### Framework

#### Every agent must recognize their ability to set and pursue ends as a necessary good not contingent on the will of others.

Gewirth , Alan (1984) "The Ontological Basis of Natural Law: A Critique and an Alternative," American Journal of Jurisprudence: Vol. 29 : Iss. 1 , Article 5. http://scholarship.law.nd.edu/ajj/vol29/iss1/5 \*bracketed for gendered language\*

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 [they] 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 were to deny that he has these rights, then he 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 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 [they] must ground his [their] 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, n 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.

#### Impacts:

#### [A] Agency is inescapable since to engage in any enterprise is to engage in agency. Even when agents attempt to assess whether they should be agents, they utilize rational thought in order to undergo such reasoning.

#### [B] Agency is a precondition to be able to act because it requires you recognize yourself as the cause of your own actions, otherwise the action would not be yours and would lack moral significance.

#### There are two models of freedom—the non-interference model and the non-domination model. The non-interference model holds that freedom is violated if someone is actually interfered with, whereas the non-domination model holds that freedom is violated if someone has the mere capacity to interfere arbitrarily.

#### Only freedom as non-domination is able to ground political legitimacy and recognize the unfreedom of those under subjugating powers.

Pettit, Philip. “Freedom as Antipower.” 1996, Ethics, vol. 106, no. 3, University of Chicago Press, , pp. 576–604, <http://www.jstor.org/stable/2382272>. JS

There are two characteristic marks of the conception of freedom as noninterference. The first is that under this approach the interference of a nonsubjugating authority impacts on the liberty of the people affected-although, no doubt, with aggregate, long-term benefit even if the interference involved is just the constitutional imposition of a fair but (necessarily) coercive rule of law. As Berlin writes in paraphrase of the approach: "Law is always a 'fetter,' even if it protects you from being bound in chains that are heavier than those of the law, say, arbitrary despotism or chaos.""4 Bentham was emphatic on the point: "As against the coercion applicable by individual to individual, no liberty can be given to one man but in proportion as it is taken away from another. All coercive laws, therefore, and in particular all laws creative of liberty, are as far as they go abrogative of liberty."42 John Rawls indicates that he too shares this understanding of liberty when he writes: "Liberty can be restricted only for the sake of liberty";43 the assumption is that law always does represent a restriction, however benign, of liberty.44 The second characteristic mark of the conception of freedom as noninterference is that while it represents even nonsubjugating interference as a deprivation of liberty, it finds nothing hostile to liberty in a form of subjugation that does not involve any actual interference. There is nothing about the traditional, unconstrained relation of employer to employee or husband to wife, for example, that raises questions in the ledger book of liberty, nothing, at any rate, in the absence of actual or expected compulsion, coercion, manipulation, or whatever. The fact that the relation puts one party under the power of the other does nothing, in itself, to affect the liberty of the weaker person. But suppose we move away from the opposition to bare interference in terms of which contemporary thinkers tend to understand freedom. Suppose we take up the older opposition to servitude, subjugation, or domination as the key to construing liberty. Suppose we understand liberty not as noninterference but as antipower. What happens then? Unsurprisingly, we find ourselves with a conception of freedom under which the two marks of the dominant contemporary approach are reversed. If freedom is opposed to subjugation, then the introduction of constitutional authority does not, as such, constitute an abrogation of liberty, for it need not itself involve subjugation or domination: it does not essentially involve anyone's having the capacity to interfere arbitrarily in another's affairs. Under any rule of law, those in the parliament, those in the administration, and those in the judiciary have special powers of coercion, but if the powers are regulated in a constitutional manner, then they do not give the authorities power over people in the distinctive sense associated with subjugation. The authorities may be more or less productive of antipower, depending on how well they cope with existing patterns of domination and depending on how wide the range of antipower is that they allow. But provided they are truly constitutional in character-a big proviso, indeed-they relate to freedom as antipower in quite a different way from how they must be seen to relate to freedom as noninterference: they do not represent an abrogation, even an abrogation that is benign in the long term, of that freedom.45 If freedom is construed as antipower rather than noninterference, then we do not have to see the rule of law, and more generally of constitutional authority, as itself an abrogation of liberty. But the construal of freedom as antipower has exactly the contrary effect on judgments about asymmetric relations such as those that have traditionally obtained between employers and employees, husbands and wives, and parents and children. Contemporary thinkers tend to see no loss of liberty here-they may see other deficits, of course-given that there is no actual interference. But if liberty is opposed to subjugation in the first place, then, even in the absence of actual interference, these relationships are often going to represent paradigms of unfreedom. The powerful employer, husband, or parent who can interfere arbitrarily in certain ways subjugates the employee, wife, or child. Even if no interference actually occurs, even if no interference is particularly likely-say, because the employee, wife, or child happens to be very charming-the existence of that relationship and that power means that freedom fails. The employee, wife, or child is at the mercy of the employer, husband, or parent, at least in some respects, at least in some measure, and to that extent they live in a condition of servitude.

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

#### Impact calc – It’s not a question of maximizing non-domination in certain instances, but rather having institutional constraints that prevent domination – we resolve the infeasibility of direct util calc.

Pettit 99 Pettit, Philip (Professor at Princeton). Republicanism: A Theory of Freedom and Government. Oxford University Press, USA (September 30, 1999).

