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

## Framework

#### Ethics must first begin from freedom, defined as the ability to set and pursue ends. This is for 2 reasons:

#### [1] Agents must accept the importance of freedom because any action requires them to be free to take the action.

Gewirth 84 Alan Gewirth, Professor of Philosophy at the University of Chicago, "Ontological Basis of Natural Law: A Critique and an Alternative," 1 June 1984, Oxford Academic, accessed 3 November 2021, pg. 118-119, <https://academic.oup.com/ajj/article-abstract/29/1/95/158101?redirectedFrom=fulltext> brackets for gender

Let me briefly sketch the main line of argument that leads to this conclusion. As I have said, the argument is based on the generic features of human action. To begin with, every agent acts for purposes ~~he~~ [they] regards as good. Hence, he must regard as necessary goods the freedom and well being that are the generic features and necessary conditions of his action and successful action in general. From this, it follows that every agent logically must hold or accept that he has rights to these conditions. For if ~~he~~ [they] were to deny that he has these rights, then ~~he~~ [they] would have to admit that it is permissible for other persons to remove from him the very conditions of freedom and well-being that, as an agent, he [they] must have. But it is contradictory for him to hold both that he must have these conditions and also that he may not have them. Hence, on pain of self-contradiction, every agent must accept that he has rights to freedom and well-being. Moreover, every agent must further admit that all other agents also have those rights, since all other actual or prospective agents have the same general characteristics of agency on which he must ground his own right-claims. What I am saying, then, is that every agent, simply by virtue of being an agent, must regard his freedom and well being as necessary goods and must hold that he and all other actual or prospective agents have rights to these necessary goods. Hence, every agent, on pain of self-contradiction, must accept the following principle: Act in accord with the generic rights of your recipients as well as of yourself. The generic rights are rights to the generic features of action, freedom, and well-being. I call this the Principle of Generic Consistency (PGC), because it combines the formal consideration of consistency with the material consideration of the generic features and rights of action.

#### [2] Freedom is necessary for the conception of ethics because they require people to have control over their actions; we would not assign moral responsibility if the ability to set and pursue ends is compromised.

#### Next, there are two models of freedom. The traditional non-interference model asserts that freedom is violated if one person does actually restrict another’s ability to act. Prefer the non-domination model, which asserts that freedom is violated if one person can restrict another’s ability to act. For example, even if a slave is not commanded to work on a given day, we would not call them a free agent because they are still vulnerable to such command.

#### [1] The non-interference model is inadequate for true freedom because agents condition their actions to appeal to their dominator.

Lovett 06 Frank Lovett, Professor of Philosophy and Political Science at Washington University, "Republicanism," 19 June 2006, Stanford Encyclopedia of Philosophy, accessed 26 October 2021, <https://plato.stanford.edu/entries/republicanism/#ClaRepLib> ~ST~ brackets for gender

Even if we are willing to accept this conclusion, the non-interference view of liberty commits us to others that are perhaps even more paradoxical. For one thing, notice that we are committed to saying that the slaves of our well-meaning master enjoy greater freedom than the slaves of an abusive master down the road. Of course, the former slaves are better off in some respect than the latter, but do we really want to say that they are more free? For another, consider the slave who, over time, comes to understand ~~his~~ [their] master’s psychological dispositions better and better. Taking advantage of this improved insight, ~~he~~ [they] manages to keep on ~~his~~ [their] master’s good side, and is consequently interfered with less and less. Thus, on the non-interference view of liberty, we are committed to saying that ~~his~~ [their] freedom is increasing over time. Again, while it is clear that the slave’s greater psychological insight improves his well-being in some respect, do we really want to say that it increases his freedom specifically?

Now consider a second scenario. Imagine the colony of a great imperial power. Suppose that the colonial subjects have no political rights, and thus that the imperial power governs them unilaterally. But further suppose that the imperial power, for one reason or another, chooses not to exercise the full measure of its authority—that its policy towards the colony is one of more or less benign neglect. From the point of view of liberty as non-interference, we must conclude that the colonial subjects enjoy considerable freedom with respect to their government for, on a day-to-day basis, their government hardly ever interferes with them. Next suppose that the colonial subjects revolt with success, and achieve political independence. The former colony is now self-governing. We may imagine, however, that the new government is somewhat more active than its imperial predecessor, passing laws and instituting policies that interfere with people’s lives to a greater extent than formerly was the case. On the view of liberty as non-interference, we must therefore say that there has been a decline in freedom with independence. As in the first scenario, many find this counterintuitive. Surely, a nation that has secured its independence from colonial rule must have increased its political liberty.

