NEG

I negate the resolution Resolved - A just government ought to recognize an unconditional right of workers to strike.

To clarify the round, I offer definitions;

- **Unconditional** "**without any limits or conditions**"

The **value** for the round is **morality**, defined as "a particular system of values and principles of conduct".

The criterion for the round will be **Util,** defined as maximizing happiness. Prefer this because:

First, morality must consider the consequences of action.
All moral theories must begin from a source of value since questions of morality are about what is good or bad to do and thus require answers grounded in value. . Thus, we must look to maximizing a source of value over time, or consequentialism.

Second, **any** consequentialist system is a subset of Util since it must justify itself by proving that the thing it seeks to maximize or minimize is a benefit or harm. However, by limiting us to one specific type of impact, they would ignore any other potential impacts for no reason. Thus, any consequentialist framework would automatically concede to Util.

Before moving on, two **observations:**

1. **First,** Because of the word "unconditional" in the resolution, the NEG only has to prove there is **at least** one condition under which the right to strike shouldn't be recognized. If the NEG succeeds in doing this, it is enough for a NEG victory.
2. **Second,** the AFF must succeed in proving there is not *one* condition under which the right to strike shouldn't be recognized for an affirmative win.

Contention 1: Mandating a notice before striking lessens the negative impacts some strikes have. This one condition on the right to strike is sufficient to negate the resolution.

Lack of notice harms schools, teachers and students

Malin '13 Martin H. Malin is Professor of Law Emeritus at Chicago-Kent College of Law, Published: 1/14/13, "Two Models of Interest Arbitration" Ohio State Journal on Dispute Resolution, https://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=1741&context=fac_schol] /Triumph Debate

For example, In Illinois, public employee strikes occur predominantly in public education. A large majority of those strikes are resolved in ten or fewer days, with less than 10 percent taking more than 20 days to resolve. Nevertheless, there are outliers which can cause major damage to the public welfare. Since education employees in Illinois gained the right to strike effective January 1, 1984, there has been one such outlier; a strike by thirty teachers against the Homer School District in rural Champaign County in 1986. The strike began on October 17, 1986, and did not end until after the end of the school year. The resulting contract did not resolve two of the issues that precipitated the strike. The students lost essentially **a year of schooling**, the school district **lost considerable state aid** and ultimately **had to merge with another district**, and **most of the striking teachers never returned** to their jobs. Policy makers choosing between a right to strike and interest arbitration must determine whether to run the risk of an outlier strike such as Homer.

Giving a Notice of the strike ahead of time solves

Masterson '16 - Matt Masterson is a reporter on education and criminal justice for WTTW News, Published: 9/29/16, "As Teacher Strike Looms, Parents Make Plans for Kids Missing School " WTTW News, https://news.wttw.com/2016/09/29/teacher-strike-looms-parents-make-plans-kids-missing-school] /Triumph Debate

Parents of Chicago Public Schools students have already **begun taking steps to ensure their children are taken care of if they are forced to miss class** time **next month. Parents** at Skinner North Elementary in Old Town say they **hope a strike can be averted, but with no deal in place between CPS and the Chicago Teachers Union, they are making arrangements to keep their kids busy if teachers do walk the picket line** for the second time in four years. Nicolle Heller, a parent of two CPS children and head of Skinner North's local school council, said families worked together to watch each other's kids during the 2021 teacher's strike, which cost the students seven days of classes. "We said 'Ok, you watch them Monday, Wednesday, Friday, and I'll watch them Tuesday, Thursday,'" she said. "We lost a lot of sick time and PTO at work." CTU members have worked without a contract for nearly 500 days, and parents have known for months that a work stoppage could occur at the start of this school year. This time around, (one of the parents)Heller started saving PTO at the start of the year so she would have time to watch her kids if another strike does indeed take place. "Starting in January I stopped being sick," she said. "I stopped taking days off to go to my kids' events because I needed to stockpile them for October." On Wednesday, Hours before the CTU officially announced its strike date, the Chicago Board of Education approved district spending up to $15 million for a contingency plan to keep facilities open for students in the event of a prolonged work stoppage. That money allows CPS and other sister agencies across the city to develop and implement an **emergency plan, provide food and shelter,** and keep additional non-instructional services available to students. According to the board resolution, those funds will be spent only as needed after the union turns over its 10-day notice of intent to strike. That notice went out Thursday, officially starting the countdown to Oct. 11 – the first day the work stoppage can legally begin. "How do I keep my kids occupied?" said

