# NC

## Definitions

#### The right to strike is defined by Gourevitch 16:

Alex Gourevitch (Assistant Professor of Political Science at Brown University). “Quitting Work but Not the Job: Liberty and the Right to Strike.” American Political Science Association Vol. 14, No. 2. June 2016. JDN. <https://www.cambridge.org/core/journals/perspectives-on-politics/article/abs/quitting-work-but-not-the-job-liberty-and-the-right-to-strike/27B690FEDDBCF002FB20FB50E852D6A3>

The right to strike is peculiar. It is not a right to quit. The right to quit is part of freedom of contract and the mirror of employment-at-will. Workers may quit when they no longer wish to work for an employer; employers may fire their employees when they no longer want to employ them. Either of those acts severs the contractual relationship and the two parties are no longer assumed to be in any relationship at all. The right to strike, however, assumes the continuity of the very relationship that is suspended. Workers on strike refuse to work but do not claim to have left the job. After all, the whole point of a strike is that it is a collective work stoppage, not a collective quitting of the job. This is the feature of the strike that has marked it out from other forms of social action.

#### Unconditional is defined by Merriam-Webster as:

“Unconditional.” Merriam-Webster Dictionary. No Date. URL: https://www.merriam-webster.com/dictionary/unconditional

un·​con·​di·​tion·​al | \ ˌən-kən-ˈdish-nəl  , -ˈdi-shə-nᵊl \ Definition of unconditional: 1: not conditional or limited : ABSOLUTE, UNQUALIFIED unconditional surrender unconditional love; 2: UNCONDITIONED sense 2

## Framing

#### I have 2 observations:

#### Rights inherently cannot be unconditional. All rights in a just society are conditioned on whether the right contributes to societal welfare. For example, one’s right to free speech is limited when that free speech has dangerous consequences for others, such as shouting fire in a crowded theater, or hate speech. The same is true of ALL rights – they must at some point trade off with each other.

#### There are no empirical examples of the aff because there is no nation in the world that currently recognizes an unconditional right to strike. Thus, you should be skeptical of any empirical claims made by the aff because they are unlikely to be grounded in solid, experimental research.

## Contention 1 – A Right to Strike Shouldn’t be Unconditional

#### An unconditional right to strike harms societal welfare because it allows workers crucial to public safety to strike, such as health workers. Gruber and Kleiner 12:

(Gruber, Jonathan and Kleiner, Samule A,. February 2012.” Do Strikes Kill? Evidence from New York State.” American Economic Journal: Economic Policy 2012, https://dspace.mit.edu/bitstream/handle/1721.1/71824/Gruber\_Do%20Strikes.pdf?sequence=2&isAllowed=y)

Hospitals now represent one of the largest union sectors of the US economy, and there is particular concern about the impact of strikes on patient welfare. We analyze the effects of nurses’ strikes in hospitals on patient outcomes in New York State. Controlling for hospital specific heterogeneity, the results show that nurses’ strikes increase in-hospital mortality by 18.3 percent and 30-day readmission by 5.7 percent for patients admitted during a strike, with little change in patient demographics, disease severity or treatment intensity. The results suggest that hospitals functioning during nurses’ strikes do so at a lower quality of patient care.

**The impacts of hospital strikes aren’t avoidable on the part of the employer. Gruber and Kleiner 12:**

(Gruber, Jonathan and Kleiner, Samule A,. February 2012.” Do Strikes Kill? Evidence from New York State.” American Economic Journal: Economic Policy 2012, https://dspace.mit.edu/bitstream/handle/1721.1/71824/Gruber\_Do%20Strikes.pdf?sequence=2&isAllowed=y)

We find that patients with particularly nursing-intensive conditions are more susceptible to these strike effects, and that hospitals hiring replacement workers perform no better during these strikes than those that do not hire substitute employees

#### Conditions on a right to strike are necessary to ensure societal welfare – remember that NO RIGHT is unconditional, and that currently, all rights are conditioned on their benefit to society. The right to strike can’t be unconditional when it would endanger essential services. Malebye 14:

