

1NC

The standard is maintaining just societies under just governments.

1] Societal progress must not be deterred by strikes.

McElroy, 19 (John McElroy, editorial director of Blue Sky Productions and producer of "Autoline Detroit" for WTVS-Channel 56, Detroit, 10-24-2019, accessed on 11-19-2021, WardsAuto, "Strikes Hurt Everybody", <https://www.wardsauto.com/ideaxchange/strikes-hurt-everybody>)

The recent strike at General Motors shows traditional labor practices must change. Not only did the strike cause considerable financial damage at GM, it drove another wedge between the company and its workers. And worst of all, it hurt a lot of innocent bystanders.

Thanks to the UAW, the hourly workforce at GM earns the highest compensation in the U.S. auto industry. But you would never know that by listening to union leaders. They attack GM as a vile and heartless corporation that deliberately tries to oppress honest working men and women. Of course, they kind of have to say that. Union officials are elected, not appointed,

and they are just as political as any Republican or Democrat. No UAW official ever got elected by saying, "You know what? Management is right. We've got to make sure our labor costs are competitive." It's the opposite. Union leaders get elected by attacking management's greed and arrogance. This creates a poisonous relationship between the company and its workforce. Many Attacking the company in the media also drives away customers. Who wants to buy a shiny new car from a company that's accused of underpaying its workers and treating them unfairly? Data from the Center for Automotive Research (CAR) in Ann Arbor, MI, show that GM loses market share during strikes and never gets it back. GM lost two percentage points during the 1998 strike, which in today's market would represent a loss of 340,000 sales. Because GM reports sales on a quarterly basis we'll only find out at the end of December if it lost market share from this strike. UAW members say one of their greatest concerns is job security. But causing a company to lose market share is a sure-fire path to more plant closings and layoffs.

Even so, unions are incredibly important for boosting wages and benefits for working-class people. GM's UAW-represented workers earn considerably more than their non-union counterparts, about \$26,000 more per worker, per year, in total compensation. Without a union they never would have achieved that. Strikes are a powerful weapon for unions. They usually are the only way they can get management to accede to their demands. If not for the power of collective bargaining and the threat of a strike, management would largely ignore union demands. If you took away that threat, management would pay its workers peanuts. Just ask the Mexican line workers who are paid

\$1.50 an hour to make \$50,000 BMWs. But strikes don't just hurt the people walking the picket lines or the company they're striking against. They hurt suppliers, car dealers and the communities located near the plants.

The Anderson Economic Group estimates that 75,000 workers at supplier companies were temporarily laid off because of the GM strike. Unlike UAW picketers, those supplier workers won't get any strike pay or an \$11,000 contract signing bonus. No, most of them lost close to a month's worth of wages, which must be financially devastating for them. GM's suppliers also lost a lot of money. So now they're cutting budgets and delaying capital investments to make up for the lost revenue, which is a further drag on the economy. According to CAR, the communities and states where GM's plants are located collectively lost a couple of hundred million dollars in payroll and tax

revenue. Some economists warn that if the strike were prolonged it could knock the state of Michigan – home to GM and the UAW – into a recession. That prompted the governor of

Michigan, Gretchen Whitmer, to call GM CEO Mary Barra and UAW leaders and urge them to settle as fast as possible. So, while the UAW managed to get a nice raise for its members, the strike left a path of destruction in its wake. That's not fair to the innocent bystanders who will never regain what they lost.

I'm not sure how this will ever be resolved. I understand the need for collective bargaining and the threat of a strike. But there's got to be a better way to get workers a raise without torching the countryside.

2] Laws in place are what make the right of workers to strike reasonable.