Liz Krebs, a parent of two CPS students, "They're in sixth and eighth grade and just got started with school. They've got projects and plans, and to have a disruption like this really kind of messes up the whole family." During the union's one day strike in April, CPS offered free rides on CTA lines for students and opened 250 schools, park district and **safe haven sites** for children to spend the day at, **offering online learning programs**, physical education, arts and crafts classes, and other activities to keep them busy. The board authorized **$25 million in contingency spending** when teachers went on strike in 2012. That money was spent keeping 145 school sites open for half-days, providing daily meals for students and extending dozens of Chicago Park District summer camps. CPS CEO Forrest Claypool said the specifics of that contingency plan will be announced to principals and families sometime next week. He joined Mayor Rahm Emanuel and CPS Chief Education Officer Janice Jackson at Skinner North on Thursday to celebrate the school's recognition as one of 329 National Blue Ribbon Schools for 2016.

Notices are CRUCIAL for medical facilities to arrange patient care and other needed work.

King et al., '03 [Roger King is a Partner of the law firm Jones Day, Jeffrey Winchester is an Associate of Jones Day, Michael Rossman is an Associate of Jones Day, Published: July 2003, "When 10 Days Is Not 10 Days – The National Labor Relations Act's Strike Notice Requirement in the Health Care Industry " IRI Consultants to Management, https://www.jonesday.com/files/Publication/c1e2bc35-4acf-42c5-b59d-ee992a60ca4c/Presentation/PublicationAttachment/ddf68290-9515-44f7-ac1d-d3c87b790418/10.Days.Not.10.Days_7-03.pdf] /Triumph Debate

In short, Section 8(g) requires a "labor organization" to provide a "healthcare institution" with "not less than ten days prior" notice before engaging in any "strike, picketing, or other concerted refusal to work" against the institution**. This notice must include "the date and time" that the labor action will begin.** **The term "healthcare institution" for purposes of this section of the Act is defined as "any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged persons." 29 U.S.C. § 152 (14).** Congress' stated purpose for Section 8(g) was to provide healthcare institutions with sufficient notice prior to a strike or picketing to allow them to make "appropriate arrangements . . . for the continuance of patient care in the event of a work stoppage."**4 Putting teeth into this requirement, the National Labor Relations Board ("Board") and the Courts5 hold that where a union fails to provide notice as required by Section 8(g), a union's strike is unlawful and unprotected by the Act. This is extremely serious because, generally speaking, employees who participate in an unprotected strike may lawfully be subject to discipline up to and including termination. 6** Section 8(g) is thus a **highly valuable** tool for healthcare employers -one that greatly aids their ability to maintain continuity of patient care in the event of labor unrest. It is not, however, without limits. Indeed, its reach, while broad, may not be as expansive as many employers would wish and, under current Board case law, sometime 10 days is just not 10 days. This paper is designed to answer some basic questions healthcare employers often pose about Section 8(g) and to provide such employers with a general understanding of the reach and limits of the provision.

Contention 2: Notices and proper negotiation before a strike should be legitimate limitations on the right to strike

The Institute of Employment Rights, '09 [The Institute of Employment Rights is a think tank for the trade union movement which publishes an annual conference of reports from various presentations regarding the status of labor rights, Published: 4/4/09, "The Right to Strike: A Comparative Perspective. A study of national law in six EU states " IER, http://old.adapt.it/adapt-indice-a-z/wp-content/uploads/2013/09/strike_2008.pdf] /Triumph Debate

