### 1

#### Interp - The letter “A” is an indefinite article that modifies “just government” – the resolution must be proven true in all instances, not one particular instance

CCC Capital Community College [a nonprofit 501 c-3 organization that supports scholarships, faculty development, and curriculum innovation], “Articles, Determiners, and Quantifiers”, http://grammar.ccc.commnet.edu/grammar/determiners/determiners.htm#articles AG

The three articles — a, an, the — are a kind of adjective. The is called the definite article because it usually precedes a specific or previously mentioned noun; a and an are called indefinite articles because they are used to refer to something in a less specific manner (an unspecified count noun). These words are also listed among the noun markers or determiners because they are almost invariably followed by a noun (or something else acting as a noun). caution CAUTION! Even after you learn all the principles behind the use of these articles, you will find an abundance of situations where choosing the correct article or choosing whether to use one or not will prove chancy. Icy highways are dangerous. The icy highways are dangerous. And both are correct. The is used with specific nouns. The is required when the noun it refers to represents something that is one of a kind: The moon circles the earth. The is required when the noun it refers to represents something in the abstract: The United States has encouraged the use of the private automobile as opposed to the use of public transit. The is required when the noun it refers to represents something named earlier in the text. (See below..) If you would like help with the distinction between count and non-count nouns, please refer to Count and Non-Count Nouns. We use a before singular count-nouns that begin with consonants (a cow, a barn, a sheep); we use an before singular count-nouns that begin with vowels or vowel-like sounds (an apple, an urban blight, an open door). Words that begin with an h sound often require an a (as in a horse, a history book, a hotel), but if an h-word begins with an actual vowel sound, use an an (as in an hour, an honor). We would say a useful device and a union matter because the u of those words actually sounds like yoo (as opposed, say, to the u of an ugly incident). The same is true of a European and a Euro (because of that consonantal "Yoo" sound). We would say a once-in-a-lifetime experience or a one-time hero because the words once and one begin with a w sound (as if they were spelled wuntz and won). Merriam-Webster's Dictionary says that we can use an before an h- word that begins with an unstressed syllable. Thus, we might say an hisTORical moment, but we would say a HIStory book. Many writers would call that an affectation and prefer that we say a historical, but apparently, this choice is a matter of personal taste. For help on using articles with abbreviations and acronyms (a or an FBI agent?), see the section on Abbreviations. First and subsequent reference: When we first refer to something in written text, we often use an indefinite article to modify it. A newspaper has an obligation to seek out and tell the truth. In a subsequent reference to this newspaper, however, we will use the definite article: There are situations, however, when the newspaper must determine whether the public's safety is jeopardized by knowing the truth. Another example: "I'd like a glass of orange juice, please," John said. "I put the glass of juice on the counter already," Sheila replied. Exception: When a modifier appears between the article and the noun, the subsequent article will continue to be indefinite: "I'd like a big glass of orange juice, please," John said. "I put a big glass of juice on the counter already," Sheila replied. Generic reference: We can refer to something in a generic way by using any of the three articles. We can do the same thing by omitting the article altogether. A beagle makes a great hunting dog and family companion. An airedale is sometimes a rather skittish animal. The golden retriever is a marvelous pet for children. Irish setters are not the highly intelligent animals they used to be. The difference between the generic indefinite pronoun and the normal indefinite pronoun is that the latter refers to any of that class ("I want to buy a beagle, and any old beagle will do.") whereas the former (see beagle sentence) refers to all members of that class

#### Violation – They spec the united states

#### Standards:

#### 1] Limits – they can spec 123 different governments - that’s supercharged by the ability to spec combinations of types of strikes. This takes out functional limits – it’s impossible for me to research every possible combination of the 195 countries and worker types

ITUC 20**,** (International Trade Union Confederation, “World’s Worst Countries for Workers”), ITUC, 2020, https://www.ituc-csi.org/IMG/pdf/ituc\_globalrightsindex\_2020\_en.pdf // MNHS NL recut DD AG

In 2020, strikes have been severely restricted or banned in 123 out of 144 countries. In a significant number of these countries, industrial actions were brutally repressed by the authorities and workers exercising their right to strike often faced criminal prosecution and summary dismissals.

#### 2] Prep hazard – the negative is forced into generic Kant NCs each round – their model encourages random country of the week affs that make it impossible for the negative to cut stable neg links to the affirmative. Generics like the econ DA don’t check bc each country has various economic situations

#### 3] TVA solves – just read your aff as an advantage to a whole rez aff – we don’t stop them from reading new FWs, mechanisms or advantages. PICs aren’t aff offense – a] it’s ridiculous to say that neg potential abuse justifies the aff being non-T b] There’s only a small number of pics on this topic c] PICs incentivize them to write better affs that can generate solvency deficits to PICs

Fairness – intrinsic

#### Drop the debater – the skew has already occurred, which means you vote neg

#### Competing interps – reasonability is vague and arbitrary

#### No rvi a) debaters go all in on theory, which kills substantive education b) chilling effect – debaters won’t want to read theory if they get hit with pre-empts

### 2

#### CP Text- A just government ought to provide an unconditional right to strike except for Ambulance and Paramedic workers

#### There are large paramedic Shortages right now, this is exacerbated in rural areas where health services are most needed

Kate Rogers, FEB 1 2019, “The need for EMTs and paramedics is growing, but finding people to fill the jobs isn’t easy,” CNBC, <https://www.cnbc.com/2019/02/01/the-need-for-paramedics-is-growing-but-strong-labor-market-makes-hiring-hard.html> | DD JH

