#### ILO negates, period, no ambiguity –

#### The ILO votes neg—its Committee of Experts explicitly interprets the RTS as conditional

\*\*\*Committee of Experts = 20 eminent jurists appointed by the governing body to provided impartial and technical evaluation of the application of international labor standards in ILO member states

Hofmann and Schuster 16

Claudia Hofmann (research associate at the Chair for Public Law and Policy at the University of Regensburg) and Norbert Schuster (lawyer in Berlin and teaches at the University of Bremen). “It ain't over 'til it's over: The right to strike and the mandate of the ILO Committee of Experts revisited.” Global Labour University Working Paper, No. 40. February 2016. JDN. <https://www.econstor.eu/bitstream/10419/156305/1/849539382.pdf>

The Committee of Experts certainly does not give unconditional recognition to the right to strike. It includes restrictions. These mainly concern the modalities of a strike, the assessment of political strikes, so-called sympathy strikes, and not least the right to strike in public services.38 This approach shows just how much the Committee also takes the justified interests of the employer side into account and tries, in this way, to bring them into harmony with the interests of the workers’ side, thus helping to ensure optimum impact for both positions. An analogy would be the securing of “practical concordance” in constitutional law. Thus, the Committee tries to take a balanced view, guided by international standards. Most Member States that have ratified Convention 87 have explicitly written a right to strike into their constitutions. Equally, the case law from national and international courts does not leave room for denying the right to strike.39 For instance, Art 9.3 of the German Basic Law provides “only” for freedom of association. Industrial disputes are mentioned in sentence 3 of Art 9.3 of the German Basic Law; a right to engage in such disputes is, however, not laid down in this provision. Nonetheless, although few would suspect the Federal Labour Court of strike-happiness, it has never, since it was first established in 1954, denied the existence of a constitutional right to strike. 40 The Federal Constitutional Court takes a similar line.41 Nobody disputes that employees and their trade unions need this right as compensation, at least in part, for their structurally disadvantaged position and therefore as a means of last resort for the improvement of their employment conditions.

### Off

#### The standard is maximizing expected wellbeing. We will defend hedonistic util.

#### 1] Pleasure is intrinsically valuable and pain is intrinsically disvaluable.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] SJDI

Let us start by observing, empirically, that **a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable.** **On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues.** This inclusion makes intuitive sense, moreover, for **there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have.** “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 **The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values.** If you tell me that you are heading for the convenience store, **I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so**, not merely for the sake of going to the convenience store, but **for the sake of achieving something further that you deem to be valuable.** You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” **If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.**3 As Aristotle observes**: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.**”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value.**

#### 2] Actor specificity:

#### ---A] Aggregation – every policy benefits some and harms others, so side constraints freeze action.

#### ---B] States lack wills or intentions since policies are collective actions.

#### ---C] No act-omission distinction—governments are responsible for everything in the public sphere, so inaction is implicit authorization of action: they have to yes/no bills, which means everything collapse to aggregation.

#### ---D] Actor-specificity first since different agents have different ethical standings. Link turns calc indicts because the alt would be *no* action.

#### 4] Use epistemic modesty – that’s multiplying the probability of a framework being true by its general contention impact –

#### ---A] It maximizes the probability of achieving net most moral value—beating a framework acts as mitigation to their impacts but the strength of that mitigation is contingent

#### ---D] Clash — we don’t know if our frameworks are true, but we can debate the topical question. That incentivizes debating both layers instead of solely focusing on framework.

### Off

#### Our interpretation is the aff must be topical. The aff violates the following terms:

#### Resolved requires legislative resolution

**Army Officer School 4** (5-12, “# 12, Punctuation—The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock g.  A formal resolution, after the word "resolved:" Resolved: (colon) That this council petition the mayor.

Topicality is key to limits and ground---aligning research incentives with the resolution is necessary for negative contestability while avoiding polemical generics and endless reclarification.

Two impacts:

#### 1. Fairness---debate is a competitive game and a voluntary activity---preserving fairness as an independent impact is necessary to operationalize any of its benefits.

