# Trad Neg

**I negate the resolution resolved: A just government ought to recognize an unconditional right of workers to strike.**

### First: Fwk

#### I value morality because ought implies a moral obligation.

#### The criterion is maximizing well-being. Prefer this framework for a couple reasons.

#### Utilitarianism is the only moral system available to policymakers.

**Goodin 95’** Robert E. Goodin 95 professor of government at the University of Essex, and professor of philosophy and social and political theory at Australian National University, “Utilitarianism as a Public Philosophy”, Cambridge Studies in Philosophy and Public Policy, May 1995 HSLA//SC

Consider, first, the argument from necessity. Public officials are obliged to make their choices under uncertainty, and uncertainty of a very special sort at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have for them. Public officials, in contrast, are relatively poorly informed as to the effects that their choices will have on individuals, one by one. What they typically do know are generalities: averages and aggregates. They know what will happen most often to most people as a result of their various possible choices. But that is all. That is enough to allow public policy-makers to use the utilitarian calculus – assuming they want to use it at all – to choose general rules of conduct. Knowing aggregates and averages, they can proceed to calculate the utility payoffs from adopting each alternative possible general rule. But they cannot be sure that the payoff will do to any given individual or on any particular occasion. Their knowledge of generalities, aggregates and averages is just not sufficiently fine-grained for that.

#### Because public policy makers act on behalf of a collective body they must look at util first.

**Woller 97’** Gary, Brigham Young University, “A Forum On The Role of Environmental Ethics in Restructuring Environmental Policy and Law for the Next Century”, Policy Currents, 1997 HSLA//SC

Moreover, virtually all public policies entail some redistribution of economic or political resources, such that one group's gains must come at another group's ex- pense. Consequently, public policies in a democracy must be justified to the public, and especially to those who pay the costs of those policies. Such justification cannot simply be assumed a priori by invoking some higher-order moral principle. Appeals to a priori moral principles, such as environmental preservation, also often fail to acknowledge that public policies inevitably entail trade-offs among competing values. Thus since policymakers cannot justify inherent value conflicts to the public in any philosophical sense, and since public policies inherently imply winners and losers, the policymakers' duty to the public interest requires them to demonstrate that the redistributive effects and value trade-offs implied by their polices aresomehow to the overall advantage of society. At the same time, deontologically based ethical systems have severe practical limitations as a basis for public policy. At best, apriorimoral principles provide only general guidance to ethical dilemmas in public affairs and do not themselves suggest appropriate public policies, and at worst, they create a regimen of regulatory unreasonableness while failing to adequately address the problem or actually making it worse. For example, a moral obligation to preserve the environment by no means implies the best way, or any way for that matter, to do so, just as there is no a priori reason to believe that any policy that claims to preserve the environment will actually do so. Any number of policies might work, and others, although seemingly consistent with the moral principle, will fail utterly. That deontological principles are an inadequate basis for environmental policy is evident in the rather significant irony that most forms of deontologically based environmental laws and regulations tend to be implemented in a very utilitarian manner by street-level enforcement officials. Moreover, ignoring the relevant costs and benefits of environmental policy and their attendant incentive structures can, as alluded to above, actually work at cross purposes to environmental preservation. (There exists an extensive literature on this aspect of regulatory enforcement and the often perverse outcomes of regulatory policy. See, for example, Ackerman, 1981; Bartrip and Fenn, 1983; Hawkins, 1983, 1984; Hawkins and Thomas, 1984.) Even the most die-hard preservationist/deontologist would, I believe, be troubled by this outcome. The above points are perhaps best expressed by Richard Flathman, The number of values typically involved in public policy decisions, the broad categories which must be employed and above all, the scope and complexity of the consequences to be anticipated militate against reasoning so conclusively that they generate an imperative to institute a specific policy. It is seldom the case that only one policy will meet the criteria of the public interest (1958, p. 12). It therefore follows that in a democracy, policymakers have an ethical duty to establish a plausible link between policy alternatives and the problems they address, and the public must be reasonably assured that a policy will actually do something about an existing problem; this requires the means-end language and methodology of utilitarian ethics. Good intentions, lofty rhetoric, and moral piety are an insufficient though perhaps at times a

