## T Just gov

#### Interpretation: the affirmative must defend that only just governments ought to recognize the 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.

#### Violation—the US and specifically courts are not just.

Nellis, Ph.D., 18, Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System, https://www.sentencingproject.org/publications/un-report-on-racial-disparities/, Sentencing Project,

The United States criminal justice system is the largest in the world. At yearend 2015, over 6.7 million individuals1) were under some form of correctional control in the United States, including 2.2 million incarcerated in federal, state, or local prisons and jails.2) The U.S. is a world leader in its rate of incarceration, dwarfing the rate of nearly every other nation.3) Such broad statistics mask the racial disparity that pervades the U.S. criminal justice system, and for African Americans in particular. African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, and they are more likely to experience lengthy prison sentences. African-American adults are 5.9 times as likely to be incarcerated than whites and Hispanics are 3.1 times as likely.4) As of 2001, one of every three black boys born in that year could expect to go to prison in his lifetime, as could one of every six Latinos—compared to one of every seventeen white boys.5) Racial and ethnic disparities among women are less substantial than among men but remain prevalent.6) The source of such disparities is deeper and more systemic than explicit racial discrimination. The United States in effect operates two distinct criminal justice systems: one for wealthy people and another for poor people and people of color. The wealthy can access a vigorous adversary system replete with constitutional protections for defendants. Yet the experiences of poor and minority defendants within the criminal justice system often differ substantially from that model due to a number of factors, each of which contributes to the overrepresentation of such individuals in the system. As former Georgetown Law Professor David Cole states in his book No Equal Justice,

#### Prefer –

#### 1] Precision — anything else justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

#### 2] Limits – there are 200 governments in the world – letting them pick an unjust ones explodes limits via infinite permutations of governments

#### 3] Phil ed – 1AR will claim no government is just but that just means that we defend ideal theory. That’s good –

#### forces philosophical contestation which can uniquely happen in LD debate whereas you can util debate on any topic

#### 4] TVA – read the aff as a whole res aff, same advantage area

#### Fairness- consittutive of comp activites, args presume

#### Edu- funded ny schools

#### DTD- dta illogical, time skew

#### No RVI’s- illogical, baiting

#### CI – intervention, race to bottom, collapses, yours ves best

## Combo

#### Cant say 1AR theory, DTD, no RVIs, aff theory highest layer

## CP

#### Counterplan: The United States Federal Government ought to recognize an unconditional right of workers to strike except in the instance that strikes directly demand discrimination towards certain groups of individuals

BPSC[Unfair Labor Practices by Union, http://bpscllc.com/unfair-labor-practices-by-unions.html, N.D., Business & People Strategy Consulting Group, California's trusted source for workplace human resources and employment law] [SS]

Causing or Attempting to Cause Discrimination: Section 8(b)(2) makes it an unfair labor practice for a labor organization to cause or attempt to cause an employer to discriminate against an employee in violation of Section 8(a)(3). The section is violated by agreements or arrangements with employers, other than lawful union-security agreements, that condition employment or job benefits on union membership, on the performance of union membership obligations or on arbitrary grounds. But union action that causes detriment to an individual employee does not violate Section 8(b)(2) if it is consistent with nondiscriminatory provisions of a bargaining contract negotiated for the benefit of the total bargaining unit, or if the action is based on some other legitimate purpose. A union’s conduct, accompanied by statements advising or suggesting that action is expected of an employer, may be enough to find a violation of this section if the union’s action can be shown to be a causal factor in the employer’s discrimination. Contracts or informal arrangements with a union under which an employer gives preferential treatment to union members also violate Section 8(b)(2). However, an employer and a union may agree that the employer will hire new employees exclusively through the union hiring hall if there is no discrimination against nonunion members on the basis of union membership obligations. In setting referral standards, a union may consider legitimate aims such as sharing available work and easing the impact of local unemployment. The union may also charge referral fees if the amount of the fee is reasonably related to the cost of operating the referral service. A union that attempts to force an employer to enter into an illegal union-security agreement, or that enters into and keeps in effect such an agreement, also violates Section 8(b)(2), as does a union that attempts to enforce such an illegal agreement by bringing about an employee’s discharge. Even when a union-security provision of a bargaining contract meets all statutory requirements, a union may not lawfully require the discharge of employees under the provision unless they were informed of the union-security agreement and their specific obligation under it. A union violates Section 8(b)(2) if it tries to use the union-security provisions of a contract to collect payments other than those lawfully required, such as assessments, fines and penalties. Other examples of Section 8(b)(2) violations include: Causing an employer to discharge employees because they circulated a petition urging a change in the union’s method of selecting shop stewards Causing an employer to discharge employees because they made speeches against a contract proposed by the union Making a contract that requires an employer to hire only members of the union or employees “satisfactory” to the union Causing an employer to reduce employees’ seniority because they engaged in anti-union acts Refusing referral or giving preference on the basis of race or union activities when making job referrals to units represented by the union Seeking the discharge of an employee under a union-security agreement for failure to pay a fine levied by the union

