## 1

#### A. Interpretation: The right to strike is the *collective* right to refuse to perform work while retaining the job.

Pérez-Muñoz, PhD in Poli Sci, 17

(Cristian, Washington University St. Louis, Assistant Professor of Political Science at the Pontifical Catholic University of Chile, Should education be designed as an Essential Service?) BW

The first concept is the freedom or right to strike.4 Because the standing literature offers a sufficient conceptual and analytical basis for the purposes of this paper (MacFarlane, 1981; Locke, 1984; Gourevich, 2016), I will be brief. The right to strike can be defined as “the right that workers claim to refuse to perform work they have agreed to do while retaining a right to the job” (Gourevich 2016, p. 309). Three key elements define this right. First, workers possess the freedom to withhold their work; that is, under specific circumstances, workers are free to stop performing their jobs. Second, this right implies that workers have the freedom to withhold their labor without losing their job (Locke 1984, p.178, 181). Finally, the right to strike is typically understood to be a collective, not an individual right.5 As MacFarlane (1981, p. 20) points out, “an individual can neither decide to strike, nor take strike actions except in association with others.” It is a right that can only be exercised collectively (Locke 1984; Waas 2014, p. 14).

#### It excludes individual abstention.

Feely, JD, 1910

(Joseph J., Boston University Law School, attorney, The Right to Strike: Its Limitations, The North American Review 191(654): 645) BW

A strike may be defined to be a cessation from employment by two or more persons, pursuant to a common design or understanding, for a cause other than a mutual termination of employment by employer and employee. A strike as the public has come to recognize and understand it has certain characteristics not pertaining to the ordinary quitting of employment by an employee. In the first place, the striker does not really wish to relinquish his employment. He simply aims to interrupt the ordinary course of business to which he has been a party as a means of coercing the employer, through the inconvenience and loss which his action causes, to accede to his demands. His quitting employment is, therefore, but a means to attain an end and both must be lawful to justify the action taken. Moreover, in the ordinary strike the grievance is usually not so much that of the individual as that of a combination of individuals to gain what is termed a mutual benefit. Furthermore, the joint action of several persons quitting their employment at a prearranged time is entirely different in character and effect from the ordinary act of quitting employment by the individual laborer.

#### B. Violation – [FILL IN]

#### C. Offense

#### 1. Limits – only our interp excludes the near-infinite number of unpredictable single-striker affs. Inadequate neg prep prevents contestation and education.

#### 2. Ground – single striker offense is personal and non-contestable. A collective basis preserves neg ground by centering debates on large unions, firms, and governments, with substantial accessible literature – that’s key to clash.

#### D. Topicality is a voting issue for predictable limits – the debate is irreparably skewed. It should be evaluated through competing interpretations- it’s not what you do it’s what you justify.

## 2

#### A. Interpretation: you cannot lie about the affirmative you are reading

#### B. Violation- see screenshot in doc

Graphical user interface, text, application, chat or text message

Description automatically generated

#### C. Offense

#### Pre-round prep: If I don’t know what the aff is before the round, I can’t prep a well-researched 1NC to it which kills education and fairness. this impact is uniquely blown up because I prepped the WRONG AFFIRMATIVE. The doc of their actual wiki disclosed aff is in the file share

#### Community norms: it is consensus that disclosure is good— especially at online tournaments where we can’t go to the cafeteria and find your school to ask. Leaving your opponent in the dark until the round is unfair and gives you the advantage of surprise factor which hurts our ability to engage.

#### Fairness: you kill fairness because now anyone can just disclose whatever they want and then read a completely different aff. It would have been fine to say “new aff” or “some changes” or even if you wanted “ROB changes,” but straight up lying is anti everything debate is supposed to be

#### Drop the debater and use competing interps- the abuse is already done and reasonability devolves to arbitrary judge intervention.

#### No RVIs- its illogical to win for saying you aren’t unfair

## 3

#### Text: A just government excluding California ought to recognize an unconditional right for incarcerated workers to strike. California should recognize a right for incarcerated workers, except those in the prison firefighter program, to strike.

