# 1NC vs. Christopher

## Offs

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#### Interpretation: the affirmative must defend that only just governments ought to recognize the right to strike

#### Just governments respect liberties

Dorn 12 James A. Dorn, Cato Journal, "The Scope of Government in a Free Society", Fall 2012, https://www.cato.org/sites/cato.org/files/serials/files/cato-journal/2012/12/v32n3-10.pdf

If laws are just, liberty and property are secure. The most certain test of justice is negative—that is, justice occurs when injustice (the violation of natural rights to life, liberty, and property) is prevented. The emphasis here is on what Hayek (1967) called “just rules of conduct,” not on the fairness of outcomes. No one has stated the negative concept of justice better than the 19th century French classical liberal Frederic Bastiat ([1850] 1964: 65): When law and force confine a man within the bounds of justice, they do not impose anything on him but a mere negation. They impose on him only the obligation to refrain from injuring others. They do not infringe on his personality, or his liberty or his property. They merely safeguard the personality, the liberty, and the property of others. They stand on the defensive; they defend the equal rights of all. They fulfill a mission whose harmlessness is evident, whose utility is palpable, and whose legitimacy is uncontested. In short, the purpose of a just government is not to do good with other people’s money, but to prevent injustice by protecting property and securing liberty.

#### US HR violations don’t secure liberties

Amnesty International, 4-14-2021, "Everything you need to know about human rights in United States of America," No Publication, https://www.amnesty.org/en/countries/americas/united-states-of-america/report-united-states-of-america/

UNITED STATES OF AMERICA 2020 The Trump administration’s broadly dismal human rights record, both at home and abroad, deteriorated further during 2020. The USA experienced massive demonstrations across the country with the backdrop of the COVID-19 pandemic, contested 2020 general elections and a widespread racist backlash against the Black Lives Matter movement. In response to thousands of public demonstrations against institutional racism and police violence, law enforcement authorities routinely used excessive force against protesters and human rights defenders and failed to constrain violent counter-protests against primarily peaceful assemblies. The administration also sought to undermine international human rights protections for women; lesbian, gay, bisexual, transgender and intersex (LGBTI) people; and victims of war crimes, among others. It also exploited the COVID-19 pandemic to target migrants and asylum-seekers for further abuses. Joe Biden was declared the winner of the November presidential election. Background Despite confirmation by the Electoral College that Joe Biden had won the November presidential election, President Trump continued to challenge the result, making repeated unsubstantiated claims of electoral irregularities. These continued allegations sparked a number of pro-Trump protests and raised concerns about the peaceful transfer of power in January. Discrimination The COVID-19 pandemic exacerbated long-standing inequalities in the USA. Inadequate and uneven government responses to the pandemic had a disproportionate and discriminatory impact on many people based on their race, socioeconomic situations and other characteristics. Systemic disparities dictated who served as frontline workers and who had employment and economic security and access to housing and health care.1 Incarcerated people were particularly at risk due to insanitary conditions in prisons and detention where they were unable to adequately physically distance and had inadequate access to hygienic supplies as facilities became hotspots for infection. Additionally, racially discriminatory political speech and violence risked increasing the number of hate crimes. Right to health Workers in health care, law enforcement, transportation and other “essential” sectors faced enormous challenges as