# 1NC vs. Carnegie Vanguard

## Offs

### T

#### Interpretation: the affirmative may not defend the People’s Republic of China recognizing a right to strike.

#### Just governments respect liberties

Dorn 12 James A. Dorn, Cato Journal, "The Scope of Government in a Free Society", Fall 2012, https://www.cato.org/sites/cato.org/files/serials/files/cato-journal/2012/12/v32n3-10.pdf

If laws are just, liberty and property are secure. The most certain test of justice is negative—that is, justice occurs when injustice (the violation of natural rights to life, liberty, and property) is prevented. The emphasis here is on what Hayek (1967) called “just rules of conduct,” not on the fairness of outcomes. No one has stated the negative concept of justice better than the 19th century French classical liberal Frederic Bastiat ([1850] 1964: 65): When law and force confine a man within the bounds of justice, they do not impose anything on him but a mere negation. They impose on him only the obligation to refrain from injuring others. They do not infringe on his personality, or his liberty or his property. They merely safeguard the personality, the liberty, and the property of others. They stand on the defensive; they defend the equal rights of all. They fulfill a mission whose harmlessness is evident, whose utility is palpable, and whose legitimacy is uncontested. In short, the purpose of a just government is not to do good with other people’s money, but to prevent injustice by protecting property and securing liberty.

#### [china] is not just. It commits genocide against Uyghurs and denies it

BBC 21 Who are the Uyghurs and why is China being accused of genocide?, https://www.bbc.com/news/world-asia-china-22278037,

Human rights groups believe China has detained more than one million Uyghurs against their will over the past few years in a large network of what the state calls "re-education camps", and sentenced hundreds of thousands to prison terms.

There is also evidence that Uyghurs are being used as forced labour and of women being forcibly sterilised. Some former camp detainees have also alleged they were tortured and sexually abused.

The US is among several countries to have accused China of committing genocide in Xinjiang. The leading human rights groups Amnesty and Human Rights Watch have published reports accusing China of crimes against humanity.

China denies all allegations of human rights abuses in Xinjiang, claiming its system of "re-education" camps are there to combat separatism and Islamist militancy in the region.

#### Violation: they did

#### Impacts –

#### A] accessibility – they try to justify China as just which is exclusionary towards minorities and people of color who feel this violence everyday. This is supercharged by their reps and performance – they literally try to hide authoritarianism and promote Chinese soft power in spite of this systematic oppression. Hold the line – accessibility is an antecedent question to any other judge obligation because it’s a prereq to debate and a jurisdictional obligation of educators.

#### B] they’re not a just government in any way which side constrains any pragmatics offense and proves limits explosion

#### Prefer –

#### Vote neg –

#### 1] Precision –

#### A] stasis point – the topic is the only reasonable focal point for debate – anything else destroys the possibility of debate because we will be two ships passing

#### B] internal link turn – violating semantics justifies the aff talking about whatever with zero neg prep or prediction which is the most unfair and uneducational

#### C] Jurisdiction – you can’t vote for them because the ballot and the tournament invitation say to vote for the better debater in the context of the resolution

#### 2] Limits – there are almost 200 national governments in the world which is an unmanageable burden, especially for a 3 week camp. Only imposing restrictions via the word just can ensure debates are limited and full of clash

#### 3] Fiat abuse – the only way they access these large scale impacts is by fiating a massive shift – the core topic lit is a question of what to do with places with conditional right to strikes – this destroys negative ground by letting the aff auto outweigh. Fiat abuse is the highest pragmatic offense because it’s specifically about this advocacy and demonstrates in-round abuse

#### 4] TVA – use ideal theory instead. That’s better – a] promotes in-depth philosophical clash over labor law that’s constittuive to LD b] solves your offense because you can indicate you would solve these problems in an ideal world too – no reason you need China in particular

#### Fairness is a voter – debate’s a game that requires objective evaluation

#### Education is a voter – it’s why schools fund debate

#### No RVI – a] illogical b] baiting

#### Competing interps – it’s key to avoid reasonability’s arbitrariness and you can’t be reasonably topical because it’s yes/no