What these examples are driving at is that political liberty might best be understood as a sort of structural relationship that exists between persons or groups, rather than as a contingent outcome. Whether a master chooses to whip ~~his~~ [their] slave on any given day, we might say, is a contingent outcome: it all depends on the master’s mood, the slave’s behavior, and so forth. What is not contingent (or at least not in the same way) is the broader configuration of laws, institutions, and norms that effectively permit masters to treat their slaves however they please. As the ex-slave Frederick Douglass said of his former condition, “it was slavery—not its mere incidents—that I hated” (1855, 161).

#### [2] Freedom is based on the status of people as free agents, not their ability to defend themselves if their freedom were attempted to be interfered with.

Pettit 05 Phillip Pettit, Professor of Politics and Human Values at Princeton University “The Domination Complaint,” 2005, Nomos, Vol. 46, POLITICAL EXCLUSION AND DOMINATION, accessed 3 November 2021, pg. 110-111, <https://www.jstor.org/stable/24220143> recut ~ST~

The second point to make in underscoring the tie to community is that if people are secured against domination by the operation of the institutional instrumentalities available for the state to deploy—the institutions of armament, disarmament, and protection—then the connection between being nondominated and those institutions is constitutive and not merely causal. To be nondominated is to be more or less immune to the possibility of arbitrary interference, and this immunity will come into being simultaneously with the introduction of measures that realize it, not as a causal consequence of those measures being in place: a consequence that might take time to realize. The connection between immunity to arbitrary interference and the presence of those measures will be like the connection between immunity to a certain disease and the presence of suitable antibodies in the blood. The physical immunity will not materialize as a contingent consequence of the antibodies that take a certain time to eventuate; it is present as soon as the antibodies are there, being realized by the antibodies. And similarly a person's immunity to arbitrary interference—a person's nondomination—will not materialize as a causal result of the institutional measures taken to realize it; rather, it will be constituted by those measures, being present just as soon as they are present.

#### Thus, the standard is consistency with freedom as non-domination.

#### To clarify, here is how our framework evaluates offense. We consider whether the intrinsic nature of a given action aids in the balance of social relationships in which one party has an unequal amount of control over another party. Consequences are irrelevant because we can only be responsible for what is contained within our original action, not the chain of events that occur after it. An example of “intrinsic nature” is that deceit is intrinsic to theft – we then consider whether or not this complies with the framework of non-domination.

## Offense

#### **The structure of employment dominates workers.**

#### **[1] Labor as an exchangeable commodity is inseparable from the freedom of the worker – strikes reclaim this freedom.**

Gourevitch 16 Alex Gourevitch, assistant professor of political science at Brown University, “Quitting Work but Not the Job: Liberty and the Right to Strike,” 2016, American Political Science Association, accessed 20 October 2021, Pg. 316, https://www.cambridge.org/core/journals/perspectives-on-politics/article/abs/quitting-work-but-not-the-job-liberty-and-the-right-to-strike/27B690FEDDBCF002FB20FB50E852D6A3 ~ST~ brackets for gender

The point of greatest interest to us here is that the employer’s claim to exercise this authority is intimately bound up with the commodification of labor-power and the free exercise of property rights. As the quotation above suggests, the employer’s authority is supposed to derive from the way in which he “assumes the responsibility of the undertaking.” He is the agent, putting his idea and money on the line, taking all the risk. The worker, on the other hand, already received her reward. She has sold ~~her~~ [their] commodity—her labor-power—to the employer, who pays her a wage in exchange for rights to that commodity. To have a property-right in something is to have some kind of exclusive authority over it; therefore, the boss should not have to consult with the worker about how to use the labor-power ~~he~~ [they] bought. However, as labor reformers have long observed, the special thing about the sale of labor is that “labor is inseparably bound up with the laborer.” 68 A labor contract “assumes that labor shall not be a party to the sale of itself beyond rejecting or accepting the terms offered. This purchase of labor gives control over the laborer-his physical intellectual, social and moral existence. The conditions of the contract determine the degree of this rulership.” 69 In other words, there is no way for the boss to enjoy his property right in the purchased labor-power without also exercising that arbitrary power over the person of the laborer. But this is just the kind of power that the exchange of property is not supposed to give over the seller of property since the seller’s will is supposed to be separable from the commodity. The employer’s arbitrary authority is derived from the view that the worker has sold his property, his labor-power, but that same theory of property seems to deny that such arbitrary control may be claimed when the seller cannot withdraw his will from the property.

