# 1nc v Marlbrough

### T-Nebel

#### Interpretation: workers are a generic bare plural. The aff may not defend that A just government should recognize an unconditional right to strike for a subset of workers.

Nebel 19 Jake Nebel [Jake Nebel is an assistant professor of philosophy at the University of Southern California and executive director of Victory Briefs.] , 8-12-2019, "Genericity on the Standardized Tests Resolution," Briefly, https://www.vbriefly.com/2019/08/12/genericity-on-the-standardized-tests-resolution/ SM

Both distinctions are important. Generic resolutions can’t be affirmed by specifying particular instances. But, since generics tolerate exceptions, plan-inclusive counterplans (PICs) do not negate generic resolutions. Bare plurals are typically used to express generic generalizations. But there are two important things to keep in mind. First, generic generalizations are also often expressed via other means (e.g., definite singulars, indefinite singulars, and bare singulars). Second, and more importantly for present purposes, bare plurals can also be used to express existential generalizations. For example, “Birds are singing outside my window” is true just in case there are some birds singing outside my window; it doesn’t require birds in general to be singing outside my window. So, what about “colleges and universities,” “standardized tests,” and “undergraduate admissions decisions”? Are they generic or existential bare plurals? On other topics I have taken great pains to point out that their bare plurals are generic—because, well, they are. On this topic, though, I think the answer is a bit more nuanced. Let’s see why. 1.1 “Colleges and Universities” “Colleges and universities” is a generic bare plural. I don’t think this claim should require any argument, when you think about it, but here are a few reasons. First, ask yourself, honestly, whether the following speech sounds good to you: “Eight colleges and universities—namely, those in the Ivy League—ought not consider standardized tests in undergraduate admissions decisions. Maybe other colleges and universities ought to consider them, but not the Ivies. Therefore, in the United States, colleges and universities ought not consider standardized tests in undergraduate admissions decisions.” That is obviously not a valid argument: the conclusion does not follow. Anyone who sincerely believes that it is valid argument is, to be charitable, deeply confused. But the inference above would be good if “colleges and universities” in the resolution were existential. By way of contrast: “Eight birds are singing outside my window. Maybe lots of birds aren’t singing outside my window, but eight birds are. Therefore, birds are singing outside my window.” Since the bare plural “birds” in the conclusion gets an existential reading, the conclusion follows from the premise that eight birds are singing outside my window: “eight” entails “some.” If the resolution were existential with respect to “colleges and universities,” then the Ivy League argument above would be a valid inference. Since it’s not a valid inference, “colleges and universities” must be a generic bare plural. Second, “colleges and universities” fails the upward-entailment test for existential uses of bare plurals. Consider the sentence, “Lima beans are on my plate.” This sentence expresses an existential statement that is true just in case there are some lima beans on my plate. One test of this is that it entails the more general sentence, “Beans are on my plate.” Now consider the sentence, “Colleges and universities ought not consider the SAT.” (To isolate “colleges and universities,” I’ve eliminated the other bare plurals in the resolution; it cannot plausibly be generic in the isolated case but existential in the resolution.) This sentence does not entail the more general statement that educational institutions ought not consider the SAT. This shows that “colleges and universities” is generic, because it fails the upward-entailment test for existential bare plurals. Third, “colleges and universities” fails the adverb of quantification test for existential bare plurals. Consider the sentence, “Dogs are barking outside my window.” This sentence expresses an existential statement that is true just in case there are some dogs barking outside my window. One test of this appeals to the drastic change of meaning caused by inserting any adverb of quantification (e.g., always, sometimes, generally, often, seldom, never, ever). You cannot add any such adverb into the sentence without drastically changing its meaning. To apply this test to the resolution, let’s again isolate the bare plural subject: “Colleges and universities ought not consider the SAT.” Adding generally (“Colleges and universities generally ought not consider the SAT”) or ever (“Colleges and universities ought not ever consider the SAT”) result in comparatively minor changes of meaning. (Note that this test doesn’t require there to be no change of meaning and doesn’t have to work for every adverb of quantification.) This strongly suggests what we already know: that “colleges and universities” is generic rather than existential in the resolution. Fourth, it is extremely unlikely that the topic committee would have written the resolution with the existential interpretation of “colleges and universities” in mind. If they intended the existential interpretation, they would have added explicit existential quantifiers like “some.” No such addition would be necessary or expected for the generic interpretation since generics lack explicit quantifiers by default. The topic committee’s likely intentions are not decisive, but they strongly suggest that the generic interpretation is correct, since it’s prima facie unlikely that a committee charged with writing a sentence to be debated would be so badly mistaken about what their sentence means (which they would be if they intended the existential interpretation). The committee, moreover, does not write resolutions for the 0.1 percent of debaters who debate on the national circuit; they write resolutions, at least in large part, to be debated by the vast majority of students on the vast majority of circuits, who would take the resolution to be (pretty obviously, I’d imagine) generic with respect to “colleges and universities,” given its face-value meaning and standard expectations about what LD resolutions tend to mean.

