### 1

### 1NC – CP

#### The US ought to request the International Court of Justice issue an advisory opinion over whether they ought to [establish an unconditional right to strike]. The US ought to abide by the outcome of the advisory opinion.

#### Solves – the ICJ will rule in favor of an unconditional right to strike.

Seifert ’18 (Achim; Professor of Law at the University of Jena, and adjunct professor at the University of Luxembourg; December 2018; “The protection of the right to strike in the ILO: some introductory remarks”; CIELO Laboral; http://www.cielolaboral.com/wp-content/uploads/2018/12/seifert\_noticias\_cielo\_n11\_2018.pdf; Accessed: 11-3-2021; AU)

The **recognition of a right to strike** in the legal order of the **International Labour Organization** (ILO) is probably one of the most controversial questions in international labor law. Since the foundation of the ILO in the aftermath of World War I, the recognition of the right to strike as a **core element** of the principle of freedom of association has been discussed in the International Labour Conference (ILC) as well as in the Governing Body and the International Labour Office. As is well known, the ILO, in its long history spanning almost one century, has not explicitly recognized a right to strike: neither Article 427 of the Peace Treaty of Versailles (1919), the Constitution of the ILO, including the Declaration of Philadelphia (1944), nor the Conventions and Recommendations in the field of freedom of association - namely Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948) - have explicitly enshrined this right. However, the Committee on Freedom of Association (CFA), established in 1951 by the Governing Body, recognized in 1952 that Convention No. 87 guarantees also the **right to strike** as an **essential element of trade** union rights enabling workers to collectively defend their economic and social interests1. It is worthwhile to note that it was a complaint of the World Federation of Trade Unions (WFTU), at that time the Communist Union Federation on international level and front organization of the Soviet Union2, against the United Kingdom for having dissolved a strike in Jamaica by a police operation; since that time the controversy on the right to strike in the legal order of the ILO was also embedded in the wider context of the Cold War. In the complaint procedure initiated by the WFTU, the CFA **recognized** a **right to strike** under Convention No. 87 but considered that the police operation in question was lawful. In the more than six following decades, the CFA has elaborated a **very detailed case law** on the right to strike dealing with many concrete questions of this right and its limits (e.g. in essential services) and manifesting an even more complex structure than the national rules on industrial action in many a Member State. This case law of the CFA has been compiled in the “Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO”3. In 1959, i.e. seven years after case No. 28 of the CFA, the Committee of Experts for the Application of Conventions and Recommendations (CEACR) also recognized the right to strike as **a core element of freedom** of association under Article 3 of Convention No. 874. Since then, the CEACR has **reconfirmed** its view on many occasions. Both CFA and CEACR coordinate their interpretation of Article 3 of Convention No. 875. Hence there is one single corpus of rules on the right to strike developed by both supervisory Committees of the Governing Body. Moreover, the ILC also has made clear in various Resolutions adopted since the 1950s that it considers the **right to strike** as an **essential element of freedom of association6**. On the whole, the recognition of the right to strike resulted therefore from the interpretative work of CFA and CEACR as well as of the understanding of the principle of freedom of association the ILC has expressed on various occasions. It should not be underestimated the wider political context of the Cold War had in this constant recognition of a right to strike under ILO Law. Although the very first recognition of the right to strike -as mentioned above- went back to a complaint procedure before the CFA, initiated by the Communist dominated WFTU, it was the Western world that particularly emphasized on the right to strike in order to blame the Communist Regimes of the Warsaw Pact that did not explicitly recognize a right to strike in their national law or, if they legally recognized it, made its exercise factually impossible; to this end, unions, employers’ associations but also Governments of the Western World built up an alliance in the bodies of the ILO7. In accomplishing their functions, CFA and CEACR necessarily have to interpret the Conventions and Recommendations of the ILO whose application in the Member States they shall control. In so doing, they need to concretize the principle of freedom of association that is only in general terms guaranteed by the ILO Conventions and Recommendations on freedom of association. But as supervisory bodies, which the Governing Body has established and which are not foreseen in the ILO Constitution, both probably do not have the power to interpret ILO law with binding effect8. This is also the opinion that the CEACR expresses itself in its yearly reports to the ILC when explaining that, “its opinions and recommendations are non-binding”9. As a matter of fact, the Governing Body, when establishing both Committees, could not delegate to them a power that it has never possessed itself: nemo plus iuris ad alium transferre potest quam ipse haberet10. According to Article 37(1) of the ILO Constitution, it is within the **competence of the International Court of Justice** to decide upon “any question or dispute relating to the **interpretation of this Constitution** or of any subsequent Convention concluded by the Members in pursuance of the provisions of this Constitution.” Furthermore, the ILC has not established yet under Article 37(2) of the ILO Constitution an ILO Tribunal, competent for an authentic interpretation of Conventions11. However, it **cannot be denied** that this constant interpretative work of CFA and CEACR possesses an **authoritative character** given the high esteem the twenty members of the CEACR -they are all internationally renowned experts in the field of labor law and social security law- and the nine members of the CFA with their specific expertise have. As the CEACR reiterates in its Reports, “[the opinions and recommendations of the Committee] derive their persuasive value from the legitimacy and rationality of the Committee’s work based on its impartiality, experience and expertise”12. Already this interpretative authority of both Committees justifies that **national legislators or courts take into consideration** the views of these supervisory bodies of the ILO when implementing ILO law. Furthermore, the long-standing and uncontradicted interpretation of the principle of freedom of association by CFA and CEACR as well as its recognition by the Member States may be considered as a **subsequent practice** in the application of the ILO Constitution under Article 31(3)(b) of the Vienna Convention on the Law of Treaties (1968): such subsequent practices shall be taken into account when interpreting the Agreement. Their constant supervisory practice probably reflects a volonté ultérieure, since other bodies of the ILO also have **recognized a right to strike** as the two above-mentioned Resolutions of the ILC of 1957 and 1970 as well as the constant practice of the Conference Committee on the Application of Standards to examine **cases of violation** of the right to strike as **examples for breaches of the principle of freedom of association** demonstrate. As this constant practice of the organs of the ILO has not been contradicted by Member States, there is a **strong presumption** for recognition of a right to strike as a subsequent practice of the ILO under Article 31(3)(b) of the **Vienna Convention** on the Law of Treaties.

#### US compliance ensures faith in global democratic institutions – solves nuclear war.

Hawksley ’16 [Humphrey; formerly the BBC’s Beijing Bureau Chief and author of The Third World War: A Novel of Global Conflict and Asian Waters: American, China, and the Global Paradox; 11-19-2016; "Trump makes International Law Crucial for Peace"; Humphrey Hawksley; https://www.humphreyhawksley.com/trump-makes-international-law-crucial-for-peace/; Accessed 4-1-2020; AH]

Major powers tend to reject international law when rulings run counter to their interests insisting that the distant courts carry no jurisdiction. China rejected a Permanent Court of Arbitration’s ruling in July and clings to expansive claims in the South China Sea, including Scarborough Shoal near the Philippines. China’s response mirrored US rejection of a 1986 International Court of Justice ruling against US support for rebels in Nicaragua. “With these stands, both China and the United States weakened a crucial element of international law – consent and recognition by all parties,” writes journalist Humphrey Hawksley for YaleGlobal Online. Disregard for the rule of law weakens the legal system for all. Hawksley offers two recommendations for renewing respect for international law: intuitional overhaul so that the all parties recognize the courts, rejecting decisions only as last resort, and governments accepting the concept, taking a long-term view on balance of power even when rulings go against short-term strategic interests. Reforms may be too late as China organizes its own parallel systems for legal reviews and global governance, Hawksley notes, but international law, if respected, remains a mechanism for ensuring peace. – YaleGlobal LONDON: Flutter over the surprise visit to China by Philippines President Rodrigo Duterte may soon fade. But his abrupt and public dismissal of the United States in favor of China has weakened the argument that international rule of law could underpin a changing world order. The issue in question was the long-running dispute between China and the Philippines over sovereignty of Scarborough Shoal, situated 800 kilometers southeast of China and 160 kilometers west of the Philippines mainland, well inside the United Nations–defined Philippines Exclusive Economic Zone. Despite a court ruling and Duterte’s cap in hand during his October mission to Beijing, Philippine fishing vessels still only enter the waters around Scarborough Shoal at China’s mercy. The dispute erupted in April 2012, when China sent ships to expel Filipino fishing crews and took control of the area. The standoff became a symbol of Beijing’s policy to lay claim to 90 percent of the South China Sea where where it continues to build military outposts on remote reefs and artificially created islands in waters claimed by other nations. Lacking military, diplomatic or economic muscle, the Philippines turned to the rule of law and the Permanent Court of Arbitration in the Hague. A panel of maritime judges ruled China’s claim to Scarborough Shoal invalid in July this year. China refused to recognize the tribunal from the start and declared the decision “null and void,” highlighting the complex balance in the current world order between national power and the rule of law. Beijing’s response mirrored a 1986 US response to Nicaragua’s challenge in the International Court of Justice. The court ruled against the United States for mining Nicaragua’s harbors and supporting right-wing Contra rebels. The United States claimed the court had no jurisdiction. China’s response on the South China Sea ruling mirrors a 1986 US response.With these stands, both China and the United States weakened a crucial element of international law – consent and recognition by all parties. The Western liberal democratic system is being challenged, and confrontations in Asia and Europe, as in Crimea and Ukraine, replicate the lead-up to the global conflicts of last century’s Cold War. As Nicaragua and Central America were a flashpoint in the 1980s, so Scarborough Shoal and South China Sea are one now. Other flashpoints are likely to emerge as China and Russia push to expand influence. Western democracies being challenged by rising powers have a troubled history. The 1930s rise of Germany and Japan; the Cold War’s proxy theaters in Vietnam, Nicaragua and elsewhere; and the current US-Russian deadlock over Syria are evidence that far more thought must be given in the deployment of international law as a mechanism for keeping the peace The view is supported, on the surface at least, by Russia and China who issued a joint statement in June arguing that the concept of “strategic stability” being assured through nuclear weapons was outdated and that all countries should abide by principles stipulated in the “UN Charter and international law.” Emerging power India, with its mixed loyalties, shares that view. “The structures for international peace and security are being tested as never before,” says former Indian ambassador to the UN, Hardeep Singh Puri, author of Perilous Interventions: The Security Council and the Politics of Chaos. “It is everyone’s interest to re-establish the authority of the Security Council and reassert the primacy of law.”