the US government failed to adequately protect them during the pandemic. Shortages in personal protective equipment (PPE) meant that health and other essential workers often had to perform their jobs without adequate protection and in unsafe environments. In April, the National Nurses Union held a physically distanced protest in front of the White House against the lack of PPE for health workers. From March to December 2020, more than 2,900 health care workers died amidst the COVID-19 pandemic. The US Centres for Disease Control and Prevention (CDC) acknowledged that available figures were likely underestimates. Some health and other essential workers in the public and private sectors also faced reprisals, including harassment, disciplinary procedures and unfair dismissal, if they spoke out about the inadequate protective measures. Excessive use of force At least 1,000 people were reportedly killed by police using firearms. The limited public data available suggests that Black people are disproportionately impacted by police use of lethal force. The US government’s programme to track how many such deaths occur annually was not fully implemented. No state laws governing the use of lethal force by police – where such laws exist – comply with international law and standards regarding the use of lethal force by law enforcement officials.2 Freedom of assembly Law enforcement across the USA committed widespread and egregious human rights violations against people protesting about the unlawful killings of Black people and calling for police reform. Amnesty International documented 125 separate incidents of unlawful police violence against protesters in 40 states and Washington, D.C., between 26 May and 5 June alone.3 Thousands more protests took place in the remainder of the year. Violations were committed by law enforcement personnel at the municipal, county, state and federal levels, including by National Guard troops who were deployed by the federal government in some cities. The violence included beatings with batons or other devices, the misuse of tear gas and pepper spray, and the inappropriate and indiscriminate firing of “less lethal” projectiles. In numerous incidents, human rights defenders – including protest organizers, media representatives, legal observers and street medics – were specifically targeted with chemical irritants and kinetic impact projectiles, arrested and detained, seemingly on account of their work documenting and remedying law enforcement agencies’ human rights abuses. Right to life and security of the person The government’s ongoing failure to protect individuals from persistent gun violence continued to violate their human rights, including the right to life, security of the person and freedom from discrimination, among others. Unfettered access to firearms, a lack of comprehensive gun safety laws (including effective regulation of firearm acquisition, possession and use) and a failure to invest in adequate gun violence prevention and intervention programmes continued to perpetuate this violence. In 2018, the most recent year for which data was available, some 39,740 individuals died from gunshot injuries while tens of thousands more are estimated to have sustained gunshot injuries and survived. In the midst of the COVID-19 pandemic, with increased gun sales and shootings, the USA failed in its obligation to prevent deaths from gun violence, which could have been done through a range of urgent measures, including de-listing gun stores as essential businesses. As of 2020, expansive “Stand Your Ground” and “Castle Doctrine” laws, both of which provide for private individuals to use lethal force in self-defence against others when in their homes or feeling threatened, existed in 34 US states. These laws appeared to escalate gun violence and the risk of avoidable deaths or serious injuries, resulting in violations of the right to life. As protesters against the killing of Black people took to the streets in cities across the USA, there were instances where armed civilians in states where the open carrying of firearms is permitted engaged protesters, causing at least four deaths.