Judges primarily have to decide whether they can classify a form of collective action as falling within the actions protected by Article 6(4) of the European Social Charter. This will be the case when the strike is what might be called a 'normal type of strike'. The Supreme Court understands this to mean a complete stoppage of work in the framework of collective negotiations on employment conditions as covered by Article 6(4) ESC. Even where strike actions seem to be directed against government policy, as in the NS case where the management argued they had no actual competence or power to negotiate by themselves with the trade unions about wages, since they were set by the government, the legality of the strike action was regarded as falling within the 'normal type' because it was about employment conditions. The directors could not be permitted to hide behind the government otherwise this could result in a denial of the right to strike recognised by Article 6(4) ESC. The Supreme Court has chosen this approach because the right to strike in the Dutch legal order has to be based on Article 6(4) ESC. **The right to strike is based on the main principle in Article 6(4) ESC which concerns collective negotiations on conditions of employment. The right to strike constitutes the full suspension of labour to support negotiations in relation to conditions of employment. In the words of the Supreme Court, the antithesis of this is a strike based on political grounds which is directed against government policy. The Court's reasoning in the NS case recognised that the Dutch railway company was a 'semi-government' body because it was funded by the government from public resources**. The strike action was therefore aimed against the government, however it also concerned employment conditions, and the latter type of strike action is protected by Article 6(4) ESC. **Subsequently, the Supreme Court stated that a strike which is legitimate under Article 6(4) ESC can nevertheless be illegal in two situations, in addition to the situation where a strike is prohibited due to the presence of a so-called 'peace obligation', or obligation not to strike, in the collective labour agreement. Firstly a strike is always illegal when 'major procedural rules' have been disregarded.**9 **There are two sorts of procedural rules which have to be complied with; the strike has to be announced in a timely fashion, and a strike organized before any substantial bargaining has taken place or whilst substantial negotiations are ongoing can be illegal for not being an 'ultimum remedium'. The strike may be premature and it is up to the court to decide when or in which situations a strike has been called too early. This second procedural rule is particularly developed in Dutch case law. In general terms a strike is not considered as 'ultimum remedium' if ongoing negotiations are possible, or at least not impossible, and could lead to a compromise solution between the bargaining parties.** The judge has to decide whether this is the case or not. A trade union cannot therefore legitimately exercise the right to strike at a preliminary stage. A second ground for the evaluation of the legitimacy of a strike was added by the Supreme Court in the NS case of 1986. A strike is also illegal where, after evaluating all specific conditions and circumstances taking into account their interconnectivity and interdependence, the conclusion must be that the unions should not reasonably have taken such action. In its reasoning the Supreme Court referred to Article 31 ESC. In this article possible restrictions to the exercise of the right to strike are listed. The Supreme Court has applied this provision in an expansive manner by introducing several norms that could restrict the exercise of the right to collective action. In this regard, the Dutch case law has been criticised by the Council of Europe's European Committee of Social Rights. In the case law since the decision of the Supreme Court in the NS case, judges have elaborated on the kinds of circumstances which could lead to a prohibition of collective actions more or less in accordance with Article G of the 10 Revised European Social Charter (Rev ESC). later in the report. This will be explained more fully An example can be seen in relation to the question of financial loss to employers. The fact that an employer suffers an economic loss due to a strike does not in itself render the strike illegal. **However, there could be a legitimate restriction of the right to strike where the expected amount of damage is excessive, and the employer is not the main target of the strike. This is particularly the case where, by virtue of Article 6:162 of the Dutch Civil Code, which lays down the general principles of tort, it is established that the strike is a serious violation of the protected rights of third parties or of the public interest as mentioned in Article G Rev ESC. In the view of the Dutch courts a restriction could be necessary and therefore legitimate in such cases. The second procedural rule is only considered when the strike meets the requirements of the first rule.**

Remember, the NEG **only** has to prove there is **at least** one condition under which the right to strike should not be recognized to win the round. If the strikers don't give out a

notice to the community, a strike shouldn’t not be recognized because it has the potential to cause serious harm. Also, strikes should always be an ultimatum. They are a powerful bargaining tool, but can cause large amounts of damage. Because of this, I urge a NEG ballot