## 2

### 1NC Shell – Disease Module

#### Courts are Normal Means

Brudney 21 [James; 2/8/21; Joseph Crowley Chair in Labor and Employment Law, Fordham Law School; “The Right to Strike as Customary International Law,” THE YALE JOURNAL OF INTERNATIONAL LAW, Vol 46, <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1710&context=yjil>] Justin \*\* Brackets in original

In order for the international right to strike to receive protection in a U.S. domestic law setting, this CIL right must be cognizable in federal court. Workers asserting such a right would be seeking direct application of CIL, stemming from legal principles set forth in The Paquete Habana233 and subsequent cases. The Paquete Habana involved U.S. seizure of two Spanish fishing vessels during the Spanish American War. The Court relied on customary international law to hold that the vessels and their cargoes were exempt from capture as prizes of war.234 Justice Gray’s oft-quoted language, recognizing that CIL is part of the law of the United States, is as follows: International law is part of our law and must be ascertained and administered by the courts of justice of appropriate jurisdiction as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations . . . . 235 In a number of decisions beginning in the 1960s, the Court has applied CIL rules when determining the legal status of submerged offshore areas, helping guide its application of federal statutes and treaties implicating the law of the seas. 236 The Court has also invoked CIL in determining when an instrumentality of a sovereign state becomes the “alter ego” of that state, a question not controlled by the relevant foreign sovereign immunity statute.237 Relatedly, the Court in Banco Nacional de Cuba v. Sabbatino238 relied on a judge-made principle of U.S. foreign relations law—the Act of State doctrine—to decline to examine the validity of the taking of property by a foreign sovereign government within its own territory.239 Turning to lower federal courts, the courts of appeals have regularly applied the Vienna Convention on the Law of Treaties “as an articulation of the customary international law of treaty interpretation, even though the United States is not a party to the treaty itself.”240 And at least one district court has recognized FOA and the right to organize as CIL when denying a motion to dismiss.241 Finally, the executive branch also has applied CIL in certain circumstances. Although the U.S. voted against adoption of the 1982 UN Convention on the Law of the Seas, the U.S. government accepts its key provisions regarding the maximum breadth of territorial sea and the extent of exclusive economic zones as CIL.242 In short, U.S. courts and executive branch officials have directly applied CIL and been guided by its teachings in a range of doctrinal settings. 243 As noted earlier, CIL on human rights has been deemed applicable in U.S. courts for suitably defined misconduct occurring in other countries. 244 These doctrinal precedents do not involve direct application of CIL in a domestic law setting akin to the labor and human rights claims being proposed here. That said, lower courts have invoked CIL when applying federal rules of decision in a range of domestic law contexts. Indeed, the use of CIL when applying and construing various federal statutes has increased markedly in recent decades.245 Examples include its use when applying an armed conflict statute to establish limits on detention of a U.S. citizen within the U.S.;246 when construing the same statute to help establish requirements for release and repatriation of a foreign national held on U.S. soil;247 and when limiting the scope of an immigration statute’s authorization of detention.248 In addition, CIL has been applied to help courts apply the choice between indefinite detention and exclusion under a different immigration statute,249 and to assist judicial construction of a statute regulating recovery of sunken warships in U.S. waters. 250 It is not obvious why CIL should be deemed inapplicable when construing federal statutes that implicate appropriately qualified labor/human rights misconduct occurring within our borders.251 Moreover, as previously noted, a number of other countries have accepted the right to strike as a principle of international law when applying their own domestic law despite their conscious decision not to ratify Convention 87.252 Once one accepts that recognized CIL has substantive traction in a domestic law setting, the focus should be on whether this CIL can be situated in relation to certain procedural or jurisdictional limitations that characterize the U.S. judicial context. Accordingly, application of CIL to sustain claims based on FOA and the right to strike requires consideration of how this CIL relates to other aspects of U.S. law. B. CIL as Federal Common Law A threshold question is whether U.S. courts should determine matters of CIL as federal common law or as state law in light of the Erie doctrine.253 The question has been extensively debated by able international law scholars,254 and I will not attempt to add new value in this setting. I am persuaded that CIL should be understood and litigated as federal common law, for reasons presented at length in a range of sources. 255 Indeed, as one international law scholar has recently and thoroughly explained, “[t]he law of nations was the original federal common law.”256 The basic contours of this position were set forth by the Supreme Court in Sabbatino, when it held that the Act of State doctrine is federal law, binding on the states and not within the scope of Erie. 257 In the words of Justice Harlan for an eight-member majority, “an issue concerned with a basic choice regarding the competence and function of the Judiciary and National Executive in ordering our relationships with other members of the international community must be treated exclusively as an aspect of federal law.”258 Subsequently, leading commentators have joined the Court in concluding that Erie was never meant to apply to CIL;259 that federal courts’ incorporation of the CIL of labor and human rights follows post-Erie precedent recognizing and helping to create a federal common law for labor relations and for other uniquely federal interests;260 that CIL may reflect developments in the international arena of labor and human rights in addition to filling gaps with respect to jurisdictional statutes such as the ATS and the Torture Victim Prevention Act (TVPA); 261 and that CIL remains subject to the democratic checks of supervision, endorsement, or revision by the federal political branches.262 Relying on the weight of these arguments in Boyle v. United Technologies Corp., Justice Scalia for the Court recognized that a few areas involving “uniquely federal interests” are committed to federal control, including the development of federal common law, and he cited Court precedent on CIL as one such area.263 C. The Presence or Absence of Controlling Law As indicated in The Paquete Habana excerpt above, an important additional consideration is whether there is a treaty or any “controlling executive or legislative act or judicial decision” that would preclude federal courts from recognizing a right to strike as CIL. Lower court decisions invoking the “controlling law” principle from Paquete Habana have applied a fairly rigorous standard, relying on a comprehensive scheme of statutes and regulations addressing the precise issue,264 or on a treaty ratified by the U.S. directed to the same problem.265 These lower courts also have invoked Supreme Court statements that focus on the central role of legislative expression when concluding that certain controlling congressional acts were taken with a purpose to preclude the application of CIL to a particular situation.266 Under this standard, controlling U.S. domestic law does not preclude federal courts’ authority to recognize a right to strike as CIL; on the contrary, it arguably supports such authority. As an ILO member, the U.S. is a party to the 1944 Declaration of Philadelphia, the 1998 Declaration on Fundamental Principles and Rights at Work, and the 2008 Declaration on Social Justice for a Fair Globalization.267 Each of these core ILO commitments specifies the fundamental importance of FOA. Congress in two separate trade statutes has incorporated FOA as an “internationally recognized worker right.”268 In addition, the U.S. has ratified the ICCPR, which has incorporated the right to strike as part of FOA, and has signed the ICESCR, which expressly recognizes that right within its text. 269 And both the Administration’s 2015 statement at ILO Governing Body proceedings and its most recent trade agreement, drafted and executed by the Trump Administration, have specified that the right to strike is an integral part of FOA.270

#### SCOTUS’s decision on *Roe v. Wade* hinges on Roberts’ political capital.

Robinson ’21 (Kimberly; reporter for Bloomberg Law; 6-18-2021; “Barrett Channels Roberts’ ‘Go-Slow’ Approach in Landmark Cases”; Bloomberg Law; https://news.bloomberglaw.com/us-law-week/barrett-channels-roberts-go-slow-approach-in-landmark-cases; Accessed: 10-1-2021; AU)