On any given day, Eric Mailman may transport a baby born into a neonatal intensive care unit from one hospital to another, or he could answer a call for an elderly person in cardiac arrest. The paramedic and operations coordinator at Northern Light Health’s medical transport and emergency care in Bangor, Maine, can answer anywhere between four and 17 calls in a day, on shifts that can stretch from 12 to 24 hours. The only guarantee is that work will be busy and unpredictable. “The positive is that you get to step in on the chaos of the worst day of someone’s life and bring some calm and peace — to me that is priceless,” Mailman said. “But there are days when you can’t intervene, where things are out of your control. It’s impossible to help everybody, and those days are the hardest.” At Northern Light, some 170 people work in emergency medical services and transport, but the system is currently about 10 percent understaffed. Challenges are many in hiring — the community is rural, and while the pay and benefits can be competitive, the job itself is a big commitment, requiring sometimes up to two years of training, recertification and continuing education. Roughly five years ago, there were 15 to 20 applicants per open position, says Joe Kellner, vice president of emergency services and community programs at Northern Light. Today, however, it’s not uncommon to post a job and have zero applicants respond, he said. The tight labor market is particularly weighing on the health sector. The health-care industry added 42,000 new jobs in January, with more than 22,000 in ambulatory health-care services and another 19,000 in hospitals, [according to Friday’s closely watched Labor Department report](https://www.cnbc.com/2019/02/01/nonfarm-payrolls-january-2019.html). The health-care sector has added 368,000 jobs over the past year, while unemployment continues to hover near historic lows. “Fewer people are entering the profession, unemployment is low, and this is also a job that many people used to get into through volunteerism and in local communities — there is a lot less of that,” Kellner says. “The pathway in is harder and harder, but we try to create solutions for that.” Northern Light’s system is run in partnership with a larger nine-hospital system throughout the state, allowing for more reliable funding and options for those using emergency medical services as a stepping stone to other areas of health care. The company also reimburses for tuition, offers competitive paid time off and a retirement plan with a matching employer contribution. Highly trained paramedics are paid about $27 an hour. Emergency medical technicians and paramedics like Mailman are in demand, not just in Bangor but around the country. Challenges persist beyond just finding people to fill jobs in more rural areas, however — [2017 median nationwide pay](https://www.bls.gov/ooh/healthcare/emts-and-paramedics.htm) was just more than $33,000, or about $16 an hour. Funding can also be an issue in some communities, as reimbursements from insurers, patients, and Medicare and Medicaid are outpaced by wage pressures and costs to operate. This is especially common in volunteer programs, funded in large part by community donations and local taxpayer dollars. “If people really want to feel confident that they can call 911 and someone will come, they need to support their community so it will provide that kind of service,” says Kathy Robinson, program manager for the National Association of State EMS Officials. Health-care hiring boom The need for EMT and paramedic workers comes as the health-care sector continues to boom. “The strong economy definitely has an impact,” says Ani Turner, co-director of sustainable health spending strategies at nonprofit research organization Altarum. “We are at full employment, so along with expanded insurance coverage in the Affordable Care Act that started to take effect part way through 2014, we have a lot of people that now have health insurance coverage. More people with health benefits, more people with insurance increases the demand for health care and therefore health jobs.” Much of this growth came from the ambulatory sector, with an emphasis on outpatient care, which added 37,800 jobs in December 2018. What’s more, out of the 30 fastest-growing occupations through 2026, per BLS, [nearly half fall under the health-care category](https://www.bls.gov/ooh/fastest-growing.htm), and analysts say there’s likely no slowing down ahead. The workforce continues to age, as does the population in need of care, the opioid epidemic persists, and the pool of skilled labor remains tight. With all that growth, there’s no doubt demand will continue within systems like Northern Light, where trained professionals like Mailman are ready to answer the call. “I love my job. I can’t imagine doing anything different than what I do,” Mailman said.

#### Ambulance strikes in countries lead to increased mortality rates and massively delayed response time.

The Times ,3-27-2012, "Pensioner’s death linked to ambulance strike," No Publication, <https://www.thetimes.co.uk/article/pensioners-death-linked-to-ambulance-strike-m89w3tkcx3t> | DD JH

An elderly patient died in London while waiting for a delayed ambulance during autumn’s mass strike, in which more than half of the capital’s ambulance workers walked out. An official NHS report will today claim the death could be linked to the industrial action on November 30, revealing how it led to major delays in the 999 emergency service. Some patients in “life-threatened” situations were forced to wait for more than two hours for a response, while many others were left in “distress and pain”, it finds. The study, seen by The Times, claims that the death - at 4.35pm - was “potentially linked to a delayed response”. A further investigation is expected to confirm that the patient was waiting too long for the ambulance but cannot conclusively blame that for the patient’s death. The NHS London report says the death occurred over three hours after the London Ambulance Service declared an “Internal Major Incident” and called on the unions to repudiate the strike. Services were so clogged up by then that dozens of emergency cases were being held with many patients forced to wait an hour or longer for a response. However, the strike continued and very few members of staff returned to work, the study says. Hundreds of people who needed urgent medical attention received delays in their care. Some 875 patients in “potential immediately life-threatened” situations - classified as category A - were forced to wait longer than the eight-minute target for an urgent response. Of those, 318 waited longer than 19 minutes. By the evening some patients whose lives were at the highest level of risk classified had to wait more than two hours. The NHS London report concludes that the action had a “significant effect” on the operational capability of the ambulance service. It fears that “timely, consistent, effective and safe clinical care” was not delivered. “Undoubtedly some patients waited too long for an ambulance, in particular those patients with non life-threatening conditions and it is recognised that these patients were often in distress and pain,” it concludes. The report finds that the majority of patients had to wait longer than nationally mandated standards. The expectation was that 30 per cent of staff would walk out but over half actually did and the service was not able to handle it. In some parts of the capital staffing levels fell to just 10 per cent. ADVERTISEMENT The report reveals how 117 calls were being held by 1pm, with over 50 waiting more than an hour. By 4pm four category A patients were being held for more than an hour. By the evening dozens of emergency cases were not responded to for between one or two hours. The ambulance service has a target of responding to three quarters of category A calls within 8 minutes. On November 30, that fell to below one quarter. It insists that future strikes must be better dealt with.

### 3

#### The global economy is recovering and is set to accelerate this year, but any shocks can devastate growth

World Bank 21 - [The World Bank is an international financial institution that provides loans and grants to the governments of low- and middle-income countries for the purpose of pursuing capital projects.] "The Global Economy: on Track for Strong but Uneven Growth as COVID-19 Still Weighs" 06/08/2021 <https://www.worldbank.org/en/news/feature/2021/06/08/the-global-economy-on-track-for-strong-but-uneven-growth-as-covid-19-still-weighs> VS

A year and a half since the onset of the COVID-19 pandemic, the global economy is poised to stage its most robust post-recession recovery in 80 years in 2021. But the rebound is expected to be uneven across countries, as major economies look set to register strong growth even as many developing economies lag. Global growth is expected to accelerate to 5.6% this year, largely on the strength in major economies such as the United States and China. And while growth for almost every region of the world has been revised upward for 2021, many continue to grapple with COVID-19 and what is likely to be its long shadow. Despite this year’s pickup, the level of global GDP in 2021 is expected to be 3.2% below pre-pandemic projections, and per capita GDP among many emerging market and developing economies is anticipated to remain below pre-COVID-19 peaks for an extended period. As the pandemic continues to flare, it will shape the path of global economic activity. The United States and China are each expected to contribute about one quarter of global growth in 2021. The U.S. economy has been bolstered by massive fiscal support, vaccination is expected to become widespread by mid-2021, and growth is expected to reach 6.8% this year, the fastest pace since 1984. China’s economy – which did not contract last year – is expected to grow a solid 8.5% and moderate as the country’s focus shifts to reducing financial stability risks.