Guerin, J.D., 13 (Lisa Guerin, J.D., author or co-author of several Nolo books, 2013, accessed on 11-20-2021, Nolo, "Strikes", <https://www.nolo.com/legal-encyclopedia/strikes.html>)

A strike is a work stoppage caused by employees' refusal to work, typically to protest an employer decision (to close a plant, freeze wages, cut benefits, impose unpopular work rules, or refuse to improve working conditions, for example). The right to strike is protected by the National Labor Relations Act (NLRA), but not all strikes are legal. Whether a strike is lawful depends on the purpose of the strike, whether the collective bargaining agreement includes a "no-strike" clause, and the conduct of the strikers. A strike is legal – and therefore protected by the NLRA – if the employees are striking for economic reasons or to protest an unfair labor practice by the employer. In the first scenario, strikers are trying to get some economic concession from the employer, like higher wages, increased benefits, or better working conditions. In the second, workers strike because the employer has engaged in some practice that violates the NLRA, like refusing to bargain with the union or discriminating against union members. (See Unfair Labor Practices for more information.) Even strikes with a legal purpose are not protected by the NLRA if the union's contract with the employer (the collective bargaining agreement) includes a no-strike clause. With a few limited exceptions (for example, if employees are refusing to work because of unusually dangerous working conditions), a strike that violates a no-strike provision is illegal. A strike can also become unlawful if strikers engage in serious misconduct, such as violence or threats, physically preventing other from entering or leaving the workplace, or sit-down strikes, in which employees refuse to leave the workplace and refuse to work. These strikes are not protected by the NLRA. Although the NLRA protects the right to strike, employers don't have to shut down for the duration of the walkout. Employers are legally allowed to hire replacement workers during the strike. Once the strike ends, the employer's obligation to bring back striking workers depends on the reasons for the strike.

1NC - Counter Plan

1] Counter Definitions ([Oxford Languages](#))

- Just - the idea that something is morally right/fair
- Unconditional - No conditions/limitations/restrictions

2] Strikes are not the only method of forcing concessions.

Marcus L., ND (Jed Marcus L., co-chair of Bressler's Labor and Employment Law practice and chair of the Neutral Arbitrators and Mediators practice, No Date, accessed on 11-20-2021, Xperthr, "Under what circumstances may an employer institute a lockout? | FAQs | Tools | XpertHR.com", <https://www.xperthr.com/faq/under-what-circumstances-may-an-employer-institute-a-lockout/5191/>)

Most collective bargaining agreements contain provisions that prohibit the union or employees from striking or the employer from locking out employees during the term of the labor agreement. Once the agreement expires, however, the union may strike and the employer may impose a lockout. A lockout occurs where an employer bars its unionized workers from entering the workplace until such time as they accept to work on the employer's terms and conditions. During a lockout, the employer may continue business operations with non-unit employees and temporary replacements. The employer may not selectively permit some union employees to enter the premises and work.

Thus, the counterplan: employers can initiate lockouts, the denial of further employment or work.

1] Lockouts are effective.

Greenhouse, 12 (Steven Greenhouse, an American journalist from Wesleyan University, 1-23-2012, accessed on 11-20-2021, The New York Times, "Lockouts, Once Rare, Put Workers on the Defensive", <https://www.nytimes.com/2012/01/23/business/lockouts-once-rare-put-workers-on-the-defensive.html>)

America's unionized workers, buffeted by layoffs and stagnating wages, face another phenomenon that is increasingly throwing them on the defensive: lockouts. From the Cooper Tire factory in Findlay, Ohio, to a country club in Southern California and sugar beet processing plants in North Dakota, employers are turning to lockouts to press their unionized workers to grant concessions after contract negotiations deadlock. Even the New York City Opera locked out its orchestra and singers for more than a week before settling the dispute last Wednesday. Many Americans know about the highly publicized lockouts in professional sports — like last year's 130-day lockout by the National Football League and the 161-day lockout by the National Basketball Association — but lockouts, once a rarity, have been used in less visible industries as well. "This is a sign of increased employer militancy," said Gary Chaison, a professor of industrial relations at Clark University. "Lockouts were once so rare they were almost unheard of. Now, not only are employers increasingly on the offensive and trying to call the shots in bargaining, but they're backing that up with action — in the form of lockouts." The number of strikes has declined to just one-sixth the annual level of two decades ago. That is largely because labor unions' ranks have declined and because many workers worry that if they strike they will lose pay and might also lose their jobs to permanent replacement workers. Lockouts, on the other hand, have grown to represent a record percentage of the nation's work stoppages, according to Bloomberg BNA, a Bloomberg subsidiary that provides information to lawyers and labor relations experts. Last year, at least 17 employers imposed lockouts, telling their workers not to show up until they were willing to accept management's contract offer. Perhaps nowhere is the battle more pitched than at American Crystal Sugar, the nation's largest sugar beet processor. Last summer, contract negotiations bogged down, with the company insisting that its workers agree to higher payments for health coverage, more outsourcing and many other concessions. Shortly after the 1,300

