# Flay/Lay NC

#### I negate etc.

#### <https://www.google.com/search?q=define+unconditional&rlz=1C1CHBF_enUS909US909&oq=define+unconditional&aqs=chrome.0.69i59l2j0i512l3j0i10i512j0i512l4.1750j0j7&sourceid=chrome&ie=UTF-8>

“Unconditional” as defined by Merriam Webster means “not subject to any conditions.” – prefer bc most commonly used

### Framework

#### Let’s start with the framework. I value morality because the word “ought” in the resolution indicates a moral obligation.

#### First, morality must begin from our ability to reason. When you take an action, you can always ask why you should take the action. When a reason for the action is formulated, however, you can ask again why we should consider this reason. These justifications continue on into infinity because you can always keep asking “why.” The only way to solve this problem and get to the root of morality is to base ethics in reason itself, because asking for a reason to use reason concedes that it is important. Another justification for this basis is that the ability to reason to take action is what defines a moral agent. For example, a rock may roll down a hill, but because it lacks to ability to reason to make that decision, we would not say that morality applies to it.

#### That means that all actions must be universalizable, making the value criterion of the debate consistency with universal maxims. Just like how 2 + 2 = 4 is universally true for all reasoners, morality must be universally true as well. Taking an action means you imply that others should be able to take the action because morality must apply the same way to both of you. That means certain actions are restricted.

#### For clarification, morality is derived from whether it would logically contradict itself, not from adding up the consequences of certain actions. Adding 2 circles doesn’t make anything more circular than it was before, just like how 2 actions aren’t more universalizable than 1. Therefore, consequence-based arguments that do not pertain to the universalizability of actions, such as policy advantages, do not matter if I win the framework debate.

### C1: Contractarianism

#### Striking violates the contracts that workers agree to because they enforce the employer’s obligation to uphold the contract by continuing to employ the worker but allows workers to neglect their end of the contract.

Gourevitch 16 Alex Gourevitch, assistant professor of political science at Brown University, “Quitting Work but Not the Job: Liberty and the Right to Strike,” 2016, American Political Science Association, accessed 20 October 2021, Pg. 309, <https://sci-hub.do/10.1017/S1537592716000049> ~ST~ Gourevitch does not agree with the terminal conclusion of the aff

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.

If a right to strike is not a right to quit, what is it? It is the right that workers claim to refuse to perform work they have agreed to do while retaining a right to the job. Most of what is peculiar, not to mention fraught, about a strike is contained in that latter clause. Yet, surprisingly, few commentators recognize just how central and yet peculiar this claim is.16 Opponents of the right to strike are sometimes more alive to its distinctive features than defenders. One critic, for instance, makes the distinction between quitting and striking the basis of his entire argument:

#### That’s definitionally non-universalizable – to leverage power for some by breaking contract necessitates that others uphold the contract; otherwise, the contract would be nonexistent.

Lumen no date Lumen Learning, “Kantian Ethics (Main Concepts),” no date, Lumen Learning, accessed 20 October 2021, <https://courses.lumenlearning.com/sanjacinto-philosophy/chapter/kantian-ethics-main-concepts/> ~ST~

When someone acts, it is according to a rule, or maxim. For Kant, an act is only permissible if one is willing for the maxim that allows the action to be a universal law by which everyone acts.[15] Maxims fail this test if they produce either a contradiction in conception or a contradiction in the will when universalized. A contradiction in conception happens when, if a maxim were to be universalized, it ceases to make sense because the “…maxim would necessarily destroy itself as soon as it was made a universal law.”[16] For example, if the maxim ‘It is permissible to break promises’ was universalized, no one would trust any promises made, so the idea of a promise would become meaningless; the maxim would be self-contradictory because, when universalized, promises cease to be meaningful. The maxim is not moral because it is logically impossible to universalize—we could not conceive of a world where this maxim was universalized.[17]A maxim can also be immoral if it creates a contradiction in the will when universalized. This does not mean a logical contradiction, but that universalizing the maxim leads to a state of affairs that no rational being would desire. For example, Driver argues that the maxim ‘I will not give to charity’ produces a contradiction in the will when universalized because a world where no one gives to charity would be undesirable for the person who acts by that maxim.[18]

### C2: Coercion and Freedom Violations

#### A strike uses the employer and society as tool.

Fourie 17 Johan Fourie, professor of Economics and History at Stellenbosch University, "Ethicality of Labor-Strike Demonstrates by Social Workers," 30 November 2017, accessed 19 October 2021, Other Papers, <https://www.otherpapers.com/essay/Ethicality-of-Labor-Strike-Demonstrates-by-Social-Workers/62694.html> JG recut

