## Framing

The value is morality

#### Ethics must be derived from the constitutive features of agents – ethics based internally fail because they can’t generate universal obligations and ethics based externally fail because they are nonbinding as agents could opt-out which means they fail to guide action.

#### Empiricism could also change, meaning external fw are arbitrary.

#### past experiences have no effect on causality or internal link to continuity, i.e. raining yesterday doesn’t mean rain today.

#### Is/Ought Gap – experience just describes how the world is but doesn’t indicate how it ought to be which means there must be an a priori conception of good

#### Transcendental idealism – what we see is not what is, but our representations of reality – only a priori knowledge is a lane to truth as perception is the lane to truth insofar as a lack of the subject removes material constitution and abstracts sensibility as it is then unknown.

#### Constitutivism solves – it allows for universal obligations among all agents but they are binding and cannot be opted out of.

#### Next, only practical reason is constitutive:

#### [1] Regress – to question why one should reason concedes its authority since it is an act of reasoning itself which proves it’s binding and inescapable

#### That means we must universally will maxims— any non-universalizable norm justifies someone’s ability to impede on your ends.

#### Thus, the value criterion is consistency with the categorical imperative.

#### Prefer additionally:

#### 1] Performativity—freedom is the key to the process of justification of arguments. Willing that we should abide by their ethical theory presupposes that we own ourselves in the first place

#### 2] Consequentialism fails - a] induction fails: the logic of looking into the past to predict the future is predicated on past experiences, meaning it’s circular, b] butterfly effect: every consequence is infinitely cascading so we don’t know the true extent of our actions, meaning we cannot predict consequences

#### [3] A posteriori ethics fail:

#### [a] Problem of induction

Vickers 14, John Vickers, 2014, The Problem of Induction, https://plato.stanford.edu/entries/induction-problem/

The original problem of induction can be simply put. It concerns the support or justification of inductive methods; methods that predict or infer, in Hume's words, that “instances of which we have had no experience resemble those of which we have had experience” (THN, 89). Such methods are clearly essential in scientific reasoning as well as in the conduct of our everyday affairs. The problem is how to support or justify them and it leads to a dilemma: the principle cannot be proved deductively, for it is contingent, and only necessary truths can be proved deductively. Nor can it be supported inductively—by arguing that it has always or usually been reliable in the past—for that would beg the question by assuming just what is to be proved.

[c] **Inability to know each other’s experience makes it an unreliable basis for ethics because different experiences bring different concepts of truth – only a priori ethics solve since a priori truths are accessible to all agents**

## Off

#### 1] A right to strike claims a right to a specific job, which is a positive right, Gourevitch 16

#### bracketed for gendered language:

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

If **a right to strike** is not a right to quit what is it? It **is the right that workers claim to refuse to perform work they have agreed to do while retaining a right to the job**. Most of what is peculiar, not to mention fraught, about a strike is contained in that latter clause. Yet, surprisingly, few commentators recognize just how central and yet peculiar this claim is (Locke 1984).2 Opponents of the right to strike are sometimes more alive to its distinctive features than defenders. One critic, for instance, makes the distinction between quitting and striking the basis of his entire argument: **the unqualified right to withdraw labour, which is a clear right of free men, does not describe the behaviour of striker**s...**Strikers**...**withdraw from the performance of their jobs, but in the only relevant sense they do not withdraw their labour**. The 2 Don Locke is one of the few to note both how central the claim to ‘keeping the job’ is and how hard it is to ground this claim. “So what is distinctive about **a strike is**....**the refusal to do a particular job, combined with the insistence that the job is none the less still yours.”** Locke 1984, 181. jobs from which they have withdrawn performance belong to them, they maintain. (Shenfield 1986, 10-11) On what possible grounds may workers claim a right to a job they refuse to perform? While many say that every able-bodied person should have a right to work, and they might say that the state therefore has an obligation to provide everyone with a job, **the argument for full employment never amounts to saying that workers have rights to specific jobs from specific private employers.** For instance, in 1945, at the height of the push for federally guaranteed full employment, the Senate committee considering the issue took care to argue that, “**the right to work has occasionally been misinterpreted as a right to specific jobs of some specific type and status.” After labeling this a “misinterpretation,” the committee’s report cited the following words from one of the bill’s leading advocates:** “It is not the aim of the bill to provide specific jobs for specific individuals. **Our economic system of free enterprise must have free opportunities for jobs for all who are able and want to work**. **Our American system owes no [person] ~~man~~ a living, but it does owe every man an opportunity to make a living**.” (Senator Murray, quoted in United States, Wagner, and Radcliffe 1945, 8). These sentences remind us how puzzling, even alarming, the right to ‘specific jobs’ can sound. In fact, **in a liberal society, the whole point is that claims on specific jobs are a relic of feudal thinking.** In status-based societies, specific groups had rights to specific jobs in the name of corporate privilege. Occupations were tied to birth or guild membership, but not available to all equally. **Liberal society, based on freedom of contract, was designed to destroy just that kind of unfair and oppressive status-based hierarchy**. A common argument against striking workers is that they are latter day guilds, protecting their sectional interests by refusing to let anyone else perform ‘their jobs’ (e.g. Hayek 2011, 384-404). As one critic puts it, the strikers’ demand for an inalienable right to, and property in, a particular job cannot be made conformable to the principles of liberty under law for all...the endowment of the employee with some kind of property right in a job, [is a] prime example of this reversion to the governance of status. (Shenfield 1986, 13) If such criticisms fundamentally misunderstand the entirely modern basis for the right to strike, we still need an account of how anyone could claim something like a property right in a job she not only never acquired but that she then refuses to perform.