#### It applies to workers:

#### Upward entailment test – spec fails the upward entailment test because saying that governments ought to recognize a right for one type of workers does not entail that those governments ought to recognize the right for all workers

#### Adverb test – adding “usually” to the res doesn’t substantially change its meaning because a recognition is universal and permanent

#### Vote neg:

#### Semantics outweigh:

#### T is a constitutive rule of the activity and a basic aff burden – they agreed to debate the topic when they came here

#### Jurisdiction – you can’t vote aff if they haven’t affirmed the resolution

#### It’s the only stasis point we know before the round so it controls the internal link to engagement – there’s no way to use ground if debaters aren’t prepared to defend it

#### Limits – there are countless affs accounting for thousands of types of workers– unlimited topics incentivize obscure affs that negs won’t have prep on – limits are key to reciprocal prep burden – potential abuse doesn’t justify foregoing the topic and 1AR theory checks PICs

#### Ground – spec guts core generics like the cap K or the econ DA that rely on recognizing rights for all workers because individual jobs don’t affect the economy broadly – also means there is no universal DA to spec affs

#### TVA solves – read as an advantage to whole rez

#### Paradigm issues:

#### Drop the debater – their abusive advocacy skewed the debate from the start

#### Comes before 1AR theory – NC abuse is responsive to them not being topical

#### Competing interps – reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation

#### No RVIs – fairness and education are a priori burdens – and encourages baiting – outweighs because if T is frivolous, they can beat it quickly

#### Fairness is a voter ­– necessary to determine the better debater

#### Education is a voter – why schools fund debate

## Case

**Plea bargaining is the leading contributor to mass incarceration – it manufactures a forfeiture of rights that subordinates people of color to the state**

**Heiner 16** [(Brady, Affiliated Faculty of African American Studies, California State University, Fullerton) “The procedural entrapment of mass incarceration: prosecution, race, and the unfinished project of American abolition,” Philosophy and Social Criticism, 2016] DRD  
First, the procedural entrapment thesis is **that the American plea bargain system** (as an apparatus of population management wherein the USA maintains 5 per cent of the global population but 25 per cent of the world’s imprisoned population, and as an insti- tution that coerces the forfeiture of due process rights to accelerate criminal conviction and confinement of those charged), **is massively and predominantly, though not acciden- tally or exclusively, a technology of racial domination. As a system of procedural entrap- ment, the plea bargain regime is a necessary condition of and a leading contributor to mass incarceration, which is fundamentally immoral and racially unjust. ¶ Without the widespread ‘forfeiture’ of rights that the plea bargain regime manufac- tures, the American criminal justice system simply could not process – i.e. arrest, detain, prosecute, imprison, and supervise – the vast numbers of people (predomi- nantly of color) that it currently does. The Supreme Court recognized this in 1971: ‘If every criminal charge were subjected to a full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities.**’78 (And this **was just 5 months after President Richard Nixon declared the war on drugs, which inaugurated the era of mass incarceration that has since led to the upsurge of the imprisoned population by over 500 per cent. If criminal justice proce- dural capacity would have had to multiply many times over to accommodate every criminal defendant’s constitutional right to trial in 1971, the equivalent capacity requirements today would be paralysing to state and federal budgets.)** The Court then concluded that plea bargaining is ‘an essential component of the administration of jus- tice’.79 **‘The truth is’,** writes Timothy Lynch, director of the criminal justice project at the libertarian Cato Institute, **‘government officials have deliberately engineered the system to assure that the jury trial system established by the Constitution is seldom used. And plea bargaining is the primary technique used by the government to bypass the institutional safeguards in trials.’**80 ¶ Second, **the sedimentation thesis is directed toward the irresponsible prosecutorial prerogative that undergirds the system of procedural entrapment. As an institutional agency in the entrapment, confinement and social death of millions of Black, Latino/Latina and Native American people, the power of the prosecutorial function is a functional analogue, a postbellum sedimentation, of the irresponsible power of the administrators of plantation law** (i.e. the southern slaveholding class**). Both function massively and predominantly to enforce and reinscribe the terms of the racial contract of their day**. The discretionary power of Frederick Douglass’ overseer was not subject to judicial investigation and was shielded from the censure of the public; and the Black subjects who may have sought refuge from the overseer’s arbitrary executions were extended no legal standing and thus had no recourse to equal protection of the law.81 **Though the Reconstruction Amendments to the US Constitution ostensibly abolished such racial exclusions from the American social contract, present-day prosecutorial discretion, which sometimes makes life-and-death decisions, is analogously unac- countable and unreviewable, is almost always exercised behind closed doors, is answerable only to other prosecutors, and functions analogously to subordinate, entrap and confine people of color.**82 ¶