**Dascal and Knoll** ’**11** [Marcelo and Amnon; May 18th; former Professor of Philosophy at Tel Aviv University, B.A. in Philosophy from the University of Sao Paulo; former Professor of Philosophy at Tel Aviv University; Argumentation: Cognition and Community, "'Cognitive systemic dichotomization' in public argumentation and controversies," p. 20-25; GR]

He opposes positions whose ‘exclusionist’ outlook rejects the normative approach to the political sphere on the grounds that “normative statements can never be subjected to a reasonable discussion” (ibid.: 2), because—he argues—the discussion of politics “is an area of vital interest to all of us and should clearly not be excluded from argumentative reasonableness” (ibid.: 3)—a view with which we are prone to agree. Nevertheless, he admits that in the present situation critical discussion is far from being systematically and successfully applied to that vital area: “In representative democracies, however, the out-comes of the political process tend to be predominantly the product of negotiations be-tween political leaders rather than the result of a universal and mutual process of deliberative disputation” (ibid.). Political debates, therefore, are ‘quasi-discussions’, i.e., “monologues calculated only to win the audience’s consent to one’s own views”, rather than ‘genuine discussions’, i.e., serious attempts to have an intellectual exchange, which is typical of critical discussions (ibid.). In order to overcome this situation, “democracy should always have promoted such a critical discussion of standpoints as a central aim. Only if this is the case can stimulating participation in political discourse enhance the quality of democracy" (ibid.). This can be achieved, however, only by following “the dialectical rules for argumentative discourse that make up a code of conduct for political discourse [and] are therefore of crucial importance to giving substance to the ideal of participatory democracy” (ibid.: 4); thereby fully acknowledging that “education in processing argumentation in a critical discussion is indispensable for a democratic society (van Eemeren 1995: 145-146).

The reasons provided for the failure of the adoption of the critical discussion model in reality ranges from a general allusion to human nature (“in real-life contexts, it has to be taken into account that human interaction is not always automatically 'naturally' and fully oriented toward the ideal of dialectical reasonableness "; van Eemeren 2010: 4) to specific political sphere argumentation handicaps (unwillingness of people “to subject their thinking to critical scrutiny”; “vested interest in particular outcome”; “inequality in power and resources; “different levels of critical skills”; and “a practical demand for an immediate settlement”; van Eemeren 2010: 4). Although these causes may have some explanatory value in some cases, in our opinion their modus operandi is not accounted for and, what is more important, they do not cover the full spectrum of challenges that the successful use of critical discussion in the public and political spheres must face, as we have seen (cf. sections 2 and 3).

No wonder that van Eemeren himself raises the question “whether maintaining the dialectical ideal of critical discussion in political and other real-life contexts is not utopian” (ibid.), to which he replies by admitting that "[t]he ideal of a critical discussion is by definition not a description of any kind of reality but sets a theoretical standard that can be used for heuristic, analytic and evaluative purpose” (ibid.). This ideal seems to be so inspiring that it remains valid as a pure theoretical ideal, “even if the argumentative discourse falls short of the dialectical ideal” (ibid.).

In the light of the substantial gap between the normative ideal and the actual practices of public and political argumentation that PD’s description and explanation provides, a number of doubts arise: Are there structural, rather than merely contingent obstacles in idealized critical discussion that prevents even its approximate use in the public sphere? Can a theory that claims to be a praxis based normative system fulfill its promise if it sets up a threshold that no one who tries to apply it to the public sphere can reach? Doesn’t the very fact that argumentation is excessively idealized in the model PD proposes cause the gap by distancing people concerned by public issues from argumentation at all? All these doubts suggest that a powerful structural phenomenon like the existence of CSDs in the public sphere is perhaps overlooked by PD and requires, for its overcoming, a radically different approach.

4.2 Discrepancies between the PD approach and reasonable argumentation in the public sphere

The discrepancies in question have to do with basic parameters relevant to every argumentative process, namely:

(A) The discussants’ goals and targets: what do they expect to achieve through the argumentation process and what is it capable of providing.

(B) The preconditions for initiating a critical discussion: what are the discussants presumed to know and accept of these preconditions.

(C) The argumentative process that is supposed to lead to the achievement of the discussants’ goals.

(D) The influence of context and agents on the argumentative process.

4.2.1 Goals

Assuming that argumentation is a voluntary endeavor, the parties are presumed to engage in it if and only if: (i) the process will serve their goals; (ii) these goals cannot be achieved by different, better means.

