# Norfolk R2 1N Doc

## Fwk

#### First, we must use frameworks that can apply to governments because the actor of the resolution is States. States cannot know specific details of situations they have to make decisions about. This requires a utilitarian metric that can make decisions without all knowledge. Thus this is the only fair calculus we can evaluate the resolution.

Robert E. **Goodin,** 19**95**

Goodin is a Professor of Philosophy at the Research School of the Social Sciences at the Australian National University. Cambridge University Press, “Utilitarianism As a Public Philosophy” pg 63

My larger argument turns on the proposition that there is something special about **the situation of public officials that makes utilitarianism more plausible for them** (or, more precisely, makes them adopt a form of utilitarianism that we would find more acceptable) **than private individuals**. Before proceeding with that larger argument, I must therefore say what it is that is so special about public officials and their situations that makes it both more necessary and more desirable for them to adopt a more credible form of utilitarianism.  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, at 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 – if 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 what the payoff will be to any given individual or on any particular occasion**. Their knowledge of generalities, aggregates and averages is just not sufficiently fine-grained for that.

#### Second, duties and rights develop based framework devolves into consequentialism. Duties develop because of relative good and maximizing good. Rights, freedom, and autonomy are only impactful because of their ability to interact with the physical world which necessitates a perspective that maximizes benefits.

#### Thus, my standard is utilitarianism. This places the burden on the aff to prove that the right to strike will have a greater utility payoff than having illegal strikes.

## C1 – Illegality of strikes is good

#### The first strikes were born out of illegality—this ended up bringing more attention to worker abuse and ended up making these strikes more successful and more widespread.

Reddy 1/21

Reddy, Diana S. ““There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy.” *The Yale Law Journal Forum*, 6, January 2021, <https://www.yalelawjournal.org/pdf/ReddyEssay_8dhue31d.pdf>

These strikes were part of a new strategic repertoire45 for the incipient labor movement, a form of protest made possible by the unique circumstances of industrial waged labor.46 Striking was risky, and not all labor unions were initially sanguine about the tool. The Knights of Labor, for instance, originally insisted that striking was counter-productive, too prone to backlash.47 Strikes were largely deemed illegal at the time, as criminal conspiracies and then as antitrust violations, and subject to court injunction.48 But workers kept striking, anyway. In the 1880s, workers struck throughout the country for the eight-hour day, the ability to share in the improved quality of life rapid growth had enabled. They proclaimed, “Eight hours for work, eight hours for sleep, eight hours for what we will.” 49 In 1902, mine workers in eastern Pennsylvania struck, seeking shorter hours, higher pay, and recognition of their union.50 In 1912, the well-known “Bread and Roses” strike took place, in reaction to a pay cut. Female textile work-ers in Lawrence, Massachusetts walked out en masse, proclaiming “Hearts starve as well as bodies; give us bread, but give us roses!”51

#### **Workers actually strike more often when they are illegal. This means more strikes will occur if we negate the resolution.**

Burns et al 18

Burns, Joe, et al. “‘There Is No Illegal Strike, Just an Unsuccessful One.’” *Jacobin*, 3 June 2018, www.jacobinmag.com/2018/03/public-sector-unions-history-west-virginia-teachers-strike

Outlawing strikes did little to deter government workers. Work stoppages occurred **more frequently** in states with bans on collective bargaining and striking. With no orderly process for bargaining, workers had no choice but to illegally strike to get their demands met. Faced with such intransigence, policymakers gave in and began recognizing public sector unions.

#### The right to strike only protects against legal actions, not against job protections. Thus, having a right to strike or not having one won’t be a deterrent since the right to strike is not actual protection. This turns the aff’s impacts.