## Contention 1: Economic Danger

**Small businesses are essential to the economy**

**Office of Advocacy 19** (Office of Advocacy. The Office of Advocacy of the U.S. Small Business Administration is the independent voice for small business within the federal government, the watchdog of the Regulatory Flexibility Act, and a source of small business statistics and research. Advocacy advances the views and concerns of small business before Congress, the White House, federal agencies, federal courts, and state policymakers. “Small Businesses Generate 44 Percent Of U.S. Economic Activity.” Office of Advocacy. 30 January 19. <https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/#:~:text=WASHINGTON%2C%20D.C.%20%E2%80%93%20Small%20businesses%20are,drive%20U.S.%20innovation%20and%20competitiveness.&text=U.S.%20gross%20domestic%20product%20>) [RP]

Small businesses are the lifeblood of the U.S. economy: they create two-thirds of net new jobs and drive U.S. innovation and competitiveness. A new report shows that they account for 44 percent of U.S. economic activity. This is a significant contribution, however this overall share has declined gradually. U.S. gross domestic product (GDP) is the market value of the goods and services produced by labor and property located in the United States. Across the 16 years from 1998 to 2014, the small business share of GDP has fallen from 48.0 percent to 43.5 percent. Over the same period, the amount of small business GDP has grown by about 25 percent in real terms, or 1.4 percent annually. However, real GDP for large businesses has grown faster, at 2.5 percent annually. “This useful benchmark shows us that small businesses continue to be big contributors to the U.S. economy,” Acting Chief Counsel for Advocacy Major L. Clark said. “While their contribution has grown at a slower rate than that of large businesses, small businesses continue to be at the forefront of driving innovation, jobs and economic growth.”

#### Economic decline possible when right to strike is abused

Creamer **Media Reporter**- **18**, 10/1/18, "Strikes And Their Economic Consequences," Engineering News, https://www.engineeringnews.co.za/article/strikes-and-their-economic-consequences-2018-10-01/rep\_id:4136

After conducting intensive research\* into the topic of strikes and labor unrest, the Mandela Initiative came to several conclusions. One of these was that the right to strike is made up of a delicate balance between the power of firms and the rights of employees and is considered a sign of a healthy democracy. ADVERTISEMENT “Whilst there are potential benefits from strikes (e.g., better work morale, lower absenteeism, or improved labor productivity), strike action also brings about numerous direct and indirect economic costs that can be high, depending on duration, number of workers involved and divisions affected,” the Initiative confirmed. According to labor expert Suleyman Alley, there are seven key causes of labor unrest: health hazards in the workplace; excessive working hours; low wages; demand for leave with pay; discrimination; inadequate working tools; and aggressive behavior of managers towards employees. ADVERTISEMENT While several activities can be taken in an effort to prevent strikes from occurring or escalating, in the South African context, the tendency towards violent outbursts seems to outweigh reasonable action. “Strikes and labor unrest have marked negative impacts on the employees themselves, the employers and their stakeholders, the government, consumers, and the economy,” advises Jacki Condon, Managing Director of Apache Security Services. “The negative effects on international trade include the hinderance of economic development, creating great economic uncertainty – especially as the global media continues to share details, images and videos of violence, damage to property and ferocious clashes between strikers and security.” Strike action results in less productivity, which in turn means less profits. Labor Law expert, Ivan Israel Stam confirms that; “The employer is likely to lose money due to delayed service to clients or to lost production time. The employees will lose their pay due to the no work, no pay principle. If the strikers are dismissed, they will lose their livelihoods altogether.” This year alone, Eskom, Prasad, various manufacturing plants, Sasol and the Post Office have faced crippling strikes – to name but a few. Condon argues that there are more immediate consequences to consider than loss of income. “As the socio-economic issues continue to affect South Africans across the board, tensions are constantly rising,” states Condon. “Businesses must protect themselves, their assets, business property, and their non-striking employees from violence and intimidation.” Condon believes that this requires the deft hand of well-trained and highly qualified close protection operatives. These operatives provide not only protection, but video evidence as well, ensuring those responsible for damage can be held to account. “The key is to create a strategic partnership with a reliable security provider. Plans must be put into place to protect businesses against vandalism, physical assault, property invasion and intimidation during labor unrest,” concludes Condon.

