**Constitutivism**

#### The metaethic is constitutivism – ethics must be derived from immutable features of agency

#### Ethics motivated internally fail since they don’t generate universal obligations. Ethics motivated externally fail since they generate nonbinding obligations and beg the question of why these obligations exist and why we care. Constitutivism solves because agency is definitionally universal and binding – it’s inescapable.

#### Practical reason is constitutive of agency – you can shift between different identities, but the only temporally constant feature is your ability to choose. Attempting to escape practical reason is incoherent because you use practical reason to choose to escape it – that’s circular.

#### Violating freedom is non universalizable and thus causes a contradiction in conception.

**Engstrom** [Stephen Engstrom, (Professor of Philosophy @ the University of Pittsburgh) "Universal Legislation as the Form of Practical Knowledge" http://www.academia.edu/4512762/Universal\_Legislation\_As\_the\_Form\_of\_Practical\_Knowledge, DOA:5-5-2018 // recut]

Given the preceding considerations**, it’s a straightforward matter to see how a maxim of action that assaults the freedom** of others with a view to furthering one’s own ends **results in a contradiction when we attempt to will it as a universal law in accordance with the foregoing account of the formula of universal law. Such a maxim would lie in a practical judgment that deems it good** on the whole to act to limit others’ outer freedom, and hence their self-sufficiency, their capacity to realize their ends, where doing so augments, or extends, one’s own outer freedom and so also one’s own self-sufficiency.  Now on the interpretation we’ve been entertaining, applying the formula of universal law involves considering whether it’s possible for every person—every subject capable of practical judgment—to share the practical judgment asserting the goodness of every person’s acting according to the maxim in question. Thus in the present case the application of the formula involves considering whether it’s possible for every person to deem good every person’s acting to limit others’ freedom, where practicable, with a view to augmenting their own freedom. Since here all persons are on the one hand deeming good **both the limitation of others’ freedom and the extension of their own freedom, while on the other hand, insofar as they agree with the similar judgments of others, also deeming good the limitation of their own freedom and the extension of others’ freedom, they are all deeming good both the extension and the limitation of both their own and others’ freedom. These judgments are inconsistent insofar as the extension of a person’s outer freedom is incompatible with the limitation of that same freedom.**

#### And, All agents must accept the state as necessary to enforce rights claims.

**Ripstein 04** [Arthur Ripstein, (University Professor of Law and Philosophy, [University of Toronto](https://scholar.google.com/citations?view_op=view_org&hl=en&org=8515235176732148308)) "Authority and Coercion" Philosophy & Public Affairs, 32: 2–35, 2004, http://onlinelibrary.wiley.com/doi/10.1111/j.1467-6486.2004.00003.x/abstract, DOA:12-16-2017 // WWBW//recut]

Kant explains **the need for** the three branches of **government** in Rousseau’s vocabulary **of the “general will.” Kant finds this concept helpful, since it manages to capture the way in which the specificity of the law and the monopoly on [the law’s] its enforcement do not thereby make it the unilateral imposition of one person’s will upon another. Instead, it is what Kant calls an “omnilateral” will, since all must agree to set up procedures that will make right possible**. All must agree, because **without such procedures, equal freedom is impossible**, and so the external freedom of each is impossible. But the sense in which they must agree is not just that they should agree**; it is that they cannot object to being forced to accept those procedures, because any objection would be nothing more than an assertion of the right to use force against others unilaterally.** Once the concept of the General Will is introduced, it provides further constraints on the possibility of a rightful condition, and even explains the ways in which a state can legitimately coerce its citizens for reasons other than the redress of private wrongs. Kant’s treatment of these issues of “Public Right” has struck many readers as somewhat perfunctory, especially after his meticulously detailed, if not always transparent, treatment of private right. He treats these issues as he does because he takes them to follow directly from the institution of a social contract. The details of his arguments need not concern us here, because he does not claim that these exhaust the further powers of the state. Instead, he puts them forward as additional powers a state must have if it is to create a rightful condition, and it is the structure of that argument that is of concern here.

#### Thus the standard is consistency with the system of equal and outer freedom.

#### Prefer additionally:

#### [1] Solves oppression because it is caused by arbitrary exclusion of others – only universalizability makes sure that we include everyone equally. Farr 02

Farr, Arnold. Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative? 2002, blog.ufba.br/kant/files/2009/12/Can-a-Philosophy-of-Race-Afford-to-Abandon-the.pdf. from ben

The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. Kant is often accused of making the moral agent an abstract, empty, noumenal subject. Nothing could be further from the truth. **The** Kantian **subject is an embodied, empirical, concrete subject.** However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. **We are physical creatures with physical drives or desires. The very fact that I cannot simply satisfy my desires without considering the rightness or wrongness of my actions suggests that my empirical character must be held in check by something,** or else I behave like a Freudian id. **My empirical character must be held in check by my intelligible character, which is the legislative activity of practical reason. It is through our intelligible character that we formulate principles that keep our empirical impulses in check. The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence**. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: **In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally significant is that it makes our own case no special exception** (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. The Formula of Universal Law enjoins no more than that we act only on maxims that are open to others also.16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, **universalizable moral principles require that the individual think beyond his or her own particular desires. The individual is not allowed to exclude others as rational moral agents who have the right to act as he acts in a given situation**. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. Hence, **the universalizability criterion is a principle of consistency and a principle of inclusion.** That is, in choosing my maxims I attempt to include the perspective of other moral agents.