#### Racist union strikes have happened before

Allison Keyes, JUNE 30, **2017**, "The East St. Louis Race Riot Left Dozens Dead, Devastating a Community on the Rise," Smithsonian Magazine, https://www.smithsonianmag.com/smithsonian-institution/east-st-louis-race-riot-left-dozens-dead-devastating-community-on-the-rise-180963885/ //SR

Racial tensions began simmering in East St. Louis—a city where thousands of blacks had moved from the South to work in war factories—as early as February 1917. The African-American population was 6,000 in 1910 and nearly double that by 1917. In the spring, the largely white workforce at the Aluminum Ore Company went on strike. Hundreds of blacks were hired. After a City Council meeting on May 28, angry white workers lodged formal complaints against black migrants. When word of an attempted robbery of a white man by an armed black man spread through the city, mobs started beating any African-Americans they found, even pulling individuals off of streetcars and trolleys. The National Guard was called in but dispersed in June.

## Military PIC

#### COUNTERPLAN – A just government ought to recognize an unconditional right for non-military workers to strike

#### Armed forces can’t strike now

LII 6 [Cornell Legal Information Institute, 2006, "10 U.S. Code § 976," Cornell Legal Information Institute, https://www.law.cornell.edu/uscode/text/10/976]/Kankee

(a)In this section: (1)The term “member of the armed forces” means (A) a member of the armed forces who is serving on active duty, (B) a member of the National Guard who is serving on full-time National Guard duty, or (C) a member of a Reserve component while performing inactive-duty training. (2)The term “military labor organization” means any organization that engages in or attempts to engage in— (A)negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces; (B)representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or (C)striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to— (i)negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces, (ii)recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or (iii)make any change with respect to the terms or conditions of military service of individual members of the armed forces. (3)The term “civilian officer or employee” means an employee, as such term is defined in section 2105 of title 5. (b)It shall be unlawful for a member of the armed forces, knowing of the activities or objectives of a particular military labor organization— (1)to join or maintain membership in such organization; or (2)to attempt to enroll any other member of the armed forces as a member of such organization. (c)It shall be unlawful for any person— (1)to enroll in a military labor organization any member of the armed forces or to solicit or accept dues or fees for such an organization from any member of the armed forces; or (2)to negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members; (3)to organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to— (A)negotiate or bargain with any person concerning the terms or conditions of service of any member of the armed forces, (B)recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or (C)make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces; or (4)to use any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this subsection or by subsection (b) or (d). (d)It shall be unlawful for any military labor organization to represent, or attempt to represent, any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces. (e)No member of the armed forces, and no civilian officer or employee, may— (1)negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces, or (2)permit or authorize the use of any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d). Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations. (f)Whoever violates subsection (b), (c), or (d) shall be fined under title 18 or imprisoned not more than 5 years, or both, except that, in the case of an organization (as defined in section 18 of such title), the fine shall not be less than $25,000. (g)Nothing in this section shall limit the right of any member of the armed forces— (1)to join or maintain membership in any organization or association not constituting a “military labor organization” as defined in subsection (a)(2) of this section; (2)to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures; (3)to seek or receive information or counseling from any source; (4)to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations; (5)to petition the Congress for redress of grievances; or (6)to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.

Amendments 1997—Subsec. (f). Pub. L. 105–85 substituted “shall be fined under title 18 or imprisoned not more than 5 years, or both, except that, in the case of an organization (as defined in section 18 of such title), the fine shall not be less than $25,000.” for “shall, in the case of an individual, be fined not more than $10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than $25,000 and not more than $250,000.” 1987—Subsec. (a)(1) to (3). Pub. L. 100–26 inserted “The term” after each par. designation and struck out uppercase letter of first word after first quotation marks in each paragraph and substituted lowercase letter. 1986—Subsec. (a)(1). Pub. L. 99–661 struck out the second of two commas before “(B)”. 1984—Subsec. (a)(1). Pub. L. 98–525 added cl. (B) and redesignated existing cl. (B) as (C). Findings; Purpose Pub. L. 95–610, § 1, Nov. 8, 1978, 92 Stat. 3085, provided that: “(a)The Congress makes the following findings: “(1)Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens. “(2)Discipline and prompt obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority. “(3)The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors. “(4)Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces. “(5)Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces. “(6)The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces. “(b)The purpose of this Act [enacting this section] is to promote the readiness of the armed forces to defend the United States.”

