



## Strikes by Professionals: Balancing Rights and Duties

*“Public service must be more than doing a job efficiently and honestly. It must be a complete dedication to the people and to the nation” - Margaret Chase Smith*

**Professional ethics** encompasses the **moral principles** that govern behaviour within various professions, emphasising values such as **transparency, accountability, confidentiality, objectivity, respectfulness, and adherence to the law**. These principles are vital for professionals who use specialised knowledge and skills to make informed, ethical decisions.

One significant ethical dilemma within this framework is the **right to strike**, particularly in essential services like **healthcare, education, or public safety**. While striking is a crucial tool for workers to advocate for better conditions and fair treatment, it raises complex ethical issues when it impacts critical services that the public relies on. Balancing the right to strike with the responsibility to ensure uninterrupted access to essential services is a challenging aspect of professional ethics in these contexts. Strikes by professionals, including doctors (who are bound by the **Hippocratic Oath**) and other key workers, can have **profound impacts on public welfare** and the delivery of critical services, creating a **complex ethical landscape**.

By analysing various perspectives and considering the broader implications for society, this discussion aims to provide a nuanced understanding of how to navigate the ethical challenges inherent in professional strikes, particularly when they affect **crucial services and vulnerable populations**, ultimately seeking to reconcile these competing concerns.

### What are the Arguments in Favour of the Right to Strike?

- **Equality and Fairness:** Every worker, regardless of profession, should have **equal rights to advocate for their interests**.
  - This principle asserts that all workers deserve the right to **challenge unfair practices** and negotiate improvements in their working conditions.
- **Bargaining Power:** Strikes provide workers with **leverage in negotiations**, helping to balance power dynamics between employees and employers.
  - For example, in June 2011, Maruti management's dismissal and suspension of Maruti Suzuki Employees' Union (MSEU) leaders led to a **13 day strike** by workers. The strike concluded with an agreement for the Haryana Government and Maruti management to recognize the MSEU, reinstate the dismissed workers, and avoid further victimisation.
  - This leverage is essential for achieving **equitable outcomes** in employee disputes.
- **Societal Progress:** Collective actions like strikes have historically driven advancements in employees rights and social justice.
  - They are a testament to the power of organised employees in effecting social change.
- **Democratic Expression:** The right to strike embodies democratic values by reflecting **freedom of association and collective bargaining** for better conditions.

### What are Arguments Against Strikes in Essential Services?

- **Strike as a Last Resort:** Strikes should be the **last resort** after other negotiation methods have failed.
  - While they are essential for addressing serious disputes, the **ethical dilemma** intensifies

with **essential services** like healthcare or public safety, where the potential harm to public well-being must be carefully balanced against workers' rights.

- **Public Safety:** Strikes in essential services, such as **healthcare or emergency response**, pose **significant risks to public safety**.
  - For instance, a **strike by doctors or firefighters** can lead to increased risk of **harm or death** for individuals in urgent need of assistance.
- **Ethical Obligations:** Professionals in essential services have a moral obligation to prioritise public welfare.
  - The **principle of beneficence** requires these professionals to act in the **best interest of those they serve**, which can conflict with their right to strike.
- **Social Contract:** There is an **implicit social contract** between essential service providers and society.
  - Professionals in these fields are entrusted with responsibilities impacting **public welfare**, and this trust implies certain limitations on their employees rights.
- **Disproportionate Impact:** Strikes in essential services often disproportionately **affect vulnerable populations** who rely heavily on these services.
  - For instance, during any strike by doctors in India, the closure of hospitals and clinics severely disrupted essential medical services, leaving vulnerable populations such as **low-income families** and **individuals with urgent health needs** without timely care.
  - This raises ethical concerns about **fairness** and the impact on those least able to cope with disruptions.
- **Alternative Dispute Resolution:** Alternative methods such as **mediation and arbitration** can address grievances without full work stoppages, helping to maintain service continuity while resolving disputes.

