

9: Union Strikes

Learning Objectives

1. Define a labor strike.
2. Consider ethical justifications for striking.
3. Weigh responsibilities set against striking.
4. Consider the rights of employers and strikebreakers.

The Hollywood Writers' Strike

The most contentious area, both economically and ethically, of union action involves **strikes**: workers collectively walking off the jobsite in an attempt to pressure employers to accede to their demands. The Writers Guild of America (WGA) led one of the most publicized recent walkouts when Hollywood script writers put down their pencils and closed their laptops—at least officially—in November of 2007. By the time they returned in early 2008, the economic damage wrought in the Los Angeles basin was massive, \$3.5 billion according to some estimates, but the resolution ultimately satisfied most members of the moviemaking community.

During the strike, two constellations of ethical issues came to the fore. First, questions involved

- the right for workers to not work,
- the right of employers to find someone who will work,
- the rights of third parties to go on with their lives and work.

The second set of questions involved responses to the strike:

- Who in Hollywood, if anyone, is obligated to support the writers?
- Is it OK to take a striker's job?

Justifying Not Working

Some Hollywood writers are contracted by faceless studios to churn out rewrites for movies; others generate TV dramas and soap operas. There's work to be done inventing jokes for sitcoms like *The Office*, and opening monologues for Jay Leno's *Tonight* show need to be written a few days every week. As the writers' strike extended, the walkout's effects beamed into living rooms. Almost immediately, Leno went into reruns. *The Office*, which had a few episodes in the can, lasted several weeks. The moviemakers—many of whom live underneath piles of scripts submitted unsolicited by writers—kept going.

Out on the picket lines, Leno zipped around in his vintage sports car to support the stoppage, and occasionally stopped to chat with the strikers and crack good-humored jokes. Of course Leno, who makes millions a year, probably didn't really need his paychecks. Others in Hollywood, however, live from day to day and without much room for unemployment. Set designers, prop companies, on-site catering services, all the people surrounding the now-halted industry saw their income wither. In the face of the injurious consequences, three arguments nonetheless favor and justify the writers' walkout.

1. The *rights argument* in favor of the workers' strike is direct and convincing for many: all individuals have a right to *not* go to work in the morning. Whether we're talking about a union action or just someone who wakes up with a hangover, any ethical theory that takes its bearings from individual rights is generally going to turn in a verdict in favor of the worker's right to stay home.
2. The *last resort argument* affirms that workers are justified in striking when three conditions are met: First, there must be a just cause. The driving issue cannot be petty angers or interpersonal conflicts of some kind; instead, the motive must be wages or working conditions that are out of step with industry norms or reasonable expectations. In the writers' case, this condition may have been met because they represented one of the few talent sectors not benefitting from payments for programming broadcast over new media, especially the Internet. Second, there must be proper authorization, which means the workers themselves must support the action, and have reached a well-deliberated decision. In the writer's case, most did support the action, which had been planned for months. Third, the strike must be a last resort, meaning attempts to find solutions must've been fully explored. Here too writers met the condition as long negotiations had explored most possible solutions.
3. The *marketplace argument* is the rawest of the justifications for striking, and it answers the ethical question with economic facts. If workers can get away with striking, the reasoning goes, then they're justified. The argument is less flippant than it sounds. If workers *really* are being underpaid for their labors, then when an employer seeks others to replace those who've

walked out, none will emerge, at least none capable of doing the work well. On the other hand, if market conditions determine that the striking workers are demanding more than they legitimately should within the current economic context, then when an employer tries to replace strikers with fresh hires, the cost of doing so will be less than the wage increase the strikers are demanding.

