I affirm: A just government ought to recognize an unconditional right of workers to strike.

## My value is liberty

**Sheng 21**

Sheng, C. L. “An Interpretation of Liberty in Terms of Value.” *20th WCP: An Interpretation of Liberty in Terms of Value*, Tamkang University, [www.bu.edu/wcp/Papers/Valu/ValuShen.htm](http://www.bu.edu/wcp/Papers/Valu/ValuShen.htm). Accessed June 5,,2021**.**

Liberty, as a social good, is well recognized to have a very high social value. The value of liberty, however, also has the nature that it does not lie in itself. That is, liberty must be associated with something else. We usually say freedom of survival, freedom of speech, freedom of fulfilling one's life plan, etc. Or, in general terms, we say freedom of doing or being something. Without this something that one wants to do or to be, liberty itself is an empty abstract idea. Therefore, the function of the principle of liberty is to support a person to obtain some other objects, which the person pursues and which have values for the person.

## Value Criterion: protecting rights

**Langlois 84** Richard Langlois. “Cost-Benefit Analysis, Environmentalism, and rights. 1984

<https://www.cato.org/sites/cato.org/files/serials/files/cato-journal/1982/5/cj2n1-9.pdf>

Reading Tribe and other critics, one is left with a strong sense that utilitarianism and cost-benefit analysis are flawed — and are to be rejected — because of their callousness towards the individual, his rights, and the processes by which those rights are exercised. ‘‘The notion of human rights,” as Steven Kelman puts it in his recent “ethical critique” of cost-benefit analysis, “involves the idea that people may make certain claims to be allowed to act in certain ways or to be treated in certain ways, even if the sum of benefits achieved thereby does not outweigh the sum of costs.” A right is not something that can be assigned on “efficiency’’ grounds; a right is precisely an individual’s ‘trump’”2 against the claims of efficiency, his protection against social “utility monsters” like the one that recently devoured the Poletown section of Detroit.13 The problem with cost-benefit analysis, we are encouraged to believe, is that, in reducing social questions to the common metric of a homogenized utility, it treats human beings — and their historically rich and idiosyncratic circumstances — with insufficient respect.

## **Definition of the right to strike:**

**Lim 19**

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December 11, 2019 The Right to Strike

https://www.thecrimson.com/article/2019/12/11/lim-right-to-strike/

The right to strike is a [right](https://jacobinmag.com/2018/07/right-to-strike-freedom-civil-liberties-oppression) to resist oppression.

The strike (and the credible threat of a strike) is an indispensable part of the collective bargaining procedure. Collective bargaining (or “agreement-making”) provides workers and employees with the opportunity to influence the establishment of workplace rules that govern a large portion of their lives. The concerted withdrawal of labor allows workers to promote and defend their unprotected economic and social interests from employers’ unilateral decisions, and provide employers with pressure and incentives to make reasonable concessions. Functionally, strikes provide workers with the bargaining power to drive fair and meaningful negotiations, offsetting the inherent inequalities of bargaining power in the employer-employee relationship. The right to strike is essential in preserving and winning rights. Any curtailment of this right involves the risk of weakening the very basis of collective bargaining.

# Contention 1: The status quo fails workers

## a. **Under the National Labor Relations Act, the US right to strike has become meaningless with a laundry list of exceptions and loopholes that prevents effective strikes**

**Reddy 21** [Diana S. Reddy, Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law, PhD candidate in UCB's Jurisprudence and Social Policy Program and former Fellow in the General Counsel's Office of the AFL-CIO, “There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy,” 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]/Kankee

