

I negate

First I offer the following definitions to clarify the round

Strike is defined as a “work stoppage by a body of workers to enforce compliance with demands made on an employer” by Merriam Webster

Just is defined as guided by truth, reason, justice, and fairness by Dictionary.com

Unconditional is defined as “not subject to any conditions” by Oxford Dictionary

On to the Contention Level

Contention 1: The Right to strike should not be unconditional

A: Essential Workers

An unconditional right for essential workers to strike would put innocent lives at risk

Graham 63 James Graham (A.B., Fordham University; LL.B., St. John's University). "A Reconsideration of the Right to Strike." The Catholic Lawyer, Volume 9, Number 2, Spring 1963. JDN.
<https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1434&context=tcl>

In September 1962, a strike by the American Federation of Television and Radio Artists (AFTRA) blacked out New York City's first educational television station on its opening night. Whatever the merits of the dispute, AFTRA's conduct in this case constituted at best a brutal and unnecessary demonstration of economic strength which certainly made no friends for organized labor. It is only fair to add, however, that a double standard seems to prevail on the question of strikes. **Last summer,**

we witnessed instances of direct action by the medical profession which, in the opinion of this writer, were more outrageous than anything ever contemplated by organized labor. Some doctors in New Jersey threatened to strike against the medicare plan of the Kennedy administration; most of the doctors in the

Saskatchewan Province of Canada did in fact strike, obviously for other reasons. Yet criticism of either group in responsible publications, when compared with the usual reactions to a strike of milk deliverers, for example, was surprisingly mild. **Even adverse criticism of the conduct of the Canadian doctors was often tempered with the curious assurance to readers that "emergency" care was being provided during the strike. Statistics may never be made available but the fallacy here becomes evident when we consider the not-so-remote possibility that a citizen or citizens of Saskatchewan might have died from cancer discovered two weeks too late because at the time of the first complaint, the patient's doctor was exercising his common-law right to strike. Though not an "emergency" case ab initio, the hypothetical patient died all the same.**

B: International Law recognizes ONLY conditional strikes

The right to strike is not absolute under customary international law---the International Labor Organization, or ILO, has the right to set reasonable conditions on the right to strike.

International Trade Union Confederation 2014 International Trade Union Confederation. "The Right To Strike And The ILO: The Legal Foundations." March, 2014. Web. October 12, 2021. <https://www.ituc-csi.org/IMG/pdf/ituc_final_brief_on_the_right_to_strike.pdf>.

Again, we do not argue that the right to strike is an absolute right under customary law. Most of the international instruments, national laws and decisions impose some procedural requirements of greater or lesser stringency. These are characterised variously as "necessary in a democratic society," "not jeopardizing public health," "in accordance with national law," and so on. This last is perhaps the most restrictive on its face, though national law cannot become an excuse to nullify basic rights.

Between the extremes of an unconditional right to strike and an absolute prohibition on strikes "in accordance with national law," the international community is converging on the general principle of the right to strike within reasonable limits. The authors of this document acknowledge the tension between countries' varying degrees of limitations on the right to strike and the normal requirement of uniformity of state practice to find customary international law.

It is believed that the tension can be resolved by distinguishing between divergence in detail and convergence in principle. Procedural requirements in national law are details; the right to strike within reasonable limits is the common principle. Importantly, customary international law does not require absolute uniformity of practice. As the International Court of Justice said in the Nicaragua Case: The Court does not consider that, for a rule to be established as customary, the corresponding practice must be in absolutely rigorous conformity with the rule. In order to deduce the existence of customary rules, the Court deems

it sufficient that the conduct of States should, in general, be consistent with such rules...³¹⁶

All states recognise the right to strike within reasonable limits, and their conduct is consistent with this rule. What limits are reasonable? **The ILO is the best placed and most appropriate forum to articulate such limits. It is the specialised agency of the United Nations and the entity charged by the international community with promoting "recognition of the principle of freedom of association."**³¹⁷ As set forth in previous sections of this document, the ILO has created the Committee of Experts and the CFA to oversee application of Conventions 87 and 98.