Republicanism is a consequentialist doctrine which assigns to government, in particular to governmental authorities, the task of promoting freedom as non-domination. But suppose that the authorities endorse this goal in a zealous, committed manner. Does that not raise the problem that they may seek in the name of the republican goal to breach the very forms that we, as system designers, think that the goal requires (Lyons 1982)? Does it not mean that they may often be motivated to take the law into their own hands—to dirty their hands (Coady 1993)—and to advance republican ends by non-republican means? It is often said that a utilitarian sheriff who is committed to promoting overall happiness might be required to frame an innocent person in order to avoid the worse consequences associated with a riot (McCloskey 1963). Is there not a parallel reason for thinking that republican officials who are committed to promoting overall nondomination will be subject to similar rule-breaking requirements? It would be a very serious problem if republicanism was morally infeasible in this way, for it would undermine the capacity of constitutional and institutional designers—ultimately it would undermine the capacity of a people—to plan for the effects they want to achieve. Whatever is to be said of the utilitarian goal of overall happiness, however, the republican goal of freedom as non-domination does not raise a serious problem of moral infeasibility (Braithwaite and Pettit 1990: 71-8). People enjoy freedom as non-domination to the extent that no other is in a position to interfere on an arbitrary basis in their lives. The zealous agents who break faith with an assigned brief in order to promote non-domination assume and achieve resources of arbitrary power, for they behave in a way that gives their own unchallenged judgement sway over others. And this assumption of resources affects, not just the non-domination of those affected in this or that case, but the non-domination of most of the society; zealous agents set themselves up over all, not just over some. If certain agents think that they can maximize non-domination by transgressing the obligations of their brief, then, they are almost certain to be mistaken. Whatever non-domination they hope to bring about by departing from their brief, it is unlikely to be greater than the massive domination they thereby perpetrate over the population in general. Against this, it may be objected that the sort of domination that official agents exercise over me and my like in virtue of covertly interfering with someone else is not itself harmful, so long as we remain unaware of the fact of being dominated. The agents may have reason to think, therefore, that it will be worth their while interfering if the chances of the interference becoming recognized are sufficiently small. I reply that no agent will ever be certain of not being caught out, and that the cost of being caught out is so enormous that, still, there is very unlikely to be a case for transgression sufficient to move a zealous agent. The cost of being caught out is that someone else will come to see that their lives are subject to the more or less arbitrary interference, not just of the agent in question, but of any other official agent: and, if someone else, then everyone else, since anyone who detects transgression is more than likely to make it public. What if the chance of being caught out is really very small indeed? Why shouldn't a zealous agent conclude that however great the cost of being apprehended, the improbability is such that he or she should bend the law in this case: bend the law, for example, as in covering up the offences of an important public personage, and seeking thereby to advance the interests of the country? There may be the very exceptional circumstances where zealotry is pardonable—pardonable and perhaps even commendable—but a very serious consideration argues against there being many. This is that the more unlikely it is that an agent will be apprehended, the clearer it will be to people at large that this case is an acid test of whether they are living under a proper rule of law or under the arbitrary sway of officials who put themselves, out of whatever high motives, above that law. Let apprehension be likely and people may well reckon that the errant official just nodded. Let apprehension be unlikely and they will all the more certainly think that the errant official typifies a general, dominating frame of mind. Short of catastrophic circumstances, then, there is unlikely to be any serious reason why a zealous agent should be tempted in the name of non-domination to break with the very rules of behaviour—the republican forms of government—that are designed to promote it. The considerations I have raised show that, given the power of official agents, and given their potential for domination, there is every reason why zealous agents should want to go out of their way to show people at large that there is no possibility of their taking the goal of nondomination into their own hands. There is every reason why they should look for institutional means of making it salient and credible that they are pre-committed to sticking with their brief, and to sticking with their brief even in cases where there is a prima facie case for zealous opportunism. There is every reason why they should want to make it salient and credible that their hands are tied: that they are agents with little or no independent discretion.

#### Implications:

#### 1 - Takes out util—even if the act is done to prevent domination it is still arbitrary because there is nothing preventing the state from doing otherwise.

#### 2- Takes out non-interference – a slave with a benevolent master might be well off, but they’re not free since the master can choose to arbitrarily interfere.

**Prefer additionally –**

**1****] Civic republicanism provides key tools for fighting oppression.**

Marti 13 Jose Luis Marti (Associate Professor of Law at Pompeu Fabra University of Barcelona (Spain)). “Civic republicanism: a North Star for hard times.” OurKingdom. January 16th, 2013. https://www.opendemocracy.net/ourkingdom/jose-luis-marti/civic-republicanism-north-star-for-hard-times