#### Military unions wreck civilian military relations and US hegemony

Caforio 18 [Giuseppe Caforio, Brigadier General with degrees in law, political science, and strategic studies (FYI, the author died ~2015, but this was republished in 2018 in an anthology book), 5-20-2018, "Unionisation of the Military: Representation of the Interests of Military Personnel," SpringerLink, https://link.springer.com/chapter/10.1007/978-3-319-71602-2\_19]/Kankee

THE OPPOSITION TO UNIONIZATION OF THE ARMED FORCES But if a convergence between the military establishment and civil society is in progress and has brought the two areas of life and work much closer together, why is there a unionization issue for the armed forces? Why is there opposition to a collective bargaining system for military personnel? The fundamental reason must be sought in the specificity of the military, which is summarized thusly by David R. Segal: Because of its unique social function—the legitimate management of violence—the military requires of its personnel a degree of commitment that differs from that required by other modern organizations. Military personnel, unlike their civilian counterparts, enter into a contract of unlimited liability with their employer. They cannot unilaterally terminate their employment any time they wish. They are subject to moving and working in any environment where the service decides they are needed. They are required to place the needs of service above the needs of their families, and must frequently endure long periods of separation. They are often called upon to work more than an eight-hour day, for which they receive no additional compensation. And in time of war, they must face prolonged danger, and may even forfeit their lives. Obviously, the man on the firing line is required to make a commitment of a different order from that made by the worker on the assembly line. (D. Segal and Kramer, 1977, p. 28). Bernhard Boene, in a study devoted to a different research topic (Boene, 1990), is both precise and efficacious in differentiating military "work" from civilian work. Military specificity, writes Boene, does not lie only in the area of the risks to which one supposes the combatant is exposed, but also in the limits of application of common rationality in combat and in the situation of habitual transgression of social norms that it entails. This implies a particular type of socialization. Notwithstanding partial analogies, according to Boene, civil emergencies belong to a different reality than military ones do. An officer, in particular, is not an ordinary civil servant: he must respond to a "call," consisting of a particular interest in military things, dedication to the common welfare, acceptance of risking his life, and submission to a series of obligations that are peculiar to the military profession. SOME THEORETICAL POSITIONS ON THE ISSUE Discussing a sample survey, David Segal observes that in the United States, in the absence of a union for military personnel, there is a considerable "misfit" between soldiers' perception of the characteristics of their role and the preferred characteristics, while in an analogous sample of civilian manpower this misfit is much smaller. In examining the attempted remedies, Segal states: "Any change to be achieved through organizational interventions, however, is likely to be incremental, and not to resolve the discrepancy between the characteristics that military personnel would like in their jobs and the characteristics that they perceived their jobs to have" (D. Segal and Kramer, 1977, p. 46). According to Segal, unionization can solve this problem, but it presents two dangers that must be carefully weighed: the first is that it tends to extend its influence also to aspects of management and direction of the military apparatus; the second is that it involves a politicisation of the personnel. Gwyn Harries Jenkins examines the consequences that unionisation would have on the operational efficiency of the armed forces and identifies three fundamental ones: 1. The creation of a dual authority structure: Since there has been a change in the basis of authority and discipline in the military establishment and a shift from authoritarian domination to greater reliance on manipulation, persuasion and group consensus, unionization extends the boundaries of these changes: it brings into armed forces the full effects of the organizational revolution which pervades contemporary society, creating a dual authority structure while modifying the traditional basis of compliance. (H. Jenkins, 1977, p. 70) 2. A much greater resemblance of the style of military command to that of civilian management. The new tasks and the introduction of unionization would require commanders to possess skills and orientations more and more like those of civilian managers. 3. An abdication by the officer of his traditional image. Indeed, if the officer "wishes to retain his self-image and ideas of honor, then the introduction of trade unions into the military creates a conflict situation with substantial dysfunctional consequences" (H.Jenkins, 1977, p. 71). Harries Jenkins concludes, however, by affirming that, as a radical criticism of the existing military system, "the unionization of the armed forces can only result in an improvement to an otherwise defective situation" (H. Jenkins, 1977, p. 69). According to William Taylor and Roger Arango (Taylor et al., 1977b), many reasons offered in the United States for or against the unionization of military personnel appear to be rhetorical and not sufficiently investigated. Those who take a negative critical stance, for example, contend that unionization would lead to a breakdown in discipline; threaten the chain of command; and, especially, undermine the military's ability to carry out its assigned mission. Through a concrete field analysis, these authors believe they can shed light on the advantages and disadvantages of this process. Among the advantages are the acquisition of a greater sense of individual security, a valorization of the dignity of individuals, improved social communication, and greater competitiveness with other occupations and professions in recruiting personnel. The real drawbacks would essentially be reduced to two: a risk of divisiveness within units, due to acquired strife between personnel categories; and an increase in personnel costs. Carlo Jean (Jean, 1981) states that in itself, the creation of unions would inevitably produce increased confrontation; without it, the union representatives would have neither prestige nor credibility. He does not believe, however, that the biggest drawback that would derive from it would be that of undermining the internal cohesiveness of the armed forces and their operational capacity. According to this author military leaders would align themselves with the union's demands out of necessity to avoid internal breakup. An unacceptable corporative force would be produced that sooner or later would inevitably oppose it to the political power. The danger that a union of military personnel involves for civil society is, in his opinion, much greater than its negative implications on the efficiency of the military itself. Along the same line is the fear expressed by Sen. Thurmond (reported by David Cortright, cited essay) that unionization might reinforce the military establishment and increase its influence over society at large, decreasing the capacity for political control. This issue had already been treated by Cortright in another essay (Cortright and Thurmond, 1977b), where on the one hand he argued that unionization in the armed forces would help to prevent any form of separateness from civil society while noting on the other that little attention was given to the possibility that unionization substantially strengthens the military's ability to wield influence. Thurmond, again, judges the European experience negatively and asks himself how unionized troops would respond in battle. However, to remain faithful to his position, Thurmond conceives the armed forces as a separate body from civil society, argues that military personnel are not comparable to other labor force categories, and advances the fear that union representation of the interests of military personnel would bring the defence budget to unacceptable levels. Of the countries included in our study, unions for military personnel exist in Denmark, Sweden, Norway, Finland, Germany, Switzerland, Austria, Belgium, and The Netherlands. Unionization is prohibited in England, the United States, Canada, France, Portugal, Turkey, and Greece. Strikes are allowed only in Austria and Sweden. ANALYSIS OF HISTORICAL EXPERIENCES THROUGH THE THOUGHT OF VARIOUS AUTHORS