Reddy 2

Reddy, Diana S. ““There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy.” *The Yale Law Journal Forum*, 6, January 2021, <https://www.yalelawjournal.org/pdf/ReddyEssay_8dhue31d.pdf>

Under the NLRA, workers are generally understood to have a “right” to strike. Section 7 of the Act states that employees have the right to engage in “concerted activities for . . . mutual aid or protection,”79 which includes striking. To drive this point home, section 13 of the NLRA specifies, “Nothing in this [Act] . . . shall be construed so as either to interfere with or impede or diminish in any way the right to strike . . .”80 Note that it is a testament to deeply-held disagreements about the strike (is it a fundamental right which needs no statutory claim to protection, or a privilege to be granted by the legislature?) that the statute’s language is framed in this way: the law which first codified a right to strike does so by insisting that it does not “interfere with or impede or diminish” a right, which had never previously been held to exist.81 To say that a strike is ostensibly legal, though, is not to say whether it is sufficiently protected as to make it practicable for working people. Within the world of labor law, this distinction is ofen 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.

#### Allowing governments to formally recognize a right to strike sounds good on paper, but is disastrous – it deradicalizes labor groups by creating a system where radical demands are assimilated to the liking of labor board officials and takes away any true potential for change by the labor movement – this is empirically proven with the labor movement in the US. That’s why AFL-CIO president urged to abolish the NLRB, i.e. the board that recognizes a right to strike.

Burns 2

[Joe Burns, “Reviving the Strike”]

Nor can changing membership of the National Labor Relations Board help the labor movement, as members of the board operate within the existing framework, and Democratic appointees have shown no inclination to radically change direction. And, even if they were, their rulings are subject to review by the federal courts. At best, while the NLRB can help with issues on the margins of collective bargaining, it lacks the power to fundamentally alter the system of labor control. No matter how pro-labor they might be, NLRB members still operate as administrators of an unjust system. What will it take then to change the system of labor control? AFL-CIO President Richard Trumka offered one answer to the question back in 1987, when he was the newly elected reform President of the Mineworkers Union: I say abolish the act. Abolish the affirmative protections of labor that is promises but does not deliver as well as the secondary boycott provisions that hamstring labor at every turn. Deregulate. Labor lawyers will then go to juries and not to that gulag of section 7 rights—the Reagan NLRB. Unions will no longer foster the false expectations attendant to the use of the Board process and will be compelled to make more fundamental appeals to workers. These appeals will inevitably have social and political dimensions beyond the workplace. That is the price we pay, as a society for perverting the dream of the progressives and abandoning the rule of law in labor relations. 25 Unfortunately, Trumka’s call for abolition was rhetorical, as no one in the labor movement—then or now—seriously considered proposing legislation to repeal the NLRA. And, with trade unionists unable to pass even the relatively minor provisions of the Employee Free Choice Act, there is no chance of passing the far more radical changes required to make the NLRA effective. Without government action as an option, there is really only one way forward for the labor movement, and that is to repeal the NLRA by noncompliance, as a precursor to breaking free of the system of labor control. Obviously, this is not an easy path or one that will happen overnight, as dismantling the system of labor control will have to be a long term, strategic and coordinated project. The first thing that labor activists will need to do is to launch a direct attack on the system itself, led by the left wing of the labor movement. As long as the most active and progressive elements of labor remain mired in confusion, engaging in half measures, there will be no one to challenge the current system. For there to be true change, the labor left must take the lead in developing a new theory of labor rights so that trade unionists can again believe—intensely—in the right to strike. This means developing firm and widely held principles supporting the use of effective strike tactics, as well as new forms of worker organization able to carry out such struggle. While this kind of confrontation may be uncomfortable for a movement long used to compromise, the alternative— muddling along or pursuing “safe” alternatives—will result in the destruction of what remains of the labor movement.

#### 2 additional warrants:

#### A] Legitimizing a right to strike replaces the relationship between workers with one another, i.e. a union, to a relationship between worker and state. This guts any radical grassroots efforts that could be maintained from below and is rather subsumed by a bureaucratic structure from above.

#### B] When the right to strike was formally recognized in the US, governmental authorities created an assimilatory process to recognize and elect union leaders, i.e. leaders of strikes. The problem with this is that the leaders weren’t representative to the people and hence the strike demands were accounting for the needs of the workers.