Civic republicanism has a very simple idea: we must avoid or minimize domination in the world. No matter what kind of domination, no matter what source, no matter who is being dominated and by whom. We must minimize domination, being careful of not producing a greater domination in the process. To do so is to empower the weak, while controlling and restricting the powerful. According to this view, the source of all political evils is the imbalance of power that makes domination possible. Power, of course, comes not only from economic means – although obviously these are very effective. Power may come, for instance, from unequal access to information, from cultural inequalities, from sexist cultural patterns, and from many other sources. Socialists are traditionally concerned about workers’ exploitation by the owners of the means of production. So are republicans. Feminists are concerned about gender and domination. So are republicans. Multiculturalists are concerned about the domination of cultural or religious minorities by their majoritarian counterparts. So are republicans. Democrats want more transparency, accountability, and opportunities for political engagement and popular control by citizens. So do republicans. And republicans, in addition, are concerned about many other issues: the discrimination faced by the LGBT community, consumers at the mercy of retailers or companies, web users at the mercy of providers or regulatory states, children at the mercy of their parents or teachers, the elder at the mercy of younger disrespectful citizens, the kid being bullied by a classmate at school, the prisoner abused by his jail mates or by the prison authorities, etc. The varieties of domination are almost infinite. According to republicans, being subject to alien control constitutes domination even if such an influence is benevolent or well-intentioned. The mere fact of being at the mercy of others is a case of domination. And this is the opposite of being free. Freedom is the central republican value. But freedom understood in this particular way, as the absence of domination. This is one of the respects in which republicanism is different from liberalism, which traditionally favours a negative idea of freedom. When I am under the arbitrary power or alien control of others, I am subordinated. They may or may not actually interfere in my life. But I am being dominated, even if I believe that I am free. The idea is, again, quite simple. To be free is to enjoy an equal social and political status and an equal protection by the law. As Philip Pettit puts it, free persons – according to this republican view – are those who “can speak their minds, walk tall among their fellows, and look others squarely in the eye. They can command respect from those with whom they deal, not being subject to their arbitrary interference” (José Luis Martí and Philip Pettit, A Political Philosophy in Public Life, page 38). The forms of domination can be separated into two main sources: i) private agents, like individual citizens, criminal organizations, religious communities, corporations and companies, unions, other civil associations, etc; and ii) public agents or institutions, like governments – our own or a foreign government – any type of public institution including the agencies of the administration but also the corporations owned by the government, international organizations, and even institutions with no agency, such as cultural patterns or structures, etc. According to Pettit, the first task to avoid private domination is “to firm up the infrastructure of nondomination, providing as far as possible for a resilient economy, a reliable rule of law, an inclusive knowledge system, a sound health system, and a sustainable environment”. But the republican government, according to him, must also do at least three other things: empowering the weak by giving them the resources of basic functioning, protecting all citizens through the law from both internal and external enemies, and regulating and restricting the powerful. Republicanism, in contrast to liberalism, is not suspicious of governmental intervention. On the contrary, there is a belief that the government and the law is the only way to achieve the goal of reducing significant private domination. But the government itself must be subject to control and regulations in order to avoid the risk of public domination, the arbitrary power of public agents. This is why constitutional arrangements with separation of powers, some kind of federalism, a judicially enforceable bill of rights, the rule of law, and other traditional legal strategies are needed. Isn’t it appealing? But how do we apply it? If civic republicanism is really to be our North Star, it must be able to guide us through the world as it stands. Is it able to do that?

#### 2] Any genuine discourse requires each participant recognize the value of non-domination.

Pettit, PHILIP. “THE DOMINATION COMPLAINT.” Nomos, vol. 46, 2005, pp. 87–117. JSTOR, [www.jstor.org/stable/24220143. Accessed 19 Aug. 2020](http://www.jstor.org/stable/24220143.%20Accessed%2019%20Aug.%202020). JS

When a number of people engage in discourse, their aim being to determine what is so in some domain or how it is best for them to act as a whole, then they give exclusive privilege to a particular form of influence that they may have on one another: that which occurs by virtue of producing reasons relevant to the outcome that is to be resolved. Thus they eschew the ways in which people influence one another when they exercise violence, or coercion, or intimidation, or anything of that kind. They authorize one another as voices that are generally capable of providing reasons relevant by discursive criteria and as ears that are generally capable of recognizing such reasons when they are once produced. From the point of view of the discourse that they essay, only properly reason mediated influence is legitimate.19 This being so, any party to discourse is certainly going to be able to complain admissibly about the existence of a form of influence that reduces their capacity to exercise or undergo discursive influence proper. It will be absolutely reasonable for anyone to complain, for example, about being pressured or coerced by others to go along with a certain line; those who attempt such pressure or coercion do not honor the constitutive requirements of discourse: they are playing another game. But the existence of a relation of domination between one party and some other or others means that that party is subject to a form of influence that reduces their capacity to interact discursively—it reduces their capacity to influence and be influenced in a purely reason-mediated way—and so it is going to be perfectly admissible for someone to complain about domination of that kind. Why is domination going to reduce a person's capacity to inter act discursively with others? Because, as a long tradition of thought insists, the fact of being exposed to the possibility of interference from another impacts in a serious way on the likelihood that a person will speak his mind.20 It will put in place a powerful incentive to keep the dominating parties on side, however beneficent they may be: to keep them sweet both by positive measures of ingratiation and by negative measures of avoidance and self-censorship. There is an old ideal, celebrated for example in the Quaker tradition, of speaking truth to power. But speaking truth to power is an ideal, precisely because it is recognized on all sides to be difficult. The person who speaks truth to power, never flinching from the most unpalatable forms of advice or rebuke, or the most unwelcome expressions of opinion, is a saint or a hero, not someone of merely regular nerve. Not only is domination likely to lead someone to warp his or her voice, tuning it to the expectations and tastes of potentially dangerous potentates. This being a matter of common recognition—as it always has been—domination will also lead others not to take seriously the words uttered by anyone in a position of subordination and dependency. How can people trust the remarks of the vulnerable person, especially when they are tailored to fit with the opinions of someone in relation to whom they suffer vulnerability? They may seek out their opinions, particularly when it is they who are in the position of power—it is always pleasing, after all, to have some reinforcement of one's own views—but they will have no reason to take the dominated person really seriously; they will have no reason to grant that person a real voice or give him or her a genuine hearing.

#### ] Non-domination is a primary and intrinsic good. Pettit

Pettit, Philip (Professor at Princeton). (September 30, 1999) Republicanism: A Theory of Freedom and Government. Oxford University Press, USA).