#### Perception alone is enough to trigger the NB – people will see international law as agreeing with unions and strikes, and trigger an increase, their brudney ev does the work on perception for us

# Case

## OV

#### 1] Aff fails on timeframe – passing through the supreme court. Means that the bill has to go through all lower level courts before reaching and being deliberated on

#### 2] If they say aff doesn’t increase strikes vote neg on face – means that perceptually there is nothing linking the US to I law and it won’t boost its cred with other countries

#### 3] US is NOT key for I law – convention on rights of the child has been ratified by all but 3 countries, one of which is the US and is one of the most followed treaties ever

#### 4] An expressed goal of the ILO is ‘promote well being for all people at all ages’, these goals are impossible to reach with or without the US, perceptually voting aff does nothing

#### 5] The CIL is not actual international law – it is just loose agreements it is NOT binding treaties, no spillover to binding treaties

## I Law

#### Following international law only limits US heg.

Rivkin 2000 [Partner @ Baker & Hostetler LLP [David, “The Rocky Shoals of International Law”, <http://findarticles.com/p/articles/mi_m2751/is_2000_Winter/ai_68547471/>]

The impetus for extending the reach of international law stems from both our allies and our adversaries, who have chosen to use it as a means to check, or at least harness, American power. While each group has different strategic goals, from the perspective of both, the great "problem" of international affairs in the post-Cold War world is the unchallenged military, diplomatic, economic and even cultural predominance of the United States. Our global antagonists, particularly China, would like to see the United States disengage from world affairs. For our allies, who continue to depend far too much on U.S. military might to wish for a new American isolationism, the great danger has become American "unilateralism"—an all-purpose term for U.S. action not sanctioned by the "international community." They do not want to prevent U.S. global engagement; they want to influence and control it.¶ Both our allies and our adversaries understand the value of international law in achieving their ends. Law and its rhetoric have always played a far more important role in the United States than in almost any other country. We are a nation bound together not by ties of blood or religion, but by paper and ink. The Declaration of Independence itself was, at its heart, an appeal to law—the laws of nature and of nature’s God—to justify an act of rebellion against the British Crown. As Alexis de Tocqueville wrote in the early days of the American republic: "[t]he influence of legal habits [in the United States] extends beyond the precise limits I have pointed out. Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question. Hence all parties are obliged to borrow, in their daily controversies, the ideas, and even the language, peculiar to judicial proceedings." Tocqueville was clearly prescient. Today almost every key policy issue in the United States is framed as a legal question. Law is our genius and our Achilles’ Heel. If the trends of international law in the 1990s are allowed to mature into binding rules, international law may prove to be one of the most potent weapons ever deployed against the United States.

