# 1AC – Kenya

## 1AC – Generic

### 1AC – Framework

#### The meta-ethic is moral substitutability - only it can explain reasons for acting.

Sinnott-Armstrong 92 [Walter, professor of practical ethics. “An Argument for Consequentialism” Dartmouth College Philosophical Perspectives. 1992.]

A moral reason to do an act is consequential if and only if the reason depends only on the consequences of either doing the act or not doing the act. For example, a moral reason not to hit someone is that this will hurt her or him. A moral reason to turn your car to the left might be that, if you do not do so, you will run over and kill someone. A moral reason to feed a starving child is that the child will lose important mental or physical abilities if you do not feed it. All such reasons are consequential reasons. All other moral reasons are non-consequential. Thus, a moral reason to do an act is non-consequential if and only if the reason depends even partly on some property that the act has independently of its consequences. For example, an act can be a lie regardless of what happens as a result of the lie (since some lies are not believed), and some moral theories claim that that property of being a lie provides amoral reason not to tell a lie regardless of the consequences of this lie. Similarly, the fact that an act fulfills a promise is often seen as a moral reason to do the act, even though the act has that property of fulfilling a promise independently ofits consequences. All such moral reasons are non-consequential. In order to avoid so many negations, I will also call them 'deontological'. This distinction would not make sense if we did not restrict the notion of consequences. If I promise to mow the lawn, then one consequence of my mowing might seem to be that my promise is fulfilled. One way to avoid this problem is to specify that the consequences of an act must be distinct from the act itself. My act of fulfilling my promise and my act of mowing are not distinct, because they are done by the same bodily movements.10 Thus, my fulfilling my promise is not a consequence of my mowing. A consequence of an act need not be later in time than the act, since causation can be simultaneous, but the consequence must at least be different from the act. Even with this clarification, it is still hard to classify some moral reasons as consequential or deontological,11 but I will stick to examples that are clear. In accordance with this distinction between kinds of moral reasons, I can now distinguish different kinds of moral theories. I will say that a moral theory is consequentialist if and only if it implies that all basic moral reasons are consequential. A moral theory is then non-consequentialist or deontological if it includes any basic moral reasons which are not consequential. 5. Against Deontology So defined, the class of deontological moral theories is very large and diverse. This makes it hard to say anything in general about it. Nonetheless, I will argue that no deontological moral theory can explain why moral substitutability holds. My argument applies to all deontological theories because it depends only on what is common to them all, namely, the claim that some basic moral reasons are not consequential. Some deontological theories allow very many weighty moral reasons that are consequential, and these theories might be able to explain why moral substitutability holds for some of their moral reasons: the consequential ones. But even these theories cannot explain why moral substitutability holds for all moral reasons, including the non-consequential reasons that make the theory deontological. The failure of deontological moral theories to explain moral substitutability in the very cases that make them deontological is a reason to reject all deontological moral theories. I cannot discuss every deontological moral theory, so I will discuss only a few paradigm examples and show why they cannot explain moral substitutability. After this, I will argue that similar problems are bound to arise for all other deontological theories by their very nature. The simplest deontological theory is the pluralistic intuitionism of Prichard and Ross. Ross writes that, when someone promises to do something, 'This we consider obligatory in its own nature, just because it is a fulfillment of a promise, and not because of its consequences.'12 Such deontologists claim in effect that, if I promise to mow the grass, there is a moral reason for me to mow the grass, and this moral reason is constituted by the fact that mowing the grass fulfills my promise. This reason exists regardless of the consequences of mowing the grass, even though it might be overridden by certain bad consequences. However, if this is why I have a moral reason to mow the grass, then, even if I cannot mow the grass without starting my mower, and starting the mower would enable me to mow the grass, it still would not follow that I have any moral reason to start my mower, since I did not promise to start my mower, and starting my mower does not fulfill my promise. Thus, a moral theory cannot explain moral substitutability if it claims that properties like this provide moral reasons.

#### Non-consequentialist moral theories fail to explain.

Sinnott-Armstrong 92 [Walter, professor of practical ethics. “An Argument for Consequentialism” Dartmouth College Philosophical Perspectives. 1992.]

Of course, there are many other versions of deontology. I cannot discuss them all. Nonetheless, these examples suggest that it is the very nature of deontological reasons that make **deontological theories unable to explain moral substitutability**. This comes out clearly if we start from the other side and ask which properties create the moral reasons that are derived by moral substitutability. **What gives me a moral reason to start the mower is the consequences of starting the mower.** Specifically**, it has the consequence that I am able to mow the grass.** This reason cannot derive from the same property as my moral reason to mow the lawn unless what gives me a moral reason to mow the lawn is *its* consequences. **Thus any non-consequentialist moral theory will have to posit two distinct kinds of moral reasons: one for starting the mower, and another for mowing the grass. Once these kinds of reasons are separated, we need to understand the connection between them. But this connection cannot be explained by the substantive principles of the theory**. That is why all deontological theories must lack the explanatory coherence which is a general test of adequacy for all theories.

