## I affirm Resolved: A just government ought to recognize an unconditional right of workers to strike.

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## I offer the following definitions:

Ought means “Duty or moral Obligation”

(Collins English Dictionary, 2012, https://www.dictionary.com/browse/ought)

Unconditional means “not limited; absolute”

(Merriam Webster Dictionary, accessed 2021, https://www.merriam-

webster.com/dictionary/unconditional)

A strike occurs when workers collectively agree to stop working in order to gain a concession from an employer

(FindLaw’s team of legal writers and editors, May 02, 2017, “Labor Strike FAQs”,

https://www.findlaw.com/employment/wages-and-benefits/labor-strike-faqs.html)

## Value: Justice

My value is Justice, defined as doing what is right.

## Criterion: Upholding Workers Rights

My criterion is Upholding Workers Rights

Marx and Engels - The Communinist Manifesto

“In proportion as the bourgeoisie, i.e., capital, is developed, in the same proportion is **the proletariat,** the modern working class, developed--**a class of laborers, who live only so long as they find work, and who find work only so long aws their labor increases capital.** These laborers, who must sell themselves piecemeal, are commodities, like every other article of commerce, and are consequently exposed to all the vicissitudes of competition, to all the fluctuations of the market.”

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## Reasons to Prefer:

## Prefer my criterion over any other criterion because of the following reasons:

## Conditions of workers (aka the proletariat) determine the conditions of society. This means that if we treat our workers poorly, society as a whole will become worse off. For example, if one were to remove a worker’s right to bargain for fairer pay, we would be in turn worsening the whole of society.

1. By upholding worker’s rights, we allow change to occur in society. Workers are currently suffering due to current abusive conditions. By allowing them rights, they can improve their conditions and the conditions of society.
2. Workers, or the proletariat, make up a significant part of people-- the vast majority. By supporting them, we support the most people.
3. For an ethical standpoint, a focus on rights will lead to concrete change in society. Abstract concepts concerning morality neglect to actually help real people.

# C1: Workers Need Access to Basic Human Rights

Subpoint A: Workers Lack Basic Human Rights

## 1: Workers lack basic human rights, such as a living wage and paid leave.

### Pagan 17

“Low-Wage Workers Deserve Human Rights, Too.” *Shriver Center on Poverty Law*, 10 Mar. 2021, www.povertylaw.org/article/low-wage-workers-deserve-human-rights-too/.