#### Strikes deck economy– 2 warrants

#### 1] Stop investment

Tenza 20 - Tenza, Mlungisi. . [Senior Lecturer, University of KwaZulu-Natal] “The Effects of Violent Strikes on the Economy of a Developing Country: A Case of South Africa.” Obiter, Nelson Mandela University, 2020, http://www.scielo.org.za/scielo.php?script=sci\_arttext&amp;pid=S1682-58532020000300004VS

These strikes are not only violent but take long to resolve. Generally, a lengthy strike has a negative effect on employment, reduces business confidence and increases the risk of economic stagflation. In addition, such strikes have a major setback on the growth of the economy and investment opportunities. It is common knowledge that consumer spending is directly linked to economic growth. At the same time, if the economy is not showing signs of growth, employment opportunities are shed, and poverty becomes the end result. The economy of South Africa is in need of rapid growth to enable it to deal with the high levels of unemployment and resultant poverty.

One of the measures that may boost the country's economic growth is by attracting potential investors to invest in the country. However, this might be difficult as investors would want to invest in a country where there is a likelihood of getting returns for their investments. The wish of getting returns for investment may not materialise if the labour environment is not fertile for such investments as a result of, for example, unstable labour relations. Therefore, investors may be reluctant to invest where there is an unstable or fragile labour relations environment.

#### 2] Strikes negatively impact labor and confidence, causing major economic losses

Tenza 20 - Tenza, Mlungisi. . [Senior Lecturer, University of KwaZulu-Natal] “The Effects of Violent Strikes on the Economy of a Developing Country: A Case of South Africa.” Obiter, Nelson Mandela University, 2020, http://www.scielo.org.za/scielo.php?script=sci\_arttext&amp;pid=S1682-58532020000300004. VS

When South Africa obtained democracy in 1994, there was a dream of a better country with a new vision for industrial relations.5 However, the number of violent strikes that have bedevilled this country in recent years seems to have shattered-down the aspirations of a better South Africa. South Africa recorded 114 strikes in 2013 and 88 strikes in 2014, which cost the country about R6.1 billion according to the Department of Labour.6 The impact of these strikes has been hugely felt by the mining sector, particularly the platinum industry. The biggest strike took place in the platinum sector where about 70 000 mineworkers' downed tools for better wages. Three major platinum producers (Impala, Anglo American and Lonmin Platinum Mines) were affected. The strike started on 23 January 2014 and ended on 25 June 2014. Business Day reported that "the five-month-long strike in the platinum sector pushed the economy to the brink of recession".7 This strike was closely followed by a four-week strike in the metal and engineering sector. All these strikes (and those not mentioned here) were characterised with violence accompanied by damage to property, intimidation, assault and sometimes the killing of people. Statistics from the metal and engineering sector showed that about 246 cases of intimidation were reported, 50 violent incidents occurred, and 85 cases of vandalism were recorded.8 Large-scale unemployment, soaring poverty levels and the dramatic income inequality that characterise the South African labour market provide a broad explanation for strike violence.9 While participating in a strike, workers' stress levels leave them feeling frustrated at their seeming powerlessness, which in turn provokes further violent behaviour.10 These strikes are not only violent but take long to resolve. Generally, a lengthy strike has a negative effect on employment, reduces business confidence and increases the risk of economic stagflation. In addition, such strikes have a major setback on the growth of the economy and investment opportunities. It is common knowledge that consumer spending is directly linked to economic growth. At the same time, if the economy is not showing signs of growth, employment opportunities are shed, and poverty becomes the end result. The economy of South Africa is in need of rapid growth to enable it to deal with the high levels of unemployment and resultant poverty.

#### Econ collapse turns case and goes nuclear

Mann 14 (Eric Mann is a special agent with a United States federal agency, with significant domestic and international counterintelligence and counter-terrorism experience. Worked as a special assistant for a U.S. Senator and served as a presidential appointee for the U.S. Congress. He is currently responsible for an internal security and vulnerability assessment program. Bachelors @ University of South Carolina, Graduate degree in Homeland Security @ Georgetown. “AUSTERITY, ECONOMIC DECLINE, AND FINANCIAL WEAPONS OF WAR: A NEW PARADIGM FOR GLOBAL SECURITY,” May 2014, <https://jscholarship.library.jhu.edu/bitstream/handle/1774.2/37262/MANN-THESIS-2014.pdf>)

The conclusions reached in this thesis demonstrate how economic considerations within states can figure prominently into the calculus for future conflicts. The findings also suggest that security issues with economic or financial underpinnings will transcend classical determinants of war and conflict, and change the manner by which rival states engage in hostile acts toward one another. The research shows that security concerns emanating from economic uncertainty and the inherent vulnerabilities within global financial markets will present new challenges for national security, and provide developing states new asymmetric options for balancing against stronger states.¶ The security areas, identified in the proceeding chapters, are likely to mature into global security threats in the immediate future. As the case study on South Korea suggest, the overlapping security issues associated with economic decline and reduced military spending by the United States will affect allied confidence in America’s security guarantees. The study shows that this outcome could cause regional instability or realignments of strategic partnerships in the Asia-pacific region with ramifications for U.S. national security. Rival states and non-state groups may also become emboldened to challenge America’s status in the unipolar international system.¶ The potential risks associated with stolen or loose WMD, resulting from poor security, can also pose a threat to U.S. national security. The case study on Pakistan, Syria and North Korea show how financial constraints affect weapons security making weapons vulnerable to theft, and how financial factors can influence WMD proliferation by contributing to the motivating factors behind a trusted insider’s decision to sell weapons technology. The inherent vulnerabilities within the global financial markets will provide terrorists’ organizations and other non-state groups, who object to the current international system or distribution of power, with opportunities to disrupt global finance and perhaps weaken America’s status. A more ominous threat originates from states intent on increasing diversification of foreign currency holdings, establishing alternatives to the dollar for international trade, or engaging financial warfare against the United States.

### 4

#### 1] International law was founded by, and continues to maintain, colonialism

**Gardner:** Gardner 10 David, Graduate student at San Diego State University, “The Colonial Nature of International Law”, E-International Relations Students. 2010.