The considerations rehearsed so far show that advancing someone's freedom as non-domination is likely to help them escape from uncertainty, strategy, and subordination; certainly, it is more likely to do this than advancing their freedom as non-interference. But something stronger also holds true. Suppose we take steps to reduce a person's uncertainty about interference, to reduce their need for exercising a strategy of deference and anticipation with others, and to reduce the subordination associated with vulnerability. It is hard to see how we could take such steps without at the same time advancing their freedom as non-domination. Freedom as non-domination appears to be, not just a more or less sufficient instrument for promoting those effects, but a more or less necessarily associated factor. There is no promoting non-domination without promoting those effects; and there is no promoting those effects without promoting non-domination. This may not hold in every possible world, but it certainly seems to hold under plausible assumptions about how the actual world works. Given that freedom as non-domination is bound up in this way with the effects discussed, how could anyone fail to want it for themselves, or fail to recognize it as a value? Short of embracing some religiously or ideologically motivated doctrine of self-abasement, people will surely find their ends easier of attainment to the extent that they enjoy non-domination. Certainly they will find those ends easier of attainment if they are ends conceived and pursued under the pluralistic conditions that obtain in most developed democracies and, of course, in the international world at large. Freedom as non-domination is not just an instrumental good, then; it also enjoys the status, at least in relevant circumstances, of a primary good. This point is easily supported. For almost all the things that a person is likely to want, the pursuit of those things is going to be facilitated by their having an ability to make plans (Bratman 1987). But short of enjoying non-domination, the person's ability to make plans will be undermined by the sort of uncertainty we discussed. Hence, to the extent that it involves a reduction in uncertainty, non-domination has the firm attraction of a primary good.

### Advocacy

#### Definition of unconditional right to strike:

NLRB 85 [National Labor Relations Board; “Legislative History of the Labor Management Relations Act, 1947: Volume 1,” Jan 1985; <https://play.google.com/store/books/details?id=7o1tA__v4xwC&rdid=book-7o1tA__v4xwC&rdot=1>] Justin

\*\*Edited for gendered language

As for the so-called absolute or unconditional right to strike—there are no absolute rights that do not have their corresponding responsibilities. Under our American Anglo-Saxon system, each individual is entitled to the maximum of freedom, provided however (and this provision is of first importance), his [their] freedom has due regard for the rights and freedoms of others. The very safeguard of our freedoms is the recognition of this fundamental principle. I take issue very definitely with the suggestion that there is an absolute and unconditional right to concerted action (which after all is what the strike is) which endangers the health and welfare of our people in order to attain a selfish end.

#### I’ll defend the resolution as worded. Now affirm:

#### 1] Structural domination: Labor markets are intrinsically tied with relations of domination due to lack of bargaining power – this justifies an unconditional right to strike.

Gourevitch, Alex. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics, vol. 14, no. 2, 2016, pp. 307–323., doi:10.1017/S1537592716000049. JS

The problem with the real freedom of contract view is that it is based on faulty social analysis. The labor market is not just another commodity market in which property owners are, or can be made, free to participate or not participate. Here some social theory is inescapable. Workers who have no other consistent source of income than a wage have no reasonable alternative to selling their labor-power. That is because in capitalist societies most goods are only legally accessible if you can buy them. There is no other way of reliably acquiring necessary goods. The only way for most workers to get enough money to buy what they need is by selling their laborpower. Their only alternatives are to steal, hope for charity, or rely on inadequate welfare provision. These are, generally speaking, unreasonable alternatives to seeking income through wages. If workers have no reasonable alternative to selling their labor-power they are therefore forced to sell that labor-power to some employer or another.56 This forcing exists even when workers earn relatively high wages, since they still lack reasonable alternatives, though the forcing is more immediate the closer one gets to poverty wages. The key feature of this forcing is that it is consistent with voluntary exchange but it is not some occasional or accidental feature of this or that worker’s circumstances. It is a product of the distribution of property in society. People are forced to sell their capacity to labor when, on the one hand, everyone has property rights in their own capacity to labor and, on the other hand, some group of individuals monopolize all or nearly all of the productive assets in that society. These are the necessary conditions to create a labor market sufficiently robust to organize production. That is to say, a society in which the primary way of organizing production is through a labor market is one in which most people are forced into that labor market. Or, put another way, a society in which most people were truly free to enter or not enter the labor market would be one in which labor is so radically decommodified that the mere formal possibility of a labor market could not serve, on its own, to guarantee social reproduction. Relations among workers and employers would be truly free and thus truly contingent. It is only when there is a sufficiently large population of individuals who have nothing but their labor-power to sell that the mechanism of social forcing guarantees a constant supply of labor through the labor market itself. But this means that, in a society based on the commodification of labor, the conditions that would make the buying and selling of labor-power a truly free set of exchanges would require utterly transforming that market-based production relationship itself. It would require giving workers a reasonable alternative to selling their labor—say through a sizable, unconditional basic income and universal public goods, or through giving all workers the possibility of owning or cooperatively owning their own enterprise. Such measures would amount to a radical de-commodification of labor-power, an overcoming of the very social conditions that give rise to the labor market’s self-image as a site of free exchange. As Ira Steward, a nineteenth-century American labor reformer, once said, “if laborers were sufficiently free to make contracts ... they would be too free to need contracts.” 57 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 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 jobloss against them

#### 2] Personal Domination: transactions of labour power are only made possible through arbitrary power – a right to strike is key.