#### Drop the debater – a] to deter future abuse – they won’t read args they can lose on b] drop the arg is the same because it’s the aff advocacy c] to rectify the time lost reading theory – anything else rewards abuse

### NC

#### In order for the resolution to be true, the aff must prove that it is conceptually coherent to have an absolute ban of lethal autonomous weapons. To clarify, that when the state guarantees X, it cannot structurally falter from that obligation. If not, you negate. Prefer:

#### 1 - text – Unconditional means no conditions which means that the state cannot falter from it. Free Dictionary:

<https://legal-dictionary.thefreedictionary.com/Unconditional> //LHP AV

**UNCONDITIONAL**. **That which is without condition**; **that which must be performed without regard to what has happened or may happen**.

#### Text is a side constraint to other interps of the res since it establishes what it means which controls fairness and education.

#### 2 - Conceptual necessity – If the state cannot conceptually be obligated to ban lethal autonomous weapons, then the principle itself is incoherent – it presupposes some binding force. Means (a) you’d still negate even if the burden is false since it proves the resolution false (b) it’s a prereq to debating the res since my burden evaluates what it means to affirm or negate.

#### 3 - Real world – the aff would be an incoherent policy if it was impossible, its effectiveness wouldn’t matter. That’s why policy makers don’t debate over outrageous policies like making everyone live forever – they may seem good in the abstract, but are impossible to apply. Key to fairness and education since it’s the basis for prep and a coherent understanding of the res.

#### 4 - Hijacks your role of the ballot --- (a) strategies against oppression must be pragmatic, otherwise you get stuck in ivory-towered theorizing which doesn’t lead to tangible change (b) whether or not an unconditional right to strike is a good methodology to fight violence or oppression relies on how the state relates to it as an agent

#### Now negate, the constitutive feature of the law is that the sovereign creates it, but the sovereign lives outside of the law and has complete control over the it. The sovereign is the only authority over the law, creating a state of exception; the state cannot undermine the sovereign in the state of exception. Thus, any principle that mandates the state to act is impossible.

Agamben 04 [Agamben, Giorgio. “Homo Sacer – Sovereign Power and Bare Life”. Translated by Daniel Heller-Rozan. Published 2004. Bracketed for gendered language] AA