#### Prefer –

#### 1] Precision — anything else justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

#### 2] Limits – there are 200 governments in the world – letting them pick an unjust ones explodes limits via infinite permutations of governments

#### 3] Phil ed – 1AR will claim no government is just but that just means that we defend ideal theory. That’s good –

#### A] forces philosophical contestation which can uniquely happen in LD debate whereas you can util debate on any topic

#### B] outweighs – framework debate allows to identify injustice which is a prereq to any other theory voter because they’re all philosophically grounded

#### Fairness – debate is a competitive activity that requires fairness for objective evaluation. Outweighs because it’s the only intrinsic part of debate – all other rules can be debated over but rely on some conception of fairness to be justified.

#### Drop the debater – a] deter future abuse and b] set better norms for debate.

#### Competing interps – [a] reasonability is arbitrary and encourages judge intervention since there’s no clear norm, [b] it creates a race to the top where we create the best possible norms for debate.

#### No RVIs – a] illogical, you don’t win for proving that you meet the burden of being fair, logic outweighs since it’s a prerequisite for evaluating any other argument, b] RVIs incentivize baiting theory and prepping it out which leads to maximally abusive practices

#### 1nc theory first – if the aff was abusive we had to be abusive to compensate.

### T

#### Interp: the aff cannot both specify a government and a type of worker. To clarify, either is fine in isolation

#### Violation: they specify both the US and teachers.

#### 1] Limits – this topic is already super broad with 200 countries and infinite kinds of workers – the only functional limit is not specing both because at least the other area then becomes a generic I can read – their interp forces no generics – hold the line on limits on this topic because it’s super broad – leads to cherry picking and 0 neg research that destroys the negative.