#### [2] The arbitrarily one-sided power dynamic of employment dominates employees.

Collins et al. 18 Hugh Collins, Professor of English Law at the University of Oxford, Gillian L. Lester, Dean of the Faculty of Law and Professor of Law at Columbia University, Virginia Mantouvalou, Professor of Human Rights and Labor Law at the University College London, “Does Labor Law Need Philosophical Foundations? (Introduction),” 2018, Oxford University Press, accessed 22 October 2021, Pg. 5-6, <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3538&context=faculty_scholarship> ~ST~

This better understanding of the concept of freedom in the context of employment needs also to incorporate two further special features of typical contracts of employment. First, under the terms of employment contracts, the employer acquires the right to direct and manage employees, and employees are obliged to obey those instructions. This structure of power and subordination appears to confer a discretionary power on the employer that often seems to be the very opposite of a free and equal relationship. Workers are frequently in a relation of something that is more aptly described as master and servant relation than business partnership. Second, the employer’s power extends in practice not only to complete control over the workplace in every aspect, but also to the ability to tear up the contract almost at will and set new terms for the arrangement. This additional power stems from the employer’s power to terminate the contract of employment by summary dismissal. Although national legislation differs in the constraints placed on employers with respect to dismissal, with few countries having the equivalent of the American doctrine of termination at will, the employer’s power to threaten to terminate the contract unless employees agree to contractual modifications or extracontractual performance is invariably strong. This power reduces the contract of employment to a bargain that, unlike most binding legal contracts, has surprisingly little effective coercive force. Employees may object to a wage cut or an imposed variation in duties, but the employer can impose these changes usually at very little cost. If the workers do not go along with the new arrangements, they can be dismissed and find themselves unemployed, and replaced by others who will accede to the employer’s demands. When these two features of the one-sided deal that can be unilaterally adjusted to the interests of one part are combined in the contract of employment, they create a unique kind of transaction. This context reveals that the freedom and equality that are presupposed by libertarians to exist in all contractual relations assume a special deviant form in contracts of employment, in which the essence of the contract in some respects is for the worker to sacrifice freedom and equality.

#### **Contracts fail because inherent coercion forces contracting.**

O’Neill 85 Onora O’Neill, professor of political philosophy and ethics at the University of Cambridge, “Between Consenting Adults,” Summer 1985, Philosophy & Public Affairs, Vo. 14, No. 3, accessed 20 October 2021, Pg. 255-256, <https://canvas.uw.edu/files/25697343/download?download_frd=1> / ~ST~

A second range of difficulties arises when the consent given does not match the activities it supposedly legitimates. Marxist critics of capitalist economic forms suggest that workers do not consent to their employment despite its outwardly contractual form. For workers, unlike capitalists, cannot (at least in "ideal" capitalism) choose to be without work, on pain of starvation. Hence the outward contractual form masks an underlying coercion. Workers choose between employers (in boom times) and cannot choose or consent to nonemployment. Analogously, women in most societies hitherto have not really consented to their restricted life possibilities. A choice between marriage partners does not show that the married life has been chosen. The outward form of market economies and of unarranged marriages mask how trivial the range of dissent and consent is. In a Marxist view bourgeois freedom is not the real thing, and men and women in bourgeois societies are still often treated as things rather than as persons. Bourgeois ideologies offer a fiction of freedom. They structure a false consciousness which obscures the extent to which human beings are used and not treated as persons.