The U.S. Supreme **Court’s** newest justice is showing signs that she’s more **aligned with** John **Roberts** and Brett Kavanaugh **in the center** than she is with her other conservative colleagues, **refusing to support** broad **rulings that** could **shake** the **court’s credibility**. Amy Coney Barrett is “starting to show her stripes” as a moderate who prefers small movements in the law, not huge shifts, South Texas College of Law Houston professor Josh Blackman said. The justices handed down victories to both liberals and conservatives on Thursday saving the Affordable Care Act again but siding with a religious group in the latest battle over LGBT protections. **Roberts**, the chief justice, is viewed as an **institutionalist** **who wants to conserve** the public’s **confidence** in the court. So far, he **favors incremental shifts** in the law. “That’s been one of the Chief’s primary goals all along,” said Case Western Reserve law professor Jonathan Adler. He recently gained an **ally in Kavanaugh** in this pursuit, **and** it appears **Barrett** may join their ranks. The court as a whole has has largely agreed in cases this year. The unanimous decision in the LGBT case was the 25th time the justices were unanimous in 41 rulings so far this term. There are 15 to go in coming days. But the **big test** for Barrett **will be** next term starting in October when the justices will tackle hot-button issues like guns, **abortion**, and possibly affirmative action. “It is a very conservative Court, even if we will only get glimpses of it this year,” said UC Berkeley law school Dean Erwin Chemerinsky. Kicking the Can Both the **A**ffordable **C**are **A**ct **and LGBT** rulings **were** “very, very **narrow**,” Georgia State law professor EricSegall said. In the Obamacare case, California v. Texas, the 7-2 majority handed down a procedural ruling to avoid undoing the landmark 2010 law. The justices said red states led by Texas didn’t have a legal basis—or standing—to challenge it. Only Justices Samuel Alito and Neil Gorsuch would have voted to gut the act, long a priority of Republicans. The LGBT ruling, while unanimous in its outcome, was splintered in its reasoning. Hiding under the 9-0 breakdown was a dispute about whether to overturn the court’s divisive ruling in Employment Division v. Smith, which sparked the passage of the bipartisan Religious Freedom Protection Act and mini state versions across the country. The court in Smith refused to require an exception from Oregon’s prohibition on peyote, saying religious objectors don’t get a free pass on “generally applicable” laws. On opposite ends in the court’s LGBT ruling were the liberal justices—Stephen Breyer, Sonia Sotomayor, and Elena Kagan—along with Roberts, who wanted to uphold the court’s precedent in Smith, and the court’s most conservative members—Clarence Thomas, Alito, and Gorsuch—who wanted it overruled once and for all. In **the middle** was Barrett, joined by Kavanaugh, who acknowledged Smith‘s shortcomings but was **concerned with** the **fallout** should the court overrule it. “Yet what should replace Smith?” Barrett asked in a short concurrence. Both cases were a punt, Blackman said, with the issues likely to return to the court at some point in the future. End of the World But the ACA and LGBT cases, along with the extraordinary agreement all term, suggests a **majority** of the justices **don’t think** **it’s** the right **time to make major changes** in the law. “In the throes of everything"—the pandemic, Barrett’s first term, Kavanaugh’s biting confirmation, calls for Breyer to retire, and the caustic 2020 presidential election—"they didn’t want to shock the world this year,” Segall said. “**Preserving** the **court’s** own political **capital** **is** incredibly **important** to the justices because they know their only capital is the confidence of the American people,” he added. **Adler said the court has developed a sort of 3-3-3 split**—that is, three liberals, three conservative justices willing to chuck precedents they don’t agree with, and three conservative justices hesitant to overturn cases they may disagree with. **Roberts, Kavanaugh, and now, apparently, Barrett make up that last group.** Adler said that split will create some interesting pressures for the three justices in the middle next term, when—as Segall said—"the world will end.” **The end of the world was a reference—in part—to the court’s abortion case, which could call into question the landmark ruling in Roe v. Wade and later cases**.

#### **The court’s center is skeptical of overturning precedent in Roe, but the path’s narrow.**

Feldman ‘9/2 (Noah; Bloomberg Opinion columnist and host of the podcast “Deep Background.” He is a professor of law at Harvard University and was a clerk to U.S. Supreme Court Justice David Souter.; “Is the Supreme Court Ready to Overturn Roe? We Don’t Know”; 9/2/21; Bloomberg; https://www.bloomberg.com/opinion/articles/2021-09-02/supreme-court-ruling-on-texas-abortion-law-isn-t-death-knell-for-roe; Accessed 9/17/21]

Every nonlawyer on the planet — and no doubt a few lawyers, too — is likely to read this outcome as prefiguring a 5-to-4 vote to overturn Roe v. Wade, the 1973 precedent that made abortion a constitutional right. Later this year, **the court will address** a Mississippi anti-**abortion law** that lacks the cleverly diabolical enforcement mechanism of the Texas law but is equally unconstitutional. Indeed, the day after the law went into effect and before the Supreme Court ruled, many non-lawyers who were so unfamiliar with court procedures that they didn’t know it would eventually issue a ruling on the Texas law had already concluded that they knew how the upcoming Mississippi case would come out. That’s a possible interpretation of the latest opinion, to be sure. But the **opinion** for the five conservatives **explicitly denied** it. “We stress,” said the justices, “that we do not purport **to resolve** definitively any jurisdictional or **substantive claim** in the applicants’ lawsuit.” That’s lawyer-speak for **saying** both that the **law could** still **be unconstitutional** and that there might still be some procedural way to block its operation. For good measure, the opinion said the challengers “have raised serious questions regarding the constitutionality of the Texas law.” These **formulations indicate** that at least **some** of the five **conservatives** who joined it wanted to take pains **not to** **send** the **message** **that Roe** v. Wade **is sure to be overturned**. What is less clear is whether anyone on the political battlefield wants to hear that message. The pro-choice camp will doubtless spend the months until the court term ends in June whipping up public sentiment, either in the hopes of changing the outcome or turning any decision overturning Roe into the impetus for packing the court or producing a heavy Democratic turnout in the 2022 midterm elections. The pro-life camp has an equal interest in making the overturning of Roe seem inevitable. Consequently, neither side cares much for dispassionate analysis. But the fact remains that the majority in the Texas ruling did not address the underlying issues, so it would be premature to predict the outcome in the Mississippi case based on it. Taken strictly on its own terms, the **opinion** made a point that **is incorrect** in my view, **but** that is **legally plausible**. That is that there’s no clear precedent for courts to block in advance the operation of a law that creates a civil penalty — not a criminal violation — to be applied by the courts after private lawsuits by private parties. Ordinarily, when a criminal law is obviously unconstitutional, the courts issue an order to the state attorney general not to enforce it. Such an order would not have any effect in this case, since the Texas attorney general isn’t empowered to enforce the law.

#### Expanding Rights Protection is perceived as judicial activism – it strays from the Constitution and forces Roberts to expend court capital.

Tribe et al. ‘10 [Laurence; January 2010; Carl M. Loeb University Professor at Harvard Law School, et al.; "TOO HOT FOR COURTS TO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE," https://s3.us-east-2.amazonaws.com/washlegal-uploads/upload/legalstudies/workingpaper/012910Tribe\_WP.pdf/]

We can stipulate that the **Constitution’s** framers were **not driven by** the **relationships** among chemistry, temperature, combustion engines, and global climate when they **assigned** **to** the **judicial process** the task of **interpreting** and applying **rules of law**, and to the political process the mission of making the basic policy choices underlying those rules. Yet the framework established by the Constitution they promulgated, refined over time but admirably constant in this fundamental respect, wisely embodied the recognition that enacting the ground rules for the conduct of commerce in all of its manifestations—including designing incentives for innovation and creative production (through regimes of intellectual property), establishing the metrics and units for commercial transactions (through regimes of weights and measures), and coping with the cross-boundary effects of economic activity (through the regulation of interstate and foreign commerce)—was a task quintessentially political rather than judicial in character. Yet the litigious **character of** American **society**, observed early in the republic’s history by deTocqueville, has ineluctably **drawn** American **courts**, federal as well as state, into problems within these spheres more properly and productively addressed by the legislative and executive branches. This has occurred in part because **political solutions** to complex problems of policy choice inevitably **leave some** citizens and consumers **dissatisfied** and inclined to seek judicial redress for their woes, real or imagined. And it has occurred in part because the toughest **political problems** appear on the horizon long before solutions can be identified, much less agreed upon, **leaving courts** to **fill the vacuum** that social forces abhor no less than nature itself. One can believe strongly in access to courts for the protection of judicially enforceable rights and the preservation of legal boundaries—as the authors of this WORKING PAPER do— while still deploring the perversion of the judicial process to meddle in matters of policy formation far removed from those judicially manageable realms. Indeed, the two concerns are mutually reinforcing rather than contradictory, for **courts squander** the **social and cultural capital** they need **in order to do** what may be **politically unpopular in preserving rights and protecting boundaries** when they yield to the temptation to treat lawsuits as ubiquitously useful devices for making the world a better place.

#### RTS is treated as an issue of corporate free speech - Robert’s legacy is built on its rejection - ensures sustained backlash.

Thomson-DeVeaux 18 (, A., 2018. Chief Justice Roberts Is Reshaping The First Amendment. [online] FiveThirtyEight. Available at: <https://fivethirtyeight.com/features/chief-justice-roberts-is-reshaping-the-first-amendment/> [Accessed 5 November 2021] Amelia Thomson-DeVeaux is a senior writer at FiveThirtyEight. Before joining FiveThirtyEight’s staff, she was a regular contributor to the site and a freelance writer and editor with a wide portfolio of work. Her writing has been published in a variety of outlets, including CNN, Cosmopolitan, National Journal, and New York Magazine. She is a graduate of Princeton University and holds a master's degree in religious studies from The University of Chicago. Between degrees, she was on the staff of The American Prospect and worked as a writer and editor for PRRI, a public opinion research organization in Washington, DC.)-rahulpenu

It’s been a big year for free speech at the Supreme Court. Two of the most high-profile cases argued before the court so far have revolved around free speech rights, four other cases on the docket this term involve free speech questions, and yet another case where the issue is paramount greets the court on Tuesday.

The court today is hearing arguments on whether the state of California is trampling on the free speech rights of crisis pregnancy centers — nonprofit organizations that do not perform abortions and encourage women to seek alternatives to the procedure — by requiring them to post notices explaining patients’ ability to access abortion and other medical services. In December, attorneys for a baker at Masterpiece Cakeshop in Colorado argued that a state anti-discrimination law violates his free speech rights as a self-described cake artist by requiring him to make a wedding cake for a gay couple. Last month, the justices heard oral arguments in a case about whether state laws allowing unions to require nonmembers to pay fees violate those employees’ right to free speech.

Whichever way the rulings come down this spring and summer, it’s almost certain that the winning side will include Chief Justice John Roberts, who has spent his 12-plus years at the helm of the high court quietly carving out a space as a prolific and decisive arbiter of free speech law. Supporters and critics both agree that during his tenure, the court has dramatically expanded the reach of the First Amendment by striking down a wide range of statutes for encroaching on free speech rights. And **Roberts** has **authored** more **majority** **opinions** **on** **free** **speech** than any other justice during his tenure, signaling that this is an area where he **wants** **to** **create** a **legacy**.

But just what that legacy will be is **highly** **contested**. Roberts’s admirers argue that his commitment to the First Amendment transcends ideological boundaries. But others contend that his decisions don’t protect speech across the board. Instead, they say that **Roberts** is more than willing to **allow** the government to restrict speech when it’s speech he disagrees with — meaning **free** **speech** is becoming **a** legal **tool** **that** **favors** **corporations** **over** **individuals**.