Cynthia Dithato Malebye (Department of Mercantile Law, University of Pretoria). “The Right to Strike in Respect of Employment Relationships and Collective Bargaining.” Dissertation. University of Pretoria, April 2014. JDN. <https://repository.up.ac.za/bitstream/handle/2263/43163/Malebye_Right_2014.pdf?sequence=1>

Although the right to strike is enshrined in section 23(2)(c) of the Constitution, that right is not absolute and may be limited in terms of a law of general application to the extent that such limitation may be reasonable and justifiable in an open and democratic society. It is widely recognised, both in this country and abroad, that in certain circumstances, it will be reasonable and justifiable to limit the right to strike, particularly in times of national emergency or in services where a strike is likely to harm the public. In some countries like Canada, France and Italy, limitations on strikes in essential services are confined to the public sector, based on the notion that it is only the government which provides services, whose absence will endanger the community’s safety. The differentiation of workers should be made according to the functions they perform and not according to the nature of their employer’s legal status. This is so because a service provided by a worker in a private sector may be more harmful to the public compared to a service provided by a public sector worker.

#### Exigent circumstances require ceasing the right to the right to strike. This has historically been the case - the Smith Connally Anti-Strike Act outlawed strikes during wartime since the obligations of the government at the time were to protect people in time of war and ending production of war materials would obstruct that.

**McCloskey 20** (McCloskey, Robert Andrew, Spring 2020, “Seasons Past: Wildcat Strikes and the Smith-Connally Act During World War II” West Virginia University, https://researchrepository.wvu.edu/cgi/viewcontent.cgi?article=8670&context=etd)

Sen. Alben Barkley (D-VA) stated that the President’s constitutional role as commander and chief legitimized the action. “The Constitution also places on the President the responsibility and vests in him the powers of Commander in Chief of the Army and of the Navy. These weapons for the protection of the continued existence of the Nation are placed in his sole command and the implication is clear that he should not allow them to become paralyzed by failure to obtain supplies.” This rationale of war materials falling under the jurisdiction of the Commander in Chief was also used in the mammoth North American Aviation strike of 1941.

**The ethics of a strike is dependent on its circumstances - it can’t be unconditional.**

**Mason 18** (Mason, Elinor, 3 April 2018, “On Striking, and the Recognition that Ethics are a Collective Affair” Open Democracy, https://www.opendemocracy.net/en/opendemocracyuk/on-striking-and-recognition-that-ethics-are-collective-affair/)

Obviously, **there are various**[**preconditions that must be met**](https://www.opendemocracy.net/uk/kieran-oberman/just-and-unjust-strikes)**for a strike to be ethically justified. First, the question of whether what the employers are doing is unfair** or **not** arises. The pensions issue is incredibly complicated, and I do not pretend to understand all the [actuarial details](https://twitter.com/mikeotsuka?lang=en). It seems though, that we have a just cause here, that the offers that have been made are unfair. It is worth pointing out that it is not just a question of how much money there is or will be in the pension fund, **there are** also **ethical questions: a question about how risk should be distributed,** and a question about what else the universities are doing with their money. Pensions are a kind of wage, and our wages are not paid out of any particular fund, but out of the universities’ general resources. So we should be wary of accepting frameworks for discussion that attempt to reduce all the issues to financial ones.

**Relatedly, if a strike is** to be **justified, the cause must be realistic. There is no point in striking for something that cannot be obtained**. But again, we should be careful here. What counts as unrealistic depends on the values people hold. There was a time when votes for women seemed unrealistic. Twenty years ago, marriage equality might have seemed an unrealistic goal. But some people pursued those goals anyway. If we take for granted that vice chancellors will be paid a fortune and that wages will be linked to student enrolment, perhaps fair wages for lecturers is not realistic. But why would we take those things for granted?

