### Rawls AC

Today I Affirm **Resolved: A just government ought to recognize an unconditional right of workers to strike.** Because the resolution asks how a just government should act, **I value justice, specifically through a Rawlsian sense of justice as fairness.** Justice refers to the proper distribution of benefits and burdens, and the resolution asks whether workers should be granted an unconditional right to strike by the government, which certainly falls under such a classification. Rawls theory of justice is fundamentally based on an idea of justice as fairness, which he clarifies through the difference principle, which asks us how a rational actor would want society to function if they were placed behind a veil with complete ignorance about their societal standing. Behind the veil citizens would not know whether they were rich or poor, their gender, their race, or any other contingent fact about their place in society, and so would be represented purely as free and equal. This means the resulting system is the only one that has no risk of bias and so no arbitrary decision-making. Preventing arbitrariness is a prerequisite to any framework because morality serves to guide action so it must prevent arbitrariness that contradicts rationally adopted rules and undermines any moral code. Behind the veil, citizens would design a system that benefited the least advantaged because **1)** diminishing marginal utility dictates that helping the most advantaged provides less utility than the least advantaged. This is why giving a dollar to a homeless person would probably make them happier than giving a dollar to a billionaire; already having goods makes each additional good less valuable. **2)** People are risk-averse, meaning that they would avoid risks of occupying the worst social position, but this would ensure reasonable treatment regardless. Thus, **the Value Criterion is Adherence to the Difference Principle.** Prefer this standard for 2 additional reasons:

**First**, people are moral equals unless a morally relevant distinction exists because no characteristics exist to differentiate them, so the results of the natural lottery shouldn’t arbitrarily disadvantage some people over others, which requires equality of opportunity.

**Second**, people born with disadvantages are subject to external pressures that affect the choices they have, which destroys their autonomy because they don’t have free reign over their own lives, which outweighs any individual violation on magnitude. *And, autonomy is a prerequisite to moral theorizing because free will is responsible for the judgment of principles and commitment to a certain action.*

**I’d like to offer the following definition and observation**, to be used in the round. Garcia in ‘17 writes that a right to strike “encompasses any work stoppage, however brief and limited, with a view to defending and furthering the workers’ interests and rights by exerting pressure on employers.” Thus, observe that even though I do have the burden of defending an unconditional right to strike, the affirmative need not defend anything that doesn’t fundamentally constitute a strike. I’ll offer other definitions if needed upon request.

<https://www.redalyc.org/pdf/1770/177054481008.pdf>

<https://plato.stanford.edu/entries/rawls/#JusFaiJusWitLibSoc>

**Contention One: Strikes are Key to Protecting Least Advantaged**

**Subpoint a) Because of Absurd Regulatory Loopholes Strikes are Impossible and Ineffective in the Status Quo; Strikes now Fuel De-unionization.**

Reddy, ‘21 [Diana S. Reddy is a Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law, Published: 1/6/21, “’There is no such thing as an illegal strike’: Reconceptualizing the strike in law and political economy”, The Yale Law Journal Forum, <https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy>

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,” which includesstriking. 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 . . .” 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”, 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 one fell swoop. As employers have increasingly turned to permanent replacement of strikers in recent decades, strikes have decreased. 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. 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, or if they engage in the broad swath of non-violent activity construed to involve “violence,” such as mass picketing. Tactically, intermittent strikes, slow-downs, secondary strikes, and sit-down strikes are unprotected. Strikes are also unprotected if unionized workers engage in them without their union’s approval,if they concern non mandatory subjects of bargaining, or if they are inconsistent with a no-strike clause. Independent contractors who engage in strikes face antitrust actions. Labor unions who sanction unprotected strikes face potentially bankrupting liability. 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. Essentially judge, the right to strike has so many loopholes that it has become meaningless in the status quo.