#### Only negative rights are coherent. Feser Summarizes Nozick 04,

Edward Feser [Philosophy professor at Loyola], On Nozick by Eric Mack, 2004, p. 36-7, Volume 8, Issue 4 //Scopa

#### This brings us to a second feature of Nozick’s conception of rights, namely that they are essentially negative. A right to X just is a right not to be hindered in using something you own, X, as you want to use it. It is not a right to have X if you don’t already own it and no one wants to give or sell it to you. Your right to your TV set is just your right not to have it damaged or taken from you against your will; it is not a right that someone should buy you a TV set. Your right to life is just the right not to be killed; it is not a right that others should provide you with what you need to live. You own your life, so no one has the right to take it from you. But by the same token, others own their lives, bodies, labor, and the things they produce with their labor, and thus no one has a right to take those things from them. In particular, you do not have the right forcibly to take, or have someone else take, other people’s resources simply because you want or need them, even if you need them to live (just as you have no right to take their body parts from them even if you needed those to live). A right to what you need in order to live would be a positive right a right to something that someone else must provide you with, as opposed to a (negative) right that someone merely refrain from doing something to you. So-called rights to welfare, health care, education, and the like would be positive rights. But there simply are and can be no such fundamental positive rights on a libertarian view. For no one has a basic right against other people that they must provide things for him; to assume otherwise is to assume, in effect, that a person at least partially owns other people’s property, including their labor, if I claim a right to education, for example, I am in effect claiming that other people must provide me with an education — it won’t just fall out of the sky, after all — which means I’m claiming a right to a part of their labor, i.e. whatever labor must go into paying the taxes that fund my state-run school. But no one has a right to anyone else’s labor — people own their own labor, and cannot morally be forced to give up some of it for others. If you want voluntarily to help me out in paying my tuition. and sign a contract saying you’ll do so, that’s one thing — in that case, I do have the right to your money, because you’ve agreed to provide it but if you don ‘t agree, I have no such right, and I and the government are stealing from you if we take your money anyway. Now many rights that people claim to have are positive rights of this sort. The United Nations’ Universal Declaration of Human Rights, for example, is filled with claims not only to negative rights, but also to many positive rights — rights to education, health care, even “periodic holidays with pay”! But all such claims are bogus, and the alleged “rights” pure fictions conjured out of thin air. For they conflict with the fundamental rights of self-ownership, and make people slaves to the realization of others’ desires and needs. Being essentially negative, a person’s rights function, in Nozick’s terminology, as moral side-constraints on the actions of others (1974, 28-35). Respecting others’ rights, that is, isn’t to be understood merely as one goal among others that we might seek to maximize, leaving open the possibility that violating rights in some circumstances for the sake of achieving some other good is an acceptable trade-off. Rather, one’s rights constitute a set of absolute restrictions within which all other people must behave with respect to him, and override all considerations of utility or welfare. They lay down the ground rules for our behavior towards others — telling us that, in anything we do, there are certain things we must not do. “Side constraints upon action reflect the underlying Kantian principle that individuals are ends and not merely means,” Nozick says; “they may not be sacrificed or used for the achieving of other ends without their consent. Individuals are inviolable” (1974, 30-31). Being inviolable, their rights are also inviolable — those rights cannot be overridden for any reason. Nor, given that rights are negative, is there any danger that they might conflict, which would put their inviolability in doubt. If your having a right to X just means that I cannot interfere with your use of X, and my right to Y just means that you cannot interfere with my use of Y, then there is no conflict between our rights: All we’re required to do is to leave each other alone. But if I also claim a positive right to Z, and Z requires the use of X, then our rights inevitably will conflict, for the only way I can get Z is if you give me X. Positive rights will generally, and obviously, lead to such conflicts — surely another reason to be suspicious of them. Negative rights, however, will not. Such rights are perfectly compatible with one another, and thus with the notion that rights are inviolable.