#### Firefighter programs decidedly better than prison and solve megafires – saves numerous preventable deaths.

Hahn, 21

[Matthew Hahn, union electrician and meditation teacher who writes about his time in prison and issues related to criminal justice: “Sending us to fight fires was abusive. We preferred it to staying in prison.” Published by Washington Post on 10-15-21. https://www.washingtonpost.com/outlook/prison-firefighter-california-exploit/2021/10/15/3310eccc-2c61-11ec-8ef6-3ca8fe943a92\_story.html]//AD

On the perimeter of the smoldering ruins of Lassen National Forest in Northern California this summer, an orange-clad crew of wildland firefighters worked steadily to contain the Dixie Fire, the largest single wildfire in state history. Using rakes, axes and chain saws, they literally moved the landscape, cleaving burned from unburned to contain the flames. This work was dangerous, and they made just a few dollars per hour, working 24-hour shifts. But it was better than being in prison.I used to be one of the incarcerated people whom California employs to fight wildfires, and I was fortunate. During my nine years in prison for drug-related burglaries, ending in 2012, I never met a fellow prisoner who didn’t want to be in “fire camp,” as the program is known. Some dreamed of going but knew they would never be allowed to live in such a low-security facility. Others, like me, did everything in their capacity to ensure that they got there as soon as humanly possible. For the most part, this meant being savvy and lucky enough to stay out of trouble during the first few years of my incarceration. Though the program is voluntary, some well-meaning people on social media and in activist circles like to compare fire camp to slavery. Every fire season, they draw attention to its resemblance to chain gangs of the past, its low wages and its exploitative nature. Some argue that incarcerated firefighters face insurmountable barriers to careers in that field after parole, though this has started to change in recent years. Others argue that the voluntary nature of fire camp is a ruse, that consent cannot be offered by the coerced. There is some truth to these objections, but they ignore the reality of why people would want to risk life and limb for a state that is caging them: The conditions in California prisons are so terrible that fighting wildfires is a rational choice. It is probably the safest choice as well.I’m from a long line of California ranchers. Now we flee fires all the time. California prisons have, on average, three times the murder rate of the country overall and twice the rate of all American prisons. These figures don’t take into account the sheer number of physical assaults that occur behind prison walls. Prison feels like a dangerous place because it is. Whether it’s individual assaults or large-scale riots, the potential for violence is ever-present. Fire camp represents a reprieve from that risk.Sure, people can die in fire camp as well — at least three convict-firefighters have died working to contain fires in California since 2017 — but the threat doesn’t weigh on the mind like the prospect of being murdered by a fellow prisoner. I will never forget the relief I felt the day I set foot in a fire camp in Los Angeles County, like an enormous burden had been lifted.The experience was at times harrowing, as when my 12-man crew was called to fight the Jesusita Fire, which scorched nearly 9,000 acres and destroyed 80 homes in the Santa Barbara hills back in 2009. I distinctly remember our vehicle rounding an escarpment along the coast when the fire revealed itself, the plume rising and then disappearing into a cloud cover of its own making. Bright orange fingers of flame danced along the top of the mountains. The fire had been moving in the patches of grass and brush between properties, so we zigzagged our way between homes, cutting down bushes, beating away flames and leaving a four-foot-wide dirt track in our wake. I was perpetually out of breath, a combination of exertion and poor air quality. My flame-resistant clothing was soaked with sweat, and I remember seeing steam rise from my pant leg when I got too close to the burning grass. The fire had ignited one home’s deck and was slowly burning its way to the structure. We cut the deck off the house, saving the home. I often fantasize about the owners returning to see it still standing, unaware and probably unconcerned that an incarcerated fire crew had saved it. There was satisfaction in knowing that our work was as valuable as that of any other firefighter working the blaze and that the gratitude expressed toward first responders included us.

#### The program reduces recidivism and violent crime by ingraining first-responder logic.

Lockheart, 20

[Rasheed, former prisoner, 10-1-2020, "Being a Prison Firefighter Taught Me to Save Lives," Marshall Project, https://www.themarshallproject.org/2020/10/01/being-a-prison-firefighter-taught-me-to-save-lives]//AD