**Finally**, of course, **less disruptive methods of persuasion should be used first. Striking is a last resort, it is only permissible when negotiation has stalled. We start by trying to persuade the employer on the basis of the reasons: that a policy or proposal is unfair, unnecessary,** that **there are alternatives**. It is **only if that fails** **that we should move to strike** action.

## Contention 2 – A Right to Strike Harms Workers

#### Strikes alone do not change worker conditions. Semuels 21:

Semuels, Alana. October 8, 2021. “U.S. Workers Are Realizing It’s the Perfect Time to Go on Strike.” *Time Magazine.* URL: <https://time.com/6105109/workers-strike-unemployment/> accessed on 11/5/21 by bws kat

Carolyn Jackson, the CEO of St. Vincent’s, where Deyo and hundreds of other nurses are striking, says that the nurses are trying to push a 1:4 nurse to patient ratio that Massachusetts voters rejected by a large margin in 2018. The hospital has done research and decided its staffing is appropriate, and that its staffing ratios are in fact better than most other hospitals in the state, she says. Ryan says the hospital announced it was hiring 100 permanent replacement nurses in May during a COVID-19 surge, and that the striking nurses are insisting on getting their old positions back. That the hospital is not budging speaks to the fact that despite this increase in worker activism, workers may not gain much more power in the long run. Over the last 40 years, the government has made it much more difficult for workers to both form unions and to strike, says Heidi Shierholz, the president of the Economic Policy Institute, a progressive think tank. Amazon was able to effectively interfere in a union vote among its workers this spring, she says, preventing the union from succeeding. Of course, a hearing officer at the National Labor Relations Board has recommended that the board throw out the results of the Amazon election and do it over, which speaks to a resurgence of government support for labor. President Joe Biden said he wanted to be “the most pro-union President leading the most pro-union administration in American history.” Labor has support at the state and local levels too: California Gov. Gavin Newsom recently signed a packet of pro-worker bills, including one that prohibits companies from imposing quotas on warehouse workers that prevent them from following health and safety law, and another that prohibits employers from paying workers with disabilities less than the state’s minimum wage. And in January, New York City Mayor Bill de Blasio signed a bill that forbids fast food restaurants from firing workers unless the employer has just cause, making New York City the first jurisdiction in the country that essentially ended at-will employment. But even that support may not be enough to force a widespread change of working conditions in an economy where employees haven’t had much leverage since before the Great Recession, or earlier. Even some of the recent strikes haven’t led to workers’ desired outcomes. A five-week Nabisco strike recently ended with many of workers’ demands met, for instance, but the company still won the ability to pay weekend workers less than they do currently.

#### Strikes are financially harmful to workers because they are forced to go without pay. Refresh Financial 21:

2021. “What Happens To Your Pay When Your Workplace Goes On Strike?” *Refresh Financial.* URL: <https://refreshfinancial.ca/blog/financial-news-and-advice/happens-pay-workplace-goes-on-strike/> accessed on 11/5/21 by bws kat

So what happens to your income when you go on strike? Well, to put it bluntly, it stops. It stops until the strike is called off, that is. As long as you are away from your workplace for while your union is on strike, you will not be paid by your employer. Now, for many of you working hard at credit building, this can be a scary thing. It's very difficult to continue to learn how to rebuild credit when your income source has dried up. Before you lose any sleep over that, it’s important to note that most union members on strike will not go without having their basic financial needs met. Many unions have “strike funds” or “war funds” into which union members pay their dues. Depending on which union you belong to, you may get a specific strike pay amount per day or per week, or you could simply be allotted emergency funds based on need. Strike pay can be quite low compared to your regular pay with some unions paying between $200-$300 per week. For those at home counting, that’s just $800 - $1200 per month.