A. The “Right” to Strike Under the NLRA, workers are generally understood to have a “right” to strike. Section 7 of the Act states that employees have the right to engage in “concerted activities for . . . mutual aid or protection,”79 which includes striking. To drive this point home, section 13 of the NLRA specifies, “Nothing in this [Act] . . . shall be construed so as either to interfere with or impede or diminish in any way the right to strike . . .”80 Note that it is a testament to deeply-held disagreements about the strike (is it a fundamental right which needs no statutory claim to protection, or a privilege to be granted by the legislature?) that the statute’s language is framed in this way: the law which first codified a right to strike does so by insisting that it does not “interfere with or impede or diminish” a right, which had never previously been held to exist.81 To say that a strike is ostensibly **legal**, though, is not to say whether it is **sufficiently protected** as to make it **practicable** for working people. Within the world of labor law, this distinction is often framed as the difference between whether an activity is legal and whether it is protected. So long as the state-as-regulator will not punish you for engaging in a strike, that strike is legal. But given that striking is protest against an employer, rather than against the state-as-regulator, being legal is **insufficient protection** from the **repercussion** most likely to **deter** it—**job loss**. Employees **technically** cannot be fired for protected concerted activity under the NLRA, including protected strikes. But in a distinction that Getman and Kohler note “only a lawyer could love—or even have imagined,”82, judicial construction of the NLRA permits employers to **permanently replace** them in many cases. Consequently, under the **perverse incentives** of this regime, strikes can facilitate **deunionization**. Strikes provide employers an opportunity, unavailable at any other point in the employment relationship, to replace those employees who most support the union—those who go out on strike—in o**ne fell swoop**. As employers have increasingly turned to permanent replacement of strikers in recent decades, strikes have **decreased**.83 A law with a stated policy of giving workers “full freedom of association [and] actual liberty of contract” offers a “right” which too many workers cannot afford to invoke.84 It is not just that the right is too “expensive,” however; it is that its scope is **too narrow**, particularly following the Taft-Hartley Amendments. Law cabins legitimate strike activity, based on employees’ motivation, their conduct, and their targets. The legitimate purposes are largely bifurcated, either “economic,” that is to provide workers with leverage in a bargain with their employer, or to punish an employer’s “unfair labor practice,” its violation of labor law (but not other laws). A host of reasons that workers might want to protest are unprotected—Minneapolis bus drivers not wanting their labor to be used to “shut down calls for justice,” for instance. Striking employees also lose their limited protection if they act in ways that are deemed “disloyal to their” employer,85 or if they engage in the broad swath of non-violent activity construed to involve “violence,” such as mass picketing.86 Tactically, intermittent strikes, slow-downs, secondary strikes, and sit-down strikes are unprotected.87 Strikes are also unprotected if unionized workers engage in them without their union’s approval,88 if they concern nonmandatory subjects of bargaining,89 or if they are inconsistent with a no-strike clause.90 Independent contractors who engage in strikes face antitrust actions.91 Labor unions who sanction unprotected strikes face potentially bankrupting liability.92 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 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.”94 B. The Limits of Legal Categories

## b. Strikes spill-over to broader support of the labor movement and unions – every strike encourages more strikes

**Hertel-Fernandez et al. 20** [Alexander Hertel-Fernandez, associate professor of public affairs at Columbia University, where he studies American political economy, with a focus on the politics of business, labor, wealthy donors, and policy, Suresh Naidu, professor of economics and public affairs at Columbia University, where he researches economic effects of political transitions, the economic history of slavery and labor institutions, international migration, and economic applications of naturallanguage processing, and Adam Reich, associate professor of sociology at Columbia University, where he studies economic and cultural sociology, especially how people make sense of their economic activities and economic positions within organizations, 2020, “Schooled by Strikes? The Effects of Large-Scale Labor Unrest on Mass Attitudes toward the Labor Movement,” American Political Science Association, https://sci-hub.se/https://doi.org/10.1017/S1537592720001279]/Kankee