**A full-time worker paid the federal minimum wage** of $7.25 **will earn** just **$15,080 a year** — far **below the income necessary** for a family **to secure an adequate living standard** in even the least expensive area in the United States. Yet 2.2 million workers currently make the federal minimum wage or less. Because structural racism and gender bias push [women](https://www.oxfamamerica.org/static/media/files/Undervalued_FINAL_Nov30.pdf) and [people of color](https://scholar.harvard.edu/files/fryer/files/racial_disparities_in_job_finding_and_offered_wages.pdf) into low-wage jobs, the low minimum wage disproportionately burdens these groups. Almost two-thirds of minimum wage workers are women. Moreover, people of color constitute about [40%](https://www.jec.senate.gov/public/_cache/files/e14676d4-58e2-4a8d-9202-cf9bd46251fa/fact-sheet---the-federal-minimum-wage-7-22-16-final.pdf) of minimum wage workers even though they make up only about a third of the overall labor force. In every industry, low-wage workers face unpredictable work schedules that undermine their financial stability. Low-wage workers often have limited or no advance notice of their work schedules, and their scheduled work hours and days may change substantially week-to-week. To make matters worse, many of these jobs require workers to always be on call, even though the job does not provide full-time hours or a living wage. Uncertainty in number of work hours and income can be devastating. It means families are less likely to be able to cover their basic living expenses. It makes finding child care difficult and negatively affects children’s cognitive and behavioral development. It also makes it difficult for workers to hold a second job, attend or save for school, maintain a long-term financial plan, or plan for retirement. Minority workers disproportionally have unpredictable working schedules. Despite sharing similar levels of education and age as their white counterparts, Black and Latino retail workers are [driven into the low-paid positions](http://www.demos.org/publication/retail-race-divide-how-retail-industry-perpetuating-racial-inequality-21st-century) most likely to involve erratic scheduling and inadequate hours. [Roughly half of Blacks and 46% of Latino workers](https://ssascholars.uchicago.edu/sites/default/files/work-scheduling-study/files/lambert.fugiel.henly_.precarious_work_schedules.august2014_0.pdf) received their hours with a week or less of notice, compared to 41% of workers overall. Low-wage **workers** generally **lack paid family and medical leave, which hinders their right to work and be protected from unemployment.** Only 5% of workers in the bottom quarter of earners have paid family and medical leave through their employer, compared with 21% in the top quarter. The federal Family and Medical Leave Act (FMLA) does provide for *unpaid* family and medical leave, but many low-wage workers are not eligible for FMLA and, even if covered by the law, [many cannot afford to take it](https://www.americanprogress.org/issues/economy/news/2013/02/05/51762/who-can-afford-unpaid-leave/). **The inability to receive pay while taking time off work to care for themselves or a loved one puts workers at a significant financial risk.** The lack of paid leave disproportionally affects low-income women and their families. Mothers without a high school degree are [3.5 times less likely](https://www.census.gov/prod/2011pubs/p70-128.pdf) to have received some kind of paid parental leave as compared to those with a bachelor’s degree or higher. Yet low-income women workers are more likely to be a primary breadwinner for their family. Women with no access to paid family and medical leave are more likely to lose income, and lack of paid leave can also limit a child’s health and development. Low-wage workers deserve to have their human rights protected. On this anniversary of the UDHR, the United Nations is [conducting a fact-finding tour](https://www.theguardian.com/world/2017/dec/01/un-extreme-poverty-america-special-rapporteur?CMP=twt_gu) to examine whether people living in poverty in the United States enjoy fundamental human rights. The Shriver Center has urged that the United States Congress raise the federal [minimum wage to a livable wage](http://raisetheminimumwage.com/), pass legislation that curtails unpredictable scheduling, and institute a national [paid family and medical leave program](https://www.congress.gov/bill/115th-congress/house-bill/947?q=%7B%22search%22%3A%5B%22family+and+medical+insurance+leave+act%22%5D%7D&r=2). Advancing these and other progressive public and workplace policies would be an important step forward towards addressing poverty and ensuring the human rights of low-wage workers.

Subpoint B: A right to strike could provide workers with these rights

## 1: Evidence has shown that strikes can improve wages

### Yan 18

<https://www.cnn.com/2018/05/29/us/what-teachers-won-and-lost/index.html>

What teachers wanted: **West Virginia teachers** -- with an average salary of $45,642 -- **demanded better pay and a fix to the Public Employees Insurance Agency.** The night before the strike began, Republican Gov. Jim Justice signed off on a 2% teacher raise this year and 1% raises for each of the next two years -- still not enough to keep up with inflation. So the first statewide teacher strike of the year ensued. What they got: **After nine days of the strike, Justice agreed to a 5% raise for teachers. As part of the negotiations, legislators also agreed to give all state employees a raise. The governor also issued an executive order aimed at creating a long-term revenue fix to public employees' insurance program.** What's going to happen next: While the strike ended amicably -- with both teachers and lawmakers celebrating -- some teachers and students will now have to prolong the school year into June to make up for days lost to the strike. Oklahoma What teachers wanted: Like West Virginia, **teachers in Oklahoma rank in the bottom three states for teachers salaries. Veteran teachers had often worked about 10 years before cracking the $40,000 mark. The Oklahoma teachers' union wanted $10,000 raises for teachers; $5,000 raises for support staff, such as janitors and cafeteria workers; and $200 million in education funding.** What they got: Shortly before teachers walked out, **Gov. Mary Fallin approved an average raise of $6,100 for teachers; $1,250 for support staff; and a $50 million increase in education funding** -- fractions of what teachers wanted.