C: Violent Strikes

If unrestricted, strikes can lead to violence against innocent people

Tenza 20 Mlungisi Tenza (Senior Lecturer, University of KwaZulu-Natal). "The effects of violent strikes on the economy of a developing country: a case of South Africa." *Obiter* vol.41n.3 Port Elizabeth 2020. JDN. http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004

Even though the right to strike and the right to participate in the activities of a trade union that often flow from a strike ¹⁷ are guaranteed in the Constitution and specifically regulated by the LRA, it sometimes happens that the right to strike is exercised for purposes not intended by the Constitution and the LRA, generally.¹⁸ For example, it was not the intention of the Constitutional Assembly and the legislature that violence should be used during strikes or pickets. **As the Constitution provides, pickets are meant to be peaceful.** ¹⁹ **Contrary to section 17 of the Constitution, the conduct of workers participating in a strike or picket has changed in recent years with workers trying to emphasise their grievances by causing disharmony and chaos in public.** A media report by the South African Institute of Race Relations pointed out that **between the years 1999 and 2012 there were 181 strike-related deaths, 313 injuries and 3,058 people were arrested for public violence associated with strikes.** ²⁰ The question is whether employers succumb easily to workers' demands if a strike is accompanied by violence? In response to this question, one worker remarked as follows: "[T]here is no sweet strike, there is no Christian strike ... A strike is a strike. [Y]ou want to get back what belongs to you ... you won't win a strike with a Bible. You do not wear high heels and carry an umbrella and say '1992 was under apartheid, 2007 is under ANC'. You won't win a strike like that."²¹ **The use of violence during industrial action affects not only the strikers or picketers, the employer and his or her business but it also affects innocent members of the public, non-striking employees, the environment and the economy at large. In addition, striking workers visit non-striking workers' homes, often at night, threaten them and in some cases, assault or even murder workers who are acting as replacement labour.** ²² This points to the fact that for many workers and their families' living conditions remain unsafe and vulnerable to damage due to violence. **In Security Services Employers Organisation v SA Transport & Allied Workers Union (SATAWU),²³ it was reported that about 20 people were thrown out of moving trains in the Gauteng province; most of them were security guards who were not on strike and who were believed to be targeted by their striking colleagues.** Two of them died, while others were admitted to hospitals with serious injuries.²⁴ In *SA Chemical Catering & Allied Workers Union v Check One (Pty) Ltd*,²⁵ striking employees were carrying various weapons ranging from sticks, pipes, planks and bottles. One of the strikers Mr Nqoko was alleged to have threatened to cut the throats of those employees who had been brought from other branches of the employer's business to help in the branch where employees were on strike. Such conduct was held not to be in line with good conduct of striking.²⁶

Onto opp case

C2

Orechwa 08

Walter Orchwa Costs of Strikes Billions with a 'B' <https://projectionsinc.com/unionproof/cost-of-a-strike-billions-with-a-b/>

Strikes take their toll in many forms, and whether they are short or very long, sometimes the damage is irreparable. With lengthy strikes, jobs can be lost, careers ended, violence can erupt, sometimes even death, property destruction, loss of friendships, including family members, marriages ended,

foreclosure, credit ruined, children and spouses without insurance, and birthdays, holidays and even Christmas pass on by month after month, year after year.

All of these things can happen during a strike – and for what exactly? A 3% raise, 5% or even 10%. Do the math, figure out how long it would take to make up the monetary losses of a strike, much less all the non-monetary losses. Most strikers do not realize that even after a short, simple 2-week strike, it would take well over a year to recover 2 weeks of lost wages... and that's with a 3% increase (making \$15 an hour).

Take the UPS-Teamsters strike from 1997, it lasted 15 days. In the media, the company blinked and the union won. Or did they? **The strike cost the average full-time employee \$1,785 in lost wages and an estimated \$3,065 in annual profit sharing. Studies show that it would take almost the entire five-year term of the agreement for those employees to recoup it all.**

Even if my opp is helping some people most people who strike will face harms

C3

Strikes hurt economy and halt growth

Tenza 20 “The effects of violent strikes on the economy of a developing country: a case of South Africa”

http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004

These strikes are not only violent but take long to resolve. Generally, **a** lengthy **strike has a negative effect on employment,**

reduces business confidence and increases the risk of economic stagflation In

addition, such **strikes have a major setback on the growth of the economy and**

investment opportunities. It is common knowledge that consumer spending is directly linked to economic growth. At the same time, **if the**

economy is not showing signs of growth, employment opportunities are shed,

and poverty becomes the end result. The economy of South Africa is in need of rapid growth to enable it to deal with the high levels of unemployment and resultant poverty.