#### **[3] Uniformity in worker treatment fails to respect individual ends.**

O’Neill 85 Onora O’Neill, professor of political philosophy and ethics at the University of Cambridge, “Between Consenting Adults,” Summer 1985, Philosophy & Public Affairs, Vo. 14, No. 3, accessed 20 October 2021, Pg. 275-276, <https://canvas.uw.edu/files/25697343/download?download_frd=1> / ~ST~

In employment, as in other activities, being used is only one way of being treated as less than a person. A great many complaints that workers are not being treated as persons can be traced not to the ways in which they may be straightforwardly or unstraightforwardly used, but to the degree to which contemporary employment practices make a point of treating workers uniformly, and so not as the particular persons that they are.'2 In this matter modern employment practices are wholly different from intimate relationships. Workers in modern (not only capitalist) economies are treated in standard and uniform ways which take little account of differences in ends and capacities to seek them. Where work is "rationalized" and there is a "rate for the job," and hours and qualifications are standardized, there are few ways in which employees' particular ends and abilities to pursue them are taken into account on the job. If doing a job well amounts to doing it like the robot who may replace you, the maxim of such organization of work cannot go far to treat employees as the particular persons they are. In such employment it is not misuse of information about others' ends or capacities for autonomy, nor intentional failure to share ends, but rather systematic disregard of all particular characteristics that lies behind failure to respect or to share ends. Rationalized work practices treat all workers as persons (qualms about exploitation of employees apart), but take little account of their specific characteristics. This may be partly remedied in the practices of some workplaces, or eased by management or work practices which allow more worker involvement or self-management. But if such arrangements are only a matter of introducing "a personal touch," they impose outward forms of respect and beneficence without underlying changes that would treat workers as the particular persons they are, and may only introduce paternalistic and manipulative practices into working life.

#### That necessitates a right to strike:

#### [4] Striking resists domination by hindering a hinderance to freedom.

Gourevitch 16 Alex Gourevitch, assistant professor of political science at Brown University, “Quitting Work but Not the Job: Liberty and the Right to Strike,” 2016, American Political Science Association, accessed 20 October 2021, Pg. 314-315, https://www.cambridge.org/core/journals/perspectives-on-politics/article/abs/quitting-work-but-not-the-job-liberty-and-the-right-to-strike/27B690FEDDBCF002FB20FB50E852D6A3 ~ST~

The foregoing social analysis is familiar enough, but its implications for the right to strike are rarely considered. The right to strike begins to make more sense if we reflect upon the fact that workers who are forced to sell their labor power are vulnerable to exploitation. Exploitation just is the word for structural domination in the domain of economic production.58 Some workers will accept jobs at going wage rates and hours, others will be unable to bargain for what they need, and most can be made to work longer hours, at lower pay, under worse conditions than they would otherwise accept. Many employers know this and will take advantage of it.59 Even if employers do not intentionally take advantage of it, they do so tacitly by making numerous economic decisions about hiring, firing, wages, and hours that assume this steady supply of economically-dependent labor. So it is not just the force of necessity, but the fact that this forcing leaves workers vulnerable to exploitation and the further fact that this is a class condition that is relevant to our thinking. It explains why workers might seek collective solutions to their structural domination and why they might refuse to believe that they can overcome their exploitation through purely individual efforts.

The further point is that, short of quasi-socialist redistribution or of giving everyone universal rights to ownership of capital, workers are justified in turning to some other way of resisting their structural domination. The legal fact of being able to quit a job is cold comfort because it allows workers to leave a specific boss, but not the labor market itself. Insofar as workers are forced into contracts with employers, and into work associations with other workers, they can only resist their structural domination from within. Here we have an insight into why the right to strike includes the perplexing claim that workers refuse to work yet maintain a right to the job. The typical worker can quit the job, but she cannot quit the work. To avoid being exploited she turns the table: she quits working without quitting the job.

Quitting the Work, Not the Job

We now have a way of explaining the right to strike as something decidedly more modern than just residual protection of some feudal guild privilege. The right to strike springs organically from the fact of structural domination. Striking is a way of resisting that domination at the point in that structure at which workers find themselves—the particular job they are bargaining over. It is not that workers believe they have some special privilege but quite the opposite. It is their lack of privilege, their vulnerability, that generates the claim. Structural domination makes its most immediate appearance in the threat of being exploited by a particular employer, even though the point of structural domination is that workers can be exploited by any potential employer. The sharpest form that the structural domination takes is through the threat of being fired, or of never being hired in the first place. The claim that strikers make to their job is therefore, in the first instance, a dramatization of the fact that their relationship is not voluntary, it is not accidental and contingent. They are always already forced to be in a contractual relationship with some employer or another. The refusal to perform work while retaining the right to the job is a way of bringing to the fore this social and structural element in their condition. It vivifies the real nature of the production relationship that workers find themselves in. Quitting the work but not the job is a way of saying that this society is not and cannot be just a system of voluntary exchanges among independent producers. There is an underlying structure of unequal dependence, maintained through the system of contracts, that even the “most voluntary” arrangements conceal.