In this paper I will argue that international law is colonial. In order to argue this effectively I will start by defining international law and colonialism.  After which, I will show how international law is a colonial relic, having been developed at a time of colonialism, with roots in the Greek and Roman Empires.  I will then argue that international law is not based on an ‘inherent natural law’, and thus that it is merely a tool for the imposition of western political ideas upon the world as a whole. Finally, I will argue that international law is colonial in the sense that by ceding sovereignty to be governed by law, sovereigns are being colonised by the western, primarily, European legal system. For the purpose of this paper I define ‘international law’, as the law of states, made for states.  It is the law, which governs sovereign powers.  “In considering the nature and development of international law …  **states are the primary subjects of international law.” Equally, “colonialism is a practice of domination, which involves the subjugation of one people to another.”** Colonialism is the creation and building of colonies in a territory by the people of another territory.   It is the process where, the sovereignty over the colony is claimed by the coloniser.  Colonialism brings with it the removal of a subject’s sovereignty.  Colonialism implies inequality and subjugation, while international law should be equal and universal.  In being universally applicable to all, international law could not be considered simply as a method of imposing one’s values on weaker states. Bederman suggests that, “**while the modern international system can be traced back some 400 years, certain of the basic concepts of international law can be discerned in political relationships thousands of years ago.**” Nicolson argues that even the earliest developing man may have dealt with one another on such matters as hunting grounds and ending battles. If this were the case, one of the first laws governing such relationships, and consequently one of the first examples of inter-territorial law may have been the inviolability of a messenger or negotiator; potentially an early example of diplomatic immunity. However, such examples from ancient civilisations are geographically and culturally restricted, and one can not logically argue, without being overly reductionist, that such examples are the origins of modern international law. There has been much discourse surrounding this question from a merely historical point of view.  Historians may argue that law was developed at a time of colonialism dating back to the Chinese, Greek and Roman Empires.  “The Romans had a profound respect for organisation and the law.”[6] The early Roman, jus civile, applied solely to Roman citizens. However, such laws were unable to provide a legal framework for expanding sovereigns.  Jus gentium, was later developed for this purpose; it was designed to govern relations between foreigners and Roman citizens.  Shaw explains that “the instrument through which this particular system evolved was the officially known as the Praetor Peregrinus, whose function it was to oversee all legal relationships, including bureaucratic and commercial matters, within the empire”[7].  **However, it must be remembered that there was no acceptance of other nations on a basis of equality or universality**, and thus jus gentium remained solely a domestic law for colonies under control of the Roman Empire.  Such empires did develop import axioms and theories of law, which have since become integral to international law but they did not establish an international law, due to the fact that they acted with disregard to external rules in their dealings with those territories that were not already part of their respective empires. One of the most influential of Greek concepts taken up by the Romans was the idea of natural law[8]: the argument that there is a body of rules of universal relevance.  Grotius, like many others believed that laws were constructed by men, but ultimately they reflected essential natural law.  Grotius maintained that natural law came from an essential universal reason, common to all man.  He argued that law was not imposed from above, but rather derived from principles.  Due to his argument that the ideas and precepts of the ‘law of nature’ were rooted in human intelligence, he maintained that such rules could not be restricted to any nation or any group but were of worldwide relevance.  Advocates of international law argue that international law is based on natural law and is, therefore, universally applicable to all.  In principle, there is a strong case to be made for a law that is inherent in all man.  Basing international law on natural law is mistaking an a posteriori argument for an a priori truth, and would perpetuate the spread of and dominance of western academic thought through what is essentially a socially constructed belief and not an a priori given.  The classic problem associated with natural law is, who decides what natural law is?  Using a putative theory as a basis for law, means that natural law will always be interpreted through one’s self-interest.   It is intrinsically subjective to interpret natural law and this led O’Connell to argue that natural law “will be constantly found to be aimed at a particular state or group of states; and for this reason, if for no other, the power element is obvious in international law.” The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, are often criticised as being based too heavily on the West’s importance of liberalism and individualism.  **Accepting such rights as  intrinsic norms, rather than western social constructions is to risk undermining alternatives.  For states to commit to one single declaration of international law would “require sacrificing diverse cultures and their unique way of viewing the world”.** Commitment to a single declaration of international law would mean the loss of culture, and from some perspectives, **it would mean commitment to a law that “has supported imperialism, militarism, male supremacy, racism, and other pathologies of human history**”.  Within O’Connell’s view is the argument that international law has allowed, and at times required, the subjugation of people and suppression of distinct cultures in a similar way that colonialism did at a time of imperialistic expansion.  **As a result, international law is not universal, is not based on a given natural law, and is subject to the manipulation and interpretation of powerful states, consequently “international law perpetuates current power structures”**. Concrete rules of international law are derived from what states actually do, and what precedents they set, rather than what the ‘law of nature’ suggests they ought to do.  Morgenthau argues that “the great majority of the rules of international law are generally observed …. (because) it is in the interests of the state to oblige.” Where national self-interest demands action contrary to international law, the only obligation on states is to act in their own self-interest.  Such a realist argument suggests that if states are economically rational they will only comply with international law if the cost, such as war, economic sanctions or trade embargoes outweigh the benefits of such a move.  However, such enforcement methods allow the perpetuation of power to manifest itself in selective enforcement and shows that the cost of contravening international law to the most powerful is too small to force compliance as it they themselves who created such laws.  Equally, imposing sanctions on ‘criminal countries’ may be to the detriment of the ‘policing’ body.  An interesting example is the comparison between the differing enforcement policies adopted by the international community against China and Uzbekistan.  Recently, there has been much media attention about numerous counts of Human Rights abuses in China, as well as their emotive treatment of Tibet: yet, no trade sanctions, punishments or international court appearances have resulted.  This is unlike in Uzbekistan, where after a “bloody crackdown”[14] in 2007, heavy economic, diplomatic and arms sanctions were imposed on the central Asian state with a low GDP[15], compared to a powerful emerging super-power.  It could be argued that western powers and international organisations, did not impose sanctions on China, due to the large amount of exports from and the economic importance of China, in the international system, while a weaker state such as Uzbekistan is forced to abide by international law due to it’s less powerful position in the international system.  In this case, we see that international law, although allegedly universally applicable to all, may only be enforced upon certain states and that “international law is  used by the already powerful to protect that power”. Post-modern critiques of international law hold a lot in common with classical realist arguments.  They maintain that if international law is not law, in that one has the choice to subscribe to it.  It is not international morality, as morality is a societal construct.  Then law is merely an aspect of politics, which can be manipulated to one’s self-interest and politics.  If we accept colonialism as “a practice of domination, which involves the subjugation of one people to another”, which brings with it the removal of a subject’s sovereignty, then international law is arguably colonising the states, who consent to international law.  Bodin argued in De Republica that to be sovereign a prince must be “freed from laws”, yet in consenting to international law, it seems that states are ceding their sovereignty and thus, I would argue, are being colonised by international law, and socially constructed western values.   **Such values are being imposed on weaker states, who are not powerful enough to contest international law**.  The threat of becoming outcast in the global system is one that means“the strong do what they can and the weak suffer what they must”. **As I have shown, the origins of international law are rooted in colonial empires.** Such empires, primarily in the west, developed domestic law and treatise, which formed the basis for an adoption of international law.  International law is not objective, nor is it universal and despite being constructed on western values, it has, however, become widely adopted by ‘sovereign’ states.  Ultimately, I have argued that international law is colonial.