## Contention 2: unconditional strike harms public

#### (Cut a card depending on speed and clarity)

#### Strikes in public sectors can cause danger to the general population

**Maynard 12** (Maynard, Melissa. Senior Officer, Fiscal 50 at The Pew Charitable Trusts. “Public Strikes Explained: Why There Aren't More of Them.” Pew Research Center. 25 September 2012.<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2012/09/25/public-strikes-explained-why-there-arent-more-of-them>) [RP]

Public employees, including teachers, have the formal right to strike in only 11 states. In the other 39, strikes are against the law, although they occasionally break out. Concerns about strikes have long been used as a reason to discourage public sector employees from unionizing and obtaining collective bargaining rights. This is in large part because of a massive 1919 police strike that took place in Boston after the police commissioner prohibited members of the force from joining unions. “It led to anarchy in Boston,” says Martin Malin, director of the Institute for Law and the Workplace at the Kent College of Law in Chicago. “There was a massive crime wave. The specter of the Boston police strike has dominated public policy on labor relations ever since." President Ronald Reagan made reference to the Boston Police Strike when he famously fired 11,345 striking air traffic controllers in 1981. Concerns about public employee strikes thwarted the development of collective bargaining statutes until the 1960s and 1970s. When Wisconsin became the first state to allow collective bargaining for public employees in 1959, it included strong prohibitions on strikes. Other states followed suit, outlining alternative processes to strikes in cases of bargaining stalemate, including mediation, fact-finding and interest arbitration. Through these mechanisms, independent outsiders are drawn into the disagreement to hear the facts and weigh in, with varying degrees of authority. In the case of interest arbitration — which is particularly common for police and firefighter unions — the arbitrator is allowed to make the final decision unilaterally after hearing from both sides.

#### Right to strike is necessary, yet should only be employed with restrictions to keep everyone safe

Hrk **News Bureau**, 10-5-20**20**, "Labour Code 2020: No strikes or lockout without notice," HR Katha, <https://www.hrkatha.com/news/ir-labour-laws/labour-code-2020-no-strikes-or-lockout-without-notice/>

Henceforth, as per the Industrial Relations Code, no employee or workers from an industrial establishment can go on strike without giving a 60-day notice of the strike to the employer. Nobody can go on strike within 14 days of giving such a notice or before the expiry of the date of strike specified in any such notice. A strike cannot be called if conciliation proceedings happen to be pending before a conciliation officer, nor can it be called within seven days of the conclusion of such proceedings, or if such proceedings are pending before a tribunal, or if aribitration proceedings are pending before an arbitrator, or 60 days after conclusion of such arbitration proceedings. Employers of industrial establishments, on their part, also have to follow similar rules. They cannot lock out their workers without giving them notice of 60 days or before the expiry of the date of lockout specified in such a notice. Employers cannot lock out their employees if conciliation proceedings or arbitration proceedings are pending before a conciliation officer or arbitrator, respectively. However, a strike or lockout declared in response to an illegal strike or a strike declared in response to an illegal lockout will not be considered illegal. If there are more than one trade union in a concerned industrial establishment, the power to negotiate will go to the union that has membership of 51 per cent of the workers. If there is no such single union with more than 51 per cent membership of employees, the industrial establishment will have to form a negotiating council, which will include representatives from all the unions, which have a minimum of 20 per cent of employees as their members.

**Unconditional strikes are detrimental to small business**

**Israelstam 17,** (Ivan Israelstam, Chief Executive of Labour Law Management Consulting), “What is the impact of strikes for employers and employees?”, 22/11/17, https://www.skillsportal.co.za/content/what-impact-strikes-employers-and-employees

Strike season has been dragged out much longer this year than previously. It is already November and the miners’ strike is still to get going. The large corporates can survive most strikes but smaller businesses could go under as a result of industrial action. The loss of production and of customers is usually the first consequence of a strike. However, indirect strike costs incurred later can be just as serious. In the case of *NUM and others vs Chrober Slate (Pty) Ltd* (2008, 3 BLLR 287) the mine dismissed its quarry workers and factory staff due to an unprocedural strike by the quarry workers. The employer admitted that the factory staff were not to blame for the work stoppage as it had been the quarry workers who had refused to work. The dismissals of the factory staff were found to be unfair and the Labour Court ordered the mine to reinstate the 42 dismissed employees with back pay.In order to avoid the snowballing costs and loss of business that strikes can cause the employer needs to understand:What constitutes a strike in legal terms,The economic effects of a strike for both parties,The effects of a strike on the employment relationship,How to resolve constructively the conflict that causes industrial action,How to minimise the damage caused by a strike, and How to bring a strike to a speedy end.A strike is any concerted withholding of labour by a group of employees in support of a demand made by them to the employer. Examples of this are work stoppages, go-slows, overtime bans and work-to-rule. The employer is likely to lose money due to delayed service to clients or to lost production time. The employees will lose their pay due to the no work, no pay principle. If the strikers are dismissed they will lose their livelihoods altogether. Once the strike is over, even if the business has not been closed down by it, the feelings of hostility resulting from the strike can severely damage teamwork, productivity and profitability.