#### [2] Consequentialism fails – A] Induction fails – 1. saying that induction works relies on induction itself because it assumes that past trends will continue, which means it’s circular and unjustified 2. It assumes specific causes of past consequences which can’t be verified as the actual cause B] Butterfly effect - every action has infinite consequences so it is impossible to evaluate an action; one government policy could end up causing nuclear war in a million years. C] Aggregation is impossible – pleasure and pain are subjective – we have no idea how many headaches equal a migraine D] Infinite obligations – I have infinite obligations to maximize pleasure with no way to order them which freezes action.

#### [3] A priori ethics are the only stable epistemology –

#### a] Cartesian Skep – there’s no way of verifying the truth of our experience since we could be getting tricked by an evil demon. Only a priori ethics avoid this because they are not derived empirically

#### b] Uncertainty – every person has different experiences so we can’t have a unified perspective on the good if we have different conceptions of it. Aggregation doesn’t solve because there will be times it fails.

#### c] Prerequisite – in order to interpret space around us we need to represent it in the a priori.

#### [4] Practical reason hijacks –

#### a] Regress – any principle can be infinitely questioned which proves its base non-binding but only reason solves because when you question something you concede to the authority of reason

#### b] Action theory – any action can be split into infinite smaller actions. When I am moving my arm it is infinitely small connected movements. Only the intentionality of the action can solves meaning intentions outweigh.

#### c] Hijacks – when we set ends we attempt to achieve what is good, so we must regard the capacity to set and pursue ends as intrinsically valuable.

### Offense

#### I’ll defend whole res.

#### Affirm:

#### [1] Respecting agents – the right to strike gives workers more power over their freedom and forces companies to respect their dignity.

Gourevitch (Alex Gourevitch, Norman E. Bowie is professor emeritus at the University of Minnesota. Until his retirement in 2009 he was Elmer L Andersen Chair of Corporate Responsibility and served in the departments of strategic management and of philosophy., June 2016, accessed on 10-4-2021, American Political Science Association, "Quitting Work but Not the Job: Liberty and the Right to Strike", doi:10.1017/S1537592716000049)//st \*brackets for grammar\*

On top of which, as Smith noted, “masters are always and every where in a sort of tacit, but constant anduniform combination.” In a world in which economic necessity couples with employer collusion, workers have little choice: “Such combinations [by employers], however, are frequently resisted by a contrary defensive combination of the workmen; who sometimes too, without any provocation of this kind, combine of their own accord to raise the price of their labour.” 51 For this reason Smith thought it was wrong to treat trade unions as criminal conspiracies.52 The view of unions and strikes as defensive, aimed at lessening employers’ ability to take advantage of workers’ need, persisted throughout the industrial age. By the time L.T. Hobhouse wrote Liberalism, it was possible for a liberal to argue that **strikes might even be connected to human freedom:** The emancipation of **trade unions,** however, extending over the period from 1824 to 1906, and perhaps not yet complete, **was in the main a liberating movement, because combination was [are] necessary to place the workman on something approaching terms of equality with the employer, and because tacit combinations of employers could never, in fact, be prevented by law.**53 We must note, however, that nearly all of these arguments remain within a form of social theory that attempts to make capitalist practice more like its theoretical self-image. These thinkers tended to defend unions and their right to strike as a way of achieving “real freedom of contract” in the face of economic necessity. Hobhouse was updating Smith and Mill when arguing that “in **the matter of contract true freedom postulates substantial equality between the parties. In proportion as one party is in a position of vantage, he is able to dictate his terms. In proportion as the other party is in a weak position, he [and] must accept unfavourable terms.”** 54 On this account, the right to strike is defensible only insofar as it helps maintain a position of relative equality among independent bargaining parties. It thereby secures contracts that are not just voluntary but truly free—Mill’s “necessary instrumentality of that free market.” This basic idea reappears in any number of twentieth-century acts of labor legislation and jurisprudence, perhaps most notably in the 1935 law granting American workers the right to strike.55

#### [2] Coercion – coercion in the workplace treats agents as a means to an ends by overriding suitable working conditions.