A further formula of the Categorical Imperative is "so, act as to treat humanity, whether in your own person or in that of any other context, never solely as a means to an end but always as an end within itself' (Parrott, 2006, p. 51). By this Kant meant people should be valued and respected as an individual and not used for the benefit of others. Participating in a labor-strike demonstration/action is a direct violation of this categorical perspective as it would not be ethically permissible because the severe dependence and well-being of clients, the effective functioning of the employer organization, and society is used to duly and unduly influence the bargaining process for better working conditions. In participating in the labor strike demonstration, the humanity, and well-being of clients and society is not seen as crucial and as an 'end', but rather used to demonstrate the undeniable need for the skills and expertise of social workers. Furthermore, through withholding services, social worker professionals demonstrate that the well-being and welfare of society have lost its inherent importance/value. Though the value of overall well-being is taught throughout the social work training process and is enshrined in the professional ethical codes.

#### Next, in medical services, strikes can only function through the intent of actively causing harm to patients.

Loewy 2000 Erich H. Lowey, professor of bioethics at University of California, "Of healthcare professionals, ethics, and strikes," Cambridge Q. Healthcare Ethics 9 (2000): 513. Accessed 19 October 2021, Pg. 516-517, sci-hub.se/10.1017/S0963180100904092 JG recut

In the medical setting, furthermore, workers are much more apt to deal with identified lives: they know their patients and often have known them for some time. Striking against their employer (even if it is done in part to benefit the patient) is denying meaningful and often essential services to some of these identified lives. We tend to relate differently with those lives we know and therefore call “identified” from those whom we consider “unidentified” or statistical lives, in part, because we have obligations as a result of relationships; in part because we fail to recognize that these so-called unidentified lives are not in fact unidentified but are merely not identified by us.4 When strikes are called by healthcare professionals, both types of lives are apt to be injured or, at least, severely inconvenienced.

Except in the pocketbook, strikes in the healthcare setting generally do not directly hurt the employer. The employer is hurt through the patient. The patient thus becomes a means toward the employees’ ends, a football being kicked between two contending parties—even if one of the employees’ goals is to serve the good of patients in general. Theoretically, patients will then bring pressure on the employer (be it the government or a managed care organization), thus, quite frankly, using the patient as a means toward the ends of the health professionals.5 The dilemma, of course, is that without significantly inconveniencing or even endangering patients, no pressure is likely to be brought and, therefore, no amelioration of working conditions is effected. To be effective, a strike of healthcare professionals has to “hurt” patients and often patients known to the healthcare professionals.

#### These violate the test of universalizability – workers coerce their employers and intend to use societal suffering for personal gain, but undermining someone’s freedom by forcing them to do something is non-universalizable because it requires the exercise of your own freedom.

# Case

#### First, an important observation – the affirmative must defend a right to strike in every instance, not only in a specific scenario. Morality and justice are universal concepts – we can’t pick and choose when they apply. And, the resolution specifies an unconditional right to strike, which means it must happen without limitation. This means that one scenario in which intellectual property protections are justified is sufficient to negate.

### 1 – Racist Strikes

#### There has been a history of striking for the purpose of excluding and marginalizing black people

Allison Keyes, JUNE 30, 2017, "The East St. Louis Race Riot Left Dozens Dead, Devastating a Community on the Rise," Smithsonian Magazine, https://www.smithsonianmag.com/smithsonian-institution/east-st-louis-race-riot-left-dozens-dead-devastating-community-on-the-rise-180963885/ //SR

Racial tensions began simmering in East St. Louis—a city where thousands of blacks had moved from the South to work in war factories—as early as February 1917. The African-American population was 6,000 in 1910 and nearly double that by 1917. In the spring, the largely white workforce at the Aluminum Ore Company went on strike. Hundreds of blacks were hired. After a City Council meeting on May 28, angry white workers lodged formal complaints against black migrants. When word of an attempted robbery of a white man by an armed black man spread through the city, mobs started beating any African-Americans they found, even pulling individuals off of streetcars and trolleys. The National Guard was called in but dispersed in June.

#### That’s clearly immoral because workers literally strike so that certain groups are excluded from employment, which causes all the bad impacts that the affirmative is trying to prevent.