The chief justice gets to decide who writes the majority opinion in any case where he’s on the winning side, which means that Roberts is able to stake a claim over a particular area of law if he so chooses. And that seems to be what’s happening with free speech: As of the end of the 2016 term, Roberts had written 34 percent of the free speech decisions the court has handed down since he joined its ranks, and 14 percent of his majority opinions were devoted to the topic.1 Even when he’s not writing for the majority, Roberts is rarely on the losing side: Out of the 38 free speech cases we counted,2 he voted with the minority only once.

The First Amendment appears to be a topic of deep personal interest for Roberts, and he’s not commanding the majority opinion in these cases simply to reinforce earlier decisions. Roberts has presided over — and participated in — a deliberate and systematic expansion of free speech rights in the realm of campaign finance and commercial speech. The court’s determination that campaign spending limits on corporations violated free speech in the 2010 case Citizens United v. FEC was just one in a series that struck down a range of campaign finance laws on First Amendment grounds and expanded corporations’ right to speech in other venues, like drug advertising and trademark regulations.

According to legal experts, these rulings represent a clear and unprecedented reversal of previous Supreme Court interpretations of the First Amendment, particularly with regard to corporations. Those interpretations began taking shape early in the last century, as the court only began to strike down federal statutes for abridging free speech after World War I. As it did so, it at first explicitly rejected the idea that commercial speech was constitutionally protected. In the 1970s and ’80s, the justices walked this decision back somewhat as it related to certain types of ads, but they continued to maintain that advertising remained categorically different from other kinds of speech, especially when it was presenting inaccurate information.

At the same time, the justices issued groundbreaking rulings that protected the speech of unpopular individuals and groups against government censorship. It was these cases, which involved government attempts to quash union picketing, student protests of the Vietnam war, flag-burning and Nazi protests, that established free speech as an essential protection for people with minority opinions who were in danger of being silenced by the majority.

This is decidedly not the principle that the Roberts court has embraced with its rulings on campaign finance and commercial speech. Starting in the 1970s, campaign finance laws restricting the flow of money into politicians’ coffers aimed to make space for more voices in the political sphere by preventing the wealthy from buying influence. But in the Citizens United case, the court ruled that the government couldn’t restrict the free speech rights of corporations simply because they were corporations — even if citizens with fewer financial resources were less able to command the attention of their elected officials as a result.

Although the Roberts court seems to be interpreting free speech in a new way with these decisions, some historians say that free speech has always been ideologically flexible. According to Laura Weinrib, a historian and professor of law at the University of Chicago, corporate titans like the Ford Motor Company were part of the early push for broader **free** **speech** **protections** precisely because they recognized the power of the First Amendment for **advancing** **their** **own** **causes**, while organizations like the ACLU strategically accepted a “neutral” vision of free speech that **protected** the strong (**companies** like Ford) as well as the weak (union **workers** **seeking** the **right to strike**) in order to secure early victories for **labor** **rights**. Those twin forces helped **pave** the **way** **for** **today’s** understanding of **free** **speech** **under** the **Roberts** court.

It’s that question of what free speech protections should do — and whether it’s acceptable to muzzle stronger voices if they’re drowning out weak or unpopular opponents — that may help explain the Roberts court’s **rightward** **turn** **on** **corporate** **speech**.

Burt Neuborne, a law professor at New York University and a former legal director of the ACLU, said that the liberal justices are willing to tolerate some restrictions on speech because they see them as necessary to build a fair society. “In this view, you can, for example, limit free speech when it threatens our democracy,” Neuborne said. The **conservative** **justices**, on the other hand, tend to **view** **free** **speech** **itself** **as** the **goal**. “They don’t care what happens afterward or who they’re affecting — they just **want** **to** **get** the **gov**ernment **out** **of** the business of **meddling** with speech,” he said.

This explanation is complicated, though, by the fact the Roberts court — and Roberts himself — has painted a muddier picture of other speech limits. Roberts authored opinions striking down a civil judgment holding the Westboro Baptist Church liable for damages resulting from church members picketing outside a soldier’s funeral, and a law prohibiting the distribution of videos showing animal cruelty. Those rulings are clearly in line with previous ones permitting flag-burning and Nazi protests. But Roberts also issued decisions or signed onto rulings that allowed the government to restrict the speech of students, even when they’re off school property, and limit the expression of public employees in a variety of contexts.

There’s disagreement about whether the Roberts court, by upholding these government restrictions on speech, is undermining its reputation as a court dedicated to a broad view of free speech. “It’s very much to Roberts’s credit that his Supreme Court has a genuinely expansive view of free speech that can’t be explained by political favoritism,” said Michael McConnell, a professor at Stanford Law School. He acknowledged that there are a few exceptions but said they aren’t significant or frequent enough to undermine his broader characterization of Roberts’s record.

But Genevieve Lakier, another University of Chicago law professor, disagreed. “The court does make judgments about when the government needs to restrict speech,” she said. “And in contexts like schools, or when the government says there are national security needs, it’s shockingly willing to allow those restrictions.”

Whether or not it’s fair to say that the Roberts court has been broadly protective of free speech, there’s little question that the court is reshaping it in ways that will resonate for years to come. And the cases this term could play a pivotal role in defining and clarifying that legacy — especially Masterpiece Cakeshop.

Neuborne predicted that the wedding cake case would be challenging for Roberts, but that either way, it would further illuminate his stance on free speech. “This case could have serious ramifications for nondiscrimination law,” Neuborne said. “But there is a free speech claim involved, so we’ll see how much of an absolutist Roberts is willing to be.”

#### Legal Abortion key to Fetal Tissue research that creates treatments and vaccines for disease

LRM 19 Medicine, The Lancet Respiratory. "Fetal tissue research: focus on the science and not the politics." (2019): 639. (ranked as the number one journal in the fields of critical care and respiratory medicine)//Found by JM + BUBU//Re-cut by Elmer

**Stem cell** therapy **research** in lung disease is still at early stages, but the research output is **increasing** and the area is a **promising** one. However, there are **limits** to the use of MSC and other adult multipotent stem cells, because **substantial numbers** are **required for therapeutic effects**. The cells also have a shorter replicative lifespan and can only make a restricted number of specialised cell types that are specific for their organ of origin. **Fetal tissue**, by contrast, provides cell lines that grow rapidly, are able to **easily differentiate** into multiple cell types, and are **less likely to be rejected** by the body. In the future, fetal tissue might be replaced in certain areas of research with the use of induced pluripotent stem cells and organoids, which are human-cell cultures that can be crafted to replicate an organ. However, in areas such as fetal development, a suitable replacement to fetal tissue is unlikely to be found. Although research into fetal tissue alternatives is worthwhile, it will take time and until then, the use of fetal tissue is **essential** so that **research efforts**, which are crucial for the development of new therapeutic treatments in often difficult-to-treat lung diseases, are not severely hampered. And those in the field need to ensure their voices are heard. Indeed, the American Thoracic Society released a statement the day after the Trump administration announcement saying that “Scientific research with fetal tissue is **vital for** the **development of new treatments for** many **deadly** **diseases** and conditions, such as cystic fibrosis and acute lung injury. **There are no alternative research models that can replace all fetal tissue research”.** Fetal tissue has been a **key** **part of** the development of multiple **vaccines**, **treatments** for cystic fibrosis, and ongoing research into cancer immunotherapy. The major objection to fetal tissue research is that the **source of** the **fetal tissue is** **mainly from** **elective abortions**. However, there is no suggestion that the number of abortions will decrease as a result of removing funding for fetal tissue research. **Abortion is still legal** in all 50 states in the USA and fetal tissue would otherwise be discarded. **Fetal tissue research**, in fact, holds the **potential to save lives** through the development of new treatments and vaccines. Politicising scientific research in this way means denying hope to millions of patients with life-limiting diseases.

#### Diseases cause Extinction

Bar-Yam 16 Yaneer Bar-Yam 7-3-2016 “Transition to extinction: Pandemics in a connected world” <http://necsi.edu/research/social/pandemics/transition> (Professor and President, New England Complex System Institute; PhD in Physics, MIT)//Elmer

Watch as one of the more aggressive—brighter red — strains rapidly expands. After a time it goes extinct leaving a black region. Why does it go extinct? The answer is that it spreads so rapidly that it kills the hosts around it. Without new hosts to infect it then dies out itself. That the rapidly spreading pathogens die out has important implications for evolutionary research which we have talked about elsewhere [1–7]. In the research I want to discuss here, what we were interested in is the effect of adding long range transportation [8]. This includes natural means of dispersal as well as unintentional dispersal by humans, like adding airplane routes, which is being done by real world airlines (Figure 2). When we introduce long range transportation into the model, the success of more aggressive strains changes. They can use the long range transportation to find new hosts and escape local extinction. Figure 3 shows that the more transportation routes introduced into the model, the more higher aggressive pathogens are able to survive and spread. As we add more long range transportation, there is a critical point at which pathogens become so aggressive that the entire host population dies. The pathogens die at the same time, but that is not exactly a consolation to the hosts. We call this the phase transition to extinction (Figure 4). With increasing levels of global transportation, human civilization may be approaching such a critical threshold. In the paper we wrote in 2006 about the dangers of global transportation for pathogen evolution and pandemics [8], we mentioned the risk from Ebola. Ebola is a horrendous disease that was present only in isolated villages in Africa. It was far away from the rest of the world only because of that isolation. Since Africa was developing, it was only a matter of time before it reached population centers and airports. While the model is about evolution, it is really about which pathogens will be found in a system that is highly connected, and Ebola can spread in a highly connected world. The traditional approach to public health uses historical evidence analyzed statistically to assess the potential impacts of a disease. As a result, many were surprised by the spread of Ebola through West Africa in 2014. As the connectivity of the world increases, past experience is not a good guide to future events. A key point about the phase transition to extinction is its suddenness. Even a system that seems stable, can be destabilized by a few more long-range connections, and connectivity is continuing to increase. So how close are we to the tipping point? We don’t know but it would be good to find out before it happens. While Ebola ravaged three countries in West Africa, it only resulted in a handful of cases outside that region. One possible reason is that many of the airlines that fly to west Africa stopped or reduced flights during the epidemic [9]. In the absence of a clear connection, public health authorities who downplayed the dangers of the epidemic spreading to the West might seem to be vindicated. As with the choice of airlines to stop flying to west Africa, our analysis didn’t take into consideration how people respond to epidemics. It does tell us what the outcome will be unless we respond fast enough and well enough to stop the spread of future diseases, which may not be the same as the ones we saw in the past. As the world becomes more connected, the dangers increase. Are people in western countries safe because of higher quality health systems? Countries like the U.S. have highly skewed networks of social interactions with some very highly connected individuals that can be “superspreaders.” The chances of such an individual becoming infected may be low but events like a mass outbreak pose a much greater risk if they do happen. If a sick food service worker in an airport infects 100 passengers, or a contagion event happens in mass transportation, an outbreak could very well prove unstoppable.