#### 2] Continued reliance on international law will only result in war and inequality -- we must suspend our faith in the neutrality of international law.

**Schmidt:** Schmidt 10 (Patrick, Department of Political Science, Macalester College, “MEETING THE ENEMY: AMERICAN EXCEPTIONALISM AND INTERNATIONAL LAW, by Natsu Taylor Saito.” 2010

I do not have to go out on a limb to assume that the substantial majority of those in academia were pleased to see the end of the George W. Bush administration, and a significant percentage of those likely looked for President Obama to usher in a policy sea-change, doing much to return equanimity and mutual respect to America’s international engagements.  In MEETING THE ENEMY, Natsu Taylor Saito leaves no doubt about her place in the former camp, but the life of this book is her effort to put short-term changes of tone into historical relief.  In so doing she puts herself at odds with the latter camp: to Saito, it will never be enough for the United States to live up to its international obligations or to engage existing international institutions, because those structures are inherently flawed.  This book, part of the “Critical America” series edited by Richard Delgado and Jean Stefancic for NYU Press, takes on the challenging task of detailing her objections to contemporary international law. The primary preoccupation of this book is to chronicle and critique the origins and development of international law, revealing the ways that the entire intellectual foundations of American and Western thinking have brought the world to the perilous condition it is in today.  Saito puts the problem starkly at the conclusion of chapter 8: “If…one sees extant problems of global instability – ongoing wars, ecological disintegration, and the growing disparities in income or social well-being – as incapable of being resolved by the current international regime, perhaps even as caused by the policies and practices of ‘civilized’ states, a different story will have to be told, and lived by, that challenges both the contemporary framework of international law and the precepts of American exceptionalism.” (p. 228) That is, even though the Introduction and first chapter invoke the post-2001 politics of the War of Terror, the recent behavior of the United States is a single scene in a longer play, the central plot of which can be sketched quite simply.  **The contemporary failure of the United States to prosecute the war according to international law demonstrates the deeply held belief that America is exceptional;** **recent wars carry on a frame of seeing the civilized world struggling against an uncivilized enemy; and, the nation has an obligation to make safe the path and lead the world toward civilization, ends trumping means if necessary**.  Co-incident with these ideological commitments is the belief that the democracy, liberty, and human rights are rational and universal values; as is the belief that the urbane, civilized peoples must assimilate the Other [\*510] to these norms through education and economic development. The bulk of the book – Chapters 2 through 8 – substantiates the role of this understanding of exceptionalism in the American project.  **The central conceptual narrative in this history is not international law qua international law but colonialism**.  From the development of European colonialism, the need to justify conquest resulted in the rehearsal of tropes about civilization and savages, cementing the terms of international law today.  Thus, the long journey of American Indians drives Chapters 3 through 5, which retell how the belief in the Manifest Destiny of Americas enabled white Americans to build an empire without concern (and sometimes with overt malevolence) for indigenous peoples.  Slavery and Mexico make appearances in these chapters as well, before Chapter 6 extends the account of the American Empire to Hawai’i, Cuba, Puerto Rico, and the Philippines.  Saito’s unforgiving approach to these chapters emphasizes the unvarnished racism, greed, and brutality of America’s 19th century pursuit of empire.  Saito leaves no heroes in her wake, cherry picking the most damning quotations to represent the views of Presidents from George Washington to Theodore Roosevelt and many other figures along the way (such as Frank Baum, author of the “much beloved” Wizard of Oz [p.111]).  Her approach throughout is to draw extensively on secondary materials, weaving together episodes and legal cases with illustrative primary material. The histories likely least familiar to readers (such as the Philippines) form the bridge between Saito’s vision of America and the rise of the 20th century global legal order, which is the subject of Chapters 7 and 8.  Chapter 7’s more tightly focused progression from the Hague Peace Conferences to the United Nations at mid-century contrasts with the looser tour of international economic and legal instruments in Chapter 8.  Yet, the arc remains one of colonialism, for however rapidly the European powers shed their colonial holdings, the precepts of that system became part of the American approach to international law, in which Western values would be imposed on the Other while the United States asserted the right to act unilaterally in the interests of civilization. There are natural tensions in the argument Saito advances.  From the Introduction and the first chapter the reader might detect and share an investment in international law, with the attendant hope that the United States would put short term interests aside and stand by principles.  At the same time, she asks the reader to confront the centuries-old colonialism behind international law as we know it.  **How deeply can one feel an attachment to international law when it fails so consistently as to appear fundamentally flawed?** Realists and cynics resolve the tension here by abandoning any idealism about the international legal order (if not law in general), taking in their stride the failure of legal rhetoric to induce compliant behaviors.  **Doesn’t every nation, not just the United States, desire to live by the slogan, “don’t do as I do, do as I say**”?  A more critical generalization about law might be inspired by the ease with which Saito switches between making “America” and “Western civilization” the target. [\*511] Saito’s America is explicitly treated as a case study of colonialism and the law, and moving from the case study she could have gone further to consider how power and law connect at a higher level of generality. Some abstraction is on display in Chapter 9’s concluding discussion of prescriptions.  However much a reader might find themselves persuaded that an assumption of the superiority of Western civilization is laced through contemporary international law, the final chapter offers a bucket of cold water.  What can anyone do to provoke wholesale change in a centuries-old conceptual frame?  Perhaps not much, barring more imagination or optimism than most readers will muster.  All that seems available are general, jargon-laced calls to “unleash the liberatory potential of alternative systems of world order” (p.245) by suspending “the notion of universality and its concomitant division of humanity into the ‘civilized’ and the Other,” (p.238), thus giving “room for all voices and a multiplicity of perspectives” (p.241).  Yet, don’t judge this book by the final chapter but rather by the diagnosis of the problem.  **Students of both American history and law should find thought-provoking the extent to which the traditional zones of “domestic” and “foreign” policy blend, chapter-by-chapter, into one unified account about the dominance of racist, Otherizing, colonializing ambitions**. **That narrative folds into the wider argument about Western legal traditions, drawing on episodes and discussions that implicate everything from political philosophy to development economic**s.  In total the book makes it difficult if not impossible to ignore the historic continuities between international politics today and the overt racism of a century ago.  Though not well suited for younger undergraduates, MEETING THE ENEMY is likely to generate substantial discussion and reflection beginning at the advanced undergraduate level.

