-union President leading the most pro-union administration in American history.” Labor has support at the state and local levels too: California Gov. Gavin Newsom recently signed a packet of pro-worker bills, including one that prohibits companies from imposing quotas on warehouse workers that prevent them from following health and safety law, and another that prohibits employers from paying workers with disabilities less than the state’s minimum wage. And in January, New York City Mayor Bill de Blasio signed a bill that forbids fast food restaurants from firing workers unless the employer has just cause, making New York City the first jurisdiction in the country that essentially ended at-will employment. But even that support may not be enough to force a widespread change of working conditions in an economy where employees haven’t had much leverage since before the Great Recession, or earlier. Even some of the recent strikes haven’t led to workers’ desired outcomes. A five-week Nabisco strike recently ended with many of workers’ demands met, for instance, but the company still won the ability to pay weekend workers less than they do currently.

#### Additionally, strikes are financially harmful to workers because they are forced to go without pay all together or to rely on insufficient union funds. Refresh Financial 21:

2021. “What Happens To Your Pay When Your Workplace Goes On Strike?” *Refresh Financial.* URL: <https://refreshfinancial.ca/blog/financial-news-and-advice/happens-pay-workplace-goes-on-strike/> accessed on 11/5/21 by bws kat

So what happens to your income when you go on strike? Well, to put it bluntly, it stops. It stops until the strike is called off, that is. As long as you are away from your workplace for while your union is on strike, you will not be paid by your employer. Now, for many of you working hard at credit building, this can be a scary thing. It's very difficult to continue to learn how to rebuild credit when your income source has dried up. Before you lose any sleep over that, it’s important to note that most union members on strike will not go without having their basic financial needs met. Many unions have “strike funds” or “war funds” into which union members pay their dues. Depending on which union you belong to, you may get a specific strike pay amount per day or per week, or you could simply be allotted emergency funds based on need. Strike pay can be quite low compared to your regular pay with some unions paying between $200-$300 per week. For those at home counting, that’s just $800 - $1200 per month.

#### A just government should not force workers to strike, foregoing pay and often benefits, for a chance at having better working conditions. Rather, a just government should pass other policies to ensure quality working conditions for all without a requirement to strike – particularly in the cases on fair payment for work and cracking down on safety violations. Sonn and Walker 18:

Sonn, Paul and Walker, Naomi. December 3, 2018. “A State Agenda for America’s Workers.” *Economic Policy Institute.* URL: <https://www.epi.org/publication/state-agenda-for-americas-workers/> accessed on 11.5.21 by bws kat

2. Get States Back in the Business of Fighting Wage Theft and Enforcing Other Worker Protections - Every week millions of workers are cheated when employers short their paychecks, force them to work off the clock, fail to pay even the minimum wage, or skirt employment laws by denying that they are employees. This type of wage theft is a national epidemic that robs U.S. workers and our economy of billions of dollars a year and hurts law-abiding employers that can’t compete with wage chiselers. But in many states, the agencies responsible for cracking down on employers that cheat their workers have been neglected and defunded. Governors and legislatures need to get their states back in the business of fighting wage theft and enforcing other worker protections, ranging from combatting independent contractor misclassification to preventing employers from defrauding the workers’ compensation system. Key best practices for restoring effective enforcement include: First and foremost, increasing labor agency budgets to [ensure adequate staffing and enforcement capacity](https://www.politico.com/story/2018/02/18/minimum-wage-not-enforced-investigation-409644); Developing [strategic enforcement](https://www.dol.gov/whd/resources/strategicEnforcement.pdf) priorities, in [partnership](https://s27147.pcdn.co/wp-content/uploads/Enforcement-of-15-dollar-minimum-wage-in-Minneapolis-requires-strategic-partnerships.pdf) with [worker organizations](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1594&context=uclf); Cracking down on [retaliation](https://s27147.pcdn.co/wp-content/uploads/2015/03/WinningWageJustice2011.pdf) against workers who speak up; Reviewing and updating regulations and administrative guidance—for example, to provide clear guidance on business’s responsibilities for contract workers, as detailed below.

#### Sonn and Walker 2 continues:

Sonn, Paul and Walker, Naomi. December 3, 2018. “A State Agenda for America’s Workers.” *Economic Policy Institute.* URL: <https://www.epi.org/publication/state-agenda-for-americas-workers/> accessed on 11.5.21 by bws kat

10. Protect Workers’ Health and Safety Nearly 50 years after Congress adopted the Occupational Safety and Health Act (OSHA) requiring employers to provide safe workplaces, more than 5,000 U.S. workers are killed on the job every year, and nearly three million are seriously injured. Many low-wage jobs are dangerous jobs, including jobs in the poultry and meat industries, agriculture, construction, and home care, where workers suffer much higher rates of serious job injuries. Yet the Trump Administration is rolling back workplace health and safety protections, leaving workers even more vulnerable. Adopt Responsible State Health and Safety Contracting. Governors and state legislatures should fight these rollbacks by promoting model protections for workers. For example, Massachusetts is considering a model responsible contracting law for health and safety. It requires contractors and subcontractors bidding on state-funded projects to submit their health and safety violations histories—and bars contracting with companies with poor records. Legislatures and governors using their executive authority over contracting should adopt this model. Stronger State Workplace Protections on Heat Exposure. With climate change, heat exposure is emerging as a very serious workplace health hazard in sectors from agriculture to day labor. But currently there are few standards or protections. Governors and legislatures should adopt new standards and programs to provide stronger protections for workers exposed to dangerous levels of heat, especially farm workers but also workers in construction, manufacturing, and warehousing—all sectors where workers of color and immigrants are concentrated. Strengthen Workers’ Compensation Laws. Over the past two decades, state legislatures have engaged in a race to the bottom by hollowing out their workers’ compensation laws, resulting in unfair, weak, or nonexistent benefits for injured workers. Governors and legislatures should work together to prevent any further weakening of benefits and coverage–especially since workers’ compensation premiums and benefits are now at a 30 year low. Key workers’ compensation reforms that are needed in most states include: (1) strong anti-retaliation protections for injured workers; (2) insurance coverage for prompt medical care in contested cases; (3) extending coverage to all workers, including domestic workers, farm workers, and temporary workers; and (4) ensuring that workers have the right to choose their own doctor.

#### For all of these reasons, I am proud to negate. Now, let’s go over my opponent’s case.