unionized workers — spread among five plants in North Dakota, Minnesota and Iowa — **voted overwhelmingly to reject those demands, the company locked them out and hired replacement workers.** That was on Aug. 1, more than five months ago, and since then the workers and their families have been scrounging to make ends meet. Some face foreclosure and utility disconnection notices. American Crystal has hired more than 900 replacement workers to keep its plants running. Federal law allows employers to hire such workers during a lockout, although they cannot permanently replace regular employees. Employers can pay the replacements lower wages, although as is the case with American Crystal, the companies sometimes need to offer higher wages and help pay for housing to attract replacements. **With many private-sector labor unions growing smaller and weaker, and with public-sector unions under attack in numerous states, some employers think the time is ideal to use lockouts, a forceful approach they were once reluctant to use.** Many employers, though, say they have little choice. Robert Batterman, a labor lawyer who represents employers, said whether it was the N.F.L. or Sotheby's, which locked out 43 art

handlers in Manhattan last July, "the pendulum has swung too far toward the employees, and the employers are looking in these tight economic times to get givebacks."

"Employers," he continued, "are using lockouts because unions are reluctant to do what the employers consider reasonable in terms of compromising.

Employers are looking to reset their collective bargaining relations." After being out of work since Aug. 1, Paul Woinarowicz, a warehouse foreman employed at American Crystal Sugar for 34 years, sees another rationale for lockouts. "It's just another way of trying to break the union," said Mr. Woinarowicz, a member of the bakery and confectionery workers union. "People here in the Red River Valley are really mad at American Crystal. It was just like a knife stuck in your heart." With American Crystal earning record profits before the lockout, the workers strongly opposed its push for concessions. Mr. Woinarowicz noted that the company's most recent quarterly report showed a sharp decline in production and profits — a development the workers said showed the lockout

was taking a toll. American Crystal said the drop was due to a smaller sugar beet crop and higher operating costs. American Crystal accuses union negotiators of being inflexible and denies that it is seeking to break the union. For many employers, lockouts have proved highly successful. Last July 17, Armstrong World Industries locked out 260 workers at its ceiling tile plant in Marietta, Pa., after they rejected the company's offer as stingy on pensions and health coverage. **After being locked out for five months, the workers accepted a contract only slightly different from the one they had originally voted down.** Union officials said the workers knew Armstrong had the upper hand.

There have been several recent lockouts at hospitals, often after nurses engaged in a one-day walkout. To hire replacement nurses from a staffing company, hospitals often have to commit to hiring them for at least a week, so a one-day nurses' strike is often followed by a four-day lockout. But at some health care facilities, like West River nursing home in Milford, Conn., where management locked out 100 workers on Dec. 13, companies see lockouts as a way to wrest concessions and set an example for workers at their other facilities. DeMaurice Smith, executive director of the National Football League Players Association, said **the football, hockey and basketball leagues ordered lockouts in recent years for a clear reason: to gain leverage in negotiations.**