#### This is a voting issue – question the scholarship of the 1AC before the passage of the plan – they do not get to weigh the case

#### Fiat is illusory – when you sign your ballot Congress isn’t spurred to action. However, the things we endorse as people *do* make a difference, since those don’t rely on some action that has to be taken

#### Effective policymaking assumes we have good mindsets to start

Blum: Blum, Andrew J. [Managing Partner, The Triumph Group.] “Managing Mindset to Break the Cycle of Reactive Decision-Making.” March 31, 2012. DD

Mindset [refers to] is the underlying beliefs and assumptions [that] we bring to a situation, conscious or unconscious. It is our inner dialogue reflec[t] our view of reality, and it shap[e] how we interpret situations, how we act[.], and how we are acted upon. For instance, when you enter a dialogue with a creative mindset, you look to advance and build on the discussion at hand. On the other hand, if you approach a conversation with a critical mindset, you believe your value-add is to point out flaws and missing elements. Both creative and critical mindsets are essential in business, but [W]hen people’s mindsets are inconsistent with the [situation’s] needs and goals[,] of the situation, problems occur—often in the form of unproductive or counterproductive action [occurs][,] [with no]. Skills training will not lead to sustained behavior change[.] unless you address underlying mindsets in parallel. For example, people can be trained in innovation practices—tools to advance creativity, such as the “plussing” Pixar is known for (Sims. Peter, Little Bets: How Breakthrough Ideas Emerge from Small Discoveries, New York: Free Press, 2011)—but those skills will never be effectively applied by someone with an unconsciously skeptical mindset. Skepticism will surface as negative languageand lead to a focus on flaws. Similarly, someone with rigorous quality management training operating from a creative mindsetmight tend to focus on what is working or look for opportunities to innovate but fail to identify and address flaws, breakdowns, or substandard outcomes. Managing and Changing Mindset Through Responsible Inquiry As success largely depends on ensuring the mindset people bring is appropriate to the situation, the first step in managingand changingmindset is creating awareness. When [P]eople are unaware of their own mindset, they remain in a reactive pattern driven by unconscious beliefs and assumptions. Though they may believe they’re trying to do things differently, they often experience repeated failures in the same activities because their actions are shaped continually by the same unconscious, unproductive mindsets. In working with a senior leader at a large technology company (let’s call him Bill), I observed this dynamic in play and helped him apply a simple strategy to get control of and manage his mindset. Bill operated predominantly from a fear-based mindset with the underlying belief that he was “at risk.” Regardless of the situation, his immediate orientation was to look at the places where he was likely to be held unfairly accountable, or to the places where the opinion of others might negatively affect him. With that unconscious predisposition, nearly every action he took had some measure of defensiveness in it. No matter how much Bill tried to reshape his actions, they were unconsciously driven by a mindset of fear. This changed as we began to note and question his fear-based assumptions through a process called “Responsible Inquiry.” When he would say something such as, “If I blow this, I am gone,” we agreed to pause, call it out as an assumption, and note the mindset behind it. With just a bit of dialogue he was able to see that his general fear of failure often was applied inappropriately to situations that, in reality, entailed little risk. We took this a step further and examined the actionsthat arose from his assumptions, and saw that as soon as Bill believed his mistake would get him fired, he immediately took a set of defensive and largely unproductive actions. Ironically, he began to see that those defensive actions were more likely to lead to him being fired than courageous actions he might have taken if he weren’t being driven by fear. Through this simple process, Bill saw the connection between his mindset and actions. More importantly, he began to understand that his results were less a function of his actions than of his underlying thinking, and he was able to break the cycle of unconscious reactivity and make choices more consistent with his true intent. The entire process of mindset management is based on three premises: My mindset drives my actions. I am in control of my mindsets. To take different actions and produce different results, I must own and manage my mindsets. Until a leader accepts his/her own “responsibility” in all of this, mindsets and their subsequent actions are something that will remain “outside of the leader.” Much of the work in mindset management focuses on developing awareness, followed by a responsible mindset driven by the underlying belief: “I am an integral factor in everything that occurs and can influence every situation through my thinking, actions, and reactions.” Defining and managing mindset, along with [D]eveloping a responsible mindset, offers leaders the [is] key to fundamental change[.] and previously unachievable results. Without these distinctions and practices, however, mindset joins the multitude of esoteric buzzwords that are thrown around without clear definition.

### Case

#### Their brudney evidence says that governments don’t recognize the right to strike, and the author is arguing it should – read blue

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

II. THE INTERNATIONAL RIGHT TO STRIKE AS CIL

That an international right to strike is widely recognized by governments does not mean the right has assumed the status of CIL. This Part seeks to forge that link, to show how the international right to strike qualifies as CIL. It begins (II.A) by identifying the two basic elements of CIL and explaining why the right to strike is an integral textual and conceptual component of FOA. It then establishes (II.B and C) that FOA and the right to strike satisfy both elements of CIL—a general practice accepted by States, stemming from a sense of legal obligation. While there are variations and qualifiers at the national level, the contours of CIL status are clear: a basic right subject to three substantive restrictions; a recognition that strikers retain their employment relationship during the strike itself; and certain procedural prerequisites or limitations. 105

This Part next demonstrates (II.D) that the two U.S. practices discussed earlier as deviating from the international right to strike—denying all public employees the right and authorizing permanent replacement of lawful strikers— co ntravene core aspects of the right to strike as CIL. Finally (II.E), this Part introduces the complexities of the U.S. position on FOA and the right to strike as international rights, reflected in the failure to ratify Convention 87 while both Congress and the executive branch embrace Convention 87 principles including the right to strike.

A. Initial Definitions and Considerations

1. CIL Standards

The two basic elements that determine the existence and content of a rule of CIL are first, the requirement of a general practice by States, and second, the requirement that the general practice be undertaken from a sense of legal right or obligation (opinio juris).106 The first element is objective: whether there is a sufficiently widespread and consistent practice of States endorsing and adhering to the rule. Evidence of such a general practice may include governmental conduct in connection with treaties; legislative or administrative acts; decisions of national courts; conduct in relation to resolutions adopted by an international organization; diplomatic acts and correspondence; and executive operational conduct on the ground.107 The second element, opinio juris, is more subjective: the general practice must be undertaken based on its acceptance as law, rather than being accepted based on mere usage or habit or some pragmatic motive. As is true for general practice, evidence of acceptance as law may come in a range of forms. These include public statements made on behalf of States; government legal opinions; decisions of national courts; treaty provisions; diplomatic correspondence; and conduct related to resolutions adopted by an international organization.108

2. The Right to Strike as Integral to FOA

Freedom of association is one of the core principles on which the ILO was founded and continues to exist. 109 As set forth under Convention 87, FOA includes a series of integral elements, of which the right to strike is one. The two ILO supervisory mechanisms that have regularly applied or interpreted Convention 87 have understood it to include the right to strike from the early days of the Convention’s existence.110 Leading U.N. human rights covenants also recognize FOA as a basic right, including the right to strike as a component. 111 And the labor provisions of the 2019 U.S.-Mexico-Canada trade agreement include the following statement: “For greater certainty, the right to strike is linked to the right to freedom of association, which cannot be realized without protecting the right to strike.”112 Accordingly, if FOA is seen as Customary International Law (CIL), and the right to strike is an essential component of FOA, then the right to strike should also be understood to be part of CIL.