Strikes and Labor Power in an Era of Union Decline We examined the political consequences of large-scale teacher strikes, studying how firsthand exposure changed mass **attitudes** and public preferences. Across a range of specifications and approaches, we find that increased exposure to the strikes led to **greater support** for the walkouts, more support for legal rights for teachers and unions, and, especially, greater personal interest in labor action at people’s own jobs, though not necessarily through traditional unions. Returning to the theoretical expectations we outlined earlier, the teacher strikes appear to have changed the ways that parents think about the labor movement, generating greater public support. The results regarding workers’ interest in undertaking labor action in their own jobs also suggests **evidence** in favor of the public inspiration and imitation hypothesis, underscoring the role that social movements and mobilizations can play in **teach**ing noninvolved members about the movement and tactics. Still, an important caveat to these findings is that strike-exposed parents were not more likely to say that they would vote for a traditional union at their jobs, possibly reflecting the fact that the strikes emphasized individual teachers and not necessarily teacher unions as organizations either in schools or in parents’ own workplaces. Further research might explore this difference, together with the fact that we find somewhat stronger evidence in favor of the imitation hypothesis (i.e., support for labor action at one’s own work) than for the public support hypothesis (i.e., support for the striking teachers). Before we discuss the broader implications of our findings for the understanding of the labor movement, we briefly review and address several caveats to the interpretation of our results. One concern is whether the results we identify from a single survey can speak to enduring changes in public opinion about the strikes and unions. Given the timing of the teacher strikes in the first half of 2018, our respondents were reflecting on events that happened 7–12 months in the past. We therefore think that our results represent more durable changes in opinion as a result of the strikes, in line with other studies of historical mobilizations and long-term changes in attitudes (Mazumder 2018). The AFL-CIO time-series polling data, moreover, further suggest that there were increases in aggregate public support for unions in the strike states after the strikes occurred. Nevertheless, follow-up studies should examine how opinion toward, and interest in, unions evolve in the mass teacher strike states, and it would be especially interesting to understand whether unions have begun capitalizing on the interest in the labor movement that the strikes generated. We also note that, despite the large sample size of our original survey, we still lack sufficient statistical power to fully explore the effects of the strikes on all of our survey outcomes. Future studies ought to consider alternative designs with the power to probe the individual outcomes that were not considered in this study. Another question is how to generalize from our results to other strikes and labor actions. Although it is beyond the scope of this article to develop and test a more general theory of strike action, there are factors that suggest that the teacher strikes we study here represent a hard test for building public support. The affected states had relatively weak public sector labor movements, meaning that few individuals had personal connections to unions; most were also generally conservative and Republican leaning, further potentially reducing the receptivity of the public to the teachers’ demands. And lastly, the type of work we study —teaching—involves close interaction with a very sympathetic constituency: children and their parents. This should make strike disruptions more controversial and increase the likelihood of political backlash (and indeed, we do find that the strikes were less persuasive for parents who may have lacked access to childcare). Nevertheless, additional factors may have strengthened the effects of the strikes; namely, that education spending in the strike and walkout states had dropped so precipitously since the Great Recession, giving teachers the opportunity to connect their demands to broader public goods. Considering these factors together, we feel comfortable arguing that strikes are likely to be successful in other contexts where involved employees can successfully leverage close connections to the clients and customers they serve and connect their grievances to the interests of the broader community. This is likely to be especially true in cases where individuals feel they are not receiving the level of quality service they deserve from businesses or governments. The flip side of our argument is that strikes are less likely to be successful—and may produce backlash—when the mass public views striking workers’ demands as illegitimate or opposed to their own interests or when individuals are especially inconvenienced by labor action and do not have readily available alternatives (such as lacking childcare during school strikes). This suggests that teachers’ unions’ provision of meals and childcare to parents (as happened in a number of the recent strikes) is a particularly important tactic to avoid public backlash. In addition, our results suggest that future strikes on their own are unlikely to change public opinion if all they do is to provide information about workers’ grievances or disrupt work routines. Our exploratory analysis of the mechanisms driving our results suggests that it was not necessarily information about poor school quality or the strikes themselves that changed parents’ minds, but perhaps the fact that the teachers were discussing the public goods they were seeking for the broader community. We anticipate that strikes or walkouts that adopt a similar strategy—similar to the notion of “bargaining for the common good”—would be most likely to register effects like ours in the future (McCartin 2016). Notably, that is exactly the strategy deployed by teachers in Los Angeles, who spent several years building ties to community members and explaining the broader benefits that a stronger union could offer to their community in the run-up to a strike in early 2019 (Caputo-Pearl and McAlevey 2019). In all, our results complement a long line of work arguing for the primacy of the strike as a tactic for labor influence (e.g. Burns 2011; Rosenfeld 2006; Rubin 1986). Although this literature generally has focused on the economic consequences of strikes, we have shown that strikes can also have significant effects on public opinion. Even though private sector strikes have long sought to amass public support, public-facing strikes are even more important for public sector labor unions, given their structure of production and the fact that their“managers”are ultimately elected officials. But how should we view strikes relative to the other strategies that public sector unions might deploy in politics, such as campaign contributions, inside lobbying, or mobilization of their members (cf. DiSalvo 2015; Moe 2011)? Given the large cost of mass strikes in terms of time and grassroots organizing, we expect that public sector unions will be most likely to turn to public-facing strikes (like the 2018 teacher walkouts) when these other lower-cost inside strategies are unsuccessful and when their demands are popular in the mass public. Under these circumstances, government unions have every reason to broaden the scope of conflict to include the mass public (cf. Schattschneider 1960). But when unions can deploy less costly activities (like simply having a lobbyist meet with lawmakers) or when they are pursuing demands that are more controversial with the public, we suspect that unions will opt for less public-facing strategies (on the logic of inside versus outside lobbying more generally, see, for example, Kollman 1998). Indeed, our results complement work by Terry Moe and Sarah Anzia describing how teacher unions work through low-salience and low-visibility strategies, such as capturing school boards, pension boards, or education bureaucracies, when they are pushing policies that tend not to be supported by the public (Anzia 2013; Anzia and Moe 2015; Moe 2011). Our results yield a final implication for thinking about the historical development of the labor smovement: they suggest that the decline of strikes we tracked in Figure 1 may form a vicious cycle for the long-term political power of labor. As we have documented, strikes seem to be an important way that people form opinions about unions and develop interest in labor action. As both strikes and union membership have declined precipitously over the past decades, few members of the public have had opportunities to gain firsthand knowledge and interest in unions. Moreover, strikes appear to foster greater interest in further strikes, feeding on one another. If unions are to regain any economic or political clout in the coming years, our study suggests that the strike **must** be a **central strategy** of the labor movement.