Chima(Sylvester C Chima, 1Programme of Bio & Research Ethics and Medical Law, Nelson R Mandela School of Medicine & School of Nursing and Public Health, College of Health Sciences, University of KwaZulu-Natal, Durban, South Africa, 12-19-2013, accessed on 10-4-2021, PubMed Central (PMC), "Global medicine: Is it ethical or morally justifiable for doctors and other healthcare workers to go on strike?", https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B64)

One can also argue that denial of such striking rights may also be considered unfair discrimination and therefore morally unjustifiable.Some philosophers have described moral obligations or duties, which ought to guide ethical behavior, such as the duty of fidelity or the obligation to keep promises, and beneficence - the obligation to do 'good' [[10](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B10)]. However, it has been suggested that some other equally compelling moral duties or ethical obligations may conflict with the above duties, such as the right to justice. Justice is the right to fair treatment in light of what is owed a person [[63](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B63)]. For example, it may be argued that *everybody is equally entitled to a just wage for just work*. The philosopher Immanuel Kant based his moral theory on a categorical imperative which encourages moral agents to act, based on a principle, which they would deem to become a universal law [[64](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B64)]. One can argue that the decision by any HCW to go on strike may not be universalisable. However, looking at this decision from the principle of respect for autonomy, or freedom of choice, **one can conclude that individual autonomy is a sentiment which is desirable for all human beings. Accordingly, every worker should be free to choose whether to work or not, based on a whether any specific set of conditions of their own choosing have been met. Kant argues further that moral agents or individuals should be treated, "whether in your own person or in that of any other, never solely as a means, but always as an end"** [[64](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B64)]. This idea that individuals should be treated as ends in themselves has influenced political philosophy for centuries, and stresses the libertarian ideology that **people should not have their individual freedoms curtailed either for others or for the good of society in general** [[10](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B10),[64](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B64)]. From this axiomatic considerations, **one can conclude that it would be unethical for people to be used as slaves or be forced to work for inadequate wages or under slave-like conditions** [[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B4),[10](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B10),[12](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B12),[51](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B51)]. The issue of HCW strikes can also be analyzed from utilitarian principles as formulated by one of its major disciples JS Mills as follows [[65](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B65)]: *The creed which accepts as the foundation of morals, utility, or the greatest happiness principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness*. One can argue based on utilitarian principles that the short term suffering induced by doctor and HCW strikes can be mitigated by the long-term benefits such as improvement of healthcare services for the greatest number of people over time [[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B2)]. Even if the immediate gains are improved wages and conditions of employment for HCWs alone, in the long-term these will translate into better healthcare service delivery to the local community and society-at-large. Similarly a rights based approach to the issue of strikes, would suggest that even though the goal of bringing about the better healthcare for individual patients or the public at large is a major ethical duty. There is an equally compelling moral duty to protect and enhance individual rights. Protection of individual rights in employment helps to ensure that no group of citizens, are unfairly discriminated against in the quest for equal rights for all in a democratic society.

#### Strikes allow workers to protest against unfair working conditions.

Chima (Sylvester C Chima, 1Programme of Bio & Research Ethics and Medical Law, Nelson R Mandela School of Medicine & School of Nursing and Public Health, College of Health Sciences, University of KwaZulu-Natal, Durban, South Africa, 12-19-2013, accessed on 10-4-2021, PubMed Central (PMC), "Global medicine: Is it ethical or morally justifiable for doctors and other healthcare workers to go on strike?", <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B64>)

It has been suggested that doctor and HCW strikes can create a tension between the obligation on doctors and other HCWs to provide adequate care to current patients versus the need to advocate for improved healthcare services for future patients and for society in general [[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B2),[31](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B31)]. There is also a potential conflict between doctors' role in advocating for improved healthcare service for others versus the need to advocate for justifiable wages for self and the fulfilment of basic biological needs like all humans [[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B4),[32](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B32)]. **It has been suggested that since strikes are considered a fundamental right or entitlement during collective bargaining and labour negotiations [**[**33**](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B33)**]. Therefore to deny any employee the right to strike would be an argument for enslavement of such an employee, because this would simply mean that whatever the circumstances-such an individual must work!** A situation deemed to be both ethically and morally indefensible [[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B4)]. It is pertinent to observe that there is an on-going paradigm shift in the organization of healthcare services and doctors' employment options with a change in the role of doctors from self-employment, and medical practice based on benevolent paternalism, to consumer rights and managed healthcare [[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B2)]. Historically, doctors had the sole responsibility within the doctor-patient relationship, to determine the costs of medical care to their patients, however, current trends show that doctors are increasingly becoming employees of managed healthcare organizations (HCOs) or employees of public health services [[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B2),[34](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B34)-[36](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3878318/#B36)].