"The lockout is designed to put you at a distinct disadvantage," he said, saying it places huge pressures on players who typically have short professional careers. The National Hockey League's lockout of 2004-5 canceled an entire season. Mr. Smith said, "A lot of players have careers of two or three years, and you might get a player who asks, 'At what point is this fight worth one-third of my career?'" For Jeannie Madsen, a lab technician at American Crystal, the lockout has meant strains for her and her fiancé, also a worker there. With her former husband also locked out and suspending child support payments, she said she could not afford new school clothes and shoes for her children and had to stop paying her daughter's orthodontist bills. She said Wells Fargo would soon foreclose on her home. "What's most upsetting is that it's affecting the lives of many innocent children," she said. The sides are holding occasional negotiations but remain deadlocked. Ms. Madsen said the company was continually putting up barriers to a settlement, essentially pressing the workers to surrender. Company officials did not return phone messages, but Brian Ingulsrud, the company's vice president for administration, wrote in an editorial for a Fargo newspaper that "American Crystal Sugar remains committed to good-faith negotiations."

2] Lockouts permit a chance for employers and employees to closely-examine collective bargaining.

Orechwa, 18 (Walter Orechwa, IRI's Director of Digital Solutions and the founder of UnionProof & A Better Leader, 8-14-2018, accessed on 11-20-2021, UnionProof, "The Lockout Process Explained", <https://projectionsinc.com/unionproof/lockouts-defensive-or-offensive/>)

The lockout is an employer action that is designed to stop unions from economically harming a business when there are union contract negotiation disputes, and the current contract expires as a result. A lockout is a temporary, employer-initiated work stoppage in which employees are prohibited from returning to work when a contract expires and there's no replacement contract. Union Proof discussed the court decisions that initially made lockouts legal, and gave an overview of how they work, in a prior article titled, Learning From a Lockout.

Projections has had decades of experience helping workplaces remain union-free and implement positive employee relations strategies in their organization. We believe in the importance of building a strong culture that results in higher employee engagement and retention, where unions simply aren't necessary. We'll cover what employer lockouts are, and dive deeper into the mechanics of the defensive and offensive lockouts, along with providing additional examples of real-world events.

Employer lockouts return power to businesses struggling to deal with difficult union representatives by enabling employers to put pressure on the union to accept reasonable contract terms. The court decisions legalizing lockouts created two types: defensive and offensive. Understanding the difference is the first step in assuring adherence to the laws.

Before 1965, only the defensive version existed, where employers can only lock out employees in defense of their organization's economic stability. This can be done by employers in response to union actions like sabotage, strike threats, strikes, or work slowdowns. Since then, three types of lockouts have emerged from various NLRB and court decisions, though only two categories – defensive and offensive – exist.

The economic or defensive lockout is employer instituted to prevent economic losses due to a threatened union strike. The second type of lockout is due to a Supreme Court decision in NLRB vs. Brown Food Store (380 U.S. 278, 1965). The decision lets employers replace union workers with temporary employees when there is a multi-employer bargaining unit, and the union strikes one employer bargaining unit in order to put pressure on the whole unit. It's called a whipsaw strike.

Since then the NLRB made decisions like the 1986 Harter Equipment, Inc vs. George M. Zatirnski with the Local 825, International Union of Operating Engineers (Case 22-RD-754). In a 3-to-1 decision, the NLRB said employers can hire temporary workers when there is a union contract impasse. In this case, the union had offered to extend the old contract for six months. The company made a "final offer" that the union rejected and a lockout ensued. This is an offensive lockout.

In the offensive lockout (bargaining lockout) an employer locks out employees to pressure the union during a collective bargaining negotiation process for a new contract. In this situation, employers do not have to wait for a strike or strike threat to initiate. Employers can act whenever there is no union contract in effect, instead of timing it to minimize damage to the employer which was a prior requirement. As an employer, you can make a final offer when contract negotiations seem to be deadlocked and further negotiations are futile.

You can only declare a lockout when a union contract expires, or you have proof the union is running an "inside campaign," or the union offers to have employees end a strike and return to work. During a lockout, the employer can only hire temporary employees and must allow union workers to return to their jobs when everything is over. If the union goes on strike but eventually offers to let employees return to work under the terms of a contract that has expired, you can declare a lockout to force an agreement to a final contract offer. The catch is the lockout must include all union employees and all permanent striker replacements. The employer can then only hire temporary employees.