PD describes as follows the aim of engaging in an argumentative process:

Argumentation is basically aimed at resolving a difference of opinion about the acceptability of a standpoint by making an appeal to the other party's reasonableness. (van Eemeren 2010: 1, with reference to van Eemeren & Grootendorst 2004: 11-18)

The difference of opinion is resolved when the antagonist accepts the protagonist's viewpoint on the basis of the arguments advanced or when the protagonist abandons his viewpoint as a result of the critical responses of the antagonist. (van Eemeren 2010: 33)

Simply put, the basic assumption is that a critical discussion’s aim consists in putting forth a certain position by one of the parties for the critical examination of the other, who calls it into question. The latter undertakes to refute the former’s position, while its proponent is committed to defend it. Four stages (see below) are supposed to ensure a valid performance of the refutation and defense tasks. The essential point is that at the end of the four stages the parties clearly agree whether the proponent’s position has been refuted or not and, accordingly, change their position (either retracting it or withdrawing from his questioning). In ‘mixed’ disagreements, in which the antagonist not only questions but also puts forth an opposed position, the same process takes place sequentially, i.e., at first one side (A) attacks trying to refute the other’s (B) position, and after this stage is concluded, they switch roles and the second side (B) proceeds to attack the first (A) in the same fashion.

Regardless of whether the described process is indeed capable to yield a conclusive decision about the refutation of a position, and of whether the linearity of the refutation process makes sense, it is obvious that debates in the public sphere are for the most part ‘mixed’. Furthermore, in so far as these debates involve dichotomous positions (rather than just opposed ones), it is necessary that at the end of the PD process one of the parties accept the position of the other.

It is also worth noticing that, contrary to deliberative democracy approaches, which in some cases approve the attempt to reach agreement in a (public) debate as a form of justification of political systems, PD claims that it is not a consensus theory at all. Instead, it conceives itself as a theory based on Popper’s critical rationality, i.e., as having as its principal goal to provide each party with the means—i.e., refutation attempts—to test critically its position:

[T]he conception of reasonableness upheld in pragma-dialectics insights from critical rationalist epistemology and utilitarian ethics conjoin … The intersubjective acceptability we attribute to the procedure, which is eventually expected to lend conventional validity to the procedure, is primarily based on its instrumentality in doing the job it is intended to do: re-solving a difference of opinion. … This means that, philosophically speaking, the rationale for accepting the pragma-dialectical procedure is pragmatic—more precisely, utilitarian [italics in quoted text]. … However, based on Popper's falsification idea, this is a ‘negative’ and not ‘positive’, utilitarianism. … Rather than maximization of agreement, minimization of disagreement is to be aimed for. (van Eemeren 2010: 34)

The distinction between maximization of agreement and minimization of disagreement purports to stress that PD doesn’t view agreement as the suitable end of the process, but just as “an intermediate step on the way to new, and more advanced, disagreements” (van Eemeren 2010: 26n). Nevertheless, no explanation is given of how these “more advanced disagreements” are engendered as a part of the dynamics of the critical process, nor what is the role or value of such disagreements in the public sphere or elsewhere. This may be due to the fact that PD’s ‘critical discussion’ is not tuned to the generation of new positions or ideas but only to the testing of extant ones, thus echoing once again Popper, now in his focus on the justification rather than on the discovery of theories (see sections 4.2.4 and 5).

In any case, it is quite clear that the only practical result of the critical discussion à la PD of opposed positions on a public issue is to determine whether one discussant succeeded in refuting the other’s position, thus obtaining the adversary’s agreement, who will then share his/her position, at least for some time. In this respect, PD’s critical discussion is close to Habermas’s ‘reasonable argumentation’, whose aim is to reach consensus.15 In spite of the apparent difference between a critical examination of a position aiming at its refutation or at its acceptance, even van Eemeren admits, to some extent, their similarity. He points out that “the pragma-dialectical procedure deals only with ‘first order’ conditions for resolving differences of opinion on the merits by means of critical discussion” (van Eemeren 2010: 34), and stresses that there are ‘higher order’ conditions, ‘internal’ and ‘external’, that are “beyond the agent’s control”, conditions that are similar to Habermas’s “ideal speech conditions” (van Eemeren 2010: 35n). Anyhow, whether according to PD the main goal of the critical discussion process in the public alliance is to create the opportunity for refutation or for agreement (meaning that one of the discussants acknowledges that his position is wrong), the essential assumption of this process is that the participants in it in the public sphere (or elsewhere) must be aware that one of them holds a wrong position and will have to explicitly acknowledge this.