#### Heg solves arms races, land grabs, rogue states, and great power war.

Brands 18 [Hal, Henry Kissinger Distinguished Professor at Johns Hopkins University's School of Advanced International Studies and a senior fellow at the Center for Strategic and Budgetary Assessments." American Grand Strategy in the Age of Trump." Page 129-133]

Since World War II, the United States has had a military second to none. Since the Cold War, America has committed to having overwhelming military primacy. The idea, as George W. Bush declared in 2002, that America must possess “strengths beyond challenge” has featured in every major U.S. strategy document for a quarter century; it has also been reflected in concrete terms.6 From the early 1990s, for example, the United States consistently accounted for around 35 to 45 percent of world defense spending and maintained peerless global power-projection capabilities.7 Perhaps more important, U.S. primacy was also unrivaled in key overseas strategic regions—Europe, East Asia, the Middle East. From thrashing Saddam Hussein’s million-man Iraqi military during Operation Desert Storm, to deploying—with impunity—two carrier strike groups off Taiwan during the China-Taiwan crisis of 1995– 96, Washington has been able to project military power superior to anything a regional rival could employ even on its own geopolitical doorstep. This military dominance has constituted the hard-power backbone of an ambitious global strategy. After the Cold War, U.S. policymakers committed to averting a return to the unstable multipolarity of earlier eras, and to perpetuating the more favorable unipolar order. They committed to building on the successes of the postwar era by further advancing liberal political values and an open international economy, and to suppressing international scourges such as rogue states, nuclear proliferation, and catastrophic terrorism. And because they recognized that military force remained the ultima ratio regum, they understood the centrality of military preponderance. Washington would need the military power necessary to underwrite worldwide alliance commitments. It would have to preserve substantial overmatch versus any potential great-power rival. It must be able to answer the sharpest challenges to the international system, such as Saddam’s invasion of Kuwait in 1990 or jihadist extremism after 9/11. Finally, because prevailing global norms generally reflect hard-power realities, America would need the superiority to assure that its own values remained ascendant. It was impolitic to say that U.S. strategy and the international order required “strengths beyond challenge,” but it was not at all inaccurate. American primacy, moreover, was eminently affordable. At the height of the Cold War, the United States spent over 12 percent of GDP on defense. Since the mid-1990s, the number has usually been between 3 and 4 percent.8 In a historically favorable international environment, Washington could enjoy primacy—and its geopolitical fruits—on the cheap. Yet U.S. strategy also heeded, at least until recently, the fact that there was a limit to how cheaply that primacy could be had. The American military did shrink significantly during the 1990s, but U.S. officials understood that if Washington cut back too far, its primacy would erode to a point where it ceased to deliver its geopolitical benefits. Alliances would lose credibility; the stability of key regions would be eroded; rivals would be emboldened; international crises would go unaddressed. American primacy was thus like a reasonably priced insurance policy. It required nontrivial expenditures, but protected against far costlier outcomes.9 Washington paid its insurance premiums for two decades after the Cold War. But more recently American primacy and strategic solvency have been imperiled. THE DARKENING HORIZON For most of the post–Cold War era, the international system was— by historical standards—remarkably benign. Dangers existed, and as the terrorist attacks of September 11, 2001, demonstrated, they could manifest with horrific effect. But for two decades after the Soviet collapse, the world was characterized by remarkably low levels of great-power competition, high levels of security in key theaters such as Europe and East Asia, and the comparative weakness of those “rogue” actors—Iran, Iraq, North Korea, al-Qaeda—who