#### 2] Ground – specing both allows unique and specific effects of one country’s specific form of worker to make neg offense nonspecific – that’s the basis for any negative response.

#### 3] TVA – only spec one

### NC

#### Objective morality is epistemically inaccessible –

#### A] Rule-Following Paradox – there is nothing inherent in a rule that mandates following a specific interpretation. They are always subject to interpretation by the observer, which means an objective moral rule would get interpreted differently by different agents

#### B] Moral Disagreement – thousands of years of moral disagreement prove that not everyone aagrees on a moral theory. Also means even if there is a universal theory, it’s not binding as proven by every past act of immorality

#### C] Epistemic Bias – governments are skewed by power relationships in society, so them enforcing a universal moral theory would inevitably be biased and unable to account for views of minorities

#### The solution is the libertarian utopia – only the neg framework preserves people’s freedom to pursue their conception of truth, Mack 18:

Eric Mack, June 15, 2018, “Robert Nozick’s Political Philosophy” <https://plato.stanford.edu/entries/nozick-political/#FraDisPro> //LHP AV

The official purpose of Part III of ASU, “Utopia”, is to show that **the minimal state is** not merely legitimate and just; it is also **inspiring**. This purpose is advanced by sketching a framework for utopia that is inspiring and noting that this framework is highly akin to—Nozick actually says “equivalent to” (333)—the minimal state. Yet Nozick also says that the framework might not have any “central authority” (329). Still, the framework is akin to the minimal state because it is an institutional structure that enforces peaceful co-existence among voluntarily formed communities. **It protects the independence of such communities and their freedom to recruit members and also protects the liberty of individuals to enter and exit communities as they respectively choose**. Although Nozick is not explicit about this, we have to presume that the framework enforces the same norms of personal freedom, property, and contractual compliance that the minimal state enforces except insofar as individuals voluntarily relinquish such rights within the communities they enter. The framework is inspiring **because of the way it contributes to persons’ identification of and participation in communities** (and other networks of relationships) **through which they will find meaning and well-being**. It is inspiring to **anyone** **who appreciates how little each of us knows about what sorts of communities best suit** **human** beings in all their depth and diversity and how much the operation of **the framework assists individuals in their discovery of and engagement in communities that enhance their respective well-being.** Moreover, many persons may value the framework not merely for the way it enhances their own good but, also, for the ways in which it allows them to participate vicariously in others’ achievement of their different modes of flourishing (Lomasky 2002). 5.1 The Framework as Discovery Procedure The framework is—or, more precisely, sustains—a discovery procedure. Under the protective umbrella of the framework, individuals are presented with and can try out diverse communities while communities themselves arise and modify themselves in their competitive search to sustain, improve, or increase their membership. A wide range of communities will continually arise out of and in response to the evolving perceptions that diverse individuals will have about what modes of sociality will best suit them and will best attract welcome partners. Communities will survive and perhaps expand or be imitated insofar as they actually embody modes of relationship that serve well their actual or prospective membership or insofar as they successfully refine their offerings in the market place of communities. **The framework also insures that those who are already confident that they know what sort of community is best for them will be free to form those communities by voluntary subscription and, thereby, to manifest their actual value** (or disvalue) to themselves and to other seekers of well-being. Part of Nozick’s sub-text here is **a message to socialist utopians that nothing in the framework (or the minimal state) precludes their non-coercive pursuit of their ideal communities.** How, therefore, can socialists object to the framework (or the minimal state)? This generalizes Nozick’s earlier claims in ASU that that advocates of meaningful work and workers’ control of productive enterprises ought not to be hostile to the minimal state since the minimal state is fully tolerant of non-coercive endeavors to establish such conditions (246–253). In a short essay in Reason magazine published four years after ASU, Nozick asked, “Who Would Choose Socialism?” (Nozick 1978). More precisely, his question was: What percent of the adult population would choose “to participate in socialist interpersonal relations of equality and community” were they in position to choose between “a reasonably attractive socialist option and also a reasonably attractive non-socialist one?” (Nozick 1978: 277). Nozick takes the choice available to Israelis between membership and non-membership in kibbutzim to be a good instance of a choice between such options and notes that around six percent of the adult population of Israel in the 1970s had chosen the socialist option. He speculates that socialists are at least “tempted” to be imperialists precisely because they sense that there will be too few volunteers (Nozick 1978: 279). The discovery procedure that the framework sustains is a version of Millian experiments in living—albeit it is a version that places much more emphasis on the role of a marketplace of communities in providing individuals with experimental options. This discovery procedure (like Millian experiments in living) is, of course, a Hayekian invisible hand process. Given the enormous diversity among individuals, we do not know what one form of community would be best. The idea that there is one best composite answer to all of these questions [about what features utopia has], one best society for everyone to live in, seems to me to be an incredible one. (And the idea that, if there is one, we now know enough to describe it is even more incredible.) (311) Nor do we know what distinct modes of community would be best for distinct types of persons. Thus, we cannot design an inclusive utopia; nor can we design an array of mini-utopia such that some significantly fulfilling community will be available to everyone—or even to most. It is helpful to imagine cavemen sitting together to think up what, for all time, will be the best possible society and then setting out to institute it. Do none of the reasons that make you smile at this apply to us? (313–314) Given our ignorance, the best way to realize utopia—almost certainly many distinct utopia—is through the discovery procedure that the framework sustains. (We should note, however, an implicit, somewhat puzzling, and wholly unnecessary presupposition of Nozick’s discussion, viz, that individuals with utopian aspirations will generally seek out communities that are made up of other individuals like themselves. The suggestion is that chosen communities will be internally homogeneous with heterogeneity existing only across these communities.)