It's important to understand that lockouts aren't a license for unfair labor practices. They're intended to serve one purpose: force the union to agree to a reasonable, legitimate bargaining position. Unfair labor practices are illegal at any time, including during and after the lockout. Unfair labor practices include activities like intentionally withholding information the union has a right to access, hiring replacement employees on a permanent basis, negotiating with individual employees, and anything else that intentionally targets union jobs. You must also agree to bargain in good faith per the NLRA Section 8(d) & 8(a)(5). It's in the union's interest to fairly negotiate during the lockout because all union employees can return to their jobs when everything ends. When a union strikes, the employer can hire permanent replacements.

Unions will make a lot of accusations, of course. Unions may accuse the employer of purposely making contract negotiations difficult so the contract expires. Unions will claim that employers are forcing a

lockout because they want to shut down a plant or shift production. The union may simply call the employer a bully who doesn't care about working people. The primary union strategy to gain support is to work on emotions.

There have been many lockouts. The L.I.U.-Brooklyn lockout demonstrated the non-union community support lockouts can garner. The solution was that the university administration allowed the faculty to return when both parties agreed to extend the expired contract. In 2014, the Kellogg locked out hundreds of employees at its Memphis, TN factory over failed wage negotiations with the Bakery, Confectionery, Tobacco Workers, and Grain Millers (BCTGM) International Union. The lockout lasted 9 months before a court ordered its end, saying Kellogg used "creative semantics" to reclassify new or rehired employees in violation of the agreement. In 2016, a federal appeals court then ruled the 2013 lockout was legal, overturning the NLRB order that sided with employees. One takeaway from this example is that lockouts can last months and take years to finally settle. A pro-employer decision means the locked-out employees are not likely to collect lost wages and benefits during the period of action.

The suggestion of a lockout gives employers an edge over unions. American Crystal Sugar locked out employees from July 2011 to May 2013 when it was unable to reach an agreement with the BCTGM International Union. A 22-month lockout is a long time period, during which unemployment benefits run out. In May 2017, the same union agreed to a 5-year contract as the company's "best and final" offer.

Not all lockouts end in the employer's favor. In 2016, a 7-month lockout at Allegheny Technologies involved the United Steelworkers Union, 2,200 employees, and 12 plants. In this case, the union considered itself the winner after employees agreed to a new 4-year contract. The NLRB had stated the company did not bargain for a new contract in good faith, making the lockout illegal. The employer had to agree to the contract because there would be an NLRB judicial hearing, and the NLRB had already made its position clear. If Allegheny had been found guilty at a hearing, the company would have had to pay out millions in lost wages.

The long-term issue with lockouts is similar to the issue with strikes. Severe damage is done to employer-employee relations. Union workers that do return to work will probably resent the employer and the temporary replacement workers they hired. In 2017, only 7 major work stoppages took place. However, unions know that you have the right to call a lockout at any time if your company's union contract expires. That's a powerful motivation for negotiating a new contract.

After a lockout, you must begin the process of restoring employee relations. Though a new contract will eventually be signed, a lockout falls within the crisis category. A good strategy is to take advantage of a crisis to engage employees with the end goal of employees deciding they are interested in decertifying the union.

Ideally, employers maintain union-free workplaces through positive employee relations. Nothing in life or business is permanent, and that includes unions.

1NC - Impacts

1] The effectiveness of lockouts can appear more significant when compared to the influence of strikes.

- **Due to this, the lockouts that are initiated can alter a union's course of action. For instance, a union may disassemble a strike when a lockout is put in place. Therefore, these lockouts keep strikes controlled and less influential to the lives of the public.**

2] Collective bargaining is possible through lockouts.

- **With lockouts, employers will be able to regain those that went on strike and can begin repairing relationships with them. So, collective bargaining can help employers and employees reach an agreement through reasonable negotiations.**