Is such a goal, especially when conceived as the ultimate aim of the proposed argumentative process, feasible and acceptable in the public sphere?

In our opinion, there are at least four reasons for arguing that it is a utopian, hence unacceptable goal, if one takes seriously what should be expected from argumentative practice and theory in the public sphere. First, because PD deserves a critique similar to the one leveled against the Popperian version of critical rationalism it espouses,16 which defends a theory of knowledge “without a knowing subject” (Popper 1972); obviously, such a-contextual position becomes even more problematic if applied to the public and political spheres, where it must operate in a context essentially involved with practical rationality. Second, due to its analogy with theories such as Habermas’s that were discussed in this section as well as in 2.2—an analogy that deserves additional criticism because, unlike Habermasianism, PD overlooks the relationship between the political and public context and argumentative practice. Third, because of PD’s total overlooking of the role of CSDs in public argumentation (cf. 4.2.2). And fourth, due to unilateral value judgments of positions in the public sphere, which lead to simplistic criteria of refutation or acceptance in a domain where complexity is the rule (cf. 2.1.1 and 4.2.3).

(ii) Let us admit, for the sake of argument, that the refutation goal as claimed by PD is central, feasible, acceptable, and useful in public argumentation. Aren’t there better ways to achieve this goal?

The refutation and defense moves stipulated by the PD critical discussion model include, on the one side, the antagonist’s critical remarks or demands and on the other, the proponent’s replies. We believe that it must be assumed that neither the critique nor the replies are previously known to the contenders, which is why they have an interest in engage in the argumentation process: presumably, the expression of both, counter-arguments and defensive-arguments, is good to both sides. In spite of its usefulness in certain situations, this kind of exchange does not amount to the full manifestation of the dialectical critical process, wherein the context and co-text of the dialectical exchange, as well as the cognitive interaction that takes place and evolves throughout the exchange, play a decisive role in the design and ‘inner’ justification of each of the participants’ moves. Argumentation strategies that take into account these resources and make full use of their potential are no doubt setting up another, broader span of goals for the argumentative process, and are more likely to achieve these goals more effectively than they certainly would achieve their PD more limited counterparts (cf. 4.2.4 and 5).

4.2.2 Preconditions

The ideal PD critical discussion can only be realized if some preconditions are satisfied. The most important ones are a) a clear-cut identification of the standpoint that provokes the disagreement, b) the decision of the parties to engage in a discussion, and c) the participants’ commitment to obey the procedural rules. As we shall see, these preconditions share a common assumption, which calls into question the feasibility of using critical discussion in the public sphere.

(A) This precondition assumes that it is possible to isolate rigorously the subject matter of a critical discussion, so as to conduct a focused discussion that makes use only of relevant arguments. This precondition is quite strict, for whenever both discussants defend contrary standpoints, their disagreement should be treated as two separate fully fledged discussions: “… if another discussion begins, it must go through the same stages again—from confrontation stage to concluding stage” (van Eemeren 2010: 10n).

(B) This precondition subordinates the decision to engage in the discussion to the evaluation that the discussants share enough common ground to pursue it adequately: “After the parties have decided that there is enough common ground to conduct a discussion …” (van Eemeren 2010: 33).

(C) This precondition stresses the ‘contractual’ character of a critical discussion, which requires explicit mutual commitments by the discussants. Its rationale is that without such commitments the aim of the critical discussion, i.e., the resolution of the difference of opinions, will not be achieved, which makes engaging in the discussion pointless: “There is no point in venturing to resolve a difference … if there is no mutual commitment to a common starting point, which may include procedural commitments as well as substantive agreement” (van Eemeren and Grootendorst 2004: 60).

These ‘first order’ preconditions, as they are labeled in PD (cf. van Eemeren 2010: 33), are the conditions that candidates to participate in a critical discussion must fulfill if they intend to do so and can afford it personally (a ‘second order’ condition) and politically (a ‘third order’ condition).17 In addition, the first order conditions demand from the prospective discussants a clear, distinct, and detailed picture of the scope of the discussion that they are about to engage in. This means not mixing up the various differences of opinion that the discussion may involve, and being able to separate them properly as the subject matter for independent discussions; a further requirement is the anticipated identification of the pieces of the ‘substantive agreement’ forming the starting point in order to ensure that they are sufficient for conducting the discussion up to a satisfactory closure.