#### A just government should not force workers to strike, foregoing pay and benefits, for better working conditions. Rather, a just government should ensure quality working conditions without requiring strikes. Sonn and Walker 18:

Sonn, Paul and Walker, Naomi. December 3, 2018. “A State Agenda for America’s Workers.” *Economic Policy Institute.* URL: <https://www.epi.org/publication/state-agenda-for-americas-workers/> accessed on 11.5.21 by bws kat

2. Get States Back in the Business of Fighting Wage Theft and Enforcing Other Worker Protections - Every week millions of workers are cheated when employers short their paychecks, force them to work off the clock, fail to pay even the minimum wage, or skirt employment laws by denying that they are employees. This type of wage theft is a national epidemic that robs U.S. workers and our economy of billions of dollars a year and hurts law-abiding employers that can’t compete with wage chiselers. But in many states, the agencies responsible for cracking down on employers that cheat their workers have been neglected and defunded. Governors and legislatures need to get their states back in the business of fighting wage theft and enforcing other worker protections, ranging from combatting independent contractor misclassification to preventing employers from defrauding the workers’ compensation system. Key best practices for restoring effective enforcement include: First and foremost, increasing labor agency budgets to [ensure adequate staffing and enforcement capacity](https://www.politico.com/story/2018/02/18/minimum-wage-not-enforced-investigation-409644); Developing [strategic enforcement](https://www.dol.gov/whd/resources/strategicEnforcement.pdf) priorities, in [partnership](https://s27147.pcdn.co/wp-content/uploads/Enforcement-of-15-dollar-minimum-wage-in-Minneapolis-requires-strategic-partnerships.pdf) with [worker organizations](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1594&context=uclf); Cracking down on [retaliation](https://s27147.pcdn.co/wp-content/uploads/2015/03/WinningWageJustice2011.pdf) against workers who speak up; Reviewing and updating regulations and administrative guidance—for example, to provide clear guidance on business’s responsibilities for contract workers, as detailed below.

#### Sonn and Walker continue:

Sonn, Paul and Walker, Naomi. December 3, 2018. “A State Agenda for America’s Workers.” *Economic Policy Institute.* URL: <https://www.epi.org/publication/state-agenda-for-americas-workers/> accessed on 11.5.21 by bws kat

10. Protect Workers’ Health and Safety Nearly 50 years after Congress adopted the Occupational Safety and Health Act (OSHA) requiring employers to provide safe workplaces, more than 5,000 U.S. workers are killed on the job every year, and nearly three million are seriously injured. Many low-wage jobs are dangerous jobs, including jobs in the poultry and meat industries, agriculture, construction, and home care, where workers suffer much higher rates of serious job injuries. Yet the Trump Administration is rolling back workplace health and safety protections, leaving workers even more vulnerable. Adopt Responsible State Health and Safety Contracting. Governors and state legislatures should fight these rollbacks by promoting model protections for workers. For example, Massachusetts is considering a model responsible contracting law for health and safety. It requires contractors and subcontractors bidding on state-funded projects to submit their health and safety violations histories—and bars contracting with companies with poor records. Legislatures and governors using their executive authority over contracting should adopt this model. Stronger State Workplace Protections on Heat Exposure. With climate change, heat exposure is emerging as a very serious workplace health hazard in sectors from agriculture to day labor. But currently there are few standards or protections. Governors and legislatures should adopt new standards and programs to provide stronger protections for workers exposed to dangerous levels of heat, especially farm workers but also workers in construction, manufacturing, and warehousing—all sectors where workers of color and immigrants are concentrated. Strengthen Workers’ Compensation Laws. Over the past two decades, state legislatures have engaged in a race to the bottom by hollowing out their workers’ compensation laws, resulting in unfair, weak, or nonexistent benefits for injured workers. Governors and legislatures should work together to prevent any further weakening of benefits and coverage–especially since workers’ compensation premiums and benefits are now at a 30 year low. Key workers’ compensation reforms that are needed in most states include: (1) strong anti-retaliation protections for injured workers; (2) insurance coverage for prompt medical care in contested cases; (3) extending coverage to all workers, including domestic workers, farm workers, and temporary workers; and (4) ensuring that workers have the right to choose their own doctor.