#### Alt cause – over policing

**Blakemore 98** [(Edward, has mentored several Dayton Law students in addition to serving as a teaching assistant in Professor Emeritus Vernellia Randall’s Academic Excellence Program) “The Effect of Mandatory Minimum Sentencing on Black Males and Black Communities,” The University of Dayton School of Law, 1998] DRD  
The history of the police and minorities has not been a rosy one within this country. Whether it be the Rodney King incident, the MOVE bombing, or Geronimo Pratt's unjust incarceration, the police have continually treated minorities, especially black citizens, with disdain, disrespect, and hatred. I have always been troubled by the immense amount of discretion which is placed in the hands of people who have been well-known to treat minorities unfairly. Without the intervention of a police officer, no one ever is arrested. Accordingly, those officers should be people of honor, without a penchant for abusing black people. As history has demonstrated, these officers are far from being community pillars. ¶ Police officers have always abused their discretion within this country. My research seemed to re-establish that point. In case after case, police have abused their authority. In Kolender and other cases, they used vagrancy statutes to unjustly arrest black people who looked suspicious largely because they made the mistake of walking in a white neighborhood while black. The plaintiff in Kolender was detained 15 times by police for taking night walks in an expensive white neighborhood. I would not be so upset about this abuse of discretion if it was applied uniformly regardless of race. Unfortunately, police bring their biases with them when they patrol communities. In none of the vagrancy cases, where the Court later found the statute impermissibly vague, was a white person charged with violating the ordinance. ¶ Their abuse of discretion creates issues for minorities as more of the black male labor force ends up imprisoned, to some degree, because of the negative biases of police officers. Another example my research uncovered was the use, by police, of drug profiles. These profiles never explicitly stated that blacks should be arrested and whites should not be detained for drug crimes. Even our judicial system would not have stood by if such openly racist actions were taken against minorities. The police realized that and, as a result, applied the standard disproportionately against minorities so no one could argue they were acting wrongly. These profiles gave police virtual carte blanche in their authority to stop a motorist because he fit the description of a "typical" drug dealer. These practices resulted in numerous black people being stopped and harassed while whites doing the same acts were never even questioned. ¶ These actions help to facilitate the feeling within the black community that they are second-class citizens. These actions also tend to create an antagonistic attitude between many minorities and the police force. This attitude works to the disadvantage of many minorities because those individuals who have a better repore with police tend to have better outcomes with their behavior. Blacks are at a disadvantage because their experiences with police have been largely negative. They are not comfortable trusting police officials. Because of a lack of trust between these two entities, neither can help the other survive and exist more effectively. Police need citizen participation to apprehend most felons. Blacks need competent law enforcement to uphold the law within their communities. Neither of those interests can be well-served when the two principal parties are at odds with each other.