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## 2: Evidence has shown that strikes can help employees gain bargaining power in order to get benefits they would otherwise be denied

### Myall 19

https://www.mecep.org/blog/right-to-strike-would-level-the-playing-field-for-public-workers-with-benefits-for-all-of-us/

**The right of workers to organize and bargain with their employer benefits all** Mainers. **Collective bargaining leads to better wages, safer workplaces, and a fairer** and more robust **economy** for everyone — not just union members. **The right to strike is critical to collective organizing and bargaining. Without it,** Maine’s public **employees are unable to negotiate on a level playing field.**

# Contention 2: Striking Must Be Unconditional

## 1: Worker’s basic human rights are being abused everyday, particularly due to lack of protection when striking and unionizing

### Human Rights Watch 2000

<https://www.hrw.org/news/2000/10/29/us-workers-rights-are-being-abused#>

**Each year thousands of** U.S. **workers are fired or suffer** other reprisals **for trying to organize** unions. **Millions of workers are excluded from** labor **laws meant to protect workers'** organizing and bargaining **rights, and the**ir **number is growing.** **Violations of workers' freedom of association are a strong** but hidden **undercurrent in the** vast American **economy.** "I know the law gives us rights on paper, but where's the reality?" asks Ernest Duval, a Florida nursing home worker unlawfully fired for leading a union organizing effort in 1994. Duval finally returned to work in 1999 but was fired again in 2000. His employer had a long memory. When it comes to workers' right to form unions, **loophole-ridden laws, paralyzing delays and feeble enforcement have created a culture of impunity** in many areas of U.S. labor law and practice. **According to** statistics from **the National Labor Relations Board** (NLRB), the federal agency created to enforce workers' organizing and bargaining rights, **the problem is getting worse.** In the 1950s, workers who suffered reprisals for exercising the right to freedom of association numbered in the hundreds each year. In 1969 the number was more than 6,000. By the 1990s more than 20,000 workers each year suffered a reprisal serious enough for the NLRB to issue a "back-pay" or other remedial order. Violations of workers' rights are especially troubling when the United States calls on other countries to respect "core labor standards," including freedom of association. U.S. officials argue that such standards should be included in rules of the international trade system. But U.S. efforts to have other countries upgrade their labor standards falter when the United States itself fails to protect workers' right to organize. In our new report on workers' freedom of association in the United States under international human rights standards, **Human Rights Watch found that one-sided rules for union organizing unfairly favor employers over workers.** Farm workers, domestic workers, low-level supervisors and other **categories of workers numbering in the millions are expressly denied labor-law protection for organizing and bargaining rights.** Immigrant workers especially face widespread threats and discrimination if they seek to form unions. Too often, policy debates over U.S. labor law and practice turn on whether they make it easier or harder for unions to organize workers, and whether that's good or bad for the economy. From this standpoint, workers' organizing efforts are just labor-management disputes over shares of the economic pie. But **basic human rights** such as freedom of association **should not be linked to economic outcomes.** The 200-page Human Rights Watch report is based on case studies across a range of industries, occupations and regions of the United States. The report recognizes that U.S. workers generally do not confront gross human rights violations where death squads assassinate union activists or collective bargaining is outlawed. But the absence of systematic government repression does not mean that workers have effective exercise of the right to freedom of association. The case studies in the **H**uman **R**ights **W**atch report **uncover a distressing pattern of threats, harassment, spying, firings and other reprisals against worker activists** **and** **a** labor law **system that is failing to deter** such **violations**.

## 2: The current rights given to workers are undermined by heavy legislature limiting both unions and independent workers

### Pope, Burno, and Kellman 17

### <https://bostonreview.net/forum/james-gray-pope-ed-bruno-peter-kellman-right-strike>

**Only unions can** demand and **engage in collective bargaining. But unions are subject to so many restrictions that** some **workers’ organizations**