Consider in this regard the following integral elements of Convention 87. The fact that as part of FOA, workers and employers “shall have the right to establish and . . . to join organizations of their own choosing without previous authorization”113 means the State may not impose unreasonably high membership requirements that hinder the establishment of organizations, or require that members may not join several different organizations. 114 Similarly, the fact that under FOA, workers and employers “shall have the right to . . . elect their representatives in full freedom [and that] public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof,”115 means the State may not impose limits on candidates due to their nationality, literacy, political opinions, moral standing, or for workers, their non-employment in the employer’s occupation or enterprise. 116 And the fact that as part of FOA, workers “shall have the right . . . to organize their. . . activities and to formulate their programs” free “from any interference [by the public authorities]”117 means that worker organizations, in order to defend the occupational interests of their members, have the right to hold trade union meetings, the right to have access to places of work and to communicate with management, and the right to organize nonviolent protest action including strikes. 118

B. FOA and the Right to Strike as General Practice

There is ample support that FOA is widely accepted in objective terms. Convention 87 has been ratified by 155 countries, or 83 percent of the 187 ILO Member States. 119 In addition, the ILO Constitution, endorsed by all members, specifies the critical role of FOA both in its 1919 founding document and the 1944 Declaration of Philadelphia as a constitutional addition.120 More recently, ILO Declarations issued in 1998 and 2008, again embraced by all members, make clear that even Member States that have not ratified Convention 87 are obligated to act in good faith to respect and effectuate FOA principles.121

Beyond the ILO realm, workers’ freedom of association, including the right to form and join trade unions and expressly the right to strike, is recognized in the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by the United Nations General Assembly to be effective 1976.122 The Covenant has been ratified by 171 countries, including two of the four large-population countries that have not ratified Convention 87.123 Another major UN Human Rightstreaty, the International Covenant on Civil and Political Rights (ICCPR), also adopted by the U.N. General Assembly to be effective in 1976, recognizes FOA including the right to form and join trade unions. 124 The ICCPR has been ratified by 173 countries, including three of the four largepopulation countries that have not ratified Convention 87; its human rights committee has consistently recognized the right to strike as part of FOA under the Covenant. 125 Indeed, of the 187 ILO Member States, only 11 relatively smallpopulation countries have not ratified at least one of Convention 87, the ICESCR, or the ICCPR.126

FOA is also expressly recognized in a labor setting in the European Convention on Human Rights, which has been ratified by all 48 countries in the Council of Europe. 127 At a national level, the vast majority of constitutions provide for freedom of association, although some use general language that (unlike the international instruments just mentioned) does not specify workers or trade unions. 128

Apart from States’ nearly-universal embrace of FOA as a general matter, the right to strike itself has been broadly accepted by governments. As noted earlier, more than 90 countries have made a public commitment to the right to strike in their constitutions. 129 These commitments have translated to actual practice when national courts have relied on guidance from the CEACR and CFA in assuring compliance with their constitutional right to strike. Judicial interpretation of the international right as part of applying a domestic constitution often involves assuring compliance by governments or employers,130 though it also may require compliance by unions. 131 And compliance with the international right to strike may even emanate from application of a national constitution that endorses FOA without being explicit about the right to strike.132

Among the many national courts that have invoked the CEACR and/or CFA in support of a right to strike,133 two other cases worth noting involve Brazil and Kenya because neither country has ratified Convention 87. In 2012, the Labour Court in Brazil ordered reinstatement of workers terminated for participating in a work stoppage. 134 Under Brazil’s Constitution, “norms that define fundamental rights and guarantees are directly applicable.”135 Given that the Court found that the employer’s conduct had violated the principle of freedom of association and the free exercise of the right to strike, it seems that the “principle of freedom of association” was being directly applied as a matter of customary international law rather than through a ratified treaty or convention.136 In 2013, the Industrial Court of Kenya ordered the reinstatement of five workers dismissed for participating in a strike and strike-related activities. The Court’s reasoning derived from Kenya’s general participation in the ILO, including “respect for International Labour Standards,” rather than direct application of fundamental norms as in the Brazil case.137 The Industrial Court invoked a report by the CEACR and decisions by the CFA to support its decision; its recognition of FOA as an accepted international standard suggests that reports from the ILO supervisory bodies served as evidence of CIL.138

Finally, states’ widespread practice is reflected in the negotiation of trade agreements over the past two decades that recognize both FOA and the right to strike. Since 2003, labor provisions in U.S. trade agreements have regularly featured linkages to FOA as one of the fundamental ILO norms. 139 The commitment by signatory states to FOA as understood under the 1998 ILO Declaration has been progressively strengthened during this period—from providing that parties “shall strive to ensure” protection of FOA under domestic laws140 to specifying that parties shall “adopt and maintain [FOA rights] in [their] statutes and regulations, and practices thereunder.”141 The latest trade agreement, involving the United States, Mexico, and Canada (approved as a successor to NAFTA) expressly provides that the right to FOA necessarily includes protection for the right to strike.142 Trade agreements involving EU countries also feature commitments to respect and implement under domestic law the principles of FOA as understood in the ILO context. 143 This wide network of similarly worded, mostly bilateral trade agreements addressing the subject of FOA constitutes additional evidence of general practice for CIL purposes. 144

The pervasive nature of actual practice regarding FOA and the right to strike does not mean that the right’s content is static or fixed. To be sure, there is broad acceptance of the two previously discussed features on which U.S. law is out of step: the prohibition on permanent replacements145 and public employees’ right to strike with certain exceptions. 146 And although particular limits on the right may vary from one country to another, there is an international consensus that the right exists and that any limits should be reasonable.147 The International Court of Justice (ICJ) does not require uniformity in practice in order to establish CIL, and indeed, it has countenanced some degree of variation:

The Court does not consider that, for a rule to be established as customary, the corresponding practice must be in absolutely rigorous conformity with the rule. In order to deduce the existence of customary rules, the Court deems it sufficient that the conduct of States should, in general be consistent with such rules.148