most aggressively challenged American power. During the 1990s, some observers even spoke of a “strategic pause,” the idea being that the end of the Cold War had afforded the United States a respite from normal levels of geopolitical danger and competition. Now, however, the strategic horizon is darkening, due to four factors. First, great-power military competition is back. The world’s two leading authoritarian powers—China and Russia—are seeking regional hegemony, contesting global norms such as nonaggression and freedom of navigation, and developing the military punch to underwrite these ambitions. Notwithstanding severe economic and demographic problems, Russia has conducted a major military modernization emphasizing nuclear weapons, high-end conventional capabilities, and rapid-deployment and special operations forces— and utilized many of these capabilities in conflicts in Ukraine and Syria.10 China, meanwhile, has carried out a buildup of historic proportions, with constant-dollar defense outlays rising from US$26 billion in 1995 to US$226 billion in 2016.11 Ominously, these expenditures have funded development of power-projection and antiaccess/area denial (A2/AD) tools necessary to threaten China’s neighbors and complicate U.S. intervention on their behalf. Washington has grown accustomed to having a generational military lead; Russian and Chinese modernization efforts are now creating a far more competitive environment. Second, the international outlaws are no longer so weak. North Korea’s conventional forces have atrophied, but it has amassed a growing nuclear arsenal and is developing an intercontinental delivery capability that will soon allow it to threaten not just America’s regional allies but also the continental United States.12 Iran remains a nuclear threshold state, one that continues to develop ballistic missiles and A2/AD capabilities while employing sectarian and proxy forces across the Middle East. The Islamic State, for its part, is headed for defeat, but has displayed military capabilities unprecedented for any terrorist group, and shown that counterterrorism will continue to place significant operational demands on U.S. forces whether in this context or in others. Rogue actors have long preoccupied American planners, but the rogues are now more capable than at any time in decades. Third, the democratization of technology has allowed more actors to contest American superiority in dangerous ways. The spread of antisatellite and cyberwarfare capabilities; the proliferation of man-portable air defense systems and ballistic missiles; the increasing availability of key elements of the precision-strike complex— these phenomena have had a military leveling effect by giving weaker actors capabilities which were formerly unique to technologically advanced states. As such technologies “proliferate worldwide,” Air Force Chief of Staff General David Goldfein commented in 2016, “the technology and capability gaps between America and our adversaries are closing dangerously fast.”13 Indeed, as these capabilities spread, fourth-generation systems (such as F-15s and F-16s) may provide decreasing utility against even non-great-power competitors, and far more fifth-generation capabilities may be needed to perpetuate American overmatch. Finally, the number of challenges has multiplied. During the 1990s and early 2000s, Washington faced rogue states and jihadist extremism—but not intense great-power rivalry. America faced conflicts in the Middle East—but East Asia and Europe were comparatively secure. Now, the old threats still exist—but the more permissive conditions have vanished. The United States confronts rogue states, lethal jihadist organizations, and great-power competition; there are severe challenges in all three Eurasian theaters. “I don’t recall a time when we have been confronted with a more diverse array of threats, whether it’s the nation state threats posed by Russia and China and particularly their substantial nuclear capabilities, or non-nation states of the likes of ISIL, Al Qaida, etc.,” Director of National Intelligence James Clapper commented in 2016. Trends in the strategic landscape constituted a veritable “litany of doom.”14 The United States thus faces not just more significant, but also more numerous, challenges to its military dominance than it has for at least a quarter century.