There’s a full-fledged firehouse equipped with engines at San Quentin Prison. To work for the department, which serves the facility and over 100 units of mostly employee housing on the grounds, prisoners have to interview with the fire chief and captains and go before a panel composed of the warden and other staff. You have to be a good fit and know how to work in a team. And they only consider people who have a record of good behavior within the last five years—that means few or no disciplinary write-ups or infractions. You cannot have been convicted of arson, sex offenses, murder or attempted escape, and you have to be at the lowest security level.When I applied in 2016, I had five years left in my sentence. Dozens of guys were trying to get into the firehouse, but they only take nine to 12 at a time. I thought I was in great shape—I was on the San Quentin A’s baseball team, and I played football. But I was nowhere close to being in firefighting shape. We had to be able to hike more than a mile with a 75-pound hose on our backs. I didn’t think I was going to make it at first.It wasn’t really the act of firefighting that made me want to join. Initially, I just wanted the job because I would get to sleep in a room by myself, eat good and train dogs. Plus those guys just look cool. Who as a kid didn’t think firefighters were awesome? Joining the department was also an opportunity to escape the politics and culture of prison. I wouldn't be confined to a cell or have COs hanging over my shoulder all the time; I would be treated like a human being. After years of incarceration I was sold. I didn’t expect it, but firefighting would be the most influential thing I’d ever taken part in. Being a member of the department meant being available 24/7 for calls inside and outside the prison. On the outside, we had house fires, medical emergencies, car accidents and grass fires. Inside we responded to cell fires, provided CPR and transported bodies from housing units to the hospital. In my nearly three years on the job, I did CPR almost 50 times. Only four people lived. The sad truth is that San Quentin has an aging population of people either dying of old age or giving up. There were suicides and a fentanyl outbreak. Sometimes we’d get five overdoses in a week. In 2017, almost 20 people died of various causes. I did CPR on every one of them. On one call, a gentleman had fallen off his bunk and hit his head. He went through three rounds of CPR and two with the defibrillator. On the third round of CPR, I felt him gasp for breath and I could feel his heartbeat underneath my hands. I said to my captain, “Holy shit, I think he's breathing!” He lived and was back on the yard two days later. I can't explain what it feels like to have someone come back to life under your hands. There's nothing like it. One thing I noticed early on was the difference between the mentalities of people on death row and those in the general population. When we were doing CPR or taking a dead body off the tier, the men on death row had a look of resignation, like ‘Damn, he made it out.’ There was one guy on death row who committed suicide. He always sticks with me because he had his beard trimmed and his hair lined up. He died perfectly groomed but with a look on his face like, I think this is a mistake. People in the general population avoided watching us carry out dead bodies. If you have a life sentence in California, it doesn’t necessarily mean you’ll be incarcerated forever. If you do all the right things and invest in yourself, there is a possibility that you will make it out. With the chance of release, the men in general population didn’t want to think about their own mortality. At times I did feel survivor's guilt about being at the firehouse living the good life. When I was responding to a call, I didn’t have time to be in an emotional space with it. The guilt would kick in when I came back from a call involving one of my incarcerated peers. These were guys I hung out with and played basketball with. But contrary to popular belief about prison culture being dominated by envy, people loved to see me rising above incarceration. I regularly had guys I didn't even know saying they were proud of me and thanking me for representing them. It was like, That’s one of ours. When I was about to be released, I already knew I couldn’t be a firefighter on the outside because my armed robbery felony would exclude me from getting a license. But in September, Gov. Newsom signed AB 2147, a law that puts me on a path to expunging my record and getting my EMT certification. It’s not a fix-all, but it makes the pathway a little bit easier .Once you're a first responder, you're always a first responder. It never leaves your system. There's not a day that goes by that I don't smell smoke. Once you've lived that life, it's a hard thing to leave behind.

#### Megafires kill biodiversity.

Stevens, 12

[Bonnie, 5-15-2012, "An era of mega fires," Arizona Daily Sun, https://azdailysun.com/news/science/an-era-of-mega-fires/article\_a14f3c7d-7a36-5c12-a48e-75a8ea4e3fff.html]//AD