C. FOA and the Right to Strike as Opinio Juris

There is also considerable support for the proposition that the general practice of states on FOA and the right to strike stems from acceptance as a matter of legal obligation. Admittedly, while the existence of opinio juris may be inferred from a general practice, the International Court of Justice (ICJ) has at times noted the insufficiency or inconclusiveness of such practice, instead seeking confirmation that “[states’] conduct is ‘evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it.’”149 Trade agreements, for instance, may represent treaty law and may qualify as evidence of general practice, but they are typically entered into by States that have specific economic or political objectives rather than from a desire to embrace obligations arising under international law.150 Further, it is possible that even with respect to ILO conventions, widespread ratification is in part a function of acculturation, insofar as endorsements across a region contribute to socialized acceptance of norms on FOA, reassuring peer countries that protecting rights to association including the right to strike will not place them in an inferior competitive position.151

That said, the ICJ often does infer the existence of opinio juris from a general practice and/or from determinations by national or international tribunals.152 And there are ample reasons to draw such an inference here. To start, FOA is consciously accepted as an obligation by ILO member states not simply through ratification of Convention 87 (covering more than 80 percent of them) but by virtue of membership itself. The ILO Constitution expressly requires support for FOA principles, and these principles are further imbedded through a tripartite governance structure that allocates power-sharing roles to worker organizations alongside governments and employers.153 Thus, ILO members understand there is an underlying obligation to respect FOA in law and practice.154

A second reason is that domestic law can provide relevant evidence regarding the presence of opinio juris among states. Commitments to FOA expressed in national constitutions, statutes, and court decisions are not necessarily evidence of a state’s belief that the principle is international as opposed to domestic law. Nonetheless, the International Law Commission has made clear that evidence of acceptance as law (opinio juris) “may take a wide range of forms,” including but not limited to “official publications; government legal opinions; [and] decisions of national courts.”155 In this regard, the CEACR in 2012 identified 92 countries where “the right to strike is explicitly recognized, including at the constitutional level”; the list includes six countries that have not ratified Convention 87.156

Recognition in domestic law of a right to strike alongside a conscious decision not to ratify Convention 87 could give rise to an inference that these six countries are rejecting the right as a principle of international law. However, as explained earlier, national courts for two of the six non-ratifying countries (Brazil and Kenya) expressly invoke ILO membership and/or principles as guidance in their domestic law decisions. 157 In addition, Canada—a country not listed among the 92 endorsing the right to strike in the 2012 General Survey— has since recognized a constitutional right to strike under national law, relying in part on international law principles including CEACR and CFA determinations. 158 The Canadian Supreme Court had previously been explicit in invoking Convention 87, ICESCR, and ICCPR as “documents [that] reflect not only international consensus but also principles that Canada has committed itself to uphold.”159

Further, a third country in the group of six—South Korea—has affirmed in its trade agreements with the United States and the EU its obligation to “adopt and maintain in its statutes and regulations, and practices” FOA in accordance with the ILO Declaration.160 And in various CFA complaints against South Korea for violating FOA principles, including the right to strike, the Government has disputed the facts of the complaints while at the same time recognizing that such rights are embedded in international law.161 Accordingly, a more relevant reference point in this setting may be that “when States act in conformity with a treaty provision by which they are not bound . . . this may evidence the existence of acceptance as law (opinio juris) in the absence of any explanation to the contrary.”162

Stepping back, domestic law on FOA and the right to strike, which for many countries developed after Convention 87 and its initial applications by the CEACR and CFA, may be viewed in part as a window into countries’ sense of obligation in law and practice. A state may at times adopt labor provisions of a trade agreement for reasons of comity or relative competitive advantage. These reasons may play a more modest role with respect to adoption of certain human rights treaties or ILO conventions. 163 But evidence of practice and obligation in the domestic law sphere—especially when informed by regard for international instruments—seems almost by definition to be a function of acceptance as law rather than susceptibility to strategic motivations. In this regard, there are numerous instances in recent years where governments have expanded their legislative protections for the right to strike following a period of dialogue with the CEACR, and that committee has recognized and applauded the changes in law.164 Of particular relevance to the U.S. setting, these expansions have included assuring the right to strike for public sector employees and prohibiting the hiring of replacements for strikers.165

A third reason to infer opinio juris (in addition to the centrality of FOA principles within the ILO Constitution and the strong evidence of FOA and rightto-strike practice and obligation under domestic law) involves recent statements from high officials in the United Nations indicating that the right to strike is understood by its leaders as CIL. In his 2016 report to the U.N. General Assembly, the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and association explained, “The right to strike has been established in international law for decades, in global and regional instruments, and is also enshrined in the constitutions of at least 90 countries. The right to strike has, in fact, become customary international law.”166

In 2018, responding to a press briefing on a strike by U.N. employees following announced pay cuts, the Deputy Spokesman for the U.N. SecretaryGeneral reiterated the U.N. view that the right to strike is indeed CIL and did so in the context of the right being asserted by public employees not involved in the administration of the state:

Question: Does the Secretary-General believe that U.N. staff have a right to take part in industrial action?

Deputy Spokesman: We believe the right to strike is part of customary international law.167

These statements did not simply materialize in recent times. Two major U.N. Human Rights treaties—the ICESCR and the ICCPR—have been interpreted by their relevant treaty bodies to include a right to strike; these bodies have reaffirmed their joint commitment to the right to strike as part of FOA, and they regularly monitor governments’ record of compliance with this right. 168 And as noted earlier, the two treaties—each ratified by over 80 percent of U.N members—include a clause explicitly identifying respect for ILO Convention 87.

In sum, the principles of FOA including the right to strike would appear to satisfy both prongs of the CIL test. The widely recognized general practice on strikes has sufficient shape and contours: a basic right, three substantive exceptions (public servants involved in administration of the state, essential services in the strict sense of the term, and acute national emergencies), a recognition that strikers retain their employment relationship during the strike itself, and certain procedural prerequisites or attached conditions. 169 There are variations in national practice and also disagreements at the margins about what the right to strike protects, but these aspects are not different in kind from diversity and contests regarding international rights prohibiting child labor, or for that matter domestic constitutional rights involving freedom of expression or the right to bear arms. As for opinio juris, a broad range of sources combine to establish that the general practice stems from a sense of acceptance and obligation: ILO foundation and structure; two widely endorsed United Nations human rights treaties; national constitutions; government representations; domestic legislative and judicial decisions that expressly refer to or impliedly accept international standards and practices; and contemporary U.N. leadership.

Impact outweighs

1. Timeframe – sustainable development happens in 2030