#### Thus, the standard is consistency with libertarianism.

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

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?

## Case

### Turns

#### Educator strikes are devastating – they ruin generational educational outcomes, distort democracy, cause massive violence, and perpetuate inequality, le Grange 12:

Corlene le Grange, [BA, LLB Submitted in accordance with the requirements for the degree Magister Legum in Comparative Child Law at the North-West University (Potchefstroom Campus), South Africa]April 2012, “The limitation of the educator’s right to strike by the child’s right to basic Education” <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.840.4795&rep=rep1&type=pdf> //LHP AV

Spring9 argues that **strikes in the American educational sector occur when a teachers’ union and the department** of education **are unable to reach an agreement** with regard to educators’ salaries and working conditions**. In South Africa the situation is similar**: Solidarity states that **people in South Africa generally strike to direct attention to a grievance they might experience and to reach an agreement** regarding a problem which pertains to interests of employers as well as employees.10 In chapter 1 of this study it was shown that, in the educational sector, these grievances are generally related to educators’ compensation.11 Strikes are usually preceded by union representatives who bargain with the department of education over a new contract, containing a particular wage scale and labour rules.12 Examples of these proposed bargaining agreements can be seen on various South African education unions’ web pages.13 Wage scales will typically include educators’ salaries and other benefits such as health benefits. The length of school days, class sizes and teaching loads are discussed in the labour rules. When the unions and the department of education cannot agree on contract terms, conflict is generated and a strike may follow.14 It is said that the implementation of collective bargaining into public education is the primary cause of strikes by educators.15 Collective bargaining can be described as a:16 good faith process between an organisation’s management and a trade union representing its employees, for negotiating wages, working hours, working conditions, and other matters of mutual interest. This process usually presents the management with a group of people with whom to negotiate, while greatly enhanced bargaining power is given to employees. The trade union system is based on the principle of collective bargaining.17 **A strike (which is usually induced by trade unions) can be seen as:18 the partial or complete concerted refusal to work**, or the retardation or obstruction of work, by persons who are or have been employed by the same employer or by different employers, for the purposes of remedying a grievance or resolving a dispute in respect of any matter of mutual interest between employer and employee, and every reference to work in this definition includes overtime work, whether it is voluntary or compulsory.’ It is Neal’s19 opinion that the industrial mode of collective bargaining, in particular labour strikes, should not have been transferred to the public sector, the reason being that **monopoly government services (services that can’t be purchased)20 are essential to the health, safety and welfare of the public**. **Strikes are furthermore**, in principle, **an economic** **weapon** that is **inappropriate to public employment**. **Strikes by teachers are** strikes against the South African community as a whole,21 and, as part of the public sector, these strikes do not serve the same purpose as in the private sector.22 **When teachers strike, there exists no fair relationship** **between the economic gains for the educators** on strike **and the damage they inflict upon fellow citizens**,23 **in this case, specifically children who are an especially vulnerable group of society**. It is different in a private company where strikes are more legitimate because those who strike and those who employ are mutually dependent on each other in the following sense: if any of the two groups are unreasonable, the company and all involved will suffer irreparable damage.24 People in general have a choice to make use of a certain company or product, but apart from the extremely wealthy, **most people have no other option but to make use of government services**.25 **Strikes** in the public sector **are thus inappropriate because they “distort the political decisionmaking process.”**26 It is in the opinion of Mahlomola Kekana, president of the National Association of Parents in School Governance (NAPSG) that27 **the impact of the [2010] strike may affect** the entire generation **as the damage far outweighs the gains made by public servants, in particular the teachers**. He further states that such a strike perpetuates the class system and causes inequality, **because the majority of South Africans** do not have a choice **between public and private schools**.28 It has been reported that **the nation-wide strike in 2010 caused disruption and was extremely destabilising**.29 **Schools** were **shut**,30 **teachers attacked pupils and pupils retaliated**.31 **This left an array of broken relationships** that had to be repaired.32 In a previous educator strike in 2007,33 grade 12 learners were prohibited from applying for bursaries on time, because they could not hand in their first term marks or testimonials from their teachers. Furthermore, **many of the grade 12 learners that were to fail due to 2-3 months of missed classes, were not able to repeat their final year**, because the school syllabus was changed.34 It is obvious that **this situation jeopardized the futures of countless children, especially learners from previously disadvantaged backgrounds.** The 2010-strike that had lasted about 3 weeks35 occurred less than 2 months before the final grade 12 examinations.36 It has been reported during this time that Allen Thompson, president of NATU (National Teacher’s Union), made the following staggering announcement:37 There will be no Matric exams written this year in South Africa. We have decided to use the Matric exams as a lever if the government does not come forward with a better offer. **This shows an absolute disregard for children’s right to education.