#### The standard is maximizing expected well-being.

**Consequentialism SPEC: necessary enabler consequentialism**

#### Prefer -

#### 1 - Pleasure and pain are intrinsic value and disvalue.

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**Pleasure** is not only one of the three primary reward functions but it also **defines reward.** As homeostasis explains the functions of only a limited number of rewards, the principal reason why particular stimuli, objects, events, situations, and activities are rewarding may be due to pleasure. This applies first of all to sex and to the primary homeostatic rewards of food and liquid and extends to money, taste, beauty, social encounters and nonmaterial, internally set, and intrinsic rewards. Pleasure, as the primary effect of rewards, drives the prime reward functions of learning, approach behavior, and decision making and provides the **basis for hedonic theories** of reward function. We are attracted by most rewards and exert intense efforts to obtain them, just because they are enjoyable [10]. Pleasure is a passive reaction that derives from the experience or prediction of reward and may lead to a long-lasting state of happiness. The word happiness is difficult to define. In fact, just obtaining physical pleasure may not be enough. One key to happiness involves a network of good friends. However, it is not obvious how the higher forms of satisfaction and pleasure are related to an ice cream cone, or to your team winning a sporting event. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure [14]. Pleasure as a hallmark of reward is sufficient for defining a reward, but it may not be necessary. A reward may generate positive learning and approach behavior simply because it contains substances that are essential for body function. When we are hungry, we may eat bad and unpleasant meals. A monkey who receives hundreds of small drops of water every morning in the laboratory is unlikely to feel a rush of pleasure every time it gets the 0.1 ml. Nevertheless, with these precautions in mind, we may define any stimulus, object, event, activity, or situation that has the potential to produce pleasure as a reward. In the context of reward deficiency or for disorders of addiction, homeostasis pursues pharmacological treatments: drugs to treat drug addiction, obesity, and other compulsive behaviors. The theory of allostasis suggests broader approaches - such as re-expanding the range of possible pleasures and providing opportunities to expend effort in their pursuit. [15]. It is noteworthy, the first animal studies eliciting approach behavior by electrical brain stimulation interpreted their findings as a discovery of the brain’s pleasure centers [16] which were later partly associated with midbrain dopamine neurons [17–19] despite the notorious difficulties of identifying emotions in animals. Evolutionary theories of pleasure: The love connection BO:D Charles Darwin and other biological scientists that have examined the biological evolution and its basic principles found various mechanisms that steer behavior and biological development. Besides their theory on natural selection, it was particularly the sexual selection process that gained significance in the latter context over the last century, especially when it comes to the question of what makes us “what we are,” i.e., human. However, the capacity to sexually select and evolve is not at all a human accomplishment alone or a sign of our uniqueness; yet, we humans, as it seems, are ingenious in fooling ourselves and others–when we are in love or desperately search for it. It is well established that modern biological theory conjectures that **organisms are** the **result of evolutionary competition.** In fact, Richard Dawkins stresses gene survival and propagation as the basic mechanism of life [20]. Only genes that lead to the fittest phenotype will make it. It is noteworthy that the phenotype is selected based on behavior that maximizes gene propagation. To do so, the phenotype must survive and generate offspring, and be better at it than its competitors. Thus, the ultimate, distal function of rewards is to increase evolutionary fitness by ensuring the survival of the organism and reproduction. It is agreed that learning, approach, economic decisions, and positive emotions are the proximal functions through which phenotypes obtain other necessary nutrients for survival, mating, and care for offspring. Behavioral reward functions have evolved to help individuals to survive and propagate their genes. Apparently, people need to live well and long enough to reproduce. Most would agree that homo-sapiens do so by ingesting the substances that make their bodies function properly. For this reason, foods and drinks are rewards. Additional rewards, including those used for economic exchanges, ensure sufficient palatable food and drink supply. Mating and gene propagation is supported by powerful sexual attraction. Additional properties, like body form, augment the chance to mate and nourish and defend offspring and are therefore also rewards. Care for offspring until they can reproduce themselves helps gene propagation and is rewarding; otherwise, many believe mating is useless. According to David E Comings, as any small edge will ultimately result in evolutionary advantage [21], additional reward mechanisms like novelty seeking and exploration widen the spectrum of available rewards and thus enhance the chance for survival, reproduction, and ultimate gene propagation. These functions may help us to obtain the benefits of distant rewards that are determined by our own interests and not immediately available in the environment. Thus the distal reward function in gene propagation and evolutionary fitness defines the proximal reward functions that we see in everyday behavior. That is why foods, drinks, mates, and offspring are rewarding. There have been theories linking pleasure as a required component of health benefits salutogenesis, (salugenesis). In essence, under these terms, pleasure is described as a state or feeling of happiness and satisfaction resulting from an experience that one enjoys. Regarding pleasure, it is a double-edged sword, on the one hand, it promotes positive feelings (like mindfulness) and even better cognition, possibly through the release of dopamine [22]. But on the other hand, pleasure simultaneously encourages addiction and other negative behaviors, i.e., motivational toxicity. It is a complex neurobiological phenomenon, relying on reward circuitry or limbic activity. It is important to realize that through the “Brain Reward Cascade” (BRC) endorphin and endogenous morphinergic mechanisms may play a role [23]. While natural rewards are essential for survival and appetitive motivation leading to beneficial biological behaviors like eating, sex, and reproduction, crucial social interactions seem to further facilitate the positive effects exerted by pleasurable experiences. Indeed, experimentation with addictive drugs is capable of directly acting on reward pathways and causing deterioration of these systems promoting hypodopaminergia [24]. Most would agree that pleasurable activities can stimulate personal growth and may help to induce healthy behavioral changes, including stress management [25]. The work of Esch and Stefano [26] concerning the link between compassion and love implicate the brain reward system, and pleasure induction suggests that social contact in general, i.e., love, attachment, and compassion, can be highly effective in stress reduction, survival, and overall health. Understanding the role of neurotransmission and pleasurable states both positive and negative have been adequately studied over many decades [26–37], but comparative anatomical and neurobiological function between animals and homo sapiens appear to be required and seem to be in an infancy stage. Finding happiness is different between apes and humans As stated earlier in this expert opinion one key to happiness involves a network of good friends [38]. However, it is not entirely clear exactly how the higher forms of satisfaction and pleasure are related to a sugar rush, winning a sports event or even sky diving, all of which augment dopamine release at the reward brain site. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure. Remarkably, there are pathways for ordinary liking and pleasure, which are limited in scope as described above in this commentary. However, there are **many brain regions**, often termed hot and cold spots, that significantly **modulate** (increase or decrease) our **pleasure or** even **produce the opposite** of pleasure— that is disgust and fear [39]. One specific region of the nucleus accumbens is organized like a computer keyboard, with particular stimulus triggers in rows— producing an increase and decrease of pleasure and disgust. Moreover, the cortex has unique roles in the cognitive evaluation of our feelings of pleasure [40]. Importantly, the interplay of these multiple triggers and the higher brain centers in the prefrontal cortex are very intricate and are just being uncovered. Desire and reward centers It is surprising that many different sources of pleasure activate the same circuits between the mesocorticolimbic regions (Figure 1). Reward and desire are two aspects pleasure induction and have a very widespread, large circuit. Some part of this circuit distinguishes between desire and dread. The so-called pleasure circuitry called “REWARD” involves a well-known dopamine pathway in the mesolimbic system that can influence both pleasure and motivation. In simplest terms, the well-established mesolimbic system is a dopamine circuit for reward. It starts in the ventral tegmental area (VTA) of the midbrain and travels to the nucleus accumbens (Figure 2). It is the cornerstone target to all addictions. The VTA is encompassed with neurons using glutamate, GABA, and dopamine. The nucleus accumbens (NAc) is located within the ventral striatum and is divided into two sub-regions—the motor and limbic regions associated with its core and shell, respectively. The NAc has spiny neurons that receive dopamine from the VTA and glutamate (a dopamine driver) from the hippocampus, amygdala and medial prefrontal cortex. Subsequently, the NAc projects GABA signals to an area termed the ventral pallidum (VP). The region is a relay station in the limbic loop of the basal ganglia, critical for motivation, behavior, emotions and the “Feel Good” response. This defined system of the brain is involved in all addictions –substance, and non –substance related. In 1995, our laboratory coined the term “Reward Deficiency Syndrome” (RDS) to describe genetic and epigenetic induced hypodopaminergia in the “Brain Reward Cascade” that contribute to addiction and compulsive behaviors [3,6,41]. Furthermore, ordinary “liking” of something, or pure pleasure, is represented by small regions mainly in the limbic system (old reptilian part of the brain). These may be part of larger neural circuits. In Latin, hedus is the term for “sweet”; and in Greek, hodone is the term for “pleasure.” Thus, the word Hedonic is now referring to various subcomponents of pleasure: some associated with purely sensory and others with more complex emotions involving morals, aesthetics, and social interactions. The capacity to have pleasure is part of being healthy and may even extend life, especially if linked to optimism as a dopaminergic response [42]. Psychiatric illness often includes symptoms of an abnormal inability to experience pleasure, referred to as anhedonia. A negative feeling state is called dysphoria, which can consist of many emotions such as pain, depression, anxiety, fear, and disgust. Previously many scientists used animal research to uncover the complex mechanisms of pleasure, liking, motivation and even emotions like panic and fear, as discussed above [43]. However, as a significant amount of related research about the specific brain regions of pleasure/reward circuitry has been derived from invasive studies of animals, these cannot be directly compared with subjective states experienced by humans. In an attempt to resolve the controversy regarding the causal contributions of mesolimbic dopamine systems to reward, we have previously evaluated the three-main competing explanatory categories: “liking,” “learning,” and “wanting” [3]. That is, dopamine may mediate (a) liking: the hedonic impact of reward, (b) learning: learned predictions about rewarding effects, or (c) wanting: the pursuit of rewards by attributing incentive salience to reward-related stimuli [44]. We have evaluated these hypotheses, especially as they relate to the RDS, and we find that the incentive salience or “wanting” hypothesis of dopaminergic functioning is supported by a majority of the scientific evidence. Various neuroimaging studies have shown that anticipated behaviors such as sex and gaming, delicious foods and drugs of abuse all affect brain regions associated with reward networks, and may not be unidirectional. Drugs of abuse enhance dopamine signaling which sensitizes mesolimbic brain mechanisms that apparently evolved explicitly to attribute incentive salience to various rewards [45]. Addictive substances are voluntarily self-administered, and they enhance (directly or indirectly) dopaminergic synaptic function in the NAc. This activation of the brain reward networks (producing the ecstatic “high” that users seek). Although these circuits were initially thought to encode a set point of hedonic tone, it is now being considered to be far more complicated in function, also encoding attention, reward expectancy, disconfirmation of reward expectancy, and incentive motivation [46]. The argument about addiction as a disease may be confused with a predisposition to substance and nonsubstance rewards relative to the extreme effect of drugs of abuse on brain neurochemistry. The former sets up an individual to be at high risk through both genetic polymorphisms in reward genes as well as harmful epigenetic insult. Some Psychologists, even with all the data, still infer that addiction is not a disease [47]. Elevated stress levels, together with polymorphisms (genetic variations) of various dopaminergic genes and the genes related to other neurotransmitters (and their genetic variants), and may have an additive effect on vulnerability to various addictions [48]. In this regard, Vanyukov, et al. [48] suggested based on review that whereas the gateway hypothesis does not specify mechanistic connections between “stages,” and does not extend to the risks for addictions the concept of common liability to addictions may be more parsimonious. The latter theory is grounded in genetic theory and supported by data identifying common sources of variation in the risk for specific addictions (e.g., RDS). This commonality has identifiable neurobiological substrate and plausible evolutionary explanations. Over many years the controversy of dopamine involvement in especially “pleasure” has led to confusion concerning separating motivation from actual pleasure (wanting versus liking) [49]. We take the position that animal studies cannot provide real clinical information as described by self-reports in humans. As mentioned earlier and in the abstract, on November 23rd, 2017, evidence for our concerns was discovered [50] In essence, although nonhuman primate brains are similar to our own, the disparity between other primates and those of human cognitive abilities tells us that surface similarity is not the whole story. Sousa et al. [50] small case found various differentially expressed genes, to associate with pleasure related systems. Furthermore, the dopaminergic interneurons located in the human neocortex were absent from the neocortex of nonhuman African apes. Such differences in neuronal transcriptional programs may underlie a variety of neurodevelopmental disorders. In simpler terms, the system controls the production of dopamine, a chemical messenger that plays a significant role in pleasure and rewards. The senior author, Dr. Nenad Sestan from Yale, stated: “Humans have evolved a dopamine system that is different than the one in chimpanzees.” This may explain why the behavior of humans is so unique from that of non-human primates, even though our brains are so surprisingly similar, Sestan said: “It might also shed light on why people are vulnerable to mental disorders such as autism (possibly even addiction).” Remarkably, this research finding emerged from an extensive, multicenter collaboration to compare the brains across several species. These researchers examined 247 specimens of neural tissue from six humans, five chimpanzees, and five macaque monkeys. Moreover, these investigators analyzed which genes were turned on or off in 16 regions of the brain. While the differences among species were subtle, **there was** a **remarkable contrast in** the **neocortices**, specifically in an area of the brain that is much more developed in humans than in chimpanzees. In fact, these researchers found that a gene called tyrosine hydroxylase (TH) for the enzyme, responsible for the production of dopamine, was expressed in the neocortex of humans, but not chimpanzees. As discussed earlier, dopamine is best known for its essential role within the brain’s reward system; the very system that responds to everything from sex, to gambling, to food, and to addictive drugs. However, dopamine also assists in regulating emotional responses, memory, and movement. Notably, abnormal dopamine levels have been linked to disorders including Parkinson’s, schizophrenia and spectrum disorders such as autism and addiction or RDS. Nora Volkow, the director of NIDA, pointed out that one alluring possibility is that the neurotransmitter dopamine plays a substantial role in humans’ ability to pursue various rewards that are perhaps months or even years away in the future. This same idea has been suggested by Dr. Robert Sapolsky, a professor of biology and neurology at Stanford University. Dr. Sapolsky cited evidence that dopamine levels rise dramatically in humans when we anticipate potential rewards that are uncertain and even far off in our futures, such as retirement or even the possible alterlife. This may explain what often motivates people to work for things that have no apparent short-term benefit [51]. In similar work, Volkow and Bale [52] proposed a model in which dopamine can favor NOW processes through phasic signaling in reward circuits or LATER processes through tonic signaling in control circuits. Specifically, they suggest that through its modulation of the orbitofrontal cortex, which processes salience attribution, dopamine also enables shilting from NOW to LATER, while its modulation of the insula, which processes interoceptive information, influences the probability of selecting NOW versus LATER actions based on an individual’s physiological state. This hypothesis further supports the concept that disruptions along these circuits contribute to diverse pathologies, including obesity and addiction or RDS.

#### Prefer for bindingness – if I put my hand on a hot stove I have a biological imperative to pull it back – that happens before a signal is sent to my brain which outweighs because if an ethical theory isn’t binding people could say why not which makes it incoherent.

#### 2 - Actor Specificity -

#### A - No act-omission distinction—governments are responsible for everything in the public sphere so inaction is implicit authorization of action: they have to yes/no bills, which means everything collapse to aggregation.

#### B - No intent-foresight distinction – the actions we take are inevitably informed by predictions from certain mental states, meaning consequences are a collective part of the will.