"Mega fires are huge, landscape-scale fires in excess of 100-thousand acres," said Covington, executive director of the Ecological Restoration Institute (ERI) at Northern Arizona University. "We're seeing this throughout the West, but Arizona is on the leading edge." Covington says mega fires are symptoms of an unhealthy forest caused by a century of actions -- mostly fire suppression, and overgrazing during the late 1800s -- that have changed the structure and function of ponderosa pine and dry mixed conifer forests."We need to stop being surprised by the types of fires we're having," said Summerfelt, wildland fire management officer for the city of Flagstaff. "My first fire was on the North Kaibab and it was considered huge. It was 20 acres. A 20-acre fire now means nothing. So in those three-and-a-half decades in my career, I've been able to watch fire change in size and intensity to levels today that even a decade ago would have been unthinkable. And we're not done breaking records." Covington says Arizona is set up for three more enormous crown fires across the Mogollon Rim that burn through the tops of old growth trees and can ignite spot fires as far as 3 miles ahead of the blaze. "There's the Payson to Winslow corridor, the Sedona to Flagstaff corridor and the Prescott corridor. If we don't get out in front of these and do restoration treatments, it's just going to be a matter of time before we have three more major landscapes burn up." As we approach the 10th anniversary of the Rodeo-Chediski Fire, scientists, firefighters and natural resource managers are examining today's forest conditions and reviewing lessons learned from the state's two largest fires. To compare, both fires were started by people on warm, dry, windy days. "With the Wallow Fire, we knew we were in extreme conditions. We had fuel everywhere and our probability of ignition for any fire that hit the ground was 100 percent. With 62 mph wind gusts, it was blowing so hard it was tough to walk," said Zornes. Former Forest Service ranger and firefighter Jim Paxon, now Arizona Game and Fish Department spokesperson, describes the 468,000-acre Rodeo-Chediski Fire as a plume-dominated fire. "It was pretty much fuels related, fed by the millions of excess trees in our overcrowded forests. It had extremely high energy. When I started fighting fire in the late'60s we didn't have these big columns of plumes that would build up, collapse in an explosion on the ground and create hurricane winds. This didn't happen until the '90s." As a result, 49 percent of the area in the Rodeo-Chediski Fire was considered severely burned. For the 538,000-acre Wallow Fire, that figure is 28 percent. "It could take a couple hundred years for these forests to return back to what they were," said Alpine District Ranger Rick Davalos. "Some of the severely burned area includes older growth trees." ERI researchers say crown fires that kill old growth trees also destroy critical wildlife habitat."The Mexican spotted owl is the biggest concern we have as an endangered species that we're trying to help out," Paxon said. "The Forest Service is under extreme pressure not to do any cutting around the nesting sites. So between the two fires we lost 20 percent of the Mexican spotted owl nests that exist in the world." In addition, heat from the Wallow Fire baked streams and killed aquatic life. Then floods, from monsoon rains after the fire, moved silt into rivers and lakes making matters worse."The problem with these fires is they remove so much of the vegetation they can create hydrophobic soils. The water won't penetrate the soil. It runs across the surface so all that ash and sediment ends up in streams and rivers. In the Wallow Fire it ruined the habitat for the re-introduced Apache trout," Covington said. "So, whether you look at fish or you look at birds or you look at mammals, the impact of these mega fires over the long haul is very negative."

#### Biodiversity loss causes extinction and turns climate change

Torres 16

Phil Torres, Scholar at the Institute for Ethics and Emerging Technologies, 5-20-2016, "Biodiversity Loss: An Existential Risk Comparable to Climate Change," Future of Life Institute, https://futureoflife.org/2016/05/20/biodiversity-loss/

Biodiversity Loss: An Existential Risk Comparable to Climate Change According to the Bulletin of Atomic Scientists, the two greatest existential threats to human civilization stem from climate change and nuclear weapons. Both pose clear and present dangers to the perpetuation of our species, and the increasingly dire climate situation and nuclear arsenal modernizations in the United States and Russia were the most significant reasons why the Bulletin decided to keep the Doomsday Clock set at three minutes before midnight earlier this year. But there is another existential threat that the Bulletin overlooked in its Doomsday Clock announcement: biodiversity loss. This phenomenon is often identified as one of the many consequences of climate change, and this is of course correct. But biodiversity loss is also a contributing factor behind climate change. For example, deforestation in the Amazon rainforest and elsewhere reduces the amount of carbon dioxide removed from the atmosphere by plants, a natural process that mitigates the effects of climate change. So the causal relation between climate change and biodiversity loss is bidirectional.