## c. Declining unionization causes massive income inequality that collapses institutional democracy – only an right to strike solve

**Rhomberg 12** [Chris Rhomberg, Professor of Sociology at Fordham University with a PhD from UC Berkley, 2012, “The Return of Judicial Repression: What Has Happened to the Strike?,” The Forum, https://www.fordham.edu/download/downloads/id/1129/the\_return\_of\_judicial\_repression\_what\_has\_happened\_to\_the\_strike.pdf]/Kankee

The **consequences** of this regime go well beyond the fate of unionized workers, and are **damaging** for American society. In the last several decades economic inequality has **risen sharply** in the **U**nited **S**tates, as both academics and journalists have noted. During the middle of the 20th Century the distance between rich and poor in America steadily declined, but in the last quarter of the century the pattern was reversed. In the private sector labor market, wage inequality increased by 40 percent between 1973 and 2007, with declining unionization accounting for a fifth to a third of the increase (Western and Rosenfeld 2011). For more than a generation, the benefits of economic growth have gone disproportionately to corporate profits and to the top fifth of households, while incomes for the middle and bottom fifths have remained stagnant and fallen behind.For many political theorists, modern mass **democracy** requires multiple institutional spaces for **dialogue** and **decision-making** among plural collective actors, including the actors in the **workplace**. Decades of economic re-structuring have now radically altered the spaces for such dialogue, on the job, in the com munity, and in the public sphere. The **result** highlights the **historic** **dedemocratization** of the institutional regulation of labor in the United States, from the scope of collective bargaining in the workplace, to the civic spaces for group mediation, to the protection for workers’ and citizens’ rights to protest under the law. What’s Next? Recovering the Right to Collective Action The **right to strike** is **essential** to any discussion of the future of the **labor movement** in the United States. The renewal of American labor does not require the restoration of all the elements of the New Deal order, even if that were possible. It does, however, imply a challenge to the logic and legal mechanisms that reproduce the anti-union regime, including the practices of impasse and implementation, permanent replacement of strikers, and other limits on collective action. The current regime radically reduces the scope for public engagement and dialogue between the parties in the employment relationship. We need to restore the integrity of the **collective bargaining** process which rests, ultimately, on a **genuine right to strike**. This need not take the form of the institutional channeling established during the postwar accord. Rather, widening the scope of collective action could enlarge the spaces for public engagement and civic mediation among employers, unions, and community actors. That could encourage more flexibility, communication and innovation in negotiations between management and unions. It could also allow for the development of broader partnerships in support of the firm, its workers, and the local area. There is no a priori reason to credit company managers with exclusive wisdom to control the enterprise on behalf of all stakeholders. In the Detroit strike, the newspapers pursued a scorched-earth policy toward the strikers in a community that placed a high value on unionism. The newspapers lost a third of their circulation and at least $130 million and forced the dispute to go through years of litigation. It is not obvious that these actions benefitted the workplace, the community, or even the shareholders in the long run. Admittedly, reforming the law will be no easy task. Political forces in the United States make even modest labor law reform extremely difficult, and the record of union efforts to pass legislation in Congress is not encouraging. The labor movement may have to find its own ways to take back the right to collective action. As labor scholars have shown, **union growth** or revitalization in American history has frequently occurred in episodic bursts or “upsurges” (Freeman 1998; Clawson 2003). Strike mobilization is a **key driver** of these upsurges, especially in a liberal market economy with decentralized labor market institutions (like the U.S.). Such periods often coincide with the growth of new forms of organization or outreach to previously unorganized groups of workers. In the 1890s, nativeborn and Northern European immigrant skilled workers built the craft unions that came together in the **A**merican **F**ederation of **L**abor. During the 1930s, Southern and Eastern European ethnic factory workers joined the new wave of industrial unionism in the **C**ongress of **I**ndustrial **O**rganizations. Similarly, African American workers organized into public sector unions in conjunction with the civil rights movement the 1960s, and immigrant Hispanic and Asian workers form the base for union growth in low-wage service sectors today. The return of judicial repression underlines the extent of labor’s deinstitutionalization under the current regime. In response, unions have increasingly turned to innovative organizing tactics and mobilizing grassroots allies in the community. Yet, community coalitions are not a magic solution, and civil society is a competitive field no less than the economy and the state. In Detroit, the newspapers deployed tremendous resources to override the power of the NLRB and pressure from an alliance of unions, local civic leaders, and members of the reading public. The outcomes for future struggles will depend on the conjuncture of forces in the economy and the state as well as in civil society. In areas where labor and other structural inequalities coincide, where new immigrant or minority working-class communities combine with local cultures of union militancy, or where organizational and framing strategies re-define previously divided group identities, there may be greater possibilities for collective action. Moreover, the boundaries of mobilization are no longer strictly local. As corporations become larger and more globally integrated, unions have learned to use new leverage, from the strategic location of jobs in worldwide commodity chains, from regulations under national and international law, and fro