#### C - Comes first since different agents have different ethical standings. Takes out util calc indicts since they’re empirically denied and link turns them because the alt would be no action.

#### 2 - Extinction comes first under any framework.

Pummer 15 [Theron, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford. “Moral Agreement on Saving the World” Practical Ethics, University of Oxford. May 18, 2015] AT

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### A - Gateway issue - we need to be alive to assign value and debate competing moral theories.

#### B - no moral theory can allow for extinction because it means the end of value.

### 1AC – Advantage – Courts

#### Current labor law in Kenya fails to meet constitutional standards – balance between the right and health care is key.

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This article submits that section 81(1)(3) of the 2007 LRA, which declares in peremptory terms that "there shall be no strike in an essential service", fails to meet the standards of fair labour practice and the protection of employees' right to strike as entrenched in the Kenyan Constitution. It is equally important to point out that the 2007 LRA must be aligned with the objectives of the Constitution.  Article 2(4) of the Kenyan Constitution emphasises that "any law that is inconsistent with it is void". In the light of the above, this article recommends that the provisions of section 81(1)(3) of the 2007 LRA, which read with section 78(1 )(f) the 2007 LRA place a blanket prohibition on the right to strike in sectors designated as essential services, should be revisited and amended accordingly.

Furthermore, although the 2007 LRA provides for a mechanism in terms of which sectors can be classified as essential service, it fails to provide the mechanism for concluding minimum service agreements through collective bargaining processes. This article emphasises that addressing the deficiencies under the 2007 LRA in dealing with strikes in essential services would entail introducing the requirement of concluding minimum services agreements in order to ensure the continuity of certain critical services during strikes. Evidently, there is a lack of balance between the right to strike in essential services and the realisation of the constitutional right to access to health care. Consequently, this right continues to be violated. As evident from the above, finding a balance between the right to strike and the right to access to health care services is vital. All deliberations about essential services should be in line with the public interest and constitutional compliance. The Hippocratic Oath taken by health care practitioners' demands that they should do no harm to the patients under their care. The oath places special obligations on public health practitioners towards their patients, including that they take necessary measures to benefit them.

#### A judiciary legitimacy crisis is happening now – non arbitrariness is key to solving state wide corruption.

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The judiciary is equally culpable. Due to allegations of abuse of power and corruption, significant segments of the citizenry perceive the judiciary as having lost its legitimacy as a dispute resolution forum. For example, the breakdown of law and order in the aftermath of the results of the 2007 presidential election is partly attributable to the public's perception of the judiciary as partisan and unable to provide a civil avenue for the resolution of the disputes generated by the fiercely contested election. Various explanations have been offered for the existence of corruption in government. "Democratization may lead to incentives for corruption, especially in the process of campaigning for election."8 For example, Michela Wrong suggests that corruption is prevalent in Kenya because ethnic cabals believe that it is their "turn to eat" once they assume the reins of government.9 However, these explanations may be symptomatic of a much deeper problem, namely institutional failure. Dysfunctional or failed institutions often facilitate the abuse of power in government. Without denigrating the role cultural norms may play in encouraging corruption, this article adopts the approach of institutional theorists who view corruption as "politically endogenous." 0 From this perspective, institutional mechanisms that increase political accountability-for example, by encouraging punishment of corrupt individuals or reducing the informational problems related to government activities-may reduce the incidence of corruption." This article suggests that corruption in Kenyan government is largely an institutional problem, rather than a cultural one. That is, corruption can be attributed to the predominance of arbitrary power, especially in the statutory (as opposed to constitutional) order. The Kenyan statutory order grants executive, legislative, and judicial actors broad powers without establishing effective procedural mechanisms to circumscribe their exercise. In the absence of effective regulation, law often aids the abuse of power and corruption. In other words, "in the absence of fear of penalty or sanctions, there is nothing to deter [those who wield power from] fraudulently enriching themselves" and violating the law.12 In this scenario, government actors often disregard the prescriptions of law, especially where they view legal requirements as hindering the attainment of short-term political objectives or other ends. Because law is dispensed with whenever it becomes convenient to do -so, a culture of impunity emerges where law ceases to be authoritative.

#### Kenyan court legitimacy is key to prevent massive economic decline – strong judiciary is necessary to halt business corruption.

**GAN 20**. "Kenya Corruption Report." GAN Integrity, 22 Oct. 2020, www.ganintegrity.com/portal/country-profiles/kenya/.//JQ

Kenya’s competitiveness is held back by high corruption levels that penetrate every sector of the economy. A weak judicial system and frequent demands for bribes by public officials lead to increased business costs for foreign investors. Widespread tax evasion hinders Kenya’s long-term economic growth, and fraud in public procurement is rampant. Corruption, [active](https://www.ganintegrity.com/portal/corruption-dictionary) and [passive bribery](https://www.ganintegrity.com/portal/corruption-dictionary), [abuse of office](https://www.ganintegrity.com/portal/corruption-dictionary) and bribing a foreign public official are criminalized under the [Anti-Corruption and Economic Crimes Act 2003](http://www.kenyalaw.org/kenyalaw/klr_app/view_cap.php?CapID=439), in addition to the [Bribery Act of 2016](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/BriberyAct_47of2016.pdf) which strengthens the fight against the supply-side of corruption. [Facilitation payments](https://www.ganintegrity.com/portal/corruption-dictionary) are criminalized and there are rules for what types of [gifts](https://www.ganintegrity.com/portal/corruption-dictionary) public officials are allowed to accept. Adequate enforcement of Kenya’s anti-corruption framework is an issue as a result of weak and corrupt public institutions. Companies face a moderate risk of corruption when dealing with Kenya’s judicial sector. Companies report bribes and irregular payments in return for favorable decisions are common ([GCR 2015-2016](http://reports.weforum.org/global-competitiveness-report-2015-2016/)). A third of Kenyans view the judiciary as corrupt ([GCB 2015](http://gcb.transparency.org)). The judiciary is established as an independent body by the constitution, and largely demonstrates independence and impartiality in practice, yet is undermined by allegations of corruption ([HRR 2016](https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm)). Following major reforms in 2011, many unqualified judges were removed from their posts, and the reputation of the judiciary subsequently improved ([BTI 2016](http://www.bti-project.org/en/reports/country-reports/)). The judiciary has become more accessible and has reduced its backlog of cases (BTI 2016). Companies encounter difficulties resolving disputes because of weak institutional capacity, a lack of transparency and discrimination in favor of local actors ([ICS 2016](https://www.state.gov/e/eb/rls/othr/ics/investmentclimatestatements/index.htm)). Companies perceive the judiciary as not being sufficiently independent and do not consider the legal framework effective for dispute settlement or challenging regulations ([GCB 2016-2017](https://www.weforum.org/reports/the-global-competitiveness-report-2016-2017-1)). A third of companies see the court system as a major constraint to their ability to do business in Kenya ([ES 2013](http://www.enterprisesurveys.org/)). Enforcing a contract takes 465 days on average, which is significantly lower than the regional average ([DB 2017](http://www.doingbusiness.org/)).

#### Decline goes nuclear.

Tønnesson 15, Stein. "Deterrence, interdependence and Sino–US peace." International Area Studies Review 18.3 (2015): 297-311. (the Department of Peace and Conflict, Uppsala University, Sweden, and Peace research Institute Oslo (PRIO), Norway)

Several recent works on China and Sino–US relations have made substantial contributions to the current understanding of how and under what circumstances a combination of nuclear deterrence and economic interdependence may reduce the risk of war between major powers. At least four conclusions can be drawn from the review above: first, those who say that interdependence may both inhibit and drive conflict are right. Interdependence raises the cost of conflict for all sides but asymmetrical or unbalanced dependencies and negative trade expectations may generate tensions leading to trade wars among inter-dependent states that in turn increase the risk of military conflict (Copeland, 2015: 1, 14, 437; Roach, 2014). The risk may increase if one of the interdependent countries is governed by an inward-looking socio-economic coalition (Solingen, 2015); second, the risk of war between China and the US should not just be analysed bilaterally but include their allies and partners. Third party countries could drag China or the US into confrontation; third, in this context it is of some comfort that the three main economic powers in Northeast Asia (China, Japan and South Korea) are all deeply integrated economically through production networks within a global system of trade and finance (Ravenhill, 2014; Yoshimatsu, 2014: 576); and fourth, decisions for war and peace are taken by very few people, who act on the basis of their future expectations. International relations theory must be supplemented by foreign policy analysis in order to assess the value attributed by national decision-makers to economic development and their assessments of risks and opportunities. If leaders on either side of the Atlantic begin to seriously fear or anticipate their own nation’s decline then they may blame this on external dependence, appeal to anti-foreign sentiments, contemplate the use of force to gain respect or credibility, adopt protectionist policies, and ultimately refuse to be deterred by either nuclear arms or prospects of socioeconomic calamities. Such a dangerous shift could happen abruptly, i.e. under the instigation of actions by a third party – or against a third party. Yet as long as there is both nuclear deterrence and interdependence, the tensions in East Asia are unlikely to escalate to war. As Chan (2013) says, all states in the region are aware that they cannot count on support from either China or the US if they make provocative moves. The greatest risk is not that a territorial dispute leads to war under present circumstances but that changes in the world economy alter those circumstances in ways that render inter-state peace more precarious. If China and the US fail to rebalance their financial and trading relations (Roach, 2014) then a trade war could result, interrupting transnational production networks, provoking social distress, and exacerbating nationalist emotions. This could have unforeseen consequences in the field of security, with nuclear deterrence remaining the only factor to protect the world from Armageddon, and unreliably so. Deterrence could lose its credibility: one of the two great powers might gamble that the other yield in a cyber-war or conventional limited war, or third party countries might engage in conflict with each other, with a view to obliging Washington or Beijing to intervene.