**Subpoint b) Strikes Have Historically Provided Worker Protections.**

Dixon & Martin, ‘07 [Marc Dixon is professor and chair of the department of sociology at Dartmouth University, Andrew Martin is Associate Vice Provost of Academic Affairs and Professor of Sociology at The Ohio State University, Published: 2007, “Can the labor movement succeed without the strike?”, American Sociological Association, <https://journals.sagepub.com/doi/pdf/10.1525/ctx.2007.6.2.36>

The strike has long been an engine of class conflict, driving gains in the workplace and political arena. The American labor movement gained strength through countless strikes, large and small. The United Auto Workers, and the industrial union movement as a whole, took off in the 1930s because of the innovative sit-down strike. Coal miners in Appalachia won benefits only through long and often bloody strikes. Without the interruption of production and services, many laws that benefit all workers—including the right to organize, the eight- hour day, child labor laws, the

minimum wage, and public sector labor laws—would probably not exist.

**Subpoint c) Strikes Empirically Improve Worker Wages.**

Cramton et al. in ‘95 found that the ban on replacement workers in a canadian meta-analysis increased real wages by 10.6%. Even when adjusting for time spent with lost wages worker salaries improved by 3.6 %, which is quite significant. Malito in ‘18 explains that as union participation has dropped nearly 25% in the last fifty years the share of wealth going to the top 10% rose drastically, from about 35% to 50%. Not only this, but Malito once again estimates that had U.S. Labor unions stayed strong even non-union workers would likely have seen a 3-7% increase in annual salary due to trickle down effects. Essentially, strike protections are key to promoting the economic well being of those who really need it.

<https://www.nber.org/system/files/working_papers/w5105/w5105.pdf>

<https://www.marketwatch.com/story/this-is-how-much-the-decline-in-labor-unions-has-cut-the-pay-for-all-workers-2018-08-23>

**Contention Two: Limiting Racial Inequality**

**Subpoint a) Unions Disproportionately Help Those Most in Need and Therefore Are a Tool to Help Close The Racial Wealth Gap**

Weller & Madland, ‘18 [Christian E Weller is a senior fellow at the Center for American Progress and a Professor of Public Policy at the University of Massachusetts, David Madland is a senior fellow at the Center for American Progress, Published: 9/4/18, “Union Membership Narrows the Racial Wealth Gap for Families of Color”, Center for American Progress, <https://www.americanprogress.org/issues/economy/reports/2018/09/04/454781/union-membership-narrows-racial-wealth-gap-families-color/> ] /Triumph Debate

Being a union member creates a number of venues for workers to build more wealth than would be available for nonunion members.4 Union members bargain collectively for wages, benefits, and procedures that affect their employment, such as when and how an employer can fire an employee. As a result of being covered by a collective bargaining agreement—the contract that employers and unions regularly sign and that governs these employment-related issues—union members have higher wages, on average; more benefits; and more stable employment than is the case for nonunion members. Higher wages then translate into more savings in absolute terms, as well as more tax incentives to save.5 Furthermore, more job-related benefits—such as health insurance, defined benefit plans, and life insurance—mean that union members need to spend less money than do non-union members to protect their families against future income losses. Therefore, they can save more money to pursue their own goals, such as paying for their children’s college education.6 Lastly, union membership leads to greater employment stability and job protections that translate into longer tenures with one employer**.**7 This employment stability translates into more savings, as union members are more likely to be eligible for key benefits such as retirement savings and can better plan for their futures.8 This issue brief considers the relevant data broken down by union membership separately for whites and nonwhites. The data show that: Union members have greater wealth than nonmembers, and the difference is much larger for nonwhites than whites. From 2010 to 2016, nonwhite families who were also union members had a median wealth that was almost five times—485.1 percent, to be exact—as large as the median wealth of nonunion nonwhite families.9 The difference between union and nonunion white families was much smaller, with the former having a median wealth that was only 139 percent that of the latter during that period. (see Table 1) Union members have higher earnings, more benefits, and more employment stability than nonunion members. Union members’ total annual earnings are between 20 percent and 50 percent greater than those of nonunion members. (see Table 2) The gap in income, benefits, and employment stability by union membership is larger for nonwhite families than for white families. The chance of having a 401(k) plan, for instance, is about 50 percent greater for nonwhite union members compared with their nonunion counterparts, but the gap among whites is only 21.7 percent. (see Table 1) The data suggest that nonwhite union members receive a particular boost in their wealth because they see larger increases in pay, benefits, and employment stability than white union members. This is primarily a result of the fact that nonwhite workers work more frequently than whites in low-paying jobs with few benefits, so they often have much more to gain.10 This disparity in working conditions is due to a wide array of factors, including but not limited to unequal access to education, occupational segregation, and discrimination.11 Unions help all workers, and they do the most for those with less advantages. As a result, union membership can help shrink that racial gap in labor market outcomes. And this partial equalization translates into a boost in median wealth for nonwhite union families.