2. Iteration---the process of negation through research and in-round contestation is valuable for motivating advocacy and argumentative reflection.

Default to competing interpretations---winning the 1AC was good doesn’t prove their counterinterpretation is. Neg framework ballots pick a winner but no ballot solves structural impacts. Any “net benefit” to their interp that isn’t about the types of debates it encourages is not offense---you can vote neg and agree with claims like the “the 1AC was good” or “some topical debates could be bad”.

### Off

#### Counterplan text – Countries ought to recognize a worker’s right to strike pursuant to ILO Convention 87 – which is inherently conditional.

No perm do both- they havent instated a policy action meaning the perm is literally just the CP which would be unfair b/c they steal our case w/o reading a plan text.

#### Only the ICJ can interpret binding rulings on ILO 87 – and the ICJ is an international body.

Wisskerchen 5

[Alfred; 2005; “The standard-setting and monitoring activity of the ILO: Legal questions and practical experience,” International Labour Review, Vol. 144 (2005), No. 3, <https://sci-hub.se/https://onlinelibrary.wiley.com/doi/10.1111/j.1564-913X.2005.tb00569.x>] Justin -recut CAT

\* ICJ = International Court of Justice

\* ILO = International Labour Organization

To date there has been no further reaction from the experts in the old dispute over the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), with regard to the right to strike. The experts maintain that the right to strike is based on Article 3 of Convention No. 87, which states that “Workers’ and employers’ organizations shall have the right … to organize their administration and activities and to formulate their programmes”, taken with Article 10 of the same Convention, which defines “organization” within the meaning of the Convention as any organization “for furthering and defending the interests of workers or of employers”.85 In addition to these general findings, every year the experts look into numerous individual cases involving specific national provisions governing strikes in some way and thus limiting them to some extent. The Committee of Experts also considers a large number of real situations or actual events which regularly lead to de facto restrictions on strikes in certain circumstances. In approximately 90 to 98 per cent of all these cases the experts conclude that the restrictions on the right to strike, be they de facto or de jure, are not compatible with Convention No. 87. Thus they have formulated a comprehensive corpus of minutely detailed strike law which amounts to a far-reaching, unrestricted freedom to strike.86 The occasional, theoretical restrictions are regarded as being hardly ever applicable to the actual situations reviewed. The right to strike cannot, however, be adduced from Convention No. 87, especially if one adheres, even if only loosely, to the principles of interpretation of international law according to the Vienna Convention on the Law of Treaties, which is authoritative here.87 As the experts admit, the wording of Convention No. 87, the preamble of the ILO Constitution and the Declaration of Philadelphia do not refer to strikes. Neither wording, nor any other instrument within the meaning of Article 31, paragraphs 1 and 2, of the Vienna Convention on the Law of Treaties can be said to aim at such an understanding between the parties to Convention No. 87. Similarly, there is no subsequent practice in the application of that Convention which establishes the agreement of the contracting Parties to interpret its provisions as enshrining the right to strike (Article 31, paragraph 3, of the Vienna Convention on the Law of Treaties). For decades, the experts’ reports substantiated the argument that there is no such agreement among member States. Nevertheless questions connected with freedom of association do occupy an inordinate amount of the whole report, with strikes figuring prominently among these questions. The actual situations forming the basis of this part of the report clearly show that there is scarcely any other area of labour and social policy where a wider range of rules and practices is in evidence in member States than the law on industrial action.88 The ideal type fitting the experts’ detailed notions is probably not reflected in any of the rules on industrial action, or in practice. In these circumstances, we cannot assume that a customary right has developed for a particular concept of the right to strike. 89 Interpretation according to Article 31 of the Vienna Convention on the Law of Treaties therefore leads to the conclusion that strikes are not regulated in Convention No. 87. This conclusion is impressively confirmed if, in keeping with Article 32 of the Vienna Convention, we also look at the preparatory work of the treaty and the circumstances of its conclusion. The experts rightly point out in their most recent General Survey on this topic (mentioned above) that the right to strike was referred to several times in the preparatory work, but no explicit proposal on that subject was put forward during the debates in Conferences.90 The experts’ comments on the genesis of the Convention are, to put it mildly, incomplete, for the Office’s preparatory report on the planned Convention on freedom of association expressly excluded regulation of the right to strike after analysing governments’ answers. “Several Governments, while giving their approval to the formula, have nevertheless emphasised, justifiably it would appear, that the proposed Convention relates only to the freedom of association and not to the right