#### Gurantees extinction.

Starr 17 (Steven; director of the University of Missouri’s Clinical Laboratory Science Program, senior scientist at the Physicians for Social Responsibility, Associate member of the Nuclear Age Peace Foundation, expert in the environmental consequences of nuclear war; 1/9/17; “Turning a Blind Eye Towards Armageddon — U.S. Leaders Reject Nuclear Winter Studies”; <https://fas.org/2017/01/turning-a-blind-eye-towards-armageddon-u-s-leaders-reject-nuclear-winter-studies/>; Federation of American Scientists; accessed 11/24/18; TV)

The detonation of an atomic bomb with this explosive power will instantly ignite fires over a surface area of three to five square miles. In the recent studies, the scientists calculated that the blast, fire, and radiation from a war fought with 100 atomic bombs could produce direct fatalities comparable to all of those worldwide in World War II, or to those once estimated for a “counterforce” nuclear war between the superpowers. However, the long-term environmental effects of the war could significantly disrupt the global weather for at least a decade, which would likely result in a vast global famine. The scientists predicted that nuclear firestorms in the burning cities would cause at least five million tons of black carbon smoke to quickly rise above cloud level into the stratosphere, where it could not be rained out. The smoke would circle the Earth in less than two weeks and would form a global stratospheric smoke layer that would remain for more than a decade. The smoke would absorb warming sunlight, which would heat the smoke to temperatures near the boiling point of water, producing ozone losses of 20 to 50 percent over populated areas. This would almost double the amount of UV-B reaching the most populated regions of the mid-latitudes, and it would create UV-B indices unprecedented in human history. In North America and Central Europe, the time required to get a painful sunburn at mid-day in June could decrease to as little as six minutes for fair-skinned individuals. As the smoke layer blocked warming sunlight from reaching the Earth’s surface, it would produce the coldest average surface temperatures in the last 1,000 years. The scientists calculated that global food production would decrease by 20 to 40 percent during a five-year period following such a war. Medical experts have predicted that the shortening of growing seasons and corresponding decreases in agricultural production could cause up to two billion people to perish from famine. The climatologists also investigated the effects of a nuclear war fought with the vastly more powerful modern thermonuclear weapons possessed by the United States, Russia, China, France, and England. Some of the thermonuclear weapons constructed during the 1950s and 1960s were 1,000 times more powerful than an atomic bomb. During the last 30 years, the average size of thermonuclear or “strategic” nuclear weapons has decreased. Yet today, each of the approximately 3,540 strategic weapons deployed by the United States and Russia is seven to 80 times more powerful than the atomic bombs modeled in the India-Pakistan study. The smallest strategic nuclear weapon has an explosive power of 100,000 tons of TNT, compared to an atomic bomb with an average explosive power of 15,000 tons of TNT. Strategic nuclear weapons produce much larger nuclear firestorms than do atomic bombs. For example, a standard Russian 800-kiloton warhead, on an average day, will ignite fires covering a surface area of 90 to 152 square miles. A war fought with hundreds or thousands of U.S. and Russian strategic nuclear weapons would ignite immense nuclear firestorms covering land surface areas of many thousands or tens of thousands of square miles. The scientists calculated that these fires would produce up to 180 million tons of black carbon soot and smoke, which would form a dense, global stratospheric smoke layer. The smoke would remain in the stratosphere for 10 to 20 years, and it would block as much as 70 percent of sunlight from reaching the surface of the Northern Hemisphere and 35 percent from the Southern Hemisphere. So much sunlight would be blocked by the smoke that the noonday sun would resemble a full moon at midnight. Under such conditions, it would only require a matter of days or weeks for daily minimum temperatures to fall below freezing in the largest agricultural areas of the Northern Hemisphere, where freezing temperatures would occur every day for a period of between one to more than two years. Average surface temperatures would become colder than those experienced 18,000 years ago at the height of the last Ice Age, and the prolonged cold would cause average rainfall to decrease by up to 90%. Growing seasons would be completely eliminated for more than a decade; it would be too cold and dark to grow food crops, which would doom the majority of the human population. NUCLEAR WINTER IN BRIEF The profound cold and darkness following nuclear war became known as nuclear winter and was first predicted in 1983 by a group of NASA scientists led by Carl Sagan. During the mid-1980s, a large body of research was done by such groups as the Scientific Committee on Problems of the Environment (SCOPE), the World Meteorological Organization, and the U.S. National Research Council of the U.S. National Academy of Sciences; their work essentially supported the initial findings of the 1983 studies. The idea of nuclear winter, published and supported by prominent scientists, generated extensive public alarm and put political pressure on the United States and Soviet Union to reverse a runaway nuclear arms race, which, by 1986, had created a global nuclear arsenal of more than 65,000 nuclear weapons. Unfortunately, this created a backlash among many powerful military and industrial interests, who undertook an extensive media campaign to brand nuclear winter as “bad science” and the scientists who discovered it as “irresponsible.” Critics used various uncertainties in the studies and the first climate models (which are primitive by today’s standards) as a basis to criticize and reject the concept of nuclear winter. In 1986, the Council on Foreign Relations published an article by scientists from the National Center for Atmospheric Research, who predicted drops in global cooling about half as large as those first predicted by the 1983 studies and described this as a “nuclear autumn.”

### 1AC – Advantage – Public Health

#### Lengthy and recurring strikes happening now devastate the public health system – lack of vaccinations, treatment delays, expired drugs, etc. cause mistrust in the system.

**Waithaka**, Dennis, **et al 20**. (Dennis is currently doing a Postgraduate Diploma in Research Methodology at KEMRI-Wellcome Trust. His project is focused on how healthcare priorities are set at the county level.  In Kenya, since devolution took place in 2013, the counties have served as the backbone of health service delivery. However, very little is known on how they set healthcare priorities. This study aims to understand how county health departments set priorities and evaluate the process with an aim to improve it. He holds a Bachelor’s Degree in nursing from the University of Nairobi, certified in emergency obstetrics and neonatal care, He is also a Certified basic life support provider. Before KEMRI, he was attached as a Midwife in Kenyatta National Hospital.) "Prolonged health worker strikes in Kenya- perspectives and experiences of frontline health managers and local communities in Kilifi County." BMC, 10 Feb. 2020, equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y.//JQ

Overall perceived effects of the strikes Facility and service related disruptions and its effects All public facilities in the county were severely disrupted by the health worker strikes, although the nature of the disruptions differed by facility level. During, the nurses’ strike, most dispensaries –primarily run by nurses – were closed, and many health centres ran on a ‘go-slow’ basis with nurse-led services such as maternity, maternal child health and child welfare clinics were particularly affected. “The most that were affected mainly are the dispensaries because they were mainly run by the nurses’ fraternity, yeah …. [most] of the dispensaries were totally grounded … the health centers you could find other cadres like the clinicals officers [but even there] it looked like a go-slow because you could take an hour before you were seen …. [the dispensaries] were totally … kaput unless there were nurses who were on temporary basis who could come in and assist.” Sub-County Manager-06. This disruption of service delivery in PHC facilities also negatively influenced preventive and promotive community-based services coordinated by community-based health workers (CHWs) from facilities. There was also a reported decline in hospital admissions and theatre services given the interdependence across cadres at hospital level: “… the health system is a group of around 18 different cadres. Once you try to interfere with just one [the nurses] you have affected the whole of it … the system is interdependent, so you still end up affecting the whole system.” Sub-County Manager-05. Utilisation records support findings that many key services were markedly reduced (Figs. [1](https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y#Fig1)and [2](https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y#Fig2)). During the earlier doctors’ strike, outpatient facilities remained open (Fig. [1](https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y#Fig1)), perhaps due to the presence of nurses and clinical officers, but inpatient services were severely impacted, with few admissions if any (Fig. [2](https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y#Fig2)). During the nurses’ strike, both outpatient and inpatient facilities were impacted. The paediatric High Dependency Unit (HDU) run by the KWTRP remained operational during both strike periods which may explain the absence of variation in paediatric admissions. Facilities were also affected by expired drugs and other commodities having to be destroyed. Some respondents mentioned that the prolonged 2017 health workers’ strikes contributed to strengthening of the private sector vis a vis the public sector: “in fact we created room for mushrooming of private facilities. For instance now you drive down government road and you see a beautiful pink facility there. They are tapping on a resource and people who couldn’t get their services here [at government facility]. So, we are selling ourselves.” Hospital Manager-05. Households missed care with health-related outcomes At the community level there was a lack of clarity on what public sector services were open and when, and an assumption among community members that if one cadre of health workers was on strike, all facility services would be closed: “You know outside there, anybody is a doctor. When they are told there is a strike, they don’t come, they go to look for where the doctor is, so that confidence in the facility went down.” Hospital Manger-09. Interviewees reported significant delays in community members accessing health care due to the time spent looking for services, moving between public and private facilities, and negotiating initial deposits at private facilities. Many interviewees talked of ‘people suffering so much and many dying’. Physical health-related effects reported included an increase in maternal and newborn deaths, long-term complications resulting from no or inadequate treatment, and large numbers of unwanted pregnancies due to poor access to family planning services. Respondents anticipated long term health-related consequences for those missing TB/HIV drugs, vaccinations, antenatal care, and skilled birth attendant deliveries. “Majority of the indicators are moved by the nurses; immunization, antenatal, family planning and deliveries. So, you really feel for these mothers, they have been at home for all this time, waiting for us. Because there were very few [mothers] who managed to go to the private facilities. Then the other thing which I really feel we might very soon start seeing diseases of the past coming back. Because majority of our community have not been immunized. As much as we have the doctors, the primary health care if not worked on well then you expect chaos in that particular community.” Sub-County Manager-04. Households sought alternative sources of care and faced increased costs To cope with the widespread closures and uncertainty of public sector services, many households reportedly turned to local private facilities or healers, or – for those unable to raise the required funds, or living remotely - started to depend more heavily on self-medication with shop bought drugs or herbs. “Now you will find it [strike] also taught people on how to look for alternative ways to coming to hospital, and if it continues that way, others might harm themselves with traditional herbs outside there”. Facility Management Committee FGD-03. To access funds for alternate care in private facilities, many community respondents reported that household members had to fund raise and borrow funds, or sell off precious assets such as domestic animals. For some of these households the effects of trying to meet these costs were described as catastrophic: “We brought another woman there [at a local private facility] she was forced to sell her land. The expenses were at 27000 [Kshs] within a week. She [even] wanted to sell her house, and then she died there and we couldn’t remove the body until you pay.” KEMRI Community Reprensentative FGD-03. Health system staff felt guilty and demotivated Most managers found the situation exhausting and stressful, working longer hours, taking work home, and feeling anxious about where their patients were going. Middle level managers’ frustrations were compounded by receiving pressure, and little support, from above. “It was not easy … from the county who were my supervisors, who I thought maybe they would come, see the situation on the ground, sit with actually me or us, deliberate on the issues, come up with possible solutions, and how they are going to support us, it never happened... Nobody came actually to find out, but they were asking for reports on daily basis until at a point I said, ‘No, I’m not giving any report to anybody and if people are willing to come let them come on the ground and find the report on the whatever is the situation on the ground.’ Hospital Manager-03. The strikes were also reported to have had negative effects on other actors within the system. For example, when one cadre was out on strike, the remaining cadres were demotivated by being unable to perform their roles as usual. It was reported that both doctors and nurses missed salaries for several months and that many suffered guilt and an internal tension between adhering to their oath to do no harm to the patients but at the same time feeling obliged to fight for their interests and stand with their colleagues. Loss of trust in the public health system Several interviewees felt that the recurrence of strikes in the public sector and the disruptions and uncertainties brought by the prolonged strikes had contributed to a ‘loss of trust’ from the public in the public sector that might have longer term effects in treatment-seeking and ultimately the public health system.

