### Strikes – Novice AC 1.0

#### I affirm resolved: “A just government ought to recognize an unconditional right of workers to strike.” To start with, I’d like to clarify some terms in the resolution. “Unconditional” is defined as “Not limited by or subject to conditions or stipulations.” The “Right to strike” is defined by the National Labor Relations Board as “The right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.” “Recognize” in this context means to legally enforce.

#### Next I move onto my Framework:

#### My value is justice as fairness. Life is not fair since some people are born into situations with advantages or disadvantages that they did nothing to deserve. The job of a just government is to offset said unfair conditions in order to provide everyone with a fair opportunity. I am not saying that everyone must be equal, but rather that everyone has equal access to the basic needs of life. Fairness is a precondition for other values.

#### My criterion is benefiting those who are least well-off. A government is most just when it ensures that every person has a fair chance, regardless of the natural lottery. The people who Need that fair chance the most are those who are in the working class because they have been born into it. This is necessary for all other values – before we decide the greatest good or societal well being or morality, we have to determine how to define what is the most moral or beneficial.

#### Contention 1: Conditions on the right to strike have been chipping away labor unions

#### Subpoint 1: Contracts restricting strikes have undermined union power dramatically

Moffatt, 2019-  prof of Business, Economics and Public Policy at Western Univ. [Mike "The Decline of Union Power." ThoughtCo, Aug. 27, 2019, thoughtco.com/the-decline-of-union-power-1147660.]

When the Industrial Revolution swept the United States up in a flurry of new innovations and employment opportunities, no regulations existed yet to govern how employees were treated in the factories or mines but organized labor unions began popping up across the country in order to protect these unrepresented working-class citizens. However, according to the [U.S. Department of State](http://usinfo.state.gov/), "the changing conditions of the 1980s and 1990s undermined the position of organized labor, which now represented a shrinking share of the workforce." Between 1945 and 1998, union membership fell from just over one-third of the workforce to 13.9 percent. Still, powerful union contributions to political campaigns and members' voter-turnout efforts have kept the union's interests represented in government to this day. This has recently, however, been mitigated by legislation allowing workers to withhold the portion of their union dues used to oppose or support political candidates. Corporations began shutting down work unions' resistance movements around the late 1970s when international and domestic competition drove the need to continue operations in order to survive in the cutthroat marketplace that was developing in the 1980s. Automation also played a key role in breaking up union efforts by developing labor-saving automated processes including state-of-the-art machinery, replacing the role of swathes of workers at every factory. Unions still fought back though, with limited success, demanding guaranteed annual incomes, shorter workweeks with shared hours, and free retraining to take on new roles associated with the upkeep of machinery. Strikes have also notably declined in the 1980s and '90s, especially after President [Ronald Reagan](https://www.thoughtco.com/ronald-reagan-1779927) fired [Federal Aviation Administration](https://www.thoughtco.com/federal-aviation-administration-faa-3321997) air traffic controllers who issued an illegal strike. Corporations have since been more willing to hire strikebreakers when unions walk out, too. The decline of strike success and the means for employees to express their demands effectively, the workforce of the United States shifted to a service industry focus, which has traditionally been a sector unions have been weaker in recruiting and retaining members from.

#### Subpoint 2- Federal law creates conditions on the right to strike - it prohibits government workers from striking, which allows involuntary servitude

Berman, 2019 - Staff writer for The Atlantic**.** [Russel “Why Federal Workers still have to show up even if their not being paid”, JANUARY 9, 2019,https://www.theatlantic.com/politics/archive/2019/01/shutdown-federal-workers-cant-strike/579793/]]