## 4

#### The standard is maximizing expected well-being:

#### 1. Governments must use util since they can’t focus on every individual rights violation

Goodin 95 Robert, 1995, Philosopher of Political Theory, Public Policy, and Applied Ethics. Utilitarianism as a Public Philosophy, Cambridge University Press, pg. 26-27

The great advantage of utilitarianism as a guide to public conduct is that it avoids gratuitous sacrifices, it ensures as best we are able to ensure in the uncertain world of public policy-making that policies are sensitive to people’s interests or desires or preferences. The great failing of more deontological theories, applied to those realms, is that they fixate upon duties done for the sake of duty rather than for the sake of any good that is done by doing one’s duty. Perhaps it is permissible (perhaps it is even proper) for private individuals in the course of their personal affairs to fetishize duties done for their own sake. It would be a mistake for public officials to do likewise, not least because it is impossible. The fixation on motives makes absolutely no sense in the public realm, and might make precious little sense in the private one even, as Chapter 3 shows. The reason public action is required at all arises from the inability of uncoordinated individual action to achieve certain morally desirable ends. Individuals are rightly excused from pursuing those ends. The inability is real; the excuses, perfectly valid. But libertarians are right in their diagnosis, wrong in their prescription. That is the message of Chapter 2. The same thing that makes those excuses valid at the individual level – the same thing that relieves individuals of responsibility – makes it morally incumbent upon individuals to organize themselves into collective units that are capable of acting where they as isolated individuals are not. When they organize themselves into these collective units, those collective deliberations inevitably take place under very different circumstances and their conclusions inevitably take very different forms. Individuals are morally required to operate in that collective manner, in certain crucial respects. But they are practically circumscribed in how they can operate, in their collective mode. And those special constraints characterizing the public sphere of decision-making give rise to the special circumstances that make utilitarianism peculiarly apt for public policy-making, in ways set out more fully in Chapter 4. Government house utilitarianism thus understood is, I would argue, a uniquely defensible public philosophy.

#### 2. Extinction justifies moral loopholes – therefore, ignoring it is unethical.

Bok, 1988 (Sissela Bok, Professor of Philosophy, Brandeis, Applied Ethics and Ethical Theory, Ed. David Rosenthal and Fudlou Shehadi, 1988)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake.For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such a responsibility seriously—perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish.

**3. Weighability – only consequentialism can explain the ethical difference in breaking a promise to take someone to the hospital and breaking a promise to take someone to lunch**

**A] Resolvability – there’s no way to weigh between competing offense under a deontological fw which means their fw can’t guide action**

**B] Intuitions – they’re a necessary side constraint on all ethics – if a very well justified logical syllogism concluded "rape good” you wouldn’t say “huh I guess rape is good” you would abandon it**

## Case

#### 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.

**A right does not guarantee more/better strikes – multiple warrants**

**Waas PhD 12**

Professor Bernard Waas, Sep 2012, "Strike as a Fundamental Right of the Workers and its Risks of Conflicting with other Fundamental Rights of the Citizens " World Congress General Report, [https://www.islssl.org/wp-content/uploads/2013/01/Strike-Waas.pdf //](https://www.islssl.org/wp-content/uploads/2013/01/Strike-Waas.pdf%20//) AW

No national laws on strike action are alike. Notably, the law on strike action is part of a much broader picture. As strikes are mostly related to collective bargaining, distinct perspectives that may exist in national systems in this regard inevitably influence assessments of strikes. If the room for bargaining is deemed an area in which the state does not interfere, the decision to use strike action may essentially be left to the autonomous decision-making of trade unions. If, on the other hand, the state tightly regulates collective bargaining, then it seems plausible for regulations on strikes to be subject to similar rules. A possible link between collective bargaining and strikes may also have other implications. If the right to conclude collective agreements is, for instance, limited to the most representative unions only, then the case might be that only members from those unions actually enjoy the right to strike. More generally, legal systems differ considerably with respect to who may represent workers´ interests. In many countries, trade unions exercise monopoly power in the representation of workers. In other countries, dual systems are in place. Works councils, for instance, may be the representative bodies at the level of the individual establishment, while trade unions may represent workers´ interests at the company and, in particular, at the branch level. Though collective agreements can be concluded at all these levels, it may very well be that works councils are prevented from staging a strike when the employer is reluctant to conclude an agreement. Instead of calling a strike, the works council may have to take recourse to arbitration as is indeed the case, for instance, in Germany. 2 Second, entirely different attitudes exist towards strikes. In some countries, strikes are considered “a right to self-defence” which is not necessarily directed at the employer; in other countries, the area of admissible industrial action may be necessarily congruent with the relationship between employers and employees. In yet other countries, strikes are seen as acts of “self-empowerment” which have very little to do with a legal order granting certain powers or rights. Finally, in some countries, the right to strike is viewed as being firmly rooted in human dignity, granted to each individual worker and not waivable by him or her, and in others, the perspective may be more “technical” with a considerable power to dispose of the right to strike. Third, as strikes are a means of balancing power between the employer and the workers, socio-economic conditions which influence this relationship may have to be considered when determining the rules on strikes. To give only two examples: Today, many companies are highly dependent on each other. Some of them may even form clusters. A move to reduce in-process inventory and associated carrying costs has made just in time production prevalent among, for instance, car manufacturers. Accordingly, a strike at a supplier will quickly start affecting the customers, a fact that lends additional power to unions and can therefore not be easily disregarded when determining the rules on strikes. Similarly, if employers can move factories beyond borders, which is indeed possible in times of a globalized economy, the question what workers should be able to throw into the balance needs to be addressed. The following comparative overview tries to shed light on the various legal systems and the solutions they provide to the most important issues relating to strikes. It must be noted, however, that **descriptions of the legal situation can only do so much**. As every comparatist knows, **a considerable gap exists between the “law in the books” and reality**. This may, in particular, be true with regard to strikes, because **striking is part of a “fight” which raises the question of power, a question that cannot be answered by simply referring to legal rules**. In some countries, into strike action often takes place outside the scope of the legal framework. Not only are many strikes unofficial, strikers all too often do not care much about the law. Accordingly, to get a clear understanding of what strike action means “on the ground”, one would have to broaden the perspective and take industrial relations as whole account. In this context, many questions would have to be raised, for instance, about the number and structure of the relevant “players”, about trade union democracy, discipline 3 among trade union members, accountability and the feeling of responsibility on the part of unions as well as employers, dependence or independence of trade unions, the scope of inter-union rivalry, etc. Many questions have yet to be answered and the answers may often be disputable. The following section discusses the legal situation of strike law.