#### Unprotected strikes siphon huge numbers of healthcare workers off of the frontlines – destroys UHC and greenlights spread of COVID and disease.

**Kippra 21**. (Kenya Institute for Public Policy Research and Analysis (KIPPRA) is a public institution that was established in May 1997 through a Legal Notice and commenced operations in June 1999. In January 2007, His Excellency the President signed the KIPPRA Bill into law and the KIPPRA Act No. 15 of 2006 came into effect on 1st February 2007. The Institute is thus a state corporation established by an act of parliament with a primary mandate of providing quality policy advice to the Government of Kenya and other key stakeholders by conducting policy research and analysis and through capacity building in order to contribute to the achievement of national long term development objectives.) "Strengthening Labour Relations to Avert Strikes in the Health Care Sector in Kenya." KIPPRA – The Kenya Institute for Public Policy Research and Analysis, 20 July 2021, kippra.or.ke/strengthening-labour-relations-to-avert-strikes-in-the-health-care-sector-in-kenya/.//JQ

Since 2010, Kenya has experienced seven nationwide public healthcare workers strikes and numerous county-based strikes. The labour strikes which occurred in 2017 were the most significant in their magnitude and duration. During this period, there was a nationwide doctors’ strike that lasted 100 days followed by a nationwide nurses’ strike that lasted 150 days. Between December 2020 and February 2021, clinical officers and nurses went on a strike that lasted 70 days. The reasons cited for most of the strikes were: inadequate healthcare personnel; long working hours; and delayed and low renumeration. More recently, the Coronavirus pandemic has exacerbated the situation by increasing job-related risk such as higher risks of infection and death. Due to COVID-19, public healthcare workers’ demands included increased risk allowance and comprehensive life insurance. Sadly, shortages of personal protective gear, low quality of personal protective equipment (PPEs) and lack of dedicated isolation and treatment centres for COVID-19 positive doctors were cited as the main reasons leading to nationwide strikes by doctors, nurses, and clinical officers in December of 2020.   Another reason often cited is lack of implementation of Collective Bargaining Agreements (CBA). For instance, the responsibility of implementing the 2013 CBA signed by the national government and healthcare workers’ union was not honoured by county governments. This was the main reason for the 100 days nationwide doctors strike in 2017. The prolonged nurses’ strike in the same year was because of the reluctance by both the national and county governments to sign the draft CBA that encouraged them to return to work after a 2-week strike.   Often, counties sign CBAs to avert prolonged strikes without considering the financial implications that come with enforcement. The demands in the CBA are often contentious and beyond the capability of most of the counties. For instance, the 2016 nurses CBA included allowances that were termed by the Salaries and Renumeration Commission (SRC) as impractical as they were three times higher than the recommendation they had given after job evaluation for nurses. With increased demands by healthcare workers and breach of current CBAs, it is likely that strikes by healthcare workers will continue being a pervasive issue. Effects of the strikes The Constitution of Kenya in Article 43 (1) (a) guarantees all Kenyan citizens the right to the highest attainable standard of health through the right to access all healthcare services. Therefore, the unrests and hard stance often taken by both the county governments and public healthcare workers are hampering the delivery of high-quality healthcare services to citizens, thus threatening a reversal on progress made in improving health outcomes in Kenya. The unrests in the public healthcare sector have had dire consequences for citizens, many of whom cannot afford private healthcare services. Citizens often bear the high costs of the disputes between public healthcare workers and the national and county governments. Access to affordable healthcare services is often curtailed when public healthcare workers withdraw their services. Public health care facilities play a big role in ensuring equity in health and equitable access to healthcare for all citizens, and therefore strikes by public healthcare workers disproportionately affects the poor and vulnerable more, as they majorly rely on these facilities. Kenya has over the years experienced a shortage of human resource for health. As such, withdrawal of healthcare services by public healthcare workers further exacerbates the problem and undermines the realization of Universal Health Coverage as envisioned under the “Big Four” agenda. The frequent dissatisfaction with the working conditions, wages and frequent threats of sacking has also led to public healthcare workers preferring private practice, thus draining the public healthcare sector of the much-needed workforce and expertise. The cost of industrial action to healthcare delivery has been further compounded by the COVID-19 pandemic, as provision of health care services are dire in responding to the pandemic. Kenya is already facing resource and infrastructural constraints in provision of healthcare services, hence the strikes during the pandemic worsen the situation.

#### Upcoming waves kill millions and mutations cause extinction.

Duzgun 20 5-5-20 Eren Duzgun teaches Historical Sociology and International Relations at Leiden University, Netherlands. Capitalism, Coronavirus and the Road to Extinction, <https://socialistproject.ca/2020/04/capitalism-coronavirus-and-road-to-extinction/>

The Godzilla-like image of the virus Covid-19 has been haunting the world. Not only has the virus unraveled nightmarish possibilities leading to the extinction of millions of people, but it has also served as a quintessential case revealing the structural contradictions of and existential threats posed by capitalism on a global scale. Several researchers agree that Covid-19 is quite an unprecedented virus. Unlike seasonal influenza, Covid-19 is ten times deadlier, and we have yet to develop a medical remedy or herd immunity to slow it down; the best estimates for the development of a vaccine are at least three to six months away. The virus’s mortality rate seems much lower than earlier pandemics (such as Ebola [1994], Avian flu [1997], SARS [2002], MERS [2012]); yet the manner in which Covid-19 spreads, i.e., its mode of infectivity, seems radically different. Unlike earlier pandemics, the virus has proved infectious even before carriers display any symptoms, which renders it often undetectable during the 14-day incubation period. Facts on the Ground Given that we are unable to detect or cure it, we are completely helpless against the virus’s global march. Emergency measures such as compulsory quarantines, social-distancing and improved hygiene standards may temporarily slow down the virus’s pace, yet once these measures begin to be relaxed – as they surely will be – it is very likely that the virus will be at our door again. This grim picture gets even more complicated by the fact that the virus is likely to go through several mutations. The virus may increase its adaptability to new climatic and generational circumstances, hence targeting not only the elderly, but a broader age group even when summer arrives in the northern hemisphere. Covid-19 is not the first ‘modern’ pathogen with global consequences. The Spanish Flu (1918), for example, was sweeping in terms of its geographical span as well as devastating in terms of its death toll. As Mike Davis notes, the Spanish flu broke out at a time when billions were still in the process of being (forcibly) incorporated into the capitalist world market. The expansion of markets eliminated the very basis of safety-first agriculture, undermining local reciprocities and solidarities that traditionally provided welfare to the poor during crises. Indeed, what prepared the ground for its outbreak and exacerbated the impact of this early 20th century pathogen was the deterioration of nutritional standards under market imperatives as well as the exigencies and scarcities caused by the Great War. Covid-19, by contrast, has begun its journey and taken its biggest toll thus far in the most advanced and affluent parts of the world. This is to say, the contagion is no longer limited to the persistently undernourished, underdeveloped, and war-torn parts of the world; its impact is no longer restricted to a distant wet market or a third world country alone. Instead, it has emerged and expanded in the very heart of the capitalist world order at a time when capitalism has not only been already firmly established across the globe but has been testing the eco-biological limits of the entire planet. Should things remain the same, Covid-19 and its future cousins are likely to claim the lives of not just ‘some’ people as they did in the past, but of humanity as a whole. In this sense, perhaps for the first time in modern history, the biological blitzkrieg activated by the coronavirus has thrown into sharp relief the immediately existential and undeniably global contradictions and consequences generated by capitalism.

#### Extended COVID in Kenya destroys economy, increases food insecurity, and fosters local conflict.

**IA 21**. (We focus on solving the root causes of conflict with people from across divides. From the grassroots to the policy level, we bring people together to build peace.) "The impact of COVID-19 on peace and conflict dynamics." International Alert, May 2021, www.international-alert.org/wp-content/uploads/2021/07/Kenya-COVID-19-Impacts-Korogocho-Full-EN-2021.pdf.//JQ

COVID-19 has had a major impact in Kenya, not just through illness and deaths caused by the virus, but also due to the effects of measures put in place to limit its spread. Kenya’s economy has contracted1 and household food insecurity has increased markedly.2 Many women, young people and members of vulnerable groups are worst affected by the socio-economic impacts.3 There is a growing literature on the socio-economic impacts of COVID-19 in Kenya and elsewhere, but less attention has been paid to the impact on conflict and peace dynamics. These are critical, especially in countries or places known to be fragile, such as informal urban settlements, where conflict and insecurity interact with high levels of poverty and informal (and illegal) economic livelihoods. This study analyses the impact of COVID-19, including mitigation measures and relief efforts, on conflict and peace dynamics in Korogocho informal settlement in Nairobi. It is a perception-based study, based on key informant interviews, focus group discussions and informal group interviews conducted in January and February 2021, with respondents selected from the nine villages that comprise Korogocho. The economic impact of COVID-19 and the measures imposed to limit its spread are clear: respondents estimated that household incomes had fallen by more than half as a result of losing jobs and other income sources. The research found that the pandemic has had an impact on social cohesion too. Korogocho was already fragile before the pandemic. Poverty and crime interacted with widespread instability and ethnic conflict around land and housing. Local ethnic tensions were subject to exploitation and manipulation by national ethno-political leaders, and corrupt local governance had fed persistent grievances on the part of those who felt they were being excluded from resources and opportunities. The police were widely viewed as corrupt, arbitrary and brutal. Social cohesion is a product of trusting and collaborative vertical and horizontal relationships, but these were fragile and under continual strain. The impact of COVID-19 on social cohesion and fragility in these circumstances is concerning. From the perspective of respondents in this research, the incidence of sexual and gender-based violence (SGBV) has increased. Other crimes appear to have increased too, particularly among young people. Relations between landlords and tenants have worsened as tenants have found it harder to pay their rent. Conflict insensitive relief projects have been corrupted by poor local governance, further fuelling ethnic tensions due to accusations of favouritism and exclusion in the distribution of benefits. Confidence in the police is low amid accusations of corrupt and brutal behaviour. Meanwhile community initiatives intended to improve peace and cohesion have been hampered by COVID-19, social distancing and other restrictions. Thus, an already fragile social cohesion has been further eroded by COVID-19, and the mitigation measures designed to combat the virus. Korogocho has not experienced a major episode of political violence since 2008, but given the links between national political rhetoric and local unrest, this increased local fragility raises concerns that the settlement may be at greater risk of violence, for example, during the 2022 elections.