Faced with a potentially indefinite shutdown, the unions have turned to the courts for relief. The American Federation of Government Employees has filed a lawsuit against the Trump administration alleging that by requiring employees to work without pay, the government is in violation of the Fair Labor Standards Act, a 1938 law that mandates a minimum wage and overtime pay both to public- and private-sector workers. Another federal labor group, the National Treasury Employees Union, has filed a similar suit.The unions are also holding rallies, highlighting the impact of the shutdown on federal workers who live paycheck to paycheck, and publicly urging Trump and congressional leaders to come to an agreement that reopens the government. That, however, is about as far as they’ll go to protest the shutdown.Despite taking the government to court, neither union is encouraging its members to take part in any kind of work stoppage. “We encourage everyone who is being told to come to work to go to work,” Simon told me. “We are never going to advocate for something that’s illegal.” As for reports of higher levels of sick calls by TSA agents, Simon said: “We aren’t coordinating that. We aren’t condoning that, and we don’t even really think it’s happening. We think it’s been greatly exaggerated in the press.” Federal employees generally haven’t tested the prohibition on strikes since President Ronald Reagan famously fired more than 11,000 air-traffic controllers who refused his order to return to work during contract talks in 1981. The controllers walked out in demand of higher pay and a shorter workweek. Federal workers have never staged a mass walkout to protest the lack of pay during a shutdown. But even in that circumstance, the anti-strike law would probably hold up, said Zachary Henige, an attorney representing two federal employees in their lawsuit agains the government over the current shutdown.The law prohibits public employees from striking, forcing them into what one union leader called “involuntary servitude” during the government shutdown. Eric Young is the president of the union that represents the approximately 30,000 employees of the Federal Bureau of Prisons who are working during the government shutdown. Young’s members, scattered at 122 facilities located in largely rural areas across the country, aren’t being paid and don’t know when their next paycheck will come. Like the leaders of virtually every federal-employee union during the past three weeks, he has condemned the shutdown and its toll on innocent workers as “unconscionable.” “My personal opinion,” Young told me over the phone from his office in Arkansas, “is that it constitutes involuntary servitude.” “We can’t call or advocate for a strike,” Young said. Since the enactment of the Taft-Hartley Act in 1947, federal employees have been legally prohibited from striking. That law was intended to prevent public-sector workers from leveraging a work stoppage that could cripple the U.S. government or major industries in negotiations for better pay, working conditions, and benefits. But it likely did not envision a scenario where the government would require its employees to work without paying them, as is the case now.

#### Contention Two: Unions are key to fairness

#### Subpoint 1. Strikes help workers to increase wages and improve working conditions – negotiations with employers are unbalanced - without the right to strike workers would be abused and subject to unsafe working conditions.

Bahn, 2019 - Director of Labor Market Policy at the Washington Center for Equitable Growth [Kate, August 29 “The once and future role of strikes in ensuring U.S. worker power” <https://equitablegrowth.org/the-once-and-future-role-of-strikes-in-ensuring-u-s-worker-power/>]

In the United States, Labor Day, which falls on the first Monday of September, is when we honor the history of the U.S. labor movement in striving for benefits and empowerment of workers across the economy. Strikes play an important role in empowering workers vis-à-vis their employers. By withdrawing their labor power, workers are able to balance the scales against the owners of capital, who rely on workers for production and providing services. Strikes have declined in frequency, popularity, and success over the past four decades, yet today, amid rising economic inequality, they are once again becoming an important tool in exercising worker power to ensure that the gains of profitability and economic growth can be broadly shared.

#### Subpoint 2 – Collective action is necessary to empower workers – unions give workers leverage to negotiate with their employers

Bivens, 2017 - the director of  research at the Economic Policy Institute [Jason, Aug 17, “How today’s unions help working people” https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the-power-to-improve-their-jobs-and-unrig-the-economy/]