#### International law solves nothing – no enforcement or international credibility.

Hathaway 02 [Oona Hathaway, Assc Professor, Boston U. School of Law. Associate Professor Designate, Yale Law School, 2002 (“Do Human Rights Treaties Make a Difference?” 111 Yale L.J. 1935) Lexis

Where there is a disjuncture between expressive benefits and instrumental goals, it is possible that the expressive aspect of treaties will serve to relieve pressure for real change in performance in countries that ratify the treaty. Because such treaties offer rewards "for positions rather than for effects," 230 countries can and will take positions to which they do not subsequently conform and benefit from doing so. This is particularly true of treaties enacted for the direct benefit neither of the joining parties nor of those pushing for enactment, but rather of uninvolved third parties. In this sense, **human rights treaties can take on the character of "charitable" enactments** that are "designed to benefit people other than the ones whose gratification is the payment for passage," and **which**, as a result, often **suffer from indifferent enforcement** **and have little impact**. **231** There is arguably no area of international law in which the disjuncture between the expressive and instrumental aspects of a treaty is more evident than human rights. **Monitoring and enforcement of human rights treaty obligations are often minimal**, thereby making it difficult to give the lie to a country's expression of commitment to the goals of a treaty. The strongest means of treaty enforcement - military intervention and economic sanctions - are used relatively infrequently to enforce human rights norms, 232 in no small part because there is little incentive for individual states to take on the burden of engaging in such enforcement activity. **233** **Because of the infrequency** with which the international community resorts to such means of enforcement, **the threat of their use does not contribute** meaningfully to day-to-day compliance with the multitude of human rights treaties. 234 Moreover, as Louis Henkin puts it, "the principal element of horizontal deterrence is missing" in the area of human rights: "The threat that "if you violate the human rights of your inhabitants, we will violate the human rights of our inhabitants' hardly serves as a deterrent." 235  [\*2007]  Consequently, most human rights treaties rely not on sanctions to encourage compliance but instead on treaty-based and charter-based organs dedicated to monitoring compliance with particular treaties or particular sets of treaties, often through a system of self-reporting. 236 Were these monitoring systems effective, it is possible that the threat to reputation that they could pose to noncomplying countries would be sufficient to keep noncompliance at low levels. Yet most of these **systems have proven** woefully **inadequate, with countries** regularly and repeatedly **failing to meet minimal procedural requirements with no repercussions**. **237** Indeed, although treaties often require countries that join them to submit to semi-regular scrutiny by a treaty body, there is no real penalty for failure to participate in this process or for obeying the letter but not the spirit of the treaty requirements. **238** As a consequence, the failure of a country to comply with its treaty obligations is, in most cases, unlikely to be revealed and examined except by already overtaxed NGOs. **239**

#### Mulilateralism enables prolif – hurts enforcement and no empirical solvency

Harvey, 02 – Director of the Center for Foreign Policy Studies at Dalhousie University (Dr. Frank P. “GLOBALISM, TERRORISM and PROLIFERATION: Unilateral vs. Multilateral Approaches to Security After 9/11 and the Implications for Canada”, August 2002)

The main challenge for proponents of the NACD regime is the lack of demonstrable proof that multilateral arms control actually works. As a regime with a very specific and straightforward set of objectives it has never achieved the kind of success that would warrant giving its proponents the moral or intellectual authority to dismiss unilateral alternatives, such as BMD.49 Without this evidence there is no logical, empirical, legal, moral, or policy relevant foundation for embracing multilateral arms control. Several additional points related to measuring the success and failure of the NACD regime should be noted. First, ongoing disagreements over appropriate criteria for measuring success and failure preclude definitive statements about the real (and relevant) contributions of the NACD regime. For instance, should we rejoice in the success of indefinite renewal of the Non-Proliferation Treaty, or remain highly sceptical of the treaty’s capacity to prevent signatories (including, but not limited to, China, Russia, Iran, North Korea, Iraq, Syria and Libya) from acquiring and/or selling prohibited WMD technology? Should we focus on the portion of any draft arms control treaty that achieves consensus, or the portion that remains contested because of a combination of insurmountable political, financial or military hurdles? Consider, for example, how much of the 450 pages of text in the most recent draft of the Biological and Toxin Weapons Convention remain highlighted and bracketed – i.e., contested. Should we focus on the minutia of prenegotiation concessions on the location and timing of the next conference, chairmanship, conference schedules, etc., or should we acknowledge the fact that the combined efforts of those involved in virtually thousands of similar conferences have failed to stop WMD and ballistic missile technologies from proliferating to states who want them? Examples of NACD successes typically highlight less significant accomplishments in the area of ‘process’ rather than ‘outcome’, or minor revisions to the text of draft treaties, because these ‘successes’ are far easier to identify. But this approach simply lowers the bar for measuring progress – indeed, the evaluative criteria for the NACD regime is increasingly removed from straightforward questions about whether WMD technology continues to proliferate and how we can prevent it.50 Second, proponents of multilateralism are quick to offer as clear ‘evidence’ of success a long list of multilateral treaties, protocols, agreements and conventions51; nuclear weapon-free zones52; hundreds of multilateral declarations, verification programs, monitoring agreements, protocols, export control guidelines and clarifications/modifications/ amendments and other MOUs.53 In addition, multilateralists are likely to list as illustrations of progress hundreds of governmental and non-governmental institutions, organizations, conferences, annual meetings, boards and agencies with arms control, verification and monitoring mandates54; hundreds of U.N. resolutions and legal opinions designed to address proliferation55; hundreds of independent departments, intelligence agencies and legislative committees established by western governments (with billions of dollars invested world-wide) to solve one or another part of the proliferation puzzle; and virtually thousands of non-governmental organizations and think-tanks with the same mandate receiving hundreds of millions of dollars in public and private funds. All of this activity is held up as concrete evidence of what four decades of multilateral arms control and disarmament activity has accomplished -- incontrovertible evidence that multilateralism is alive and well.56 But evidence that multilateralism is rampant and spreading does not, in any way, constitute proof of successful multilateralism.57 Notwithstanding all of this activity there is no demonstrable proof that we have dealt effectively with the proliferation problem, or that the planet is any safer today than it was before we engaged in all of this activity. Indeed, nuclear, chemical and biological weapons (and their delivery vehicles) continue to proliferate and pose a more significant global threat today than ever before (please refer to the evidence outlined in Appendix I).