Gourevitch, Alex. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics, vol. 14, no. 2, 2016, pp. 307–323., doi:10.1017/S1537592716000049. JS

A workplace is a site of personal domination because workers are subject to the arbitrary authority of bosses. The bosses’ authority is arbitrary because it is not sufficiently controlled by workers. The ruling legal and social assumption is that decisions about how to run the workplace are up to employers and their managers. Workers are expected simply to obey. In American law, this is enshrined as the “core of entrepreneurial control” regarding hiring and firing, work schedules, design of tasks, introduction of new technology and the like—and they extend to prerogatives of capital regarding purchase of goods, plant location, and other investment-related decisions.63 A general set of often poorly-enforced labor laws establish specific reservations against what an employer may order workers to do or require them to accept. But the very fact that these are specific reservations only reinforces the fact that the assumption is one of dependence on the arbitrary will of managers and owners. For examples, consider the fact that in many states employers have been within their rights when firing workers for comments they made on Facebook, for their sexual orientation, for being too sexually appealing, or for not being appealing enough.64 Workers face being given more tasks than can be performed in the allotted time, being locked in the workplace overnight, being forced to work in extreme heat or physically hazardous but not illegal conditions, or being arbitrarily isolated from the rest of one’s coworkers.65 Some workers are forced to wear diapers rather than go to the bathroom, are refused lunch breaks or pressured to work through them, are forced to keep working after their shift is up, are denied the right to read or turn on air conditioning during break, or are forced to take random drug tests and to perform other humiliating or irrelevant actions.66 Notably, in these cases and in many others, the law protects the employer’s right to make these decisions without consulting workers and to fire them if they refuse. The bitterness of this experience of subjection is old and used to carry the complaint of “wages-slavery.” As an American labor agitator once wrote in 1886, liberty consists in being able to satisfy all one’s wants, to develop all one’s faculties, without in any way depending upon the caprice of one’s fellow-beings, which is impossible if man cannot produce upon his own responsibility. So long as the workman works for a boss, a master, he is not free. “You must obey,” the master will say, “for since I assume the responsibility of the undertaking, I alone have the right to its direction.” 67 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 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 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. There are a few ways that a contract-based social theory might respond to this challenge, but we shall focus here on the most important:70 the incompleteness of contracts. It is a well known fact that all contracts are incomplete.71 But in the case of the workplace, this incompleteness is intensified and magnified by the fact that the contract is to take part in a dynamic, continuous activity with other people. No matter whata worker has agreed to at the point of the contract, it is impossible for a contract to specify all of the eventualities that arise in the complex, ongoing process of running a workplace. Something else has to explain who exercises control over all these unanticipated matters. This means that no matter how freely made a contract is, we cannot say that the authority to which a worker is subject is justified by that free consent. At most, the radical incompleteness of labor contracts is what allows the many aspects of law and cultural assumption to fill the void. For instance, this where that “core of entrepreneurial control” over issues like hiring, firing, investment, and work organization plays a major role.72 Strikers may not strike to contest these decisions and employers may not be forced to bargain about them. They need not give any account of why such production decisions have been made, even if they have dramatic consequences for employees—like producing plant closures or changing the organization and definition of tasks. Courts have defended this managerial control and the narrowing of the right to strike by importing older, status-based ideas about contract and property to fill the void of incompleteness. Only by (often semi-articulated) reference to quasi-feudal master-servant law have they been able to fill out the authority that the contract leaves open. Courts have argued that worker deference to managers of a“common enterprise”is implied in the contract or by arguing that employers enjoy uninfringeable property rights in the worker’s labor or wider enterprise.73 In other words, courts themselves have acknowledged the incompleteness and thus indeterminacy of the contract with respect to the organization of work, but generally resolved this authority in favor of employers by appeal to something outside the contract itself. So the point about structural domination was that workers might be forced to make a variety of explicit concessions on any number of issues—wages, hours, conditions, stultifying jobs. But the point about personal domination in the workplace is that the contract alsoseems to involve the tacit concession of generic control over a further set of unknown issues. The problem from the standpoint of contract theory is that the contract itself cannot adequately explain why this power is assumed to devolve to the employer nor why law should support this assumption. At most, we can only say that the worker agreed to give up this control, not that she in any way agreed to the various decisions about her work. Usually, however, we do not think a human being has a right to such blanket alienation of her liberty. In the case of work, the only reason supporting that worker’s alienation of control as authoritative seems to be that the worker sold her property—her labor-power—and therefore has no right to control that property for the duration of the work (within the reasonable boundaries of protective labor legislation) or that she owes obligations of deference to the employer. As we have seen, workers resist these accounts on the grounds that their capacity to labor is not a commodity at all. Or at least, labor-power cannot operate as a commodity in this case because a crucial feature of the sale of property —separability of the seller’s will from the commodity sold —is impossible. Therefore whatever the status the labor contract has, the authority relations of the workplace itself cannot legitimately be derived from the contract—at least not from the contract conceived as a sale of property. Workers nevertheless find themselves in a world in which employers do legally possess this arbitrary authority. The strike is, again, one way of challenging this authority by attacking the idea that, since they appear like sellers of their capacity to labor, workers may be treated as subordinates. The strike is a way of pressing the claim that workers, too, should exercise control rather than submit passively to managerial prerogatives. There are many historical examples of resistance to this kind of personal domination, such as “control strikes,” strikes over the introduction of new technology, and even strikes over seemingly lesser issues like “abolition of the luncheon privilege.” 74 The general point being that strikes that target decisions usually falling under the domain of “core of entrepreneurial control” are not just about instrumental considerations regarding compensation and conditions but about resisting the very logic of contract and property that supports the manager’s authority in the first place.75

#### Current legal norms effectively eliminate a right to strike – the aff’s philosophical defense grounds an unconditional right to strike that’s distinct from the traditional voluntarist version, Gourevitch 4:

Gourevitch, A.. “Quitting Work but Not the Job: Liberty and the Right to Strike.” Perspectives on Politics 14 (2016): 307 - 323. //LHP AV Accessed 7/4/21

This is standard liberal advice on how to solve the problem. Workers are free to pursue their interests so long as they do not violate the basic rights of anyone else. They may engage in moral suasion, hoping to convince others not to take their jobs, or to convince employers to bargain with them rather than make contracts with others. Their freedom includes the right to join forces, so long as they don’t force anyone to join. They are free to bargain collectively, so long as they do not force anyone to bargain. Unfortunately, **this voluntarist solution** works only by **deal**ing **a near irrevocable blow to the right to strike itself**. **Few strikes** **with** any reasonable chance of **success** **can hope to stand on moral suasion alone**, especially when no serious pressure can be brought against employers or replacement workers (Cramton and Tracy 1998; Currie and Ferrie 2000; Naidu and Yuchtman, n.d.). **A strike is not part**, at least not only a part, **of** those **activities** of civil society **that hope to win by the ‘soft force of the better argument’** alone. **Strikers must be able to impose severe costs** on employers and replacements. If the right to strike protects some important human interest it cannot do so by effectively neutralizing that very form of collective action. Moreover, as one commentator reminds us, if there really is a right to the job that workers refuse to perform then, **a strike goes beyond merely attempting to persuade people not to break the strike**; to use a suitably vague phrase, **it involves putting pressure on those who would break the strike, to make it difficult or unpleasant for them to do so.** That, surely, is what the apparatus and ideology of strikes is for: not just to persuade non-strikes so that they willingly accept whatever restrictions the strikers seek to impose; but to put pressure on them so that unwillingly, if needs be, they decline to break the strike…( Locke 1984) So far then, we are on the horns of a dilemma. **Either the right to strike really includes the right to the job that strikers refuse to perform, in which case a wide range of actions are permitted or at least enjoy some prima facie justification**. **Or the right to strike must take place purely in voluntaristic terms, in which case no basic rights are violated. But in that case there is little chance of the strike succeeding and there is no recognition of the strikers’ right to the job**. Lest this seem like a purely theoretical dilemma a brief survey of **American labor law shows us the stakes** of falling on one side or the other. As we shall see, American labor law has essentially chosen **the liberal voluntarist position**, which surrounds strikes with a number of rules and prohibitions that protect rights of property, contract, and managerial control at the expense of **leaving an extremely constrained right to strike – perhaps no real right to** **strike at all**. The stakes: American case **In the United States the law says that private sector workers have a right to strike** (National Labor Relations Act 1935, 7, 13). 4 As part of this law **the state may not issue pre-strike injunctions nor may it criminalize collective bargaining** or the taking of strike action. 5 The law also prohibits employers from blacklisting pro-union employees or requiring ‘yellow-dog’ contracts.6 **Nor may they fire a worker for defending unions or for going on strike** (National Labor Relations Act 1935, 8(a); Norris-Laguardia Act 1932). Notably, **protections for pro-union workers are one of the few restrictions on the employer’s employment-at-will rights to hire and fire whomever** he wants (Coppage v. Kansas 1915). This restriction means that **American law recognizes that the prospect of losing one’s job is a coercive threat**. The threat of losing one’s job as a consequence of striking violates the right to strike. That is relevant because, surprisingly, while employers may not fire pro-union workers, **the Supreme Court says that employers’ interest in maintaining production** and controlling their property **means they may threaten to close an entire business or relocate a plant solely because** workers have threatened **a strike** (Textile Workers Union v. Darlington Manufacturing Co. 1965). **They are also legally permitted to hire permanent** 4 I am especially indebted to Laura Weinrib, whose helpful guidance on American labor law has saved me from a number of errors. 5 The story is more complicated since injunctions have returned through ‘no-strike’ clauses in union contracts and through the use of other elements of the criminal code. See White 2008. 6 Yellow-dog contracts make not joining a union a condition of employment**. replacement workers and these workers may vote to decertify the current union** (NLRB v. Mackay Radio & Telegraph Co. 1938; Pope 2004; Atleson 1983, 1-34). **Thus, employers may explicitly threaten the entire body of workers with loss of their jobs and, though firing workers is illegal, may permanently replace them**. **It is unclear what conceptual distinction lies behind** the legal distinction between ‘**firing’ and ‘permanent replacement’ or ‘shutting down and moving’ since the effect** on the worker **is the** **same**. As one legal scholar has put it, “The ‘right to strike’ upon risk of permanent job loss is a ‘right’ the nature of which is appreciated only by lawyers” (Atleson 1983, 30) But there it is, in law. For these reasons alone we might think **American workers do not enjoy a real right to strike**. Yet there is more.7 **Workers may not organize in industry-wide unions without** individual, workplace-by-workplace **unionization agreements**. Strikes must also usually take place on a workplace-by-workplace rather than industry-wide basis (Burns 2011). **Closed and union shops are acceptable in many states**, though some prohibit even mandatory collection of dues, and the Supreme Court allows employers to ban unionorganizers from their property (Lechmere, Inc. v. National Labor Relations Board 1992; National Labor Relations Board v. Babcock and Wilcox Co. 1956). Further, **the employer’s property-interest in** the “core of **entrepreneurial control**” over hiring and firing, plant location, investment, pricing, production processes **remains outside the scope of what law** and precedent **have established as labor’s legitimate interests** (Burns 2011, 7 For a summary of the most important legal limitations on strikers, see (Pope 2004, 47- 70, 115-136). 123-26; Atleson 1983, 67-109). **Strikes must therefore be restricted on illegal labor practices or on bread and butter issues like wages and hours**. **Workers may not engage in sympathy strikes or secondary boycotts**, which includes legal prohibition on workers picketing outside stores that use or sell products made in struck workplaces (Pope 2004; Taft-Hartley Act 1947; National Labor Relations Act 1935). To understand the consequences of that last prohibition, **consider a store that is selling goods made with parts from a struck factory**. **Anyone not from the striking factory may stand outside**, simply as a citizen with free speech rights, **and petition** against shoppers spending their money there. **But a worker from the striking factory may not do the same** because it is considered illegal, secondary picketing. **To go on strike is therefore to lose** some basic **civil liberties.** 8 In other words, the repertoire of **mass, solidarity-based strikes across an industry are** no longer a part of union action at least in part because they have been, since the mid-twentieth century, **illegal**. There are other relevant laws and precedents, but this gives a vivid enough picture as it is. The facts described in the previous three paragraphs remind us why **our thinking about the right to strike matters.** **If the right to strike is just a derivative** right, with the same general structure and function as rights of association, contract, and property, then many, if not all, of the laws or precedents described above are defensible. These **restrictions flow** from a rejection of the view that workers have an enforceable right to the job they strike; from the requirement that collective action remain voluntary; and from a refusal to accept that workers as a whole have shared interests as a consequence of 8 I have taken this comparison from Pope who has used it many times. their social position. Unions may, at most, operate closed shops and enjoy a formal right to strike, but they may not interfere with the core property rights of employers, contract rights of workers, nor claim that the interests of workers expand beyond a narrow range of issues in the workplace itself. **If, however, we take the right to strike to be a distinctive kind of right**, in which workers do legitimately have a right to the job over which they strike, **then we would have to reject many existing restrictions on strike activity**. In other words, many of the current legal restrictions on workers make some kind of sense if we accept the voluntarist position. To understand why this voluntarist view is wrong, we must move to the world of social theory. Specifically, we have to understand the way in which the commodification of ‘labor-power’ subjects workers to overlapping forms of unfreedom.