## 3

### PIC---1NC

#### CP Text: The United States Government ought to recognize the right to strike however not unconditionally, intermittent strikes should be illegal, all other types of strikes the AC recognizes should remain.

#### Intermittent strikes violate labor peace, Theodore 19

[Mark Theodore, 7-30-2019, "Employer’s Discipline of Employees Engaging In “Intermittent Strikes” Lawful: NLRB Majority", Labor Relations Update, https://www.laborrelationsupdate.com/nlra/employers-discipline-of-employees-engaging-in-intermittent-strikes-lawful-nlrb-majority/, date accessed 10-24-2021] //Lex AT

The Board also explained why intermittent strikes are unprotected: such conduct undermines the purpose of the Act – i.e., to promote overall labor peace – by allowing employees to leave work at times particularly harmful to the employer while still being able to return to work before losing their jobs to permanent replacements.  The Board determined that, unlike a genuine strike, such a tactic was never contemplated or condoned by Congress in crafting the Act and therefore does not warrant protected status.

## Case

#### No link to heg-their evidence highlights specifically the defense industry but none of the aff says there is a specific shortage of workers there

#### A strong industrial workforce is key to US military primacy

Bloomberg Editorial Board 4/7 [(Members of the editorial board will write and edit in other capacities within Bloomberg Opinion. Because our columnists have always spoken for themselves, they will continue as before — though columnists will still refrain from endorsing candidates, a policy we have had in place since we started in 2011.) “America’s Depleted Industrial Base Is a National Security Crisis,” Bloomberg, 4/7/21. <https://www.bloomberg.com/opinion/articles/2021-04-07/america-s-depleted-industrial-base-is-a-national-security-crisis>] RR

President Dwight D. Eisenhower’s farewell address is most famous for its warning against the “unwarranted influence” of the military-industrial complex. But Eisenhower also stressed the defense industry’s importance to the country’s security: After all, it helped the U.S. maintain superiority over its rivals, forestall great-power conflict and win the Cold War.

Six decades on, America’s military remains the most advanced in the world — but the industrial base supporting it has deteriorated. Industry consolidation, domestic manufacturing decline and dysfunctional federal budgeting have combined to reduce competition throughout the defense supply chain, eroding military readiness and potentially jeopardizing national security.

As Congress considers the Defense Department’s next budget, investing in a more nimble, innovative and resilient defense-industrial base should be among its highest priorities.

Some parts of the defense industry, to be sure, continue to flourish. The U.S. spends more on its military than the next 10 countries combined, with the Pentagon’s budget consuming more than half of all federal discretionary spending. Revenue for defense contractors has increased by 83% since 2011, with annual spending per company doubling in the past five years alone.

That money, however, is flowing to a reduced cast of contractors. An analysis by Bloomberg Government found that the number of Pentagon “prime vendors” — those that receive contracts directly from the government — has dropped by 36% in the last decade. An even smaller handful has reaped the most gains. According to the Government Accountability Office, nearly half of the 183 major contracts awarded by the Pentagon in 2018 went to just five contractors and their subsidiaries.

Such concentration imposes costs on both the military and the public. The first is financial. More than two-thirds of major Defense Department contracts are awarded without a competitive bidding process, according to the GAO; most of the rest receive bids from two or fewer companies. Fewer bidders means pricier contracts: Between 2008 and 2018, the average acquisition cost of a U.S. weapons program, in constant dollars, increased by 12.5%.

A lack of suppliers also undermines America’s ability to respond to crises. The Pentagon has identified a “staggering” number of cases where it relies on a single vendor for critical components. It’s down to a lone domestic source of both ammonium perchlorate, a key ingredient for warship propulsion systems, and chaff, a material that fighter jets release to evade enemy radar systems. A sole manufacturer provides all of the Army’s gun and howitzer barrels and mortar tubes. Meanwhile, offshoring has made the supply chain more vulnerable to trade disruptions, cyberattacks and sabotage.

This attenuation of the U.S.’s military supply chain poses a growing national security risk — and it demands a bold response.

President Joe Biden’s $2.25 trillion infrastructure plan includes $180 billion in investments to strengthen U.S. supply chains. The administration should use the Defense Production Act and other authorities to boost support for smaller domestic suppliers of critical goods and services. The Pentagon should also streamline its cumbersome contracting and acquisition process, which discourages innovation and crowds out nontraditional vendors. Initiatives like the Trusted Capital program, which connects investors with companies developing new military technologies, should be expanded. Finally, the Federal Trade Commission and the Justice Department should increase scrutiny of defense-industry mergers and acquisitions to limit excessive consolidation.

A well-functioning supply chain depends on a diverse array of private-sector companies. The viability of those companies, in turn, depends on a sufficient supply of skilled labor. Upgrading the skills of both service members and the civilian workforce that supports the military is critical. The Pentagon should expand digital training for current employees and offer promotions and higher pay to civilian staff with advanced technical skills. Congress should boost funding for the department’s Skills Imperative initiative, which brings together schools and employers to address defense-industry workforce needs. It should also encourage apprenticeship programs in key sectors, such as shipbuilding, that lack qualified workers.

As Eisenhower recognized, America’s influence abroad depends on its strength at home. Revitalizing the defense-industrial base is essential not only for national security, but also for the preservation of peace around the world.

#### Heg is bad –

#### 1 – Asian prolif

Fettweis 18

Christopher J. Fettweis, an American political scientist and the Associate Professor of Political Science at Tulane University, “Chapter 2: Unipolarity and Nuclear Weapons,” *Psychology of a Superpower: Security and Dominance in U.S. Foreign Policy,* Columbia University Press, 2018, accessed through Georgetown Libraries

First and most obviously, the second nuclear age is likely to be marked by a great deal more proliferation than the first. According to Bracken, the “overarching theme” of the age will be the “breakdown of the major power monopoly over the bomb.”6 Unipolarity provides strong incentives for smaller states, who have no hope of balancing the United States, to pursue nuclear weapons. No matter how much effort the United States puts into non- and counterproliferation, “nuclear weapons will nevertheless spread, with a new member occasionally joining the club,” predicted Kenneth Waltz. 7 “The most likely scenario in the wake of the Cold War,” argued John Mearsheimer, “is further nuclear proliferation in Europe,” and “it is not likely the proliferation will be well managed.”8 Instability and insecurity would spread, as would nuclear weapons, throughout the global South.9 Since new nuclear states were almost inevitable, both Waltz and Mearsheimer felt that it was in the interest of the West to attempt to manage, and indeed even to encourage, gradual proliferation to help stabilize the system.

These chains of proliferation will lead to new, potentially unstable nuclear rivalries. Were North Korea to be accepted as the ninth nuclearweapons state, Graham Allison warned in 2004, South Korea and Japan would build their own arsenals “by the end of the decade.”10 The second nuclear age will be “much more decentralized,” with “many independent nuclear decision centers.”11 A “multipolar nuclear order” is on the horizon, if it has not already arrived.12

The new nuclear powers are not likely to resemble the old. The second major assumption of the SNA literature is that proliferation will reach less enlightened parts of the globe, those led by unpredictable, semirational tyrants. The old rules of deterrence may not apply, since the motivations of these actors are not only less knowable but often ruled by passions and nationalism. “The idea of budding defense intellectuals sitting around computer models and debating strategy in Iran or Pakistan defies credulity,” or at least Bracken’s estimation, since in these states “hysterical nationalism” overrules rationality.13 The “overdetermined” cascades of proliferation across Asia will bring a host of new, less trustworthy actors into the nuclear camp, from rogue states to nonstate actors, all of whom will be essentially undeterrable by traditional means.14 Their motivations will be less rational or simply less transparent to the outside world.

In the second nuclear age, not just an accidental but the intentional use of nuclear weapons by new nuclear actors cannot be ruled out.15 Rogue states do not seek nuclear weapons for the reasons that motivated earlier proliferants. While all U.S. observers believe that Washington’s arsenal exists for defensive purposes, to deter any attack that our enemies would otherwise contemplate, the primary use of new nuclear weapons will be offensive. The possibility for irrationality in new nuclear powers inspired the United States to scrap the Anti-Ballistic Missile Treaty and begin thinking about how to “tailor” deterrence to target smaller actors.16 A nuclear Iran will use its weapons to bully or even attack, not deter. In 2017, experts warned that North Korean intercontinental ballistic missiles would be coercive, to extract concessions from U.S. allies. “North Korea’s contempt for its neighbors suggests that it would hold them hostage with its nuclear weapons,” wrote the widely respected ambassador Chris Hill. “Would proliferation stop with South Korea and Japan? What about Taiwan?”17 As a result, the basic assumptions of deterrence need to be rethought.