The paradox of sovereignty consists in the fact **the sovereign is**, at the same time, **outside and** **inside the juridical order. If the sovereign is** truly **the one to** **whom the** juridical **order grants the** **power** **of proclaiming a state of exception** and**, therefore**, of suspending the order's own validity, then "**the sovereign stands outside** the juridical order and, nevertheless, belongs to it, **since it is up** **to him [them] to decide if the constitution is to be** **suspended** in toto" (Schmitt, Politische Theologie, p. 13). The specification that the ¶ sovereign is "at the same time outside and inside the juridical order" (emphasis added) is not insignicant: **the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law**. This means that the paradox can also be formulated this way: "**the law is outside itself**," or: "1, the sovereign, who am outside the law, declare that there is nothing outside the law [che non c'e un ori gge]." ¶ The topology implicit in the paradox is worth reflecting upon, since the degree to which sovereignty marks the limit (in the dou­ ble sense of end and principle) of the juridical order will become clear only once the structure of the paradox is grasped. Schmitt presents this structure the structure of the exception (Ausnahme): ¶ The exception is that which cannot be subsumed; it defies general codification, but it simultaneously reveals a specically juridical formal element: the decision in absolute purity. The exception appears in its absolute form when it is a question of creating a situation in which juridical rules can be valid. **Every** general **rule demands** **a regular**, everyday **frame** oflife **to which it can be factually applied** and which is submitted to its regulations. The rule requires a homogeneous me­ dium. This factual regularity is not merely an "external presupposi­ tion" that the jurist can ignore; it belongs, rather, to the rule's imma­ nent validity. There is no rule that is applicable to c**haos. Order must be established for juridical order** to m e sense. A regular situation must be created, and **sovereign is he who definitely decides if this** **situation** **is** actually **effective**. l law is "situational law." The sovereign creates and guarantees the situation as a whole in irs totality. **He** **has the monopoly over** **the** nal **decision**. Therein consists **the** essence of **State sovereignty**, which **must** therefore **be** properly juridically de ned not as the monopoly to sanction or to rule but as **the monopoly to decide**, **where** the word "**monopoly" is** **used in a general sense** that is still to be developed. The decision reveals the essence of State authority most clearly. Here the decision must be distinguished from the juridical regulation, and (to formulate it paradoxically) authority proves itself not to need law to create law. .. . The exception is more interesting than the regular case. The latter proves nothing; the excep­ tion proves everything. **The exception does not only confirm the rule; the rule as such lives o the exception alone**. A Protestant theologian who demonstrated the viral intensity of which theological reflection was still capable in the nineteenth century said: "The exception explains the general and itself. And when one really wants to study the general, one need only look around for a real exception. It brings everything to light more clearly than the general itself After a while, one becomes disgusted with the endless talk about the general-there are exceptions. If they cannot be explained, then neither can the general be explained. Usually the difficulty is not noticed, since the general is thought about not with passion but only with comfortable superficiality. The exception, on the other hand, thinks the general with intense passion." (Politische Theologie, pp. 19-22) ¶ It is not by chance that in defining the exception Schmitt refers to the work of a theologian (who is none other than S0ren Kierke­ gaard). Giambattista Vico had, to be sure, armed the superiority ¶ of the exception, which he called "the ultimate configuration of facts," over positive law in a way which was not so dissimilar: '' esteemed jurist is, therefore, not someone who, with the help of a good memory, masters positive law [or the general complex of laws], but rather someone who, with sharp judgment, knows how to look into cases and see the ultimate circumstances off acts that merit equitable consideration and exceptions from general rules" (De antiquissima, chap. 2). Yet nowhere in the realm of the juridical sciences can one nd a theory that grants such a high position to the exception. For what is at issue in the sovereign exception is, according to Schmitt, the very condition of possibility of juridical rule and, along with it, the very meaning of State authority. **Through the state of exception, the sovereign** "creates and **guarantees the situation**" **that the law needs for its own validity**. But **what is this "situation**," what is its structure, **such that it consists in nothing other than the suspension of the rule**? ¶ X The Vichian opposition between positive law (ius theticum) and exception well expresses the particular status of the exception. The exception is an element in law that transcends positive law in the form of its suspension. The exception is to positive law what negative theology is to positive theology. While the latter a rms and predicates determinate qualities of God, negative (or mystical) theology, with its "neither . . . nor . . . ," negates and suspends the attribution to God of any predicate whatsoever. Yet negative theology is not outside theology and can actually be shown to function as the principle grounding the possibility in general of anything like a theology. Only because it has been negatively presupposed as what subsists outside any possible predicate can divinity become the subject of a predication. Analogously, only because its validity is suspended in the state of exception can positive law define the normal case as the realm of its own validity. ¶ r.2. The exception is a kind of exclusion. **What is excluded from the general rule is an individual case**. But the most proper characteristic of the exception is that what is excluded in it is not, on account of being excluded, absolutely without relation to the rule. On the contrary, **what is excluded in the exception** **maintains itself** ¶ **in relation to the rule in the form of the rule's suspension**. The rule applies to the exception in no nger app ing, in withdrawing om it. **The state of exception** **is** thus **not the chaos that** **precedes order but rather the situation that results from its suspension**. In this sense, the exception is truly, according to its etymological root, taken outsi (ex-capere), and not simply excluded. ¶ It has o en been observed that the juridico-political order has the structure ofan inclusion of what is simultaneously pushed outside. Gilles Deleuze and Felix Guattari were thus able to write, "Sovereignty only rules over what it is capable of interiorizing" (Deleuze and Guattari, Mil p teaux, p. 5); and, concerning the "great confinement" described by Foucault in his Madness and Civilition, Maurice Blanchot spoke of society's attempt to "confine the outside" (en rmer le dehors), that is, to constitute it in an "interiority of expectation or of exception." Confronted with an excess, the system interiorizes what exceeds it through an interdiction and in this way "designates itself as exterior to itself" (L ntretien in ni, p. 292) . The exception that defines the structure of sovereignty is, however, even more complex. **Here what is outside is included not simply by means of an interdiction or an internment**, **but** rather **by means of the suspension of the juridical order's** **validity-by letting the juridical order**, that is, **withdraw from the exception** and aban­ don it. The exception does not subtract itself from the rule; rather, the rule, **suspending itself, gives rise to the** **exception** and, maintaining itself in relation to the exception, rst constitutes itself as a rule. The particular "force" of law consists in this capacity of law to maintain itself in relation to an exteriority. We shall give the name relation of exception to the extreme form of relation by which something is included solely through its exclusion. ¶ **The situation created in the exception has the peculiar characteristic that it cannot be defined** either as a situation of fact or as a situation of right, but instead institutes a paradoxical threshold of indistinction between the two. It is not a fact, since **it is only created through the suspension of the rule**. But for the same reason, it is not even a juridical case in point, even if it opens the possibility ¶ of the force of law. **This is the ultimate meaning** of the paradox that Schmitt formulates when he writes **that the sovereign[s] decision "proves itself not to need law to create law."** What is at issue in the sovereign exception is **not so much the control or neutralization of** an **excess as the creation and definition of the very space in which the juridico-political order can have validity.** In this sense, **the sovereign exception is the** fundamental **localization** (Ortung), **which does not limit itself to distinguishing what is inside from** what is **outside but** instead **traces a threshold** (the state of exception) **between the two, on** the basis of which outside and inside, **the normal situation and chaos**, enter into those complex topological relations that make the validity of the juridical order possible. ¶ The "ordering of space" that is, according to Schmitt, constitu­ tive of the sovereign nomos is therefore not only a "taking of land" (Landesnahme)-the determination of a juridical and a territorial ordering (of an Ordnung and an Ortung)-but above all a "taking of the outside," an exception (Ausnahme). ¶