#### Threat of COVID is an impact multiplier – food insecurity, econ collapse, terrorism, and authoritarianism.

**Adeto**, Yonas **et al. 21** (Dr Yonas Adaye Adeto Director, Institute for Peace and Security Studies Assistant Professor of African Security Governance and Peacebuilding Addis Ababa University) "Implications of COVID-19 for Conflict in Africa." German Development Institute, 2021, www.die-gdi.de/uploads/media/BP\_12.2021.pdf.//JQ

What are the possible longer-term effects of the pandemic on conflict? Although the direct effects of the pandemic on violent conflict in African countries are not that pronounced, the pandemic has several indirect effects that are highly worrying from a conflict perspective. Most importantly, the pandemic is creating or increasing sources of conflict through (1) sharpened societal divisions, which endanger social cohesion (e.g. rising xenophobia, hate speech, scapegoating, targeting of marginalised groups), (2) deteriorating socio-economic circumstances (including food insecurity, severe cutbacks in the education sector and rising unemployment as well as a high likelihood of a debt crisis) and (3) increasing levels of repression and authoritarian backsliding (e.g. in Algeria, Benin, Kenya and Ghana), from which new conflicts can originate. At the same time, the pandemic has curtailed actors and institutions that might be able to deal with societal conflicts peacefully, or at least reduce their violent impacts. Trust in the state and security institutions has suffered in many countries, democratic processes and institutions are being hampered (e.g. elections postponed) or dismantled, and international peacebuilding activities have stalled. This combination of various risk factors could, firstly, facilitate the spread of extremism, since Islamist groups such as ISIS and Boko Haram have been quite successful in exploiting a sense of exclusion and grievances in the past. Secondly, it could lead to an escalation of lower-scale political violence into major violent conflict. Thirdly, these factors could reignite animosities in societies that already have a history of violent conflict, thus presenting a significantly heightened risk of renewed violence.

#### Independently, lack of protection for public health workers causes disease spread. Perfect balance between RTS and MSA can solve mass public healthcare concerns and protect those on the front lines.

**HRW 21**. "Kenya: Pandemic Health Workers Lack Protection." Human Rights Watch, 20 Oct. 2021, www.hrw.org/news/2021/10/21/kenya-pandemic-health-workers-lack-protection.//JQ

(Nairobi) – The [Kenyan](https://www.hrw.org/africa/kenya) government has failed to fulfill its pledge to [support health workers](https://www.mfa.go.ke/wp-content/uploads/2020/04/presidential-address-enhanced-measures-in-response-to-the-COVID-19-pandemic-6th-April-2020.pdf) fighting Covid-19, exposing them to avoidable risks of trauma, infection, and even death, Human Rights Watch said today. The government’s haphazard, uncoordinated response has affected the welfare of thousands of health workers, and hindered Kenya’s ability to provide timely and quality health care during the pandemic.  Despite significant resources being dedicated to the Covid-19 response in Kenya, the government failed to provide health workers with adequate protective equipment, testing, or other safety measures to ensure that they could safely and effectively respond to the Covid-19 pandemic. President Uhuru Kenyatta [ordered an investigation](https://www.sabcnews.com/sabcnews/kenyas-president-orders-investigations-into-alleged-theft-of-covid-19-funds/) in August 2020 into the misuse of funds meant for the Covid-19 response. The investigation found that Kenya had lost KSH7.8 billion (US$70.4 million) meant for Covid-19 response through corrupt tendering, but over one year later, no meaningful changes have resulted from the investigation. “Kenya’s negligence regarding the safety and needs of health workers in the middle of a pandemic is completely unacceptable,” said [Otsieno Namwaya](https://www.hrw.org/about/people/otsieno-namwaya), East Africa director at Human Rights Watch. “Kenyan authorities should take urgent steps to ensure health workers on the front lines of the fight against Covid-19 are able to work in an environment that would not put them at unnecessarily heightened risk.”  Kenya has 58,000 registered nurses, 12,000 registered doctors, and 14,000 clinical officers. Around 18,000 nurses are under government employment and thus went on strike during the Covid-19 crisis period, while 7,200 doctors are working in government facilities nationwide. Between March and July 2021, Human Rights Watch interviewed 28 government health workers and officials, including 14 nurses, 7 doctors, 3 clinical officers, 3 laboratory technicians, and a Health Ministry administrator. Six of the 14 nurses were union officials and four were officials of two different professional associations of nurses: National Nurses Association of Kenya (NNAK) and Kenya Progressive Nurses Association. Two of the seven doctors were union officials, and one was an official of the Kenya Medical Association (KMA), the country’s professional association of doctors. All union officials are active health workers. We also reviewed government documents, reports, records, and newspaper articles. Health workers said that at first, they did not have any personal protective equipment (PPE) – masks, gloves, or overalls/gowns. When they finally received equipment, there was either not enough or it was of poor quality. They said they did not receive training before being assigned to wards treating Covid-19 patients, greatly undermining their ability to respond in the early days of the pandemic. Fearing for their lives, some health workers said that they would sometimes panic and run away when they encountered people in the hospital with Covid-19-related symptoms. The lack of support led health workers nationwide to go on strike, with the nurses in at least five of the 47 counties starting the strike in June 2020 followed by doctors and clinical officers in August 2020. The strike spread across Kenya quickly as health workers accused government of failing to address their grievances. Government addressed only some of the concerns, including provision of PPE to all health workers deployed to Covid-19 wards. Doctors responded by calling off the strike in December 2020, followed by nurses and clinical officers at the end of February 2021.

#### That escalates security threats – extinction.

Recna et al. 21 [Research Center for Nuclear Weapon Abolition; Nagasaki, Japan; “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report,” Journal for Peace and Nuclear Disarmament; 5/28/21; <https://www.tandfonline.com/doi/full/10.1080/25751654.2021.1890867>] Justin

The Challenge: Multiple Existential Threats The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come. The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5 Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order. In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply. The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the **existential risks** posed by retaining these capabilities – are all up for redefinition. A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies. In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon. To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with cascading effects on the risk of nuclear war.

#### Eroding financial resilience causes global war - that overcomes traditional barriers to conflict.

Jomo Kwame Sundaram & Vladimir Popov 19. Former economics professor, was United Nations Assistant Secretary-General for Economic Development, and received the Wassily Leontief Prize for Advancing the Frontiers of Economic Thought in 2007. Former senior economics researcher in the Soviet Union, Russia and the United Nations Secretariat, is now Research Director at the Dialogue of Civilizations Research Institute in Berlin “Economic Crisis Can Trigger World War.” <http://www.ipsnews.net/2019/02/economic-crisis-can-trigger-world-war/>.

Economic recovery efforts since the 2008-2009 global financial crisis have mainly depended on unconventional monetary policies. As fears rise of yet another international financial crisis, there are growing concerns about the increased possibility of large-scale military conflict. More worryingly, in the current political landscape, prolonged economic crisis, combined with rising economic inequality, chauvinistic ethno-populism as well as aggressive jingoist rhetoric, including threats, could easily spin out of control and ‘morph’ into military conflict, and worse, world war. Crisis responses limited The 2008-2009 global financial crisis almost ‘bankrupted’ governments and caused systemic collapse. Policymakers managed to pull the world economy from the brink, but soon switched from counter-cyclical fiscal efforts to unconventional monetary measures, primarily ‘quantitative easing’ and very low, if not negative real interest rates. But while these monetary interventions averted realization of the worst fears at the time by turning the US economy around, they did little to address underlying economic weaknesses, largely due to the ascendance of finance in recent decades at the expense of the real economy. Since then, despite promising to do so, policymakers have not seriously pursued, let alone achieved, such needed reforms. Instead, ostensible structural reformers have taken advantage of the crisis to pursue largely irrelevant efforts to further ‘casualize’ labour markets. This lack of structural reform has meant that the unprecedented liquidity central banks injected into economies has not been well allocated to stimulate resurgence of the real economy. From bust to bubble Instead, easy credit raised asset prices to levels even higher than those prevailing before 2008. US house prices are now 8% more than at the peak of the property bubble in 2006, while its price-to-earnings ratio in late 2018 was even higher than in 2008 and in 1929, when the Wall Street Crash precipitated the Great Depression. As monetary tightening checks asset price bubbles, another economic crisis — possibly more severe than the last, as the economy has become less responsive to such blunt monetary interventions — is considered likely. A decade of such unconventional monetary policies, with very low interest rates, has greatly depleted their ability to revive the economy. The implications beyond the economy of such developments and policy responses are already being seen. Prolonged economic distress has worsened public antipathy towards the culturally alien — not only abroad, but also within. Thus, another round of economic stress is deemed likely to foment unrest, conflict, even war as it is blamed on the foreign. International trade shrank by two-thirds within half a decade after the US passed the Smoot-Hawley Tariff Act in 1930, at the start of the Great Depression, ostensibly to protect American workers and farmers from foreign competition! Liberalization’s discontents Rising economic insecurity, inequalities and deprivation are expected to strengthen ethno-populist and jingoistic nationalist sentiments, and increase social tensions and turmoil, especially among the growing precariat and others who feel vulnerable or threatened.Thus, ethno-populist inspired chauvinistic nationalism may exacerbate tensions, leading to conflicts and tensions among countries, as in the 1930s. Opportunistic leaders have been blaming such misfortunes on outsiders and may seek to reverse policies associated with the perceived causes, such as ‘globalist’ economic liberalization. Policies which successfully check such problems may reduce social tensions, as well as the likelihood of social turmoil and conflict, including among countries. However, these may also inadvertently exacerbate problems. The recent spread of anti-globalization sentiment appears correlated to slow, if not negative per capita income growth and increased economic inequality. To be sure, globalization and liberalization are statistically associated with growing economic inequality and rising ethno-populism. Declining real incomes and growing economic insecurity have apparently strengthened ethno-populism and nationalistic chauvinism, threatening economic liberalization itself, both within and among countries. Insecurity, populism, conflict Thomas Piketty has argued that a sudden increase in income inequality is often followed by a great crisis. Although causality is difficult to prove, with wealth and income inequality now at historical highs, this should give cause for concern. Of course, other factors also contribute to or exacerbate civil and international tensions, with some due to policies intended for other purposes. Nevertheless, even if unintended, such developments could inadvertently catalyse future crises and conflicts. Publics often have good reason to be restless, if not angry, but the emotional appeals of ethno-populism and jingoistic nationalism are leading to chauvinistic policy measures which only make things worse. At the international level, despite the world’s unprecedented and still growing interconnectedness, multilateralism is increasingly being eschewed as the US increasingly resorts to unilateral, sovereigntist policies without bothering to even build coalitions with its usual allies. Avoiding Thucydides’ iceberg Thus, protracted economic distress, economic conflicts or another financial crisis could lead to military confrontation by the protagonists, even if unintended. Less than a decade after the Great Depression started, the Second World War had begun as the Axis powers challenged the earlier entrenched colonial powers.