#### 2 – Alliances create commitment traps and incentivize probing – that causes entanglement and war

O’Hanlon 19

Michael E. O’Hanlon, a senior fellow, and director of research, in Foreign Policy at the Brookings Institution, where he specializes in U.S. defense strategy, the use of military force, and American national security policy, “The Senkaku paradox: Preparing for conflict with the great powers,” Brookings Institute, May 2, 2019, <https://www.brookings.edu/blog/order-from-chaos/2019/05/02/the-senkaku-paradox-preparing-for-conflict-with-the-great-powers/>

However, what about smaller efforts to nibble away at the existing world order that Beijing and Moscow often find objectionable? What if China decided to land forces on one of the eight Senkaku/Diaoyu islands in the East China Sea?∂ These remote rocks are claimed by both Japan and China, uninhabited and effectively worthless except for surrounding fishing waters, but they are covered by the U.S.-Japan security treaty, as President Obama and Secretary Mattis have both publicly reaffirmed in recent years.∂ Or, what if Russia decided to fabricate a “threat” to native Russian speakers in a small town in eastern Estonia or Latvia to create a pretext for “little green men” to swoop in (perhaps bloodlessly) to save the day? Scenarios involving the Philippines or other countries can be imagined, too.∂ Why would Moscow or Beijing consider such actions? China or Russia might like the idea of sowing their hegemonic oats and getting back at neighbors they have not forgiven for past events.∂ But Moscow’s or Beijing’s real purpose might be to weaken American alliance systems, and with them the U.S.-led global order, so as to increase its own power and dominance, especially in regions near its borders.∂ For example, a Russian grab of just one small Baltic town could be expected to throw the North Atlantic Treaty Organization (NATO) alliance into existential crisis.∂ Some member nations would likely seek nonmilitary solutions to the threat, whereas others might favor a prompt military response—with the ensuing debate casting into doubt the whole purpose of the alliance. ∂ The state of military technology and expected trends in future innovation compound the problem. Deployment of large U.S.-led military force packages into the lion’s den near China’s coasts or into the Baltic regions of Europe near Russia is becoming a harder proposition to entertain.T∂ The spread of the type of precision technology that the United States once effectively monopolized accounts for much of the reason why. The problem is exacerbated by other new or imminent weapons:∂ miniaturized robotics that function as sensors or even weapons, individually or in swarms;∂ small satellites that could function as clandestine space mines against larger satellites;∂ homing anti-ship missiles and various types of superfast hypersonic missiles in general; and∂ threats to computer systems from both traditional human-generated hacking and artificial intelligence (AI)-generated algorithms.∂ No mid-sized U.S. defense buildup can likely reverse these dynamics.∂ A scenario of the type sketched above would create a huge dilemma for the United States and allies—a situation I call the “Senkaku Paradox.” Mutual-defense treaty commitments under Article V of both the NATO and U.S.-Japan treaties would appear to commit Washington to defend or liberate such allied territory.∂ Yet, that could lead to direct war with a nuclear-armed great power over rather insignificant stakes. A large-scale U.S. and allied response could seem massively disproportionate. But a non-response would be unacceptable and invite further aggression.

#### 3 – The only comprehensive study proves retrenchment is comparatively more peaceful

MacDonald & Parent 11—Professor of Political Science at Williams College & Professor of Political Science at University of Miami [Paul K. MacDonald & Joseph M. Parent, “Graceful Decline? The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4 (Spring 2011), pp. 7–44]

Our findings are directly relevant to what appears to be an impending great power transition between China and the United States. Estimates of economic performance vary, but most observers expect Chinese GDP to surpass U.S. GDP sometime in the next decade or two.91 This prospect has generated considerable concern. Many scholars foresee major conflict during a Sino-U.S. ordinal transition. Echoing Gilpin and Copeland, John Mearsheimer sees the crux of the issue as irreconcilable goals: China wants to be America's superior and the United States wants no peer competitors. In his words, "[N]o amount [End Page 40] of goodwill can ameliorate the intense security competition that sets in when an aspiring hegemon appears in Eurasia."92

Contrary to these predictions, our analysis suggests some grounds for optimism. Based on the historical track record of great powers facing acute relative decline, the United States should be able to retrench in the coming decades. In the next few years, the United States is ripe to overhaul its military, shift burdens to its allies, and work to decrease costly international commitments. It is likely to initiate and become embroiled in fewer militarized disputes than the average great power and to settle these disputes more amicably. Some might view this prospect with apprehension, fearing the steady erosion of U.S. credibility. Yet our analysis suggests that retrenchment need not signal weakness. Holding on to exposed and expensive commitments simply for the sake of one's reputation is a greater geopolitical gamble than withdrawing to cheaper, more defensible frontiers.

Some observers might dispute our conclusions, arguing that hegemonic transitions are more conflict prone than other moments of acute relative decline. We counter that there are deductive and empirical reasons to doubt this argument. Theoretically, hegemonic powers should actually find it easier to manage acute relative decline. Fallen hegemons still have formidable capability, which threatens grave harm to any state that tries to cross them. Further, they are no longer the top target for balancing coalitions, and recovering hegemons may be influential because they can play a pivotal role in alliance formation. In addition, hegemonic powers, almost by definition, possess more extensive overseas commitments; they should be able to more readily identify and eliminate extraneous burdens without exposing vulnerabilities or exciting domestic populations. We believe the empirical record supports these conclusions. In particular, periods of hegemonic transition do not appear more conflict prone than those of acute decline. The last reversal at the pinnacle of power was the Anglo-American transition, which took place around 1872 and was resolved without armed confrontation. The tenor of that transition may have been influenced by a number of factors: both states were democratic maritime empires, the United States was slowly emerging from the Civil War, and Great Britain could likely coast on a large lead in domestic capital stock. Although China and the United [End Page 41] States differ in regime type, similar factors may work to cushion the impending Sino-American transition. Both are large, relatively secure continental great powers, a fact that mitigates potential geopolitical competition.93 China faces a variety of domestic political challenges, including strains among rival regions, which may complicate its ability to sustain its economic performance or engage in foreign policy adventurism.94

Most important, the United States is not in free fall. Extrapolating the data into the future, we anticipate the United States will experience a "moderate" decline, losing from 2 to 4 percent of its share of great power GDP in the five years after being surpassed by China sometime in the next decade or two.95 Given the relatively gradual rate of U.S. decline relative to China, the incentives for either side to run risks by courting conflict are minimal. The United States would still possess upwards of a third of the share of great power GDP, and would have little to gain from provoking a crisis over a peripheral issue. Conversely, China has few incentives to exploit U.S. weakness.96 Given the importance of the U.S. market to the Chinese economy, in addition to the critical role played by the dollar as a global reserve currency, it is unclear how Beijing could hope to consolidate or expand its increasingly advantageous position through direct confrontation.

In short, the United States should be able to reduce its foreign policy commitments in East Asia in the coming decades without inviting Chinese expansionism. Indeed, there is evidence that a policy of retrenchment could reap potential benefits. The drawdown and repositioning of U.S. troops in South Korea, for example, rather than fostering instability, has resulted in an improvement in the occasionally strained relationship between Washington and Seoul. 97 U.S. moderation on Taiwan, rather than encouraging hard-liners in Beijing, resulted in an improvement in cross-strait relations and reassured U.S. allies that Washington would not inadvertently drag them into a Sino-U.S. conflict. 98 Moreover, Washington’s support for the development of multilateral security institutions, rather than harming bilateral alliances, could work to enhance U.S. prestige while embedding China within a more transparent regional order. 99

A policy of gradual retrenchment need not undermine the credibility of U.S. alliance commitments or unleash destabilizing regional security dilemmas. Indeed, even if Beijing harbored revisionist intent, it is unclear that China will have the force projection capabilities necessary to take and hold additional territory. 100 By incrementally shifting burdens to regional allies and multilateral institutions, the United States can strengthen the credibility of its core commitments while accommodating the interests of a rising China. Not least among the benefits of retrenchment is that it helps alleviate an unsustainable financial position. Immense forward deployments will only exacerbate U.S. grand strategic problems and risk unnecessary clashes. 101

#### 4 – Data disproves heg impacts

Peace is not because of the U.S. – only logical explanation is states want peace – the fact there is peace without hegemony proves other factors outweigh – empirics only prove our claim

Theoretically if other people wanted war – us couldn’t stop them, thus people just don’t want war

There is peace where the u.s. isn’t which means there is obvi something else at play

Even when hegemony decreased, war still decreased which means that they’re not related

Fettweis 10 – Professor of national security affairs @ U.S. Naval War College (Chris, Georgetown University Press, “Dangerous times?: the international politics of great power peace” Google Books) Jacome

Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that a generally in the interests of all countries to follow. Without a benevolent hegemony, some strategists fear, instability may break out around the globe. Unchecked conflicts could cause humanitarian disaster and, in today’s interconnected world economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would “become a more dangerous place” and, sooner or later, that would “rebound to America’s detriment.” If the massive spending that the United States engages in actually produces stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, the belief that U.S. hegemony is not the primary cause of the current era of stability. First of all, the hegemonic stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can be stability in the community of great powers is if self-policing occurs, ifs states have decided that their interest are served by peace. If no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would be wasted. The 5 percent of the world’s population that live in the United States simple could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States may be patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to be the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to be especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influence those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s the United States cut back on its defense spending fairly substantially, By 1998 the United States was spending $100 billion less on defense in real terms than it had in 1990. To internationalists, defense hawks, and other believers in hegemonic stability this irresponsible "peace dividend" endangered both national and global security "No serious analyst of American military capabilities," argued Kristol and Kagan, "doubts that the defense budget has been cut much too far to meet Americas responsibilities to itself and to world peace."" If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable Pentagon, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove mistrust and arms races; no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat ofinternational war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