** Anne Bernstein, director for the Centre for Enterprise Development has stated that between 75-89% of South African public schools are dysfunctional.38 In 2007, pass rates fell from 67% in 2006 to 61%.39 Also, in a 2007-study of forty one countries by United States-based National Centre for Education Statistics, South African Grade 8 learners came last in Maths and Science.40 South Africa has also recently finished last of all developing countries when literacy and numeracy skills of children were tested.41 South Africa has further participated in two crosscountry comparative studies during recent years: Progress in International Reading Literacy, which focuses on Grade 4 reading skills, and the Southern and Eastern Africa Consortium for Monitoring Education Quality, which focuses on Grade 6 reading and mathematical skills. Our country compared poorly to our more impoverished neighbouring countries and even worse to developing countries in other parts of the world.42 Woolman and Fleisch43 correctly state that “we stand very much at risk of losing a second generation of learners.” The Minister of Basic Education, Angie Motshekga, has stated that although South African schools are doing relatively well on enrolments, “our weakness is in the quality of education.”44 It has been found with regard to rural primary schools that the absence of teachers, the neglect of their duties and lack of discipline had lead to a decrease in pupil discipline, increased learner absences and the repetition of grades.45 Another big problem that is related to **an average teachers’ strike is the intimidation of other teachers who choose to keep working, as well as of schoolgoing pupils**. A grade 10 pupil of a high school in Gauteng told a reporter that they were busy writing a test when about a 100 presumed striking teachers from other schools stormed into the classroom and assaulted the learners.46 **One striker hit a non-striking teacher in the face and tore up test papers while other pupils were threatened that they would be hurt if they contacted their parents**. At another high school, **armed strikers took down a fence to gain entry, broke windows and threw garbage cans from the first floor.**47 **Learners and teachers left school early** on the day of the attack **and** were afraid to return because of threats to burn down the school.48 It is clear that **violence and intimidation during strikes erode people’s freedom to choose whether they want to strike or not and negatively affect the safety and security of non-striking educators and children during strikes**.49 There exists an important issue relating to the main question posed in the introduction of this study that needs to be answered at this point, namely, whether educator strikes aimed at influencing government policy should be permitted in a democratic state. In answer to this question: 50 it can be said that **that political issues should be exposed, debated, decided, and legislated upon in the open political arena of Parliament, and those involved at the centre of the political process be accountable to the electorate.** **If strikes can be used to influence government policy, governments can no longer act upon the views of the majority of the people they purport to represent**. Because the typical municipal political structure is vulnerable to strikes by public sector employees, like educators, **a non-strike model is preferable** to a strikemodel.51 Schermers52 is of the strong opinion that political strikes are unacceptable in a society where the wishes of the majority of the population are the basis for decisions. He also states that a small group of persons in key positions that try to force a democratic government into a policy that the majority doesn’t want, cannot be tolerated.53 An important sub-question, as identified by Spring54 is: Should teachers worry only about fulfilling their instructional duties without concern for their wages or working conditions? Coombe55 suggests that **while severe budget constraints do not at the moment allow for dramatic increases in teachers’ salaries**, **policy makers** and planners **must**: **reflect a positive intention to pay teachers a wage which enables them to give their best** as professionals. There are however, ways in which educators’ conditions of service can be temporarily improved which are not dependant on salary levels.56 **The government can formally diversify all resources** on which teachers depend for their survival **by rationalising and streamlining benefits** that teachers already receive from outside the public budget, for example, community built houses. **The government can also decentralise fiscal responsibilities and do its best to ensure that the delays, inconsistencies, inconvenience and errors that currently occur in paying teachers’ salaries are eliminated** or, at least, drastically reduced.57 **Educators’ conditions** of service **must be framed to suit the specific nature of the educational sector**. These conditions must be put on paper and drafted in consultation with educators’ representatives and must include leave arrangements the length and configuration of teaching periods, an educators’ code of conduct, arrangements with regard to transfers and maternity leave, cover for educators on leave, appraisal and staff development and arrangements with regard to promotions.58 Negotiated agreements should be transformed into tangible benefits for educators and their families. The administrative capacity and sensitivity of government officials can diffuse a potential explosive situation and peaceful negotiations are definitely an alternative to an educator strike.59 It is, however, also claimed that the state’s legislative, regulatory and budgetary attempts come down to almost nothing more than ‘hand-waiving.’60 It is therefore suggested that, in accordance with our country’s commitment to transformative constitutionalism,61 courts are in the position to help the government to achieve an adequate basic education for all,62 as well as provide educators with a voice with regards to the problems they face. Keeping the above mentioned in mind it can be said that **to strike is wrong when one’s decision to strike causes someone else’s vulnerability; people that cannot solve their own problems and who are not involved in a dispute between an employer and employee or have any say in the solution.**63 Although many people are not content with their salaries, it is important to remember what a salary is, which is the minimum sum that a person and his/her employer agrees on that is to be paid for services rendered according to our country’s labour laws, which makes extreme exploitation very difficult. We also have a very open labour market, so **if one doesn’t like his/her job, he/she can always get another one if his/her services are so highly in demand**.64 **South Africa has a great number of unemployed, qualified teachers who would gladly take over some of the employment and salaries educators are striking over**.65 These circumstances make it clear that **a strike shifts the emphasis from the child as first priority with regard to education to the problems of teachers with teaching authorities**.66 This displacement of emphasis is strongly prohibited, as will be seen in the next chapter on international and regional law.