Almost everyone has at one point felt unheard or powerless as an employee. Joining a union simply means that you and your colleagues have a say because you negotiate important elements of employment conditions together. That could mean securing wage increases, better access to health care, workplace safety enhancements, and more reasonable and predictable hours. Through collective bargaining negotiations, the union also works with management to develop a process for settling disputes that employees and their managers are unable to settle individually. Once a collective bargaining agreement (CBA) is agreed to, union representatives work with employees and with management to make sure the rights and obligations spelled out in the agreement are honored. And they represent workers in high-stakes situations, such as when a safety violation has resulted in injury. By these means, collective bargaining gives workers a say in the terms of their employment, the security of knowing that there are specific processes for handling work-related grievances, and a path to solving problems. To cover expenses for negotiating contracts, defending workers’ rights, resolving disputes, and providing support to members of the bargaining unit, unions collect dues. The National Labor Relations Act (NLRA) of 1935 and amendments govern private-sector unions and collective bargaining. While states generally have no jurisdiction over private-sector unions, the NLRA as amended does allow states to enact certain laws that govern fees paid by workers in unionized private workplaces (discussed later in this report). Nearly half (48.1 percent) of workers covered by a union contract are public-sector workers. Collective bargaining among federal workers is covered by the Federal Labor Relations Act of 1978 (FLRA). State laws (enacted from the late 1950s forward) govern state and local government employee unions. Each state has its own set of laws that govern collective bargaining for state and local public employees. Some states allow the full set of collective bargaining rights, others (approximately one-fifth) prohibit collective bargaining, and still others limit some activities, such as the right to strike or the right to collect dues automatically during payroll processing. About one in 10 states have no state law addressing collective bargaining rights in the public sector.

#### The right to strike is essential to all unions and collective action – it is critical to persuade employers.

Leyton-García, 2017 - Professor of Labor Law at Pontificia Universidad, Chile [Jorge Andrés “The Right To Strike As A Fundamental Human Right: Recognition And Limitations In International Law” Revista Chilena de Derecho, vol. 44, núm. 3, 2017, pp. 781-804 <https://www.redalyc.org/articulo.oa?id=177054481008>]

“In the light of Demir and Baykara, cited above, the right of association of workers includes the following essential elements: the right to form and join a trade union, the prohibition of closed-shop agreements, the right to bargain collectively with the employer and the right for a trade union to seek to persuade the employer to hear what it has to say on behalf of its members. In a democratic society, the ultimate practical “means to persuade the employer to hear” the demands of the workers is obviously strike action. If collective action represents the core of the workers’ freedom of association, strike action is the core of the core. Indeed, striking predated both unions and collective bargaining. Thus, the taking of strike action should be accorded the status of an essential element of the Article 11 guarantee” 32.

#### Strong unions are essential to empower workers Politically, to ensure fairness in society.

Bivens, 2017 - the director of  research at the Economic Policy Institute [Jason, Aug 17, “How today’s unions help working people” https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the-power-to-improve-their-jobs-and-unrig-the-economy/]

Unions are a dynamic and ever-evolving institution of the American economy that exist to give working people a voice and leverage over their working conditions and the economic policy decisions that shape these conditions. Collective bargaining is indispensable if we want to achieve shared prosperity. But it is precisely because they are effective and necessary for shared prosperity that unions are under attack by employers who want to maintain excessive leverage over workers and by policymakers representing the interests of the top 1 percent. These attacks have succeeded in increasing the gap between the number of workers who would like to be represented by a union and the number who are represented by a union. And these threats to the freedom to join together in unions haven’t been met with a policy response sufficient to keep the playing field level between organizing workers and the employers looking to thwart them. Giving workers a real voice and leverage is essential for democracy. While unions historically have not been able to match corporate political donations dollar for dollar, working people organizing together in unions play an equalizing role because they can motivate members to give their time and effort to political causes. For example, one study found that unions are very effective at getting people to the polls—especially increasing voting among those with only a high school education

#### Contention Three: The right to unconditionally strike empowers workers to end exploitation

#### Worker's rights to strike are necessary to change the workplace. Without restrictions, workers will be able to improve working conditions and increase wages with protection from the government.