#### Alt cause – mandatory minimums

**Blakemore 98** [(Edward, has mentored several Dayton Law students in addition to serving as a teaching assistant in Professor Emeritus Vernellia Randall’s Academic Excellence Program) “The Effect of Mandatory Minimum Sentencing on Black Males and Black Communities,” The University of Dayton School of Law, 1998] DRD  
Judges on the state and federal level were long known for exercising discretion in their sentencing which tended to favor whites. As a result, civil rights activists and protesters continually argued that judicial discretion must be curbed since jurists had shown themselves unable to handle the responsibility of sentencing without incorporating their own biases. These complaints were some of the main reasons people began to believe that sentencing should be placed in the allegedly more able hands of a legislators. Unfortunately, those advocates never considered that legislators also had similar biases and would likely draft a laws which reflected their opinions about others. ¶ Since some judges were making federal sentencing a farce, the debate seemed to focus on the practices of federal judges. The legislators took it upon themselves to try and eliminate race from sentencing by making it uniform according to the offense. They argued that no matter who committed the crime, they should all be punished exactly the same. They even limited the sentencing discussion to the offender's criminal history and the offense he was convicted of. For some reason, these lawmakers never considered that people of certain economic strata are convicted of different crimes because of their access to means to commit certain crimes. They seemed to take a blind attitude toward who would be disproportionately affected by their new laws. They felt that since crack was the new scourge of America, it should have a higher and more severe penalty than cocaine, despite the fact that both are the same drug. Accordingly, they increased the penalties associated with crack and watched as minority prisoners began to get arrested at three to five times their prior rate. ¶ Undoubtedly, these legislators felt they had create a uniform standard for all crimes so race wouldn't be a factor judges could consider. Because of their inherent biases against minorities, most legislators never even considered that their laws would greatly effect black communities. These lawmakers may have just been guilty of benign neglect toward the types of offenses minorities are convicted of and genuinely thought they were making a law which would decrease the incarceration rates of minorities. I hope these lawmakers did not conspire to create laws which would increase minority incarceration while allowing white rates to remain stable or decrease.

#### Alt cause – biased judicial discretion

**Sommers and Ellsworth 01** [(Samuel R, Department of Psychology, University of Michigan) (Phoebe C, Department of Psychology and School of Law, University of Michigan) “White Juror Bias: An Investigation of Prejudice Against Black Defendants in the American Courtroom,” University of Michigan, 2001] DRD  
This article continues the investigation of Sommers and Ellsworth (2000) and confirms the importance of race-salience as a variable influencing White juror bias. Without controlling for race-salience, many previous researchers of race in the courtroom have arrived at ambiguous and inconsistent conclusions. Much of this uncertainty can be resolved by the theoretical perspective outlined here. The present empirical findings support the hypothesis that White jurors are more likely to demonstrate racial bias in cases that do not raise blatantly racial trial issues. This depiction of the nature of modem juror bias is consistent with Gaertner and Dovidio's (1986) conceptualization of aversive racism, and is also reflected in recent Supreme Court opinions that cite the potential biasing influence of subtle, less overt forms of racial prejudice (e.g., Turner v. Murray, 1986). The abolition of separate, race-based penal codes and other institutionalized forms of discrimination in the legal system has led many researchers to focus their examination of bias in the modem American courtroom on the decisions of jurors. Studies of racism in the legal system are well served by analyses at the level of the individual juror and jury, but one of the main purposes of this article is to emphasize the importance of considering the broader historical contexts and sociocultural atmospheres in which American courtrooms exist. Returning to the concerns raised by Harper Lee forty years ago, it seems true that most Americans no longer live in a society as racist as the one depicted in To Kill a Mockingbird¶ (Lee, 1960). After centuries of activism and struggle, the expression of anti-Black sentiment has become inappropriate and even taboo in many communities. Black defendants certainly have a better chance of getting "a square deal" today than they did in the past. But even if the torrent of racism that once dominated the U.S. legal system has subsided, an undercurrent of prejudice continues to influence juror decisions. To this day, one cannot assume defendants always receive a fair trial regardless of the color of their skirl. People still carry their resentments into the jury box with them, often without realizing they are doing so. And, there certainly are no assurances that today's court-appointed defense attorneys are all as devoted or persuasive as Atticus Finch. ¶