#### 2] The right to strike necessarily involves violating the right to property and contract – it’s coercive, Gourevitch 16:

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

A second problem follows on the first. **If workers have rights to the jobs they are striking then they must have some powers to enforce those rights**. **Such powers might include** mass picketing, secondary boycotts, sympathy strikes, **coercion and intimidation of replacement workers, even destruction or immobilization of property** – the familiar panoply of strike actions. While workers have sometimes defended such actions without using the specifically juridical language of ‘rights,’ in many cases they have used that kind of appeal.3 Even when they have not employed rights-discourse, they have invoked some related notion of demanding fair terms to their job (Frow, Frow and Katanka 1971). Each and any of the above listed activities of a strike – pickets, boycotts, sympathy actions – are part of the way workers not only press their demands but claim their right to 3 See James Gray Pope’s (1997) remarkable reconstruction of the way, in the 1920s, rights-discourse helped organize and sustain a ‘constitutional strike’ against attempts to curtail and outlaw the strike. the job. Strikers regularly implore other workers not to cross picket lines and take struck jobs. **These are more than speech-acts. At the outer edges, they amount to intimidation and coercion**. Or at least, workers claim the right to intimidate and coerce if the state will not itself enforce this aspect of their right to strike. Liberal societies rarely permit a group of individuals powers that come close and even cross over into rights of private coercion. It is no surprise that regulation and repression of these strike-related activities have been the source of some of the most serious episodes of strike-related violence in US and European history (Brecher 2014; Lambert 2005; Forbath 1991; Adamic 1971; Taft and Ross 1969; Liebknecht 1917). So, alongside the unclear basis for the strikers’ rights to their jobs, the problem for a liberal society is that this right seems to include private rights of coercion or at least troubling forms of social pressure. Yet there is more. **The standard strike potentially threatens the fundamental freedoms of three specific groups**. • Freedom of contract **It conflicts with the freedom of contract of those replacement workers who would be willing to take the job** on terms that strikers will not. Note, this is not a possible conflict but a necessary one. **Strikers claim the job is theirs, which means replacements have no right** to it. But replacements claim everyone should have the equal freedom to contract with an employer for a job. • Property rights **A strike seriously interferes with the employer’s property rights**. **The point of a strike is to stop production**. **But the point of a property right is that, at least in the owner’s core area of activity, nobody else has the right to interfere with his use of that property**. **The** **strikers**, by claiming the employer has no right to hire replacements and thus no way of employing his property profitably, **effectively render the employer unfree to use his property as he sees fit**. To be clear, strikers claim the right not just to block replacement workers, but to prevent the employer from putting his property to work without their permission. For instance, New Deal ‘sit-down’ strikes made it impossible to operate factories, which was one reason why the courts claimed it violated employer property rights (Atleson 1983, 46-48). Similarly, during the Seattle general strike in 1919, the General Strike Committee forced owners to ask permission to engage in certain productive activities – permission it often denied (Brecher 2014, 106-111). • Freedom of association Though the conceptual issues here are complicated, a strike can seriously constrain a worker’s freedom of association. It does so most seriously when the strike is a group right, in which only authorized representatives of the union may call a strike. In this case, the right to strike is not the individual’s right in the same way that, say, the freedom to join a church or volunteer organization is. Moreover, the strike can be coercively imposed even on dissenting members, especially when the dissenters work in closed or union shops. That is because refusal to follow the strike leads to dismissal from the union, which would mean loss of the job in union or closed shops. The threat of losing a job is usually considered a coercive threat. So not only might workers be forced to join unions – depending on the law – but also they might be forced to go along with one of the union’s riskiest collective actions. **Note that each one of these concerns follows directly from the nature of the right to strike itself**. **Interference with freedom of contract, property rights**, and the freedom of association **are all part and parcel of defending the right** that striking workers claim to the ‘their’ jobs. These are difficult forms of coercive interference to justify on their own terms and **they appear to rest on a claim without foundation**. Just what right do workers have to jobs that they refuse to perform?

#### 3] Police officers should not have the right to strike – police officers have an obligation to enforce the law and the omnilateral will requires rights enforcement. Outweighs – it’s a prerequisite to any other right because only the state can ensure they are protected

#### 4] Workers promise in contracts not to strike, these contracts grant employers the right to fire people if they strike and has been upheld by the state.

"Employer Sanctions for Violation of No-Strike Clause: Union Busting through Mass Discharge and Rescission." ***Yale Law Journal*,** digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=8323&context=ylj. Accessed 23 June 2021.

**EMPLOYERS often secure no-strike clauses 1 in collective bargaining contracts** 2 with their employees' unions, 3 in order to ensure greater union responsibility for the maintenance of stable production schedules.4 **Under such clauses, the union promises not to authorize or sanction any strike during the term of its contract.' The employer is** usually **given power to discipline or discharge all the individual union members who strike in violation of the no-strike clause.0**

When confronted with a union-sponsored strike in violation of a no-strike clause, the employer may be forced to accede to the union's demands because of production requirements or the scarcity of replacement workers. 7 Alternatively, he may shut down his plant and wait out the strike, disciplining the strikers when they return to work, subject to an arbitrator's review.8 However, if he believes his bargaining position to be strong, he may discharge all the strikers, rescind the contract, and refuse thereafter to deal with the union.0 **The National Labor Relations Board has upheld such employer actions on the grounds that they are justified by the union's prior material breach of the contract,'** ° and that strikers in violation of contract are not protected by the National Labor Relations Act."1

#### Promise breaking is bad – that negates the value of promises itself because if no one kept promsies, then promises would have no force