### 2 – Violent Strikes

**The unconditional right to strike does not provide protections against these violent strikes.**

**Violent strikes in South Africa posed threats to human life, workplaces and the economy.**

**Tenza 20** Mlungisi. "The effects of violent strikes on the economy of a developing country: a case of South Africa." Obiter 41.3 (2020): 519-537. (Senior Lecturer, University of KwaZulu-Natal)

**When South Africa obtained democracy in 1994, there was a dream of a better country with a new vision for industrial relations**.5 **However**, the number of violent strikes that have bedevilled this country in recent years seems to have shattered-down the aspirations of a better South Africa. South Africa recorded **114 strikes in 2013 and 88 strikes in 2014,** which **cost the country about R6.1 billion** according to the Department of Labour.6 The impact of these strikes has been hugely felt by the mining sector, particularly the platinum industry. **The biggest strike took place in the platinum sector where about 70 000 mineworkers’ downed tools** for better wages. Three major platinum producers (Impala, Anglo American and Lonmin Platinum Mines) were affected. The strike started on 23 January 2014 and ended on 25 June 2014. Business Day reported that “**the five-month-long strike in the platinum sector pushed the economy to the brink of recession[and]**”. 7 This strike was closely followed by a four-week strike in the metal and engineering sector. All **these strikes** (and those not mentioned here) **were characterised with violence accompanied by damage to property, intimidation, assault and sometimes the killing of people**. Statistics from the metal and engineering sector showed that about 246 cases of intimidation were reported, 50 violent incidents occurred, and 85 cases of vandalism were recorded.8 Large-scale unemployment, soaring poverty levels and the dramatic income inequality that characterise the South African labour market provide a broad explanation for strike violence.9 While participating in a strike, workers’ stress levels leave them feeling frustrated at their seeming powerlessness, which in turn provokes further violent behaviour.10 These strikes are not only violent but take long to resolve. Generally, a lengthy strike [and]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. One of the measures that may boost the country’s economic growth is by attracting potential investors to invest in the country. However, this might be [is]difficult as investors would want to invest in a country where there is a likelihood of getting returns for their investments. The wish of getting returns for investment may not materialise if the labour environment is not fertile for such investments as a result of, for example, unstable labour relations. Therefore, investors may be reluctant to invest where there is an unstable or fragile labour relations environment. 3 THE COMMISSION OF VIOLENCE DURING A STRIKE AND CONSEQUENCES The Constitution guarantees every worker the right to join a trade union, participate in the activities and programmes of a trade union, and to strike. 11 The Constitution grants these rights to a “worker” as an individual.12 However, the right to strike and any other conduct in contemplation or furtherance of a strike such as a picket13 can only be exercised by workers acting collectively.14 The right to strike and participation in the activities of a trade union were given more effect through the enactment of the Labour Relations Act 66 of 199515 (LRA). The main purpose of the LRA is to “advance economic development, social justice, labour peace and the democratisation of the workplace”. 16 The advancement of social justice means that the exercise of the right to strike must advance the interests of workers and at the same time workers must refrain from any conduct that can affect those who are not on strike as well members of society. Even though the right to strike and the right to participate in the activities of a trade union that often flow from a strike17 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 These examples from case law show that South Africa is facing a problem that is affecting not only the industrial relations’ sector but also the economy at large. For example, in 2012, during a strike by workers employed by Lonmin in Marikana, the then-new union Association of Mine & Construction Workers Union (AMCU) wanted to exert its presence after it appeared that many workers were not happy with the way the majority union, National Union of Mine Workers (NUM), handled negotiations with the employer (Lonmin Mine). AMCU went on an unprotected strike which was violent and resulted in the loss of lives, damage to property and negative economic consequences including a weakened currency, reduced global investment, declining productivity, and increase unemployment in the affected sectors.27 Further, the unreasonably long time it takes for strikes to get resolved in the Republic has a negative effect on the business of the employer, the economy and employment. 3 1 Effects of violent and long strikes on the economy Generally, South Africa’s economy is on a downward scale. First, it fails to create employment opportunities for its people. The recent statistics on unemployment levels indicate that unemployment has increased from 26.5% to 27.2%. 28 The most prominent strike which nearly brought the platinum industries to its knees was the strike convened by AMCU in 2014. The strike started on 23 January 2014 and ended on 24 June 2014. It affected the three big platinum producers in the Republic, which are the Anglo American Platinum, Lonmin Plc and Impala Platinum. It was the longest strike since the dawn of democracy in 1994. As a result of this strike, the platinum industries lost billions of rands.29 According to the report by Economic Research Southern Africa, the platinum group metals industry is South Africa’s second-largest export earner behind gold and contributes just over 2% of the country’s Gross Domestic Product (GDP).30 The overall metal ores in the mining industry which include platinum sells about 70% of its output to the export market while sales to local manufacturers of basic metals, fabricated metal products and various other metal equipment and machinery make up to 20%. 31 The research indicates that the overall impact of the strike in 2014 was driven by a reduction in productive capital in the mining sector, accompanied by a decrease in labour available to the economy. This resulted in a sharp increase in the price of the output by 5.8% with a GDP declined by 0.72 and 0.78%.32