#### Teacher Unions destroy quality of education, drain funding and maintain the squo

Sol Stern 97 How Teachers’ Unions Handcuff Schools," City Journal, <https://www.city-journal.org/html/how-teachers%E2%80%99-unions-handcuff-schools-12102.html> Cho

When Tracey Bailey received the National Teacher of the Year Award from President Clinton in a festive Rose Garden ceremony in 1993, American Federation of Teachers chief Albert Shanker called to say how pleased he was that a union member had won this prestigious honor. But Bailey, a high school science teacher from Florida, is an AFT member no more. Today he believes that the big teachers' unions are a key reason for the failure of American public education, part of the problem rather than the solution. The unions, he thinks, are just "special interests protecting the status quo," pillars of "a system that too often rewards mediocrity and incompetence." Such a system, he says, "can't succeed." Bailey is right. In the final analysis, no school reform can accomplish much if it does not focus on the quality of the basic unit of education

—that human interaction between an adult and a group of children that we call teaching. The big teachers' unions, through the straitjacket of work rules that their contracts impose, inexorably subvert that fundamental encounter. These contracts structure the individual teacher's job in ways that offer him or her no incentives for excellence in the classroom—indeed, that perversely reward failure. So as Tracey Bailey and many other dedicated teachers have learned, schools can't improve until reformers confront the deadly consequences of the power that teachers' unions wield over a monopolistic industry, not only through contracts but also through the unions' influence on the elected officials who regulate the education industry. Until then, any reform—whether more money for the schools or smaller classes or high national standards or charter schools—will get short-circuited from the very outset. Trade unionism is a recent development in public education. During the first 100 years of taxpayer-funded public schools, teachers had no collective bargaining rights, though many enjoyed civil-service protection. While the public schools made steady progress during those years, it's indisputable that teachers were underpaid and often were moved around like interchangeable parts in a one-size-fits-all system. Many teachers, along with principals and other administrators, belonged to a staid professional organization called the National Education Association, to which the words "unionism" and "strike" were anathema. Inevitably, teachers working in a factory-style system figured they might as well organize themselves into factory-style unions. The big breakthrough came in New York City in 1961, when the United Federation of Teachers (UFT), led by a charismatic high school math teacher named Albert Shanker—whose recent death deprived the teachers' unions of one of the towering figures in the American labor movement—went on strike and won the right to bargain for all city teachers. Though Shanker insisted that the struggle was about more than mere bread-and-butter issues—that it was also about improving the quality of public education and strengthening democracy—the contract the UFT signed with the New York City Board of Education nevertheless reflected the traditional industrial model. It set up uniform pay scales and seniority rights for teachers, limited their classroom hours, and required new teachers to be automatically enrolled in the union and have their dues deducted from their paychecks. Following this example, the once conservative NEA also veered toward militant trade unionism. By the mid-seventies it had a majority of the nation's teachers covered by collective bargaining agreements. Now the NEA and the AFT, the national parent body of New York's UFT, together represent more than 3 million school employees, including 80 percent of the nation's 3 million public school teachers. The two unions and their state and local affiliates take in $1.3 billion each year from dues and employ 6,000 full-time staff members. Today the two national unions cast a giant shadow over not just American public education but also Democratic Party politics. As a California judge recently found, that state's NEA affiliate spent only half of its dues income on activities related to collective bargaining and used the other half for electoral politics, lobbying, and general advocacy for social, educational, and political causes. Nationally, in the 1996 election, the teachers' unions contributed more than $9 million directly to Bill Clinton and other Democratic candidates through political action committees. But the PACs were just the visible tip of a vast iceberg of soft money, independent media buys, thousands of full-time campaign workers paid with union dues, and in-kind services such as phone banks and direct mail advertising. Myron Lieberman, author of a forthcoming book on teachers' unions, estimates that the NEA and AFT together spent at least $50 million for the campaign compared to the $35 million that the AFL-CIO spent. And at last summer's Democratic convention, the teachers' union caucus constituted 11 percent of all delegates—a bigger share than the delegation from California. These political investments have paid off. In the Clinton Department of Education, former NEA issues director Sharon Robinson is assistant secretary for research and educational improvement, shaping the national education debate with her office's research reports and assessments of student performance. And when the Republican Congress was on the