### Underview

#### 1] Aff gets 1AR theory otherwise there’s no way to check infinite abuse.

#### 2] There’s no permissibility triggers in the aff, but it affirms – a) Decision theory – it’s epistemically safer to affirm a permissible action since that would merely be supererogatory, but if you make a mistake in your thinking and don’t do an obligatory action then you’ve done a moral wrong – b) Reciprocity – They have an exclusive layer of the debate in the form of topicality, so we should have permissibility – c) Text – ought is “used to express appropriateness” according to dictionary.com[[1]](#footnote-1) which means that permissibility logically affirms

#### 3] No 2nr theory – anything else kills aff strategy since the 2ar is too short to line by line the entire 2nr, but theory can completely screw over the aff’s strat.

#### 4] Use comparative worlds – that entails voting for the debater who proves their respective resolutional side produces a better world under a normative framework.

[A] Textuality – **Resolved denotes a proposal to be enacted by law**   
Merriam Webster "Definition of RESOLVE," <https://www.merriam-webster.com/dictionary/resolve> JS

to change by resolution or formal vote

#### [B] Topic Education – Comparative worlds ensures we get the most contestation about the philosophical underpinnings of the resolution and not random NIBs which o/w because it’s constitutive to LD debate itself.

#### [C] Reciprocity – Truth testing justifies infinite NIBs which make it impossible for the aff to respond to in the time crunched 1AR since there’s a 2:1 burden, comparative worlds solves since things like a prioris or solipsism don’t actively prove that the neg’s world is better.

#### 5] Reject out of round violations – a] it’s non-jurisdictional since the judge can only vote on the better debater in the context of the round so they can’t vote on things out-of-round – b] unverifiable since any violation could’ve been hacked or photoshopped.

#### 6] No neg fiat! It’s Irreciprocal and Illegitimate

Plants 89 [J. Daniel Plants, Baylor University, 1989, "Counterplans Re-Visited: The Last Sacred Cow?," Punishment Paradigms : Pros And Cons, <http://groups.wfu.edu/debate/MiscSites/DRGArticles/Plants1989Punishment.htm>] AG