On the other side, the kinds of arguments normally set up to obligate striking workers to return to their stations involve responsibilities to the larger community:

1. The *public safety* argument applies only in selected situations. The famous air-traffic controllers' strike in the 1980s involved the safety of fliers. Similarly, police officers, firefighters, and similar may find it difficult to justify a full-fledged strike given the serious suffering that may result. There are many borderline cases, however. For example, in Tennessee some fire departments collect fees directly from those they protect. In one case, a man who hadn't paid found that his house was on fire and called the department; they responded, but only to protect nearby homes from the fire's spread. They watched the flaming home burn to the foundation without intervening because the bill hadn't been paid. Of course, the situation would've been different had a person been trapped inside. In this case, however, the loss and dispute was entirely about money. Jason Hibbs, "Firefighters Watch as Home Burns to the Ground," *WPSD*, September 29, 2010, accessed June 9, 2011, www.wpsdlocal6.com/news/local/Firefighters-watch-as-home-burns-to-the-ground-104052668.html.
2. The *public welfare* argument against workers going on strike weighs in when strikes affect third parties, people outside the initial dispute. The scriptwriters' walkout, for example, left a large chunk of Hollywood unemployed. The most rudimentary way to elaborate the argument is simply to note that the suffering caused across the entire industry by the five-month writers' strike almost surely outweighed the benefits the writers finally obtained. It should also be remembered, however, that if some workers somewhere don't draw the line against owners and employers, those employers will have no incentive to not push *everyone's* wages down, ultimately affecting the welfare of most all the industry's participants.
3. The *immediate welfare* argument against the writers' strike finds support in an ethics of care. An ethics of care values most highly an individual's immediate social web; concern for those people who are nearest outweighs abstract rules or generalized social concerns. In the case of the Hollywood writers' strike, the suffering incurred by families and friends related to particular strikers may be taken to outweigh any benefits the broad union collective won from the action.

Finally, it's important to note that strikes don't need to be long-term walkouts. The dynamic and ethics surrounding the refusal to work change when, for example, a union decides to go on strike for only a single day as a way of pressuring management.

Standing in Line and Crossing It: The Ethics of Supporting Strikes and Breaking Them

The Hollywood writers' strike featured some big-name backing. Jay Leno cruised around in his Bugatti; Steve Carell, star of *The Office*, refused to cross the picket lines; and Sally Field mingled with writers in the Disney Studios lot. These shows of support scored public relations points and provoked this question: what obligation do workers in related fields hold to support strikers?

The range of responses corresponds well with those already outlined to justify the unionization of workers in a particular shop.

- One way to oblige workers in related fields to support strikers is the argument from fairness. When workers in a certain industry strike and win concessions, those gains may be cited by other workers as justifying their own demands. In fact, in Hollywood the writers themselves had used this strategy in the past: instead of going on strike, they'd waited for the directors union (Directors Guild of America) to negotiate demands with the major studios and then used those results to make their own case for concessions. The argument for supporting striking workers based on fairness is that *all* workers for a particular company or across an industry may well benefit when one group makes gains, and if that's so, then those other groups also have a responsibility to support the strikers when they're sacrificing.
- A second argument is based on solidarity, on the idea that an alliance between workers in an industry is ethically natural: there's an obligation to share in a struggle when facing similar challenges. Because other members of the Hollywood community are uniquely positioned to understand the realities and hardships of screenwriting life, they have a duty to act on that empathy.

As events transpired, the WGA did, in fact, receive wide support from across Hollywood, but the solidarity was far from complete. As this outburst from a writer's blog shows, some network studios tried to keep their soap operas in production by hiring **strikebreakers**, or scabs, as they're known to picketers:

The scab writers work under fake names, work from home and use different email addresses so only the executive producer knows the real identities of the scabs. These tend to be experienced soap writers who aren't currently on a show. They are then promised employment after the strike is over. While they're scabbing, they get paid less than union writers. John Aboud, "Scabbing Doesn't

Pay (For Long),” *United Hollywood* (blog), November 8, 2007, accessed June 9, 2011, <http://unitedhollywood.blogspot.com/2007/11/scabbing-doesn-pay-for-long.html>.

This under-the-table scripting captures a conflict inherent in the union’s attempt to use economic force against employers. On one side, by cutting off their labor, strikers are trying to win concessions through economic force. But their success depends on the suspension of basic economic rules: as this blogger is admitting, there *are* scriptwriters out there willing to work at current wages for the studios. It sounds like they may even be willing to work for less.