**Subpoint b) Limiting Large-Scale Employer Racism**

Perry et al., ‘21 [Andre M. Perry is a senior Fellow at the Metropolitan Policy Program, Molly Kinder is a David M. Rubenstein Fellow at the Metropolitan Policy Program, Laura Stateler is a Senior Research Assistant at the Metropolitan Policy Program, Carl Romer is a fromer research assistant at the Metropolitan Policy Program, Published: 3/16/21, “Amazon’s union battle in Bessemer, Alabama is about dignity, racial justice, and the future of the American worker”, Brookings Institute, <https://www.brookings.edu/blog/the-avenue/2021/03/16/the-amazon-union-battle-in-bessemer-is-about-dignity-racial-justice-and-the-future-of-the-american-worker> ] /Triumph Debate

AMAZON HAS GROWN EVEN MORE DOMINANT AND SHARED LITTLE OF ITS PANDEMIC PROFITS WITH WORKERS Black workers are overrepresented among the risky essential jobs (like those at Amazon’s warehouses) on the COVID-19 frontlines, and especially among frontline jobs that pay less than a living wage. Black workers comprise 27% of Amazon’s workforce, compared to just 13% of workers overall in the U.S. In Amazon‘s Bessemer warehouse, union organizers estimate that 85% of workers are

Black. Amazon’s disproportionately Black workforce has risked their lives during the pandemic, but the company has shared little of its astonishing profits with them. Last year, Amazon

earned an additional $9.7 billion in profit—a staggering 84% increase compared to 2019. The company’s stock price has risen 82%, while founder Jeff Bezos has added $67.9 billion to his

wealth—38 times the total hazard pay Amazon has paid its 1 million workers since March. Despite soaring profits, Amazon ended its $2 per hour pandemic wage increase last summer and replaced it with occasional bonuses. From March 2020 through the end of the year, Amazon’s frontline workers earned an average of $0.99 per hour of extra pay, or a roughly 7% pay increase.

Amazon’s pandemic pay bump was less than half of the increased pay at competitor Costco, and a fraction of what it could have afforded from the extra profits it earned during—and largely because of—the pandemic. In fact, Amazon could have more than quintupled the hazard pay it gave its workers and still earned more profit than in 2019. And while Amazon frequently touts its $15 per hour starting wage, Costco’s recent increase of its starting wage to $16 per hour (despite having significantly smaller profits than Amazon) shows that $15 is a floor, not a ceiling. A DRIVE FOR DIGNITY AND RACIAL JUSTICE SEEKS TO DEFY THE ODDS Some of the workers at the Bessemer warehouse have called on Amazon to reinstate its $2 per hour hazard

pay. Yet Amazon’s unwillingness to share its staggering profits with its workers is not the only—or even the primary— driver of the union effort in Bessemer. In an essay published in The Guardian last month, labor journalist Steven Greenhouse introduced Darryl Richardson, a 51-year- old “picker” at the Bessemer warehouse. Richardson voiced his frustration about the dehumanizing nature of his work at Amazon, including the unrelenting pace, the risk of being terminated at any point, and the constant surveillance. “You don’t

get treated like a person,” Richardson said. “They work you like a robot...You don’t have time to leave your workstation to get water. You don’t have time to go to the bathroom.” As Amazon’s profits climb and its market dominance continues, workers like Richardson want a seat at the table to make their workplace humane. Bessemer’s pro-union workers face an uphill battle as they take on one of the most powerful companies in the world. Amazon’s aggressive anti-union tactics have garnered headlines, but they are illustrative of the daunting challenges and uneven playing field facing organizing efforts in all workplaces. Today, 65% of Americans approve of labor unions—the highest level since 2003. But after decades of declining union

participation, only about 10% of American workers are members of one.

Because a Rawlsian system of Justice clearly supports an unconditional right to strike by benefitting the least advantaged, I am proud to affirm.