#### 5 – Counterbalancing

#### A. Pursuit of hegemony is leads to Sino-Russia alliance and is unsustainable.

Porter, DPhil, 19

(Patrick, ModernHistory@Oxford, ProfInternationalSecurityAndStrategy@Birmingham, Advice for a Dark Age: Managing Great Power Competition, The Washington Quarterly, 42:1, 7-25)

Even the United States cannot prudently take on every adversary on multiple fronts. The costs of military campaigns against these adversaries in their backyards, whether in the Baltic States or Taiwan, would outstrip the losses that the U.S. military has sustained in decades. Short of all-out conflict, to mobilize for dominance and risk escalation on multiple such fronts would court several dangers. It would overstretch the country. The U.S. defense budget now approaches $800 billion annually, not including deficit-financed military operations. This is a time of ballooning deficits, where the Congressional Budget Office warns that “the prospect of large and growing debt poses substantial risks for the nation.”27 If in such conditions, current expenditure is not enough to buy unchallengeable military preponderance—and it may not be—then the failure lies not in the failure to spend even more. Neither is the answer to sacrifice the quality of civic life at home to service the cause of preponderance abroad. The old “two war standard,” a planning construct whereby the United States configures its forces to conduct two regional conflicts at once, would be unsustainably demanding against more than one peer competitor, or potentially with a roster of major and minor adversaries all at once.28 After all, the purpose of American military power is ultimately to secure a way of life as a constitutional republic. To impose ever-greater debts on civil society and strip back collective provision at home, on the basis that the quality of life is expendable for the cause of hegemony, is perversely to set up power-projection abroad as the end, when it should be the means. The problem lies, rather, in the inflexible pursuit of hegemony itself, and the failure to balance commitments with scarce resources. To attempt to suppress every adversary simultaneously would drive adversaries together, creating hostile coalitions. It also may not succeed. Counterproliferation in North Korea is difficult enough, for instance, but the task becomes more difficult still if U.S. enmity with China drives Beijing to refuse cooperation over enforcing sanctions on Pyongyang. Concurrent competitions would also split American resources, attention and time. Exacerbating the strain on scarce resources between defense, consumption and investment raises the polarizing question of whether preponderance is even worth it, which then undermines the domestic consensus needed to support it. At the same time, reduced investment in infrastructure and education would damage the economic foundations for conducting competition abroad in the first place. Taken together, indiscriminate competition risks creating the thing most feared in traditional U.S. grand strategy: a hostile Eurasian alliance leading to continuous U.S. mobilization against hostile coalitions, turning the U.S. republic into an illiberal garrison state. If the prospect for the United States as a great power faces a problem, it is not the size of the defense budget, or the material weight of resources at the U.S. disposal, or popular reluctance to exercise leadership. Rather, the problem lies in the scope of the policy that those capabilities are designed to serve. To make the problem smaller, Washington should take steps to make the pool of adversaries smaller.

#### B. A strong Sino-Russian alliance combined with expanded US military presence ensures joint retaliation — that escalates to the use of nuclear force

Klare 18 – Professor of peace and world security studies at Hampshire College. (Michael T., “The Pentagon Is Planning a Three-Front ‘Long War’ Against China and Russia,” April 4, 2018, https://fpif.org/the-pentagon-is-planning-a-three-front-long-war-against-china-and-russia/)//sy

In relatively swift fashion, American military leaders have followed up their claim that the U.S. is in a new long war by sketching the outlines of a containment line that would stretch from the Korean Peninsula around Asia across the Middle East into parts of the former Soviet Union in Eastern Europe and finally to the Scandinavian countries. Under their plan, American military forces — reinforced by the armies of trusted allies — should garrison every segment of this line, a grandiose scheme to block hypothetical advances of Chinese and Russian influence that, in its global reach, should stagger the imagination. Much of future history could be shaped by such an outsized effort. Questions for the future include whether this is either a sound strategic policy or truly sustainable. Attempting to contain China and Russia in such a manner will undoubtedly provoke countermoves, some undoubtedly difficult to resist, including cyber attacks and various kinds of economic warfare. And if you imagined that a war on terror across huge swaths of the planet represented a significant global overreach for a single power, just wait. Maintaining large and heavily-equipped forces on three extended fronts will also prove exceedingly costly and will certainly conflict with domestic spending priorities and possibly provoke a divisive debate over the reinstatement of the draft. However, the real question — unasked in Washington at the moment — is: Why pursue such a policy in the first place? Are there not other ways to manage the rise of China and Russia’s provocative behavior? What appears particularly worrisome about this three-front strategy is its immense capacity for confrontation, miscalculation, escalation, and finally actual war rather than simply grandiose war planning. At multiple points along this globe-spanning line — the Baltic Sea, the Black Sea, Syria, the South China Sea, and the East China Sea, to name just a few — forces from the U.S. and China or Russia are already in significant contact, often jostling for position in a potentially hostile manner. At any moment, one of these encounters could provoke a firefight leading to unintended escalation and, in the end, possibly all-out combat. From there, almost anything could happen, even the use of nuclear weapons. Clearly, officials in Washington should be thinking hard before committing Americans to a strategy that will make this increasingly likely and could turn what is still long-war planning into an actual long war with deadly consequences.

#### 6 – Eradicates separation of powers

Friedman 17 [Benjamin Friedman, Cato research fellow Benjamin Friedman, 6-1-2017, "Should America Shape the World?," Cato Institute, https://www.cato.org/policy-report/mayjune-2017/should-america-shape-world, accessed 9-21-2020]LHSBC

First, the prospect or realization of unnecessary wars justifies the state’s restriction of various individual freedoms. That occurs not just because the state grows, and the military establishment grows and taxes more money out of people’s pockets, but also due to the direct curtailment of liberties in the name of security. Second, the supposed requirement for presidential dispatch, which results from deep engagement, boosts presidential power and saps that of Congress, the most democratic branch. This contributes to the tendency in U.S. foreign policymaking to resemble a kind of oligarchy of insiders only occasionally hindered by democratic oversight. Third, deep engagement encourages the growth of a large national security bureaucracy shrouded in secrecy, which further retards oversight and debate.

#### Goes nuclear --- accidents and miscalc

Adler 8 [David Gray, Professor of Political Science at Idaho State University, “The Judiciary and Presidential Power in Foreign Affairs: A Critique”, 6-1, http://www.freerangethought.com/index.php?option=com\_content&task=blogsection&id=6&Itemid=41]

{11} The structure of shared powers in foreign relations serves to deter abuse of power, misguided policies, irrational action, and unaccountable behavior.[[31]](http://www.urich.edu/%7Eperspec/adler.htm#31) As a fundamental matter, emphasis on joint policymaking permits the airing of sundry political, social, and economic values and concerns. Such a structure wisely ensures that the ultimate policies will not merely reflect the private preferences or the short-term political interests of the President.[[32]](http://www.urich.edu/%7Eperspec/adler.htm#32) {12} Of course, this arrangement has come under fire in the postwar period on a number of policy grounds. Some have argued, for example, that fundamental political and technological changes in the character of international relations and the position of the United States in the world have rendered obsolete an eighteenth century document designed for a peripheral, small state in the European system of diplomatic relations. Moreover, it has been asserted that quick action and a single, authoritative voice are necessary to deal with an increasingly complex, interdependent, and technologically linked world capable of almost instantaneous massive destruction. Extollers of presidential dominance also have contended that only the President has the qualitative information, the expertise, and the capacity to act with the necessary dispatch to conduct U.S. foreign policy.[[33]](http://www.urich.edu/%7Eperspec/adler.htm#33) {13} These policy arguments have been reviewed, and discredited, elsewhere; space limitations here permit only a brief commentary.[[34]](http://www.urich.edu/%7Eperspec/adler.htm#34NAME=) Above all else, the implications of U.S. power and action in the twentieth century have brought about an even greater need for institutional accountability and collective judgment than existed two hundred years ago. The devastating, incomprehensible destruction of nuclear war and the possible extermination of the human race demonstrate the need for joint participation in any decision to initiate war. Moreover, most of the disputes at stake between the executive and legislative branches in foreign affairs have virtually nothing to do with the need for rapid response to crisis. Rather, they are concerned only with routine policy formulation and execution, a classic example of the authority exercised under the separation of powers doctrine.[[35]](http://www.urich.edu/%7Eperspec/adler.htm#35) {14} Nevertheless, these joint functions have been fused by the executive branch and have become increasingly unilateral, secretive, insulated from public debate, and hence unaccountable.[[36]](http://www.urich.edu/%7Eperspec/adler.htm#36) In the wake of Vietnam, Watergate, and the Iran-contra scandal, unilateral executive behavior has become ever more difficult to defend. Scholarly appraisals have destroyed arguments about intrinsic executive expertise and wisdom in foreign affairs and the alleged superiority of information available to the President.[[37]](http://www.urich.edu/%7Eperspec/adler.htm#37) Moreover, the inattentiveness of presidents to important details and the effects of "groupthink" that have dramatized and exacerbated the relative inexperience of various presidents in international relations have also devalued the extollers' arguments. Finally, foreign policies, like domestic policies, are reflections of values. Against the strength of democratic principles, recent occupants of the White House have failed to demonstrate the superiority of their values in comparison to those of the American people and their representatives in Congress. {15} The assumption of foreign affairs powers by recent presidents represents a fundamental alteration of the Constitution that is both imprudent and dangerous. We turn now to an examination of the judiciary's contribution to executive hegemony in foreign affairs.