#### Implications:

#### 1] You negate since the state can never limit its own authority since under a state of exception, the sovereign has complete control. The fed can always undermine a ban by creating exceptions

#### 2] Turns case – investing in the idea of the state being constrained by the law is an illusion of sovereignty and invests us more into the violence of the state – its cruelly optimistic to think the state functions any other way – the plan’s recognition of the right to strike defuses radical potential and legitimizes violence.

Crépon 19 Mark Crépon (French philosopher), translated by Micol Bez “The Right to Strike and Legal War in Walter Benjamin’s ‘Toward the Critique of Violence,’” Critical Times, 2:2, August 2019, DOI 10.1215/26410478-7708331

If we wish to understand how the question of the right to strike arises for Walter Benjamin in the seventh paragraph of his essay “Zur Kritik der Gewalt,” it is impor­ tant to first analyze the previous paragraph, which concerns the state’s monopoly on violence. It is here that Benjamin questions the argument that such a monopoly derives from the impossibility of a system of legal ends to preserve itself as long as the pursuit of natural ends through violent means remains. Benjamin responds to this dogmatic thesis with the following hypothesis, arguably one of his most impor­ tant reflections: “To counter it, one would perhaps have to consider the surprising possibility that law’s interest in monopolizing violence vis­à­vis the individual is explained by the intention not of preserving legal ends, but rather of preserving law itself. [This is the possibility] that violence, when it does not lie in the hands of law, poses a danger to law, not by virtue of the ends that it may pursue but by virtue of its mere existence outside of law.”1 In other words, nothing would endanger the law more than the possibility of its authority being contested by a violence over which it has no control. The function of the law would therefore be, first and foremost, to contain violence within its own boundaries. It is in this context that, to demonstrate this surprising hypothesis, Benjamin invokes two examples: the right to strike guaranteed by the state and the law of war. Let us return to the place that the right to strike occupies within class struggle. To begin with, the very idea of such a struggle implies certain forms of violence. The strike could then be understood as one of the recognizable forms that this violence can take. However, this analytical framework is undermined as soon as this form of violence becomes regulated by a “right to strike,” such as the one recognized by law in France in 1864. What this recognition engages is, in fact, the will of the state to control the possible “violence” of the strike. Thus, the “right” of the right to strike appears as the best, if not the only, way for the state to circumscribe within (and via) the law the relative violence of class struggles. We might consider this to be the per­ fect illustration of the aforementioned hypothesis. Yet, there are two lines of ques­ tioning that destabilize this hypothesis that we would do well to consider. First, is it legitimate to present the strike as a form of violence? Who has a vested interest in such a representation? In other words, how can we trace a clear and unequivocal demarcation between violence and nonviolence? Are we not always bound to find residues of violence, even in those actions that we would be tempted to consider nonviolent? The second line of questioning is just as important and is rooted in the distinction established by Georges Sorel, in his Reflections on Violence, between the “political strike” and the “proletarian general strike,” to which Benja­ min dedicates a set of complementary analyses in §13 of his essay. Here, again, we are faced with a question of limits. What is at stake is the possibility for a certain type of strike (the proletarian general strike) to exceed the limits of the right to strike— turning, in other words, the right to strike against the law itself. The phenomenon is that of an autoimmune process, in which the right to strike that is meant to protect the law against the possible violence of class strugles is transformed into a means for the destruction of the law. The diference between the two types of strikes is nevertheless introduced with a condition: “The validity of this statement, however, is not unrestricted because it is not unconditional,” notes Benjamin in §7. We would be mistaken in believing that the right to strike is granted and guaranteed uncondi­ tionally. Rather, it is structurally subjected to a conflict of interpretations, those of the workers, on the one hand, and of the state on the other. From the point of view of the state, the partial strike cannot under any circumstance be understood as a right to exercise violence, but rather as the right to extract oneself from a preexisting (and verifiable) violence: that of the employer. In this sense, the partial strike should be considered a nonviolent action, what Benjamin named a “pure means.” The interpretations diverge on two main points. The first clearly depends on the alleged “violence of the employer,” a predicate that begs the question: Who might have the authority to recognize such violence? Evidently it is not the employer. The danger is that the state would similarly lack the incentive to make such a judgment call. It is nearly impossible, in fact, to find a single instance of a strike in which this recognition of violence was not subject to considerable controversy. The political game is thus the following: the state legislated the right to strike in order to con­ tain class strugles, with the condition that workers must have “good reason” to strike. However, it is unlikely that a state systematically allied with (and accomplice to) employers will ever recognize reasons as good, and, as a consequence, it will deem any invocation of the right to strike as illegitimate. Workers will therefore be seen as abusing a right granted by the state, and in so doing transforming it into a violent means. On this point, Benjamin’s analyses remain extremely pertinent and profoundly contemporary. They unveil the enduring strategy of governments confronted with a strike (in education, transportation, or healthcare, for example) who, afer claiming to understand the reasons for the protest and the grievances of the workers, deny that the arguments constitute sufcient reason for a strike that will likely paralyze this or that sector of the economy. They deny, in other words, that the conditions denounced by the workers display an intrinsic violence that jus­ tifies the strike. Let us note here a point that Benjamin does not mention, but that is part of Sorel’s reflections: this denial inevitably contaminates the (socialist) lef once it gains power. What might previously have seemed a good reason to strike when it was the opposition is deemed an insufcient one once it is the ruling party. In the face of popular protest, it always invokes a lack of sufcient rationale, allow­ ing it to avoid recognizing the intrinsic violence of a given social or economic situ­ ation, or of a new policy. And it is because it refuses to see this violence and to take responsibility for it that the left regularly loses workers’ support.

#### 3] any other conception of the state leads to regress – there will always need to be another rule for a rule that the sovereign would need to abide by, which means the sovereign has to function outside of the law to be able to act

## Case