verge of passing legislation last year to rescue a few thousand poor students from Washington, D.C.'s hopelessly broken public school system by offering them private school scholarships, the NEA, fearful that these vouchers might encourage similar legislation in the states, furiously lobbied the White House. President Clinton, who had first indicated that he would sign the bill, backtracked and said he would veto it. The teachers' unions spend millions each year on advertising to convince the American people that when they flex their political muscle in cases like this, more often on the state than on the national level, they are working for the benefit of the nation's schoolchildren. Their pitch goes something like this: in driving up wages and improving working conditions, the unions have made the teaching profession far more attractive to qualified young people. PAC activities and political lobbying help pressure elected officials to finance education adequately, so that school boards can pay teachers the salaries they deserve, hire more teachers and reduce class size, provide staff development, and purchase books. Result: better schools and improved student performance. Unfortunately for America's children, the rest of the unions' argument doesn't stand up. The extra money didn't improve student performance. To the contrary, during that same period average SAT scores for public school students declined by 10 percent, dropout rates in urban school systems increased, and American students scored at or near the bottom in comparisons with the other industrialized nations. After years of examining the data, the nation's leading education economist, Eric Hanushek of the University of Rochester, concluded: "There appears to be no strong or systematic relationship between school expenditures and student performance." So why did the bottom drop out of American public education just as per-pupil spending soared? Basic economics provides a compelling answer, though countless blue-ribbon commissions, and indeed much of the present national dialogue about school reform, have failed to acknowledge it: the $250 billion public education industry behaves precisely like any other publicly protected monopoly. Union negotiators in the private sector know that if they insist on protecting incompetent workers and cling to outdated work rules, especially in the global economy of the nineties, the company will begin losing market share, and union members will lose their jobs. In public education, by contrast, collective bargaining takes place without the constraining discipline of the market. When school board representatives sit down with union officials to negotiate a labor contract, neither party is under pressure to pay attention to worker productivity or the system's overall competitiveness: if the contract allows some teachers to be paid for hardly working at all, and others to perform incompetently without penalty, there is no real economic danger for either side. After all, most of the monopoly's customers, the schoolchildren, have nowhere else to go. Historically, tax revenues have continued to flow into the schools no matter how poorly they perform. Newark's public schools, for instance, have performed worse and worse in recent years, but per-pupil annual expenditure there is now almost $10,000, 50 percent above the U.S. average. "Let's roll up our sleeves . . . and work together to give our children the schools they deserve," read the full-page New York Times ad taken out by New York City's United Federation of Teachers early this year. "We've tried everything else; now let's try what works," said a second UFT ad a few days later. These were the opening salvos of a major media blitz laying out the UFT's program for "turning our schools around." The nearly $1 million print, radio, and TV ad campaign was needed, UFT president Sandra Feldman told her members, because "often the union is erroneously looked at as an impediment to school reform, and it's time to set the record straight." The UFT has good reason to be concerned. In a colossal understatement, one of the ads acknowledged that "recent school report cards show that students in our city are losing ground." Actually, what the State Education Department's recently released school performance reports show is a near meltdown of what was once the nation's premier urban school system. Third-grade reading scores are among the most useful benchmarks for judging any school system's performance. Children who can't read in third grade are likely to fall even further behind in the later grades. And schools that can't manage to get children reading after nearly four years in the classroom are not likely to do very well in other areas. So it is stunning to discover that only 30.2 percent of New York City's third-graders are reading at grade level, compared to 62.2 percent in the rest of the state, and that the reading scores are dismal not only in schools with high numbers of poor, minority children but in many middle-class schools, in districts that have "choice" programs and districts that have resisted reform, in schools that favor "progressive" teaching styles and more traditional schools. For example, at predominantly middle-class P.S. 87, one of the city's "hot" schools and a bastion of progressive "child-centered" teaching methods, close to half the school's third-graders read below grade level. At the Mohegan school in District 12 in the Bronx, which has a very poor, all-minority student population and follows the more traditional "core knowledge" philosophy of scholar E. D. Hirsch, only 19 percent of the third-graders read at grade level.