## What are Various Philosophical Perspectives on Strikes by Professionals?

- **Utilitarianism:** Utilitarianism evaluates actions based on their **consequences**, aiming to **maximise overall happiness and minimise suffering**.
  - From a utilitarian standpoint, if the overall **positive impact** on society is greater than the short-term suffering, the strike might be considered justified.
  - Utilitarians consider the balance between short-term harm and long-term benefits, evaluating whether the benefits of improved conditions and fair wages for professionals outweigh the immediate risks posed to the public during the strike.
- **Deontological Ethics:** Deontological ethics focuses on **adherence to moral duties and principles** rather than outcomes.
  - From this perspective, professionals have a duty to provide essential services and not cause harm. **Strikes in essential services** might be seen as **morally problematic** because they compromise the professional duty to safeguard public welfare.
- **Social Contract Theory:** It explores the **implicit agreements** between individuals and society, highlighting the **mutual expectations and responsibilities**.
  - For essential service providers like healthcare professionals, this contract includes a **special trust and status** due to the critical nature of their work.
  - The theory **questions** whether essential workers' right to strike is part of their agreement with society or it should be set aside as they must prioritise public welfare.
- **Gandhism:** Gandhi viewed strikes as **a legitimate form of peaceful resistance** to address injustices against people, emphasising that they should be conducted nonviolently and with clear, just demands.
  - He advocated for strikes **only when the cause was genuine** and the strikers were united and **committed to nonviolence**.

## What are Legal Perspectives on Strikes by Professionals?

- **Major Cases:**
  - **Kameshwar Prasad v. State of Bihar (1962):** The Supreme Court held that the right to strike is not a fundamental right under Article 19(1)(c) of the Constitution (right to form associations or unions).
  - **Delhi Police v. Union of India (1986):** The Supreme Court upheld the **restrictions on forming associations by non-gazetted police personnel**, following the enactment of

the Police Forces (Restriction of Rights) Act, 1966, and its subsequent amendments in the Amendment Rules, 1970.

- **Communist Party of India (M) v. Bharat Kumar (1997):** The Supreme Court upheld the Kerala High Court's decision to ban bandhs (general strikes). The court distinguished between bandhs and strikes, stating that while strikes may be a form of protest, bandhs infringe on the rights of citizens.
- **T.K. Rangarajan v. Government of Tamil Nadu (2003):** The Supreme Court ruled that employees **do not have a fundamental right to strike**, and highlighted the prohibition of strikes under the Tamil Nadu Government Servants' Conduct Rules, 1973.

#### ▪ **Final Legal Perspective:**

- In India, the **right to protest** is a fundamental right under **Article 19** of the Constitution of India. But **right to strike** is not a fundamental right but a legal right and with this right, statutory restriction is attached in the **Industrial Dispute Act 1947**.
- From the above cases, it can be inferred that the Supreme Court has upheld that the freedom of speech and expression includes the **right to demonstrate or picketing but not the right to strike**.
  - Thus, **the SC's** stance reflects a general principle of **prioritising public welfare and essential services** over the right to strike, particularly for government employees. However, this doesn't mean that all forms of collective bargaining or protest are illegal. The court's focus has been on **maintaining essential services and preventing the disruption of public life**.

## How to Balance Rights and Duties as Professionals?

- **Minimal Harm Principle:** If strikes in essential services occur, they should be conducted in a manner that **minimises harm to the public**. This might involve **selective service withdrawals or non-emergency work stoppages** to limit disruption.
- **Proportionality:** The reasons for the strike should be **proportional to the potential harm** caused. Strikes should be justified by significant issues that warrant the disruption, rather than minor grievances.
- **Transparency and Communication:** **Clear communication** about the reasons for the strike and the measures taken to mitigate its impact can help maintain public trust. Transparency can also foster understanding and support from the public.
- **Alternative Dispute Resolution Mechanisms:** Developing robust **mechanisms for addressing grievances** without resorting to strikes can help balance rights and duties. **Mediation, arbitration**, and other negotiation techniques should be prioritised to prevent disruptions.
- **Legal Frameworks:** Many countries have **laws regulating strikes** in essential services to balance employees rights with public safety. These legal frameworks often include provisions for maintaining essential services during disputes.

## Conclusion

The **ethical debate** surrounding strikes by professionals, especially in essential services, presents a complex interplay of **individual rights, professional duties, and public welfare**. While the right to strike is an **important aspect** of labour rights, enabling workers to challenge **unfair conditions** and advocate for better terms, its implementation becomes **ethically problematic** when it disrupts essential services like healthcare. The tension between exercising this right and the responsibility to ensure uninterrupted care for vulnerable populations underscores the need for a nuanced approach.

Ultimately, finding a balance requires careful consideration of the **principles of minimal harm, proportionality, and transparency**. Developing **alternative dispute resolution mechanisms** and ensuring **clear communication** can help mitigate the impact of strikes while addressing grievances. By navigating these ethical challenges thoughtfully, professionals can uphold their rights while maintaining their commitment to the public good.

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