### 1AC - Solvency

#### Plan Text: The Republic of Kenya should recognize an unconditional right of workers to strike.

CSA: https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(19)30188-3/fulltext

#### Unconditional means preventing from adding additional exceptions to international law.

Chow and Schoenbaum 17 [Daniel Chow and Thomas Schoenbaum; 2017; Professor Chow served as a law clerk to the Honorable Constance Baker Motley, chief judge for the Southern District of New York, following graduation from law school, and then became an associate with Debevoise and Plimpton in New York. He came to Ohio State in 1985 and teaches International Law, International Transactions, Jurisprudence, Asian Law, and Property. He is a member of Phi Beta Kappa, Thomas J. Schoenbaum is presently the Harold S. Shefelman Professor of Law at the University of Washington in Seattle. He received his Juris Doctor degree from the University of Michigan and his PhD degree from Gonville and Caius College, University of Cambridge (UK). He is also Research Professor of Law at George Washington University in Washington DC. He is a practicing lawyer, admitted in several U.S. states and before the Bar of the Supreme Court of the United States. He has been a professor at the University of North Carolina at Chapel Hill and was Associate Dean at Tulane University in New Orleans, “International Trade Law: Problems, Cases, and Materials,” Aspen Casebook Study] Justin

1. Belgian Family Allowances helped to establish two basic principles of GATT jurisprudence: MFN applies to internal measures (in this case the 7.5 percent levy), and the same treatment extended to France and others (foregoing of the levy) must be extended unconditionally to all other WTO members. The unconditional extension of MFN must occur even if Norway or Denmark did not have a system of family allowances. While Belgian Family Allowances interprets the unconditional extension of MFN to mean without any conditions, it is also possible to interpret this requirement to prohibit any additional conditions beyond what is required of the original recipient of the benefit or privilege. See Matsushita, Schoenbaum, Mavroidis and Hahn The World Trade Organization: Law, Practice and Policy 167-177 (3d ed. 2015).

#### Judicial recognition is crucial to resolve conflicting strike provisions.

**Munene 14**, Anne. (Ann Munene is an Associate Attorney at Jones Clifford LLP – Edu – BA in legal studies/psych and JD @Berkeley) "The Right to Strike - Sustainable Constitutional Reform: Comparative Case Studies of Workers' Strikes in the Kenyan Public Sector." UC Hastings Scholarship Repository | University of California, Hastings College of the Law Research, 1 Jan. 2014, repository.uchastings.edu/cgi/viewcontent.cgi?article=1794&context=hastings\_international\_comparative\_law\_review.//JQ

In Kenya, public sector workers face legal barriers in attempting to exercise their socioeconomic rights, resulting in widespread civil disobedience. Although a right to strike exists in the New Constitution, the Kenyan government has not recognized this right in practice. As evidenced by the teachers' and doctors' strikes, the Kenyan government's failure to recognize the constitutional right to strike is due to the conflicting strike provisions in the LRA. It is crucial for the legislative and judicial branches of the government to become more involved in establishing the implementation of these constitutional rights. It would be fruitful for these branches to consider the choice of forum framework applied in the United States in order to afford its citizens their rights. It is vital that the CIC's role be highly undergirded and promptly reviewed because the CIC is a temporary commission already halfway through its term.120 The executive branch should consider playing a part 21 in the interpretation of the CIC's term and role.

#### The plan is goldilocks! It strikes a perfect balance between satisfying worker demands and improving healthcare response. Normal means is constitutional amendment – resolves legitimacy concerns.