#### Us or lose wrong

**Talmadge 2017** (Talmadge, Caitlin. Assistant Professor of Political Science and International Affairs at The George Washington University. 2017. "Would China Go Nuclear?: Assessing the Risk of Chinese Nuclear Escalation in a Conventional War with the United States." *International Security*, vol. 41 no. 4, 2017, pp. 50-92. *Project MUSE*, muse.jhu.edu/article/657918.) VL

Escalation optimists rate the risk of Chinese nuclear escalation as substantially lower—certainly too low to provide a reason to abandon AirSea Battle or its progeny. For example, Elbridge Colby, a former Pentagon official, acknowledges that a U.S. conventional campaign would attack targets on the Chinese mainland, raising some inherent risks of nuclear escalation. Nevertheless, he contends that U.S. policymakers are sensitized to the dangers and can manage the problem through the careful design of military campaigns.15 Vincent Manzo, a Pentagon analyst, also soberly recognizes escalatory risk but argues that a U.S. campaign can be designed to limit the possibility that China would view it as threatening the country’s nuclear deterrent. For example, the United States could geographically circumscribe the range of its operations on Chinese territory or conduct most of its attacks with stand-off weapons that would reduce the need to suppress Chinese air defenses.16 My own conversations and interviews with numerous other current and former U.S. government officials, both military and civilian, suggest that many share Colby’s and Manzo’s views.17 On occasion these views have surfaced publicly, as when former Director of National Intelligence and retired Commander of U.S. Pacific Command Adm. Dennis Blair recently described the possibility of nuclear escalation between the United States and China as “somewhere between zero and nil.”18 Many Chinese analysts echo this relaxed view. As Fiona Cunningham and Taylor Fravel report, “China’s strategic community does not share U.S. concerns about nuclear escalation from the implementation of the AirSea Battle Concept. Its members understand that the aim of the AirSea Battle Concept is to defeat Chinese ‘antiaccess’ capabilities and involves a blinding campaign. Nevertheless, most sources . . . did not believe that the AirSea Battle was relevant to Chinese nuclear weapons.” Cunningham and Fravel do not accept these optimistic Chinese views uncritically, however. They note that Chinese confidence that an AirSea Battle– style campaign would not lead to nuclear escalation is in tension with stated Chinese concerns about how U.S. missile defenses and conventional prompt global strike might affect China’s nuclear retaliatory capabilities.20 Nevertheless, Cunningham and Fravel do question some of the pessimists’ concerns. For example, Cunningham and Fravel show that “the majority of China’s nuclear missiles are not collocated with conventional ones.”21 Hence they argue that the chance that the United States might mistakenly target Chinese nuclear missiles in a campaign against the conventional ones is lower than often assumed. Cunningham and Fravel also echo Chinese doubts about whether U.S. attacks on China’s conventional command and control would impinge on China’s nuclear command and control; the two types of launch brigades use different command chains, and Chinese command and control systems exhibit significant redundancy.22

#### C**onflict of interest – Brands is funded by the military**

Johnson 19 ([Adam Johnson is a contributing analyst for FAIR.org.] “Bloomberg’s Armsmaker-Funded Columnist Wants You to Know: Military Spending Is Woke.” Mar. 19, 2019, <https://fair.org/home/bloombergs-armsmaker-funded-columnist-wants-you-to-know-military-spending-is-woke/>) LHSLA LH

Bloomberg identifies Brands as the “Henry Kissinger Distinguished Professor at Johns Hopkins University’s School of Advanced International Studies, and senior fellow at the Center for Strategic and Budgetary Assessments.” “Kissinger” is [ominous enough](https://fair.org/home/and-now-a-word-from-henry-kissinger/), but surely Center for Strategic and Budgetary Assessments is some innocuous, wonky academic institution, no?∂ In a piece explicitly defending bloated military budgets, however, perhaps it would be useful to know what exactly the “Center for Strategic and Budgetary Assessments” is. We can start by reading this [section](https://csbaonline.org/about/contributors) taken directly from their website (unabridged):∂ Below is a list of organizations that have contributed to our efforts over the past three years.∂ Aerojet Rocketdyne∂ Army Strategic Studies Group∂ Army War College∂ Austal USA∂ Australian Department of Defence∂ BAE Systems Inc.∂ Carnegie Corporation of New York∂ Chemring Group∂ Defense Advanced Research Projects Agency (DARPA)∂ Department of the Navy∂ Embassy of Japan∂ Fincantieri/Marinette∂ Free University Brussels∂ General Atomics∂ General Dynamics—National Steel and Shipbuilding Company (NASSCO)∂ Harris Corporation∂ Huntington Ingalls Industries∂ Johns Hopkins University School of Advanced International Studies∂ Japan Maritime Self-Defense Force∂ Kongsberg Defense Systems, Inc.∂ L3 Technologies, Inc.∂ Lockheed Martin Corporation∂ Maersk Line, Limited∂ Metron∂ National Defense University∂ Navy League of the United States∂ Northrop Grumman Corporation∂ Office of the Secretary of Defense/Office of Net Assessment (ONA)∂ Office of the Secretary of Defense/Office of Cost Assessment and Program Evaluation (CAPE)∂ Office of the Under Secretary of Defense for Acquisition and Sustainment (AT&L)∂ Polski Instytut Spraw Miedzynarodowych (PISM)∂ Raven Industries∂ Raytheon Company∂ Sasakawa Peace Foundation∂ Sarah Scaife Foundation∂ SEACOR Holdings∂ Secretary of Defense Corporate Fellows Program∂ Smith Richardson Foundation∂ Submarine Industrial Base Council∂ Taiwan Ministry of National Defense∂ Textron Systems∂ The Boeing Company∂ The Doris & Stanley Tananbaum Foundation∂ The Lynde & Harry Bradley Foundation∂ United Kingdom Royal Air Force∂ Brands is a senior fellow at an organization funded almost entirely by those with a clear interest in the upcoming $750 billion defense budget Brands is pushing for. While we don’t have a tax filings for CSBA since Brand was hired there, and thus we do not know his specific income, the average senior fellow at the organization, as of its last tax filing, makes just under $300,000 a year. They can call it whatever they wish—”think tank,” “nonprofit,” “Center”—but by any objective metric, this organization is just a lobbying entity for the weapons industry and Western militaries. A cursory glance at their policy briefs reveals they, unsurprisingly, always support more spending on weapons systems. Unlike other weapons-funded lobbying groups such as Center for Strategic and International Studies (FAIR.org, 8/12/16), they don’t even bother throwing some banks or soda companies in there to give the appearance of being anything other than a weapons industry trade group. (Don’t be fooled by the “Sasakawa Peace Foundation”—that’s an organization founded by far-right Japanese business executive Ryoichi Sasakawa, who was jailed as a war crimes suspect after World War II, and who once described himself as the “world’s richest fascist”—Time, 8/26/74.) Setting aside its disqualifying conflicts of interest, Brands’ piece is an assortment of sophistry about how weapons systems create middle-class jobs for Americans. Given that any meaningful definition of “progressive” must take into account the 95 percent of the world who are not Americans—e.g., those on the other end of these weapons systems and military occupations—the column rests its premise on a massive category error. One passage in particular displays a rather goofy notion of what “progressive” means (emphasis added):∂ The progressive critique misses the fact that military spending already serves progressive ends. Yes, defense spending benefits the executives who run major defense contractors, just as infrastructure spending benefits the executives of companies that build highways and airports and schools. But the Pentagon budget also serves as a huge jobs program and source of economic security for the middle class. This includes the roughly 2 million people who serve either on active duty or in the reserves and 730,000 civilian employees. The vast majority of them qualify as middle class and enjoy precisely the sort of healthcare and other benefits progressives seek to provide for the population as a whole.∂ See, if only all 330 million Americans could work in the military industry, building bombs and F-35s, no one would die due to preventable disease or an inability to afford chemotherapy. To Brands, the most “progressive” vision for society is the Klingon Empire—a perpetual war state where service to large-scale mechanized violence is the cost of survival. The idea that healthcare could, maybe, not be tethered to exporting weapons, occupation, hundreds of military bases, CIA dirty tricks and bombings is simply not an option. Progressives’ only hope: piggyback off US imperialism which evidently, to Brands, is simply a law of nature like ocean tides or entropy.∂ Brands also suggests that you can’t have trade except at gunpoint:∂ Defense spending produces massive positive spillovers in the form of national security and the ability to protect access to the global commons – critical to promoting U.S. trade and improving living standards at home.∂ And he says that what progressives should be worrying about as a “long-term threat to America’s ability to invest in infrastructure, education and other progressive priorities is not the Pentagon,” but “runaway entitlement spending.”∂ New York’s Eric Levitz ([3/18/19](http://nymag.com/intelligencer/2019/03/the-left-is-right-to-hate-the-military-industrial-complex.html)) does a good job debunking Brands’ argument, such as it is, and his piece is well worth reading. But it’s not totally clear how useful it is to assume good faith from someone with such deep, undisclosed conflicts. We learned years ago to dismiss out of hand experts funded by the tobacco industry commenting on the effects of smoking, or climate scientists funded by big oil; why, exactly, do we take at all seriously organizations like CSBA when they comment on military budgets, and broader questions of US militarism, while receiving the vast bulk of their funding from those with a vested interest in bloating the US military machine?∂ The reason is, compared to the fossil fuel industry and tobacco, the military-think tank complex’s mercenary experts are 100-fold more intertwined into the US bipartisan consensus. It’s a product of ubiquity and professional courtesy borne from having influence with both Democrats and Republicans, rather than just the increasingly fringe and anti-science GOP. From an ontological standpoint, there’s little difference between experts on the take pushing cigarettes and those on the take pushing weapons; it’s simply a matter of scope and sophistication.∂ In addition, Brands’ Bloomberg bio omits Brands is also a senior fellow at the Foreign Policy Research Institute, which also receives sizable funds from the weapons industry. While its funders are not posted on its website, Rightwing Web, a website that monitors the influence of right-wing funding, does [report](https://rightweb.irc-online.org/profile/foreign_policy_research_institute/) that major supporters listed in the group’s 2012 annual report include Boeing, Piasecki Aircraft… Historically, FPRI has also benefited from the largesse of conservative foundations. Between 1985 and 2005, FPRI received nearly $5 million from the Lynde and Harry Bradley, John M. Olin, Earhart, Smith Richardson and Sarah Scaife Foundations, among others.