**are willing to forego collective bargaining** in order to avoid them, while others (including the Coalition of Immokalee Workers) consider themselves lucky to be excluded from the NLRA altogether. In the 1960s Cesar Chavez of the United Farm Workers rejected NLRA coverage for farm workers on the ground that it would inscribe “a glowing epitaph on our tombstone.” **The obvious response would be to reform the law. But labor faces a double bind: American workers have never won a significant piece of workers’ rights legislation without first engaging in exactly the kind of strikes** and other forms of noncooperation **that** current **labor laws forbid.** The Erdman Act of 1898, the Clayton Act of 1914, the Railway Labor Act of 1926, the Norris-LaGuardia Anti-Injunction Act of 1932, the Wagner Act (NLRA) of 1935, and the public sector collective bargaining laws of the 1970s were all preceded by dramatic strikes and mass disobedience. By comparison, organized **labor’s more recent legislative campaigns all failed** despite Democratic ascendancy in both houses of Congress and the White House. The Labor Law Reform bill of 1978, the striker replacement bills of the early 1990s, and the Employee Free Choice Act (EFCA) of 2007–9 succumbed to a combination of tepid presidential support (Carter, Clinton, and Obama to labor leaders: “I’m with you; just wait until I’ve spent my political capital on other things”) and the filibuster. Even if enacted, those bills would have provided only modest protections for workers’ rights, well short of the far-reaching changes necessary to reverse union decline. Given the booming influence of money on politics, the skewed representation in the Senate, and the gerrymandered House, **we** simply **cannot expect ordinary politics to produce the reforms that would give unions a fighting chance** of revival. **Organizing**, it seems, **must precede legislation.** The Service Employees International Union (SEIU) is the only big union to launch the kind of confrontational campaign urged by Lerner. For the past four years, SEIU has poured money and organizers into the nationwide Fight for Fifteen campaign. With its combination of sectoral organizing and civil disobedience, Fight for Fifteen has scored a number of victories, including the enactment of fifteen-dollar minimum wage laws in several jurisdictions as well as the inclusion of a fifteen-dollar minimum wage plank in the Democratic Party platform. The campaign has gained SEIU few dues-paying union members—which to some critics earns it a failing grade—but it has validated organized labor as a champion of low-wage workers and accelerated the shift toward class politics. It should come as no surprise that Fight for Fifteen has made more progress on wages than on union growth. **Employers have always resisted unionization** far more tenaciously than wage increases. **They understand that unionism entails a workplace regime shift**, while wage increases merely redistribute wealth for a time. Conversely, **organized labor has never achieved major growth without prioritizing the right**s **to** organize and **strike** above economic gain. The Fight for Fifteen and—for that matter—most of the labor movement’s activity, would be far more effective if it were tied to a long-term strategy for winning three core rights for workers: rights to organize, strike, and act in solidarity. Lacking those rights (whether de facto or officially), the movement will be of little use in struggles for social justice or in alliances with other movements. The labor movement of the early twentieth century, which propelled unionism to its historic high, grasped this point. Even the cigar-chomping business unionists of Samuel Gompers’s era seized on opportunities to trumpet the constitutional rights to organize and strike, sometimes in support of open lawbreaking by leftist unions and workers.

## 3: Without unconditional right to strike, we will never achieve any right to strike, as the same failures will plague the new legislation as they did the old.

### Reddy 21

<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,”[79](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref79) 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](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref80) 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](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref81) **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,”[82](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref82), 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.[83](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref83) 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.[84](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref84) 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** theirlimited **protection if they act** in ways that are deemed **“disloyal” to their employer,**85 **or if they engage in** the broad swath of **non-violent activity construed to involve “violence,” such as** mass picketing.[86](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref86) Tactically, **intermittent strikes, slow-downs, secondary strikes, and sit-down strikes** are unprotected.[87](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref87) **Strikes are** also **unprotected if unionized workers engage** in them **without** their **union**’s **approval**,[88](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref88) **if they concern nonmandatory** subjects of **bargaining,**89 **or if they are inconsistent with a no-strike clause.**[90](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref90) Independent contractors who engage in strikes face antitrust actions.[91](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref91) Labor unions who sanction unprotected strikes face potentially bankrupting liability.[92](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref92) 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. Such issues often have to be decided by the National Labor Relations Board. The consequences can be severe to striking employees and struck employers, involving as they do questions of reinstatement and backpay.[93](https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy#_ftnref93)

**The “right” to strike**, it seems, **is filled with uncertainty and peril.**