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3 The right to strike under the Kenyan Constitution The right to strike is one of the fundamental constitutional rights provided for under Article 41 of the Kenyan Constitution. This right is afforded to all employees.[19](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn19) It is worth noting that Article 41 of the Kenyan Constitution refers to "every employee" without excluding any categories. This means that the term "worker or employee" must be broadly interpreted to include public health employees. It is an important right because in the absence of such a right to strike, collective bargaining can amount only to what Jacobs refers to as "collective begging".[20](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn20) For that reason, any form of denial or undue limitation of this right can lead to a substantial weakening of the employees' bargaining power because, they cannot bargain on an equal footing with their employer in the inevitably occurring case of a dispute. However, it is widely recognised also that under the Kenyan Constitution rights are not absolute and may therefore be limited in certain situations, particularly, in this context, in services where a strike is likely to harm the public.[21](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn21) The Kenyan Constitution considers that the right to strike may be limited by law and under certain conditions.[22](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn22)For example, the 2007 LRA prohibits the exercise of the right to strike by employees engaged in sectors designated as essential services. 4 The right to strike in South Africa Like the equivalent in the Kenyan Constitution, section 23(2)(c) of the Constitution of the Republic of South Africa, 1996 accords all employees the right to strike, as elaborated under the 1995 LRA.[23](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn23)The Constitutional Court of South Africa has emphasised that:[24](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn24) ... it is through industrial action that workers are able to assert bargaining power in industrial relations. The right to strike is an important component of a successful collective bargaining system ... . For that reason the right to strike is important to the extent that a limitation of any kind to this right needs to be justified.[25](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn25) 4.1 The right to strike in essential services under the 1995 LRA Given the prohibition of strikes in essential services, particularly in the health services, the 1995 LRA was amended[26](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn26) in order to improve the efficiency of the process of deciding on which essential services should be protected. The amendment was the result of a protracted court case in which Eskom (the electricity utility) had refused to conclude a minimum service agreement. The Supreme Court of Appeal of South Africa finally resolved the matter in Eskom Holdings v National Union of Mineworkers.[27](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn27) The 1995 LRA  gives effect to the Constitution by contemplating limitations of the right to strike in respect of those employees who are engaged in essential services.[28](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn28) The 1995 LRA  defines an essential service to mean: • a service the interruption of which endangers the life, personal safety or health of the whole or any part of the population; • the Parliamentary service and; • the South African Police Services.[29](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn29) The Constitutional Court has held that a restrictive interpretation of essential services should be adopted if possible so as to avoid impermissibly limiting the right to strike.[30](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn30) The court remarked that defining "essential service" too broadly would impermissibly limit the right to strike.[31](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn31) The 1995 LRA  makes special provision for essential services under sections 70 to 74.[32](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn32) In terms of section 74(1) employees working in a designated essential service may not strike. Notably, unlike the position under the 2007 LRA in Kenya, section 74(1) of the 1995 LRA is not one-sided and is not phrased in mandatory terms, but makes use of the term "may not". Hence, the 1995 LRA makes provisions for additional mechanisms which if complied with allow employees in essential services to lawfully strike. Accordingly, section 72 of the 1995 LRA provides that parties in designated essential services may enter into a collective agreement, which intends to regulate the minimum services to be provided by employees in that essential service in the event of a strike.[33](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn33) Therefore, under the 1995 LRA trade unions wishing to embark on strike action must make arrangements for the provision of minimum level service. The concept of minimum service under the 1995 LRA is intended to allow certain employees in a sector designated as an essential service to strike, while at the same time, maintaining a level of production or services at which the life, personal safety or health of the whole or part of the population will not be endangered.[34](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn34)It is also a bid to prevent the declaration of an industry as an essential service from impinging unnecessarily on the right to strike.[35](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn35)Furthermore, this is a balanced way of prohibiting the employment of replacement labour and maintaining production during the strike. 4.2 Total prohibition of the right to strike in essential service In 2007 Kenya promulgated various forms of labour legislation, including the 2007 LRA. The 2007 LRA reinforces the constitutional right to strike but is subject to a number of limitations, such as those pertaining to employees who are employed in sectors designated as essential service listed under Schedule Four like healthcare. The Cabinet-Secretary for labour in consultation with the National Labour Board (the Board) is tasked with designating a service or any part of a service as an essential service.[36](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn36) In view of that, the few examples listed under Schedule Four of the 2007 LRA do not represent an exhaustive list of essential services. This Act defines essential services to mean "a service the interruption of which would probably endanger the life of a person or the health of the population or any part of the population."[37](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn37) The 2007 LRA  declares in peremptory terms that "no person shall take part in a strike or in any conduct in contemplation of a strike if the employee and employees are engaged in an essential service."[38](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn38) While this is to be appreciated, the blanket prohibition of strike appears to be unconstitutional because it takes away in totality the right to strike of employees working in sectors designated as essential services.[39](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn39) As such, the provisions are onesided because they provide no framework in which essential service employees can lawfully embark on a strike. 5 Strikes in the Kenyan Essential Service sector: the case of the 2017-2018 Doctor, Nurses and Clinical Officers strike The Kenyan public health sector has experienced a wave of strikes.[40](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn40) This article limits itself to 2017 to 2018 strikes in the public health sector. Wage disputes, squalid working conditions as well as the failure by the government as the employer to honour and/or implement the provisions of a Collective Bargaining Agreement (CBA) remain the major catalyst leading to the strikes embarked on by healthcare employees. Surprisingly, the strikes in hospitals persist even when clearly prohibited by legislation and/or court orders. Notably, the hospital sector is designated as an essential service under Schedule Four of the 2007 LRA. However, the health sector has continuously experienced the longest strikes in the country.[41](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn41) This has raised concerns about the effectiveness of the legal framework in regulating strikes in essential services. Accordingly, recurrence of such strikes presents an opportunity to revisit the law, hold discussions, deliberate and explore new ways of addressing the gap found under the 2007 LRA that prohibits employees in the health sector from striking. Reference is made hereunder to the doctors, nurses and clinical officials' strikes in Kenya. 5.1 Doctors' strike: Robert Alai Onyango v Cabinet Secretary in charge of Health Petition No 21 of 2017 HC (eKLR) On 5 December 2017 more than 5000 doctors in the public health sector went on strike, setting off one of the worst and longest strike in the essential services sector in Kenya.[42](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn42) The doctors demanded that a CBA which had been signed in June 2013 be implemented.[43](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn43) The government continuously refused to implement the agreement and instead used intimidation and coercive methods in its effort to end the strike. Similarly, in an attempt to weaken the doctor's capacity to fight and subsequently to put pressure on them to concede defeat, the government withheld their salaries and issued dismissal letters, while threatening to import foreign doctors from countries such as Tanzania, Cuba and India as replacements. Subsequently, seven Medical Practitioners, Pharmacists and Dentists Union (KMPDU) officials including the Secretary-General were imprisoned for one month for refusing to call off the strikes.[44](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn44) However, the doctors and their union strengthened their resolve and refused to back down on their demands. They were released days later to allow for negotiations with the government and to save the sector from further turmoil. An agreement to sign a new CBA was reached on 15 March between KMPDU, the Council of Governors and the Health Ministry. This brought to an end the 100-day strike, and had far-reaching implications.[45](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn45) 5.2 Nurses strike: John Biiy v Seth Panyako 1069 of 2017 (E&LRC) Prior to the doctors' strike, on 5 June. 2017 nurses had embarked on a strike demanding amongst other things extraneous allowances of ksh 5,000, risk allowances of ksh 15,400, and uniform allowances of ksh 50,000, up from ksh 10,000. The strike paralysed the health services in county hospitals for five months (151 days) until 2 November 2017, when an agreement was reached between the Council of Governors, the Ministry of Health and the Kenya National Union of Nurses. The Kenya National Union of Nurses Secretary General Seth Panyako expressed regret over the strike and apologised to Kenyans.[46](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn46) 5.3 Clinical officers In September 2017 clinical officers, led by the Kenya Union of Clinical Officers (KUCO), embarked on s strike that lasted for 21 days, protesting amongst other things against the job evaluation system used by the Salaries and Remuneration Commission to peg their salaries. The strike ended on 5 October 2017 after the Council of Governors agreed to sit at the negotiating table to explore options to resolve the dispute. The dispute was finalised only 60 days thereafter. 6 Addressing legislative problems and gaps under the 2007 LRA Due to the existence of legislative loopholes, Kenya has experienced strikes in public hospitals as mentioned above. These loopholes include a lack of minimum service agreements and of institutions capable of designating employees who need to perform minimum services, deal with disputes and determine what constitutes essential services. 6.1 Lack of a Minimum Service Agreement To date, more than 11 years after the 2007 LRA came into effect, no provision has been made for government and trade unions on behalf of their members to conclude minimum service agreements. If Kenya is to prevent the recurrence of what happened in the 2017-2018 strikes in the public health sector, perhaps there is an urgent need for legislative reforms. It is acknowledged that in many jurisdictions not all employees may be declared to be provides of essential services and this precluded from striking. This has led to the conclusion of "minimum service agreements".[47](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn47) Such agreements intend to allow certain employees in an industry designated as an essential service to strike, while at the same time maintaining services and personal safety. As alluded to above, the ILO supervisory bodies have considered minimum service agreements to be appropriate instruments for use in this context. However, two requirements have to be met. Firstly, the service required must genuinely and exclusively be a minimum service and must be limited to operations that are strictly necessary in order to meet the basic needs of the population or the minimum requirements of such services. Secondly, workers' organisations should be able to participate in defining such services, along with employers and the public authorities.[48](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn48) Where strikes have been prohibited, as in the case of essential services in Kenya, adequate protection should be given to the employees. As experienced in Kenya from 2017-2018 in public hospitals, the "blanket" prohibition of strikes in essential services has far-reaching implications. Upon that understanding, therefore, a solution should not be to impose a total prohibition of strikes in essential services. Instead, adequate legislative measures and inclusive processes for resolving labour disputes are necessary. For that reason, this article recommends that Kenya should take urgent legislative measures to introduce provisions that would require parties in an essential services dispute to conclude a minimum service agreement before embarking on a strike. As the ILO recommends, a minimum service is required rather than a total provision of services, the requirement of which would lead to a prohibition of strikes.[49](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn49) Furthermore, a minimum service could be appropriate in situations where a limitation of the right to strike or a total prohibition of strike action would not appear to be justified. In allowing the right to strike to be exercised by a majority of employees, attention should be given to ensure that basic needs are met and that facilities operate safely or without interruption.[50](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812020000100006" \l "back_fn50) It must be noted that concluding, executing and enforcing the minimum service agreements is not an easy task. In some instances practical difficulties may arise in the process of negotiating such minimum services agreements. Therefore, the process requires high level of discipline, maturity, bargaining in good faith, and respect for the minimum service agreement from all parties involved.

#### A legalized right to strike decreases total number of strikes – bargaining and settlement.

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2 ‘Strikes will erupt everywhere’ line This is again just not reality. Strikes do not simply erupt if they become legal. Countries that have a collective bargaining system that has an effective right to strike and a system of preventing and settling disputes often have fewer strikes. Right-wing politicians assert policy to repress strikes, but Romeyn (2008) argues it is not a power balance. Waters (1982) shows there are deeper and more significant economic and workplace issues contributing to strikes. Paradoxically, a key factor in producing strikes is the belief by right-wing politicians that they can be eliminated. History shows that under repressive anti-strike regimes, workers still struggle and take industrial action to defend their interests. The issue for unionists is: are we slaves or are we to be free?

#### The plan is mutual agreement that resolves nurse demoralization and decreases length of future strikes.

**Waithaka**, Dennis, **et al 20**. (Dennis is currently doing a Postgraduate Diploma in Research Methodology at KEMRI-Wellcome Trust. His project is focused on how healthcare priorities are set at the county level.  In Kenya, since devolution took place in 2013, the counties have served as the backbone of health service delivery. However, very little is known on how they set healthcare priorities. This study aims to understand how county health departments set priorities and evaluate the process with an aim to improve it. He holds a Bachelor’s Degree in nursing from the University of Nairobi, certified in emergency obstetrics and neonatal care, He is also a Certified basic life support provider. Before KEMRI, he was attached as a Midwife in Kenyatta National Hospital.) "Prolonged health worker strikes in Kenya- perspectives and experiences of frontline health managers and local communities in Kilifi County." BMC, 10 Feb. 2020, equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y.//JQ

Poor working conditions, including shortages of drugs, commodities, equipment and staff, were also felt to have contributed to demoralization among nurses, with several managers noting that these challenges had been exacerbated through policy changes such as devolution, free maternity care policy, and abolition of outpatient user fees at PHCs: “We say that maternity services are free, yet the same facilities are not facilitated with the commodities. So, there is a gap such that the outcome of the mother and the child is 50-50 so because of that we are human beings and sometimes it’s not good always to see that your patients are dying in your hands. You would rather not provide that service.” Sub-County Manager-06. Previous county level agreements on for example promotions, re-designations into appropriate job groups, and training had only partially been implemented, and therefore failed to address the general discontent and unrest among health workers. A lack of clarity and agreement between national and county levels on how to handle national-wide strikes was seen to have contributed to the prolonged length of the strike: “The central government used to accuse the county government. The county government … blame the central government that they have not disbursed the money … so there was a lot of shifting blames.” Sub-County Manager-06.

#### Worker inclusion in policy decision regarding strikes is vital in reducing strikes and increasing public health worker morale.

**Waithaka**, Dennis, **et al 20**. (Dennis is currently doing a Postgraduate Diploma in Research Methodology at KEMRI-Wellcome Trust. His project is focused on how healthcare priorities are set at the county level.  In Kenya, since devolution took place in 2013, the counties have served as the backbone of health service delivery. However, very little is known on how they set healthcare priorities. This study aims to understand how county health departments set priorities and evaluate the process with an aim to improve it. He holds a Bachelor’s Degree in nursing from the University of Nairobi, certified in emergency obstetrics and neonatal care, He is also a Certified basic life support provider. Before KEMRI, he was attached as a Midwife in Kenyatta National Hospital.) "Prolonged health worker strikes in Kenya- perspectives and experiences of frontline health managers and local communities in Kilifi County." BMC, 10 Feb. 2020, equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y.

The recurrence of health worker strikes and the prolonged nature of the 2017 strikes highlights the underlying frustration and unrest amongst public sector health workers in Kenya. There is an urgent need for national and county governments to appreciate the complex adaptive nature of health systems and adopt systematic monitoring of different components and proactive thinking around possible effects (positive and negative) of interventions and policies. County and national governments need to rebuild relationships with healthcare workers’ unions and include them in the development, introduction and implementation of policy decisions that impact on health workers [[27](https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-020-1131-y#ref-CR27)]. Careful consideration is needed to review the compensation packages of health workers to ensure fairness within and across cadres, and the creation of a conducive working environment to offer quality services. This is essential to improving staff morale and reduce the need to strike.