#### Extinction via miscalc.

Utgoff, 02 – Deputy Director of the Strategy, Forces, and Resources Division at the Institute for Defense Analysis (Victor A., “Proliferation, Missile Defence and American Ambitions” Summer Survival)

In sum, widespread proliferation is likely to lead to an occasional shoot-out with nuclear weapons, and that such shoot-outs will have a substantial probability of escalating to the maximum destruction possible with the weapons at hand. Unless nuclear proliferation is stopped, we are headed toward a world that will mirror the American Wild West of the late 1800s. With most, if not all, nations wearing nuclear ‘six-shooters’ on their hips, the world may even be a more polite place than it is today, but every once in a while we will all gather on a hill to bury the bodies of dead cities or even whole nations. This kind of world is in no nation’s interest.

#### iI Law Fails – no resources for enforcement

Morris 2000 [Madeline Morris Prof Law, Duke U School of Law, 2K (“Few Reservations About Reservations” 1 Chi. J. Int'l L. 341) Lexis]

In the United States, democratic processes have thus far precluded adherence to some aspects of the ICCPR and some other human rights treaty provisions. Other states may confront other circumstances that preclude their undertaking or fulfilling some provisions of the ICCPR and other human rights treaties. For instance**, states** that are **emerging from violent conflicts** involving widespread war crimes or crimes against humanity may need to place reservations on the human rights treaties to which they accede and, equally likely, may **confront serious dilemmas in attempting to implement** even rather major **precepts of the human rights treaties** to which they are already parties. The relevant treaties may arguably entail obligations to prosecute perpetrators of genocide, war crimes, or crimes against humanity. 15 But such **states** (particularly new or transitional regimes) **may be unable to conduct such prosecutions without the risk of civil war** or something closely resembling it. 16 These states also may have problems providing adequate due process at trial if they do conduct prosecutions and may have problems providing adequate conditions of incarceration for such sentences as may be imposed. 17 The **options available** to states under these circumstances **will include** formal or de facto amnesties, **prosecutions that fall below international human rights standards**, or some combination of the two. Any such choices may run afoul of some provisions of human rights treaties to which the state is a party or would like to become a party. In such post-conflict situations, full **adherence to and compliance with** all **human rights** treaty **provisions may be precluded as a result of internally disrupted governmental systems**. By contrast, in the United States (and some other states), full adherence to all human rights treaty provisions may be precluded precisely as a result of internally *functioning* governmental systems. For very different reasons in the two sorts of cases, compliance with the full set of human rights norms proposed in the ICCPR will not be forthcoming. There is also, no doubt, a third sort of case, in which adherence to or compliance with human rights obligations--even the very core human rights obligations--is not forthcoming because of internally nefarious governmental systems.

#### International law fails to improve human rights

Oona Hathaway, Assc Professor, Boston U. School of Law. Associate Professor Designate, Yale Law School, 2002 (“Do Human Rights Treaties Make a Difference?” 111 Yale L.J. 1935) Lexis

**The results** for the remaining treaties consistently **show no** statistically **significant relationship between treaty ratification and human rights ratings. Countries** that ratify Article 21 of the Torture Convention do not show a statistically significant difference in measured torture levels from what would otherwise be expected; those **that ratify** the Covenant on Civil and Political Rights or **the Optional Protocol do not show a statistically significant difference in the measures of fair trial practices and civil liberties;** and those that ratify the Convention on the Political Rights of Women do not show a statistically significant difference in the percentage of men in parliament. In every case, virtually all the other substantive variables that are significant have the expected sign. **197** The null result for the treaties appears to be relatively robust: Except where otherwise indicated, the treaty variables remain statistically insignificant when I drop country dummies from the analyses and when I rerun the analyses using only the statistically significant variables and the treaty variables (the results of these analyses are not included in the table unless their results differ importantly). Taken together, the results for the group of universal treaties indicate that **treaty ratification is** usually **not associated with** statistically **significantly different human rights ratings** from what would otherwise be expected. More surprisingly, however, **when ratification is associated with statistically significantly different** human rights **ratings, it is associated with worse**, rather than better, human rights **ratings** than would otherwise be expected.