**The National Labor Relation Act serves to protect workers right to strike  
National Labor Relations Board, no date,** “The Right to Strike”, <https://www.nlrb.gov/strikes#:~:text=Section%207%20of%20the%20National,for%20employees%20by%20this%20section>., //NL

Section 7 of the National Labor Relations Act states in part, “Employees shall have the right. . . to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” Strikes are included among the concerted activities protected for employees by this section. Section 13 also concerns the right to strike. It reads as follows:

Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.

It is clear from a reading of these two provisions that: **the law not only guarantees the right of employees to strike, but also places limitations and qualifications on the exercise of that right.** See for example, restrictions on strikes in health care institutions (set forth below).

**Strikes are generally not effective- the ones that work are surprises to the employer, meaning aff’s recognition of an unconditional right to strike undermines any chance of solvency**

**Garneau 19** [Marianne Garneau is a labor educator and organizer with the historic IWW, Industrial Workers of the World. She’s the publisher of the website Organizing.Work. “Why Don’t Strikes Achieve More?” Organizing Work. May 1, 2019. <https://organizing.work/2019/05/why-dont-strikes-achieve-more/>] HW Alex Lee

Under this legal framework, strikes are a blunted tactic, quite intentionally so. They do accomplish something – in each of the three cases described above, workers would almost certainly have got a worse deal had they not struck. There are also strikes that yield apparently better deals, such as the contract bargained by Unite Here with Marriott hotels – arguably in part because contracts at seven different bargaining units expired simultaneously, allowing almost 8,000 workers to strike at once. But **strikes don’t change the big-picture balance of power between employers and workers**. Most of the time, strikes are like a fistfight in which one side gets a bloody nose, the other gets a black eye, and **each walks away saying “You shoulda seen the other guy.”** At best, a win looks like giving the other side two wounds while you only suffer one. Where do we go from here? Strikes can nonetheless be powerful, of course: it remains the case that withholding production is the greatest tool workers have. **Strikes are most effective when they contain an element of surprise, when the employer does not see them coming**, or when they skirt the framework described above. Quickie strikes and sit-downs can resolve a problem before things even escalate to appealing to the labor relations infrastructure (grievances, lawyers, arbitration). Fairly spontaneous, mass strikes do frighten and intimidate employers and tilt things in workers’ favor. It’s important for us on the left to maintain our ability to accurately analyze and assess strikes and their resolutions. If you were to look at union press releases following strikes, you would never know they were incorporating two-tiers or other losses. Unions tend to minimize the damage, so as not to demoralize workers or shake their faith in the union. However, if we keep calling losses (or pyrrhic victories) wins, we may lose the ability to discern wins and losses, and the difference. And we will lose sight of what makes a strike effective.