#### [3] Act-omission distinction

Strikes are defined by Cambridge [Striking.. . “strike”. n.d. Cambridge English Dictionary. https://dictionary.cambridge.org/us/dictionary/english/strike. Accessed 10-28-2021]

#### to [refuse](https://dictionary.cambridge.org/us/dictionary/english/refuse) to [continue](https://dictionary.cambridge.org/us/dictionary/english/continue) [working](https://dictionary.cambridge.org/us/dictionary/english/working) because of an [argument](https://dictionary.cambridge.org/us/dictionary/english/argument) with an [employer](https://dictionary.cambridge.org/us/dictionary/english/employer). about [working](https://dictionary.cambridge.org/us/dictionary/english/working) [conditions](https://dictionary.cambridge.org/us/dictionary/english/conditions), [pay](https://dictionary.cambridge.org/us/dictionary/english/pay) [levels](https://dictionary.cambridge.org/us/dictionary/english/level), or [job](https://dictionary.cambridge.org/us/dictionary/english/job) [cuts](https://dictionary.cambridge.org/us/dictionary/english/cut)

#### [4] Strikes are intrinsically an omission from working – we always have the freedom to omit from doing something otherwise the government would need to coerce us to work. We have the freedom to strike if its non-coercive.

#### Bargaining Rights – because employees are dependent upon their employer, employees are subject to a severe power imbalance that constitutes coercion.

Bowie [Norman E., professor emeritus at the University of Minnesota "A Kantian Theory of Meaningful Work."  Springer, 01 July 1998.] LADI rct st

**The overwhelming number of people need to work to survive,** at least for a large portion of their lives. **There is a sense in which people are forced to work. When an assailant says, “Your wallet or your life,” you technically have a choice.** However, for many **this situation is the paradigm of coercion.** How close is the analogy between the assailant and **the requirements of the employer?** Admittedly, in good times the balance of power shifts somewhat, but in hard times **the balance of power is with the employer.** Most people have to take the terms of employment a they get them (Manning 2003). Someone wanting employment does not negotiate about whether or not to be tested for drugs, for example. If drug testing is the company policy, you either submit to the test or forfeit the job. **If you want a job, you agree to employment at will and to layoffs if management believes that they are necessary. Survival** for yourself and any dependents **requires it. As with the assailant, you technically have a choice, but** most **employees** argue they **have little choice about multiple important terms of employment. A Kantian,** in common with the pluralist school of industrial relations, **maintains that the imbalance between employer and employee ought to be addressed. Otherwise, industrial relations rests on an unethical foundation.**

#### The right to strike via unions corrects this power imbalance by ensuring an opportunity for organization and collective bargaining.

Bowie [Norman E., professor emeritus at the University of Minnesota “Business Ethics: A Kantian Perspective” Wiley Blackwell.<http://www.wiley.com/WileyCDA/WileyTitle/productCd-063121173X.html>] LADI rct st

Although I emphasize meaningful work as a means to gain respect and grow as a human being by exercising one’s talents, Ciulla reminds me that there is much in the work environment that undermines negative freedom (freedom from coercion), and that the decision to work itself requires a giving up of freedom in some respects. This latter point does not overly concern me because all choice forecloses other choices. Moreover, **having a job provides income, and income expands choices because it opens up possibilities. This is especially true when one has an adequate wage**, and that is why I have emphasized the role that **an adequate wage plays in meaningful work.** Of course, Ciulla is well aware of all this and in her analysis she points out that **for the unskilled their range of options is extremely limited, that the demise of unions has given much more power to manage- ment**, and that **there is a correlation between higher-paying jobs and the amount of freedom one has.** All these points are well taken. I especially agree with Ciulla that **unions provide a means for enhancing employee freedom.** In this case I practiced what I now preach. I am a former president of the AAUP union at the University of Delaware. I also point out that the United States is the most anti-union country in the G-20. **Unionization is considered a human right by the United Nations.** Obviously **unions provide an opportunity for participation,** and I think Ciulla and I agree that **participation schemes are one way to limit coercion.** In response to trends over the past twenty years, in this edition of Business Ethics: A Kantian Perspective I pay more attention to adequate pay for the middle class, issues of inequality, and economic mobility. However, none of this requires a revision in my original account of meaningful work.

# **Underview:**

#### [1] Presumption affirms:

#### [A] Presuming statements are false is impossible – we can’t operate in the world if we can’t trust anything we hear or we couldn’t form a coherent strand of reasoning.

#### [B] NC is reactive so they strategically develop or conceded args – o/w on reversibility since losing the AC to an NC hijack or uplayer puts the aff at a 6min disad.

#### [C] You presume statements true unless proven false – If I tell you my name is Raza Malik, you believe me unless you have evidence to the contrary.

#### [D] They have a 13-7 rebuttal advantage and 2N collapse means they can brute force any layer and do more weighing.