This is not just a dramaturgical fact about strikes, though the drama has, in many cases, been nearly Greek in its intensity and tragedy. It is a point about power. It would not have the drama if it were not a power play. By demanding the job as a matter of right workers do not just publicize their domination, they attempt to challenge the forcing to which they are subject. Limiting the employer’s ability to make contracts with others, and preventing other workers from taking those jobs, is a way of reversing the power relationship. It is a way of neutralizing the threat of losing the job, which is the most concrete, immediate point of contact with that background structure of domination. If you cannot lose your job, you are less vulnerable, less immediately economically dependent. Of course, this does not do away with the background structure itself, but a particular strike can never do that. Though even here, there are times when a strike, as it becomes a more generalized rejection of structural domination—say in large-scale sympathy strikes or general strikes—can begin to challenge the broad structure of economic control itself.60 This is a challenge to the logic of the capitalist labor market that begins from within, at the location of the strike itself. At that point in the system, strikers temporarily reverse the relationships of power by eliminating that employers’ ability to use the threat of job-loss against them.

#### [5] A right to strike reclaims freedom by framing workers as more than a seller of labor.

Gourevitch 16 Alex Gourevitch, assistant professor of political science at Brown University, “Quitting Work but Not the Job: Liberty and the Right to Strike,” 2016, American Political Science Association, accessed 20 October 2021, Pg. 317-318, https://www.cambridge.org/core/journals/perspectives-on-politics/article/abs/quitting-work-but-not-the-job-liberty-and-the-right-to-strike/27B690FEDDBCF002FB20FB50E852D6A3 ~ST~

The worker’s interest in not being subject to continuously arbitrary authority is expansive. The question of compensation cannot be separated from the organization and control over work. Nor can the expansiveness of this interest be reduced to the fact that workers cannot fairly bargain for basic terms if they cannot also contest the wider range of managerial prerogatives. All members of a democratic society have an independent interest in self-rule. They have that latter interest whenever they find themselves in the kind of ongoing, formally coordinated, rule-bound relationships that are backed by coercive law. This is just what a government is.77 Absent an actually democratic workplace, the right to strike remains a central way for workers to resist these arbitrary forms of authority. Strikes are in many ways superior to protective legislation, labor arbitration, and the courts because those formal processes are slow and can cover only a limited number of issues. Strikes are more immediate, powerful, and reliable ways for workers to contest the employer’s otherwise arbitrary power. In the process of challenging that form of authority they challenge the very idea that they should be seen as mere sellers of their labor power, with no further interests in liberty. They reject the notion that in making a labor contract they have alienated rights of control over their minds and bodies.

#### **[6] Striking expresses the core elements of freedom.**

Lim 19 Woojin Lim, Director of Undergraduate Human Rights Working Group at Harvard and Managing Editor of the Harvard Review of Philosophy, “The Right to Strike,” 11 December 2019, The Harvard Crimson, accessed 2 November 2021, <https://www.thecrimson.com/article/2019/12/11/lim-right-to-strike/> ~ST~

The right to strike is a right to resist oppression.

The strike (and the credible threat of a strike) is an indispensable part of the collective bargaining procedure. Collective bargaining (or “agreement-making”) provides workers and employees with the opportunity to influence the establishment of workplace rules that govern a large portion of their lives. The concerted withdrawal of labor allows workers to promote and defend their unprotected economic and social interests from employers’ unilateral decisions, and provide employers with pressure and incentives to make reasonable concessions. Functionally, strikes provide workers with the bargaining power to drive fair and meaningful negotiations, offsetting the inherent inequalities of bargaining power in the employer-employee relationship. The right to strike is essential in preserving and winning rights. Any curtailment of this right involves the risk of weakening the very basis of collective bargaining.

Strikes are not only a means of demanding and achieving an adequate provision of basic liberties but also are themselves intrinsic, self-determined expressions of freedom and human rights. The exercise of the power to strike affirms a quintessential corpus of values akin to liberal democracies, notably those of dignity, liberty, and autonomy. In acts of collective defiance, strikers assert their freedoms of speech, association, and assembly. Acts of striking, marching, and picketing command the attention of the media and prompt public forums of discussion and dialogue.