Marginality in Practice The notion of "as compared to the way things are done now" is nothing novel. Such a comparison is implicit any time the term "should" is invoked. Examples will make this clear. Imagine a congressperson proposing a mandatory seat belt law. The floor is opened to debate over the merits of mandating safety belts. All of a sudden, another member of Congress interrupts with the brilliant idea of banning all automobiles. Such a suggestion would be immediately discarded as irrelevant (if not also as absurd). Obviously, when the first member of congress proposed the seat belt law, he or she presupposed the existence of cars in the first place. The bill was suggested in a world where automobiles (and automobile accidents) were the quid pro quo. Similarly, take the example of a group of friends discussing where to dine. After a list of several restaurants, someone suggests that the group play tiddly-winks instead. While that might make for great group fun, playing tiddly-winks has absolutely nothing to do with the process of selecting WHERE to have dinner. The tiddly-winks suggestion should have been offered in the "What should we do tonight?" or the "Should we even have dinner?" conversations. Once the topic under discussion is clearly not whether to eat but where to do it, the "counterplan" offered by the tiddly-wink enthusiast begs the question being asked. These analogies highlight the fundamental flaw in the optimality perspective. Counterplans are not responsive to the question posed by the resolution. The resolution suggests an action, and asks if it should be done. It explicitly limits the range of discussion to that action and no more: should we affirm this resolution? Yes or no? The area under discussion is the resolution and its beneficial and detrimental effects, nothing more. When the negative counterplans, it begs the question of the topic. Resolutions do not make claims such as, "Resolved: the United States should enact \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as compared to all other competing priorities." Such wording might legitimize counterplans, implicitly, by requiring the affirmative to be superior to all other options, although even then it is arguable that the affirmative need only be superior to extant alternatives. It is not a coincidence that the resolution is worded in its present fashion. It proposes a course of action. It is up to both sides to clash over that particular action, not distract the question at hand with unrelated policies. An example of a popular generic counterplan will further illustrate my point. Recent college and high school topics have dealt with uniform, minimum educational standards imposed by the Federal government. The thrust of this topic, and the reason that Federal intrusion into the area of education was ever suggested, is that for the past 200+ years, the states' performance in education has been unsatisfactory. Time and again, the states have been unwilling to force the schools under their control to meet minimum standards. The affirmative's rationale for Federal action is largely buttressed by the demonstrated recalcitrance of the states to take the initiative. Without fail, the negative would counterplan by doing exactly what the affirmative did, but enacting the proposal simultaneously in the 50 states. Such a strategy begs the question posed by the topic. The topic demands that the desirability of federal action be debated; the negative proposal to go through the states relegates the central question of the resolution to secondary importance. Indeed, at the start of the debate, the affirmative, in arguing for change advances its best possible indictment of the status quo as it exists at the start of the first affirmative constructive. In arguing for change, what other system could the affirmative claim to be superior to? The status quo is all that exists when the debate commences. The affirmative cannot forsee all possible systems that the negative could offer; and even if such premonition were possible, the negative could always change its strategy, since the affirmative must speak first. In short, when the affirmative argues that we should change, they mean that change is beneficial as compared to the present system; there exists no other standard of comparison to which they could conceivably be appealing, The origin of the idea that the affirmative must compare favorably to any and all negative proposals, is beyond me. Surely the affirmative has done their job if they can prove change is warranted at the margin. Negative Fiat As most students of debate know, debate has adopted a curious deus ex machina to make debate more practical. The concept of fiat (from Latin, literally meaning, "Let it be") is the assumption, for the purpose of discussion, that the resolution can be implemented. Obviously, four debaters in a classroom aren't really able to affect the nation's policies. But debate would be inane if the affirmative offered the plan in the 1AC, and then the 1NC rose and cavalierly argued, "Since the affirmative team members are not congresspersons, they cannot put their plan into effect. Therefore, the negative wins." Thus, to avoid questions of whether or not the present system would adopt the affirmative, we assume that it would, for the purpose of discussion. This makes it possible to debate the merits of proposals, rather than the likelihood of their adoption. So far, so good. We have made only one assumption: that the action specified in the topic is put into effect, so that its desirability can be evaluated. Notice that the rationale for allowing [fiat] this is, once again, to focus more clearly on whether we "should" affirm the topic. This brings us to an important question: Where does "negative fiat", if such a thing is possible, come from? Why does the negative have the right to offer and implement proposals? Observe that fiat, as developed above, is not known as "affirmative" fiat; it is neutral with respect to side. It is a device that assists BOTH teams in analyzing whether we should take action. Fiat merely directs the debate more clearly to relevant discussion. Fiat is not a reciprocal privilege that the negative deserves on grounds of equity, because it doesn't give either side an advantage over the other. Fiat inheres in the way both teams debate the merits of the resolution. In essence, the negative already has "benefited" from fiating the resolution into existence as much as the affirmative did; both sides now can avoid debating what WOULD be done and debate instead what SHOULD be done. Consequently, the conclusion that the negative deserves "negative fiat" to counter the "affirmative fiat" is groundless. Thus, the prior question, posed again: why and how can the negative assume into existence alternative policies? There is only one action asked to be debated: the resolution (or its designated representative, the plan) . We can assume into existence the resolution and nothing more. From our standpoint, that is literally all that we have control over; we have, by agreeing to limit discussion to a single proposal, proscribed our ability to deal with or effectuate any other policies. Succinctly stated, there is no theoretical basis for the existence of counterplans as an argument against the affirmative. Whither the negative? At the outset of this section, let me make clear my conviction that this part of the essay is not indispensable to my argument in any way. The preceding paragraphs are reasons why counterplans have no legitimacy as debate arguments. If that is indeed true, then arguments about what debate will come to after the passing of counterplans, is secondary. Remember, at one time there was no such thing as a counterplan. Debate persevered. There is absolutely nothing wrong with innovation in debate; however, those who innovate must be able to justify the appropriateness of their creations. If counterplans are proven inappropriate for debate, they should be discarded. The fact that they have been around for so long should afford them no special protection. For the sake of argument (no pun intended), though, what would the post-counterplan world look like? Not that different, really. The negative would defend the status quo. The affirmative, to win, would have to be on balance superior to the way things are done in the present system. It is beyond me why so many people are unwilling to force the negative to defend the present system. A typical claim is, "It's unfair to leave the negative nothing but the messed-up, defunct status quo. Why should the negative get stuck with it?" What a facile assertion! The status quo is not some random, irrational system that is inherently deficient. There are reasons why things are done the way they currently are. True, they may be bad or flimsy reasons, but in those instances, then change would seem to indeed be warranted. And should we not have equal, if not greater, sympathy for the affirmative? They are asked to prove that the longstanding traditions of the status quo be abandoned in favor of an untried alternative. my point is that there is nothing untenable about the negative arguing that we should not change the status quo.

1. <https://www.dictionary.com/browse/ought#:~:text=auxiliary%20verb,You%20ought%20to%20be%20ashamed.> [↑](#footnote-ref-1)