Human Rights Watch, 2021 [April 29, 2021 “Why the US PRO Act Matters for the Right to Unionize: Questions and Answers” https://www.hrw.org/news/2021/04/29/why-us-pro-act-matters-right-unionize-questions-and-answers#]

The right to unionize is also protected by the Fundamental Conventions of the International Labour Organization (ILO)—in particular Convention No. 87 on Freedom of Association and the Protection of the Right to Organize and Convention No. 98 on the Right to Organize and Collective Bargaining. The United States is an ILO member and has a duty to abide by these conventions’ terms, even though it has not ratified them. The ILO also considers the right to strike to be an “intrinsic corollary” of the right to freedom of association if it is utilized as a means of defending workers’ economic and social interests. It also has said that the right to strike is one of the “essential means” for workers to improve their working conditions. How does the right to organize affect economic and social inequality? Protecting the rights to organize and bargain collectively can play a key role in reducing economic and social inequality. These rights allow workers to stand together and bargain for fair wages, adequate benefits, and safe working conditions, and they protect against unjustified job loss and discriminatory or unfair employer behavior, which can help to narrow the racial and gender wage gap. Many policymakers and commentators have long promoted hard work and academic success as primary tools for overcoming a precarious economic existence, but research published in 2018 for the National Bureau of Economic Research in the US shows that this approach overemphasizes the ability of individuals to pull themselves up by their bootstraps and neglects the many structural barriers that limit economic opportunity or keep people trapped in poverty. Labor movements and unions are tools of workers to overcome these barriers collectively and to address power imbalances between workers and employers in a labor market. They can also play a critical role in tempering exploitation through monopsony, a situation in which a few powerful employers depress workers’ wages by dominating the labor market. Protecting the right to organize may also limit the corporate capture of public institutions. Companies regularly lobby and pressure legislatures, policymakers and government agencies to weaken workers’ rights protections that the companies perceive to be detrimental to their business interests. The collective power of unions and other labor groups serves as a critical check on this influence. In a 2019 study, researchers at Duke University and the University of Toulouse found that where unions are weaker, politicians tend to be less responsive to the preferences of low-income earners and more attentive to the interests of the elites. Participation in unions also appears to promote voter participation in elections.

#### Right must be unconditional in order to take those rights seriously.

Miller, 2012 - Centre for the Study of Social Justice at University of Oxford[David Miller, “Are Human Rights Conditional?”,CSSJ Working Papers Series, SJ020 September 2012 <https://www.politics.ox.ac.uk/materials/centres/social-justice/working-papers/SJ020_Miller_Are%20Human%20Rights%20Conditional%20final%20draft.pdf>]

That is how we regard human rights in theory, but our practice seems to be different. We act in ways that deny people at least some of their human rights, and we claim to be justified in doing so. In particular, we wage wars in which people are killed and wounded, seemingly violating their rights to life and bodily integrity; and we punish people by imprisoning them, seemingly violating their right to freedom of movement as well as a whole host of others. A few might say that, for this very reason, such practices cannot be justified. But much more commonly it is believed that under the right circumstances warfare can be just, and likewise custodial punishment, and so on the face of it we appear to believe that human rights are not unconditional after all. Either, it seems, they can be lost entirely, or at least there are circumstances in which they can easily be overridden. This then generates the problem that my article addresses: how can we announce in our manifestos that human rights are held unconditionally by all human beings, while in our everyday practice – fighting wars or punishing criminals – we appear to violate them without being troubled by the fact.3  Is there some way to reconcile these two positions? In particular, do we need to distinguish between human rights that really are unconditional – cannot be lost no matter what their bearer does – and others that may be forfeited by acting in certain ways? One answer would be to say that when we engage in such practices, we simply allow human rights to be overridden by wider social goals – in the case of imprisonment, for example, by the need for a mechanism that protects society from people who pose a danger to its members and/or that deters potential threats from acting on their intentions. There is no question of prisoners losing their human rights, on this view; the rights are simply set aside for the greater good of society (a similar argument might be made in the case of those who are killed in the course of justified military operations). But the objection to this answer is that it appears to miss one of the basic points of attributing rights to people in the first place, which is to create for each individual a protected zone which states cannot enter in their pursuit of other social values. Human rights are supposed to be a serious matter: they are supposed to constrain what governments may legitimately do, perhaps also to provide grounds for international action against states that violate them on a large scale. But if it were permissible to override prisoners’ rights (or the rights of those killed or injured in the course of armed conflict) merely by pointing to the overall good consequences of doing so, that purpose would be lost. We would not be ‘taking rights seriously.