For these secretive scriptwriters, what ethical justifications can be mounted for what is, in essence, picket-line crossing? The blog post decrying scab workers actually rallied some to post arguments in the strikebreakers’ defense. One comes from a poster named Jake: “Maybe he [the blogger writing the original post complaining about strikebreakers] has unlimited funds somewhere and can stay out of work forever, but some need to support themselves now.” Jake, November 8, 2007 (6:44 a.m.), comment on John Aboud, “Scabbing Doesn’t Pay (For Long),” *United Hollywood Blog*, November 8, 2007, <http://unitedhollywood.blogspot.com/2007/11/scabbing-doesn-pay-for-long.html>.

The argument here is that we all have fundamental duties to ourselves that must be served before deferring to others. It’s not, in other words, that scriptwriters should feel no obligation to their colleagues, but all of us have a deeper responsibility to our own welfare (and possibly to that of our family members who may depend on us), and that responsibility takes precedence when the situation becomes extreme, when going without work represents more than just an inconvenience.

Another argument wraps through the following exchange between two blog readers. The first, who registers his comment anonymously, writes, “I’m a little amazed by some of these comments....Do you guys [who support strikebreakers] not know about unions? Do you not understand what it *means* to cross a picket line?...People need to work for just (as in fair) pay.” Anonymous, November 8, 2007 (8:15 a.m.), comment on John Aboud, “Scabbing Doesn’t Pay (For Long),” *United Hollywood Blog*, November 8, 2007, <http://unitedhollywood.blogspot.com/2007/11/scabbing-doesn-pay-for-long.html>.

This response comes from a poster named Tim: “Anonymous said, ‘Do you not understand what it means to cross a picket line?’ Yes, it means you are trying to work for someone who wants to pay you. In moral terms, it’s just a voluntary mutually beneficial exchange that for the most part is no one else’s business. Members of a union do and should have the right to refuse to provide a service, but they don’t have a right to prevent others from providing the service.” Tim, November 8, 2007 (8:32 a.m.), comment on Anonymous, “Scabbing Doesn’t Pay (For Long),” *United Hollywood Blog*, November 8, 2007, <http://unitedhollywood.blogspot.com/2007/11/scabbing-doesn-pay-for-long.html>.

Tim’s argument is based on the principle of free agency and the ethics of freedom. According to him, what’s morally right is any action particular scriptwriters and studio owners agree to undertake. The only ethical obligation individuals have is to *not* violate the freedom of others and, according to Tim, everyone involved in this strikebreaking is acting freely without stopping others from doing the same. The strikers, like the strikebreakers, may go to work—or not go—whenever they like. To the extent that’s right, ethical objections shouldn’t be raised against either choice.

The key phrase in Tim’s response is that the strikebreaking writers’ actions are “no one else’s business.” Those defending the union could choose to intervene here and assert that the claim is fundamentally wrong. Ethics depends on compassionately taking account of others’ interests, and factoring them into your own decisions: what writers decide to do must serve not only their own but also the general welfare. Possibly, Tim could respond to this by asserting that in a market economy the best way to serve the general welfare is for individuals to pursue their own success. There are responses to this argument too, and the discussion continues.

Key Takeaways

- A rights argument and a marketplace argument may lend ethical support to workers’ decision to strike.
- Ethical arguments against striking may derive from broad social concerns, or justifiably privileging one’s own interests.
- Arguments in favor of supporting strikers from outside the union may stand on conceptions of fairness or solidarity.
- Both strikebreakers and employers may claim the right to bypass union demands based on economic realities, or their rights as free agents.

Exercise

1. Explain the marketplace argument in favor of the right for workers to strike.
2. How could a union worker ethically justify not joining companions on the picket lines?
3. Outline an argument from fairness that could be made against strikebreakers.

4. Sketch two arguments that could be made in favor of independent writers swooping in and taking union jobs when the SGA goes out on strike.

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