to strike, a question which will be considered in connection with item VIII (conciliation and arbitration) on the agenda of the Conference. In these circumstances, it has appeared to the Office to be preferable not to include a provision on this point in the proposed Convention concerning freedom of association.”91 This was again confirmed during debates in the plenary. “The Chairman stated that the Convention was not intended to be a ‘code of regulations’ for the right to organise, but rather a concise statement of certain fundamental principles.”92 When the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), was adopted the following year, this subject was again examined expressis verbis. In the course of the subsequent discussions, two Workers’ delegates and one Government delegate vainly tabled proposals to have the right to strike guaranteed in the Convention. Both proposals were rejected. The record of proceedings noted: “The Chairman ruled that this amendment was not receivable, on the ground that the question of the right to strike was not covered by the proposed text, and that its consideration should therefore be deferred until the Conference took up item V of its agenda relating, inter alia, to the question of conciliation and arbitration.”93 As we know, paragraph 4 of the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), refers to strikes and lockouts in neutral language and does not attempt to regulate them. Lastly, the experts made a very vague allusion to the fact that strikes are mentioned in other international instruments.94 In this respect, the Universal Declaration of Human Rights of 1948 is not relevant, although it sets out many fundamental rights in general terms, but they are recommendations and compliance with them is not obligatory.95 Article 22, paragraph 1, of the International Covenant on Civil and Political Rights96 and Article 8, paragraph 1(d), of the International Covenant on Economic, Social and Cultural Rights97 are more apposite. For several years, the texts of the two Covenants formed the subject of negotiations aimed at drafting a single United Nations Human Rights Covenant. A motion to introduce a right to strike alongside freedom of association was rejected. After the text was split into the two above-mentioned Covenants, Article 8 was given the wording quoted in footnote 94. On the whole, these rules have less binding force and the monitoring machinery is weaker than those of ILO Conventions.98 The United Nations Human Rights Committee, in its decision of 18 July 1986,99 which expressly relied on the interpretation rules of the Vienna Convention on the Law of Treaties, concluded that the right of freedom of association embodied in Article 22 did not necessarily imply the right to strike and the authors of the Covenant did not have the intention of guaranteeing the right to strike. A comparative analysis of Article 8, paragraph 1(d), confirmed that the right to strike could not be regarded as an implicit element of the right to form and join trade unions. The right to strike under Article 8, paragraph 1, was clearly and expressly subordinated to the law of the country.100 In these proceedings before the United Nations Human Rights Committee, the complainants had asserted that ILO organs had arrived at the conclusion that, in the light of ILO Conventions, the right of freedom of association necessarily presupposed the right to strike. The United Nations Human Rights Committee replied that every international treaty had a life of its own and must be interpreted by the body entrusted with the monitoring of its provisions. In addition to these clearly accurate observations, the Committee stated that “it has no qualms about accepting as correct and just the interpretation of those treaties by the organs concerned”.101 Coming after the correct allusions of the United Nations Human Rights Committee to the separate lives of international treaties and to the fact that they must be interpreted by the competent body, this remark about ILO standards can only be described as an amiable diplomatic statement without any binding force. It was an obiter dictum of a committee which was, by its own avowal, not competent to deal with the matter.102 This is all the more true given that, according to article 37 of the ILO Constitution, the ICJ can alone give binding interpretations of ILO standards.

#### That competes –

#### Perm do both is not defended in the lit – ctrl-F their cards, they talk about general instances but not actually implementing the plan

#### Perm do the CP or some version is severance since they sever out of using Jewish law which means you’d have to justify why you get to kick your advocacy and also not immediately lose the debate since – it’s a voting issue otherwise forces total restart and makes debating the AFF pointless which is a prerequisite that controls the internal link to their standards and voters e.g. clash, education, etc.

#### CX checks and is binding. Cross apply the IV above.

#### Adhering to ILO 87 socializes acceptance of international law – the aff shreds that by acting unilaterally.

Brudney 21

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

\* FOA = freedom of association

\* CIL = customary international law

C. FOA and the Right to Strike as Opinio Juris There is also considerable support for the proposition that the general practice of states on FOA and the right to strike stems from acceptance as a matter of legal obligation. Admittedly, while the existence of opinio juris may be inferred from a general practice, the International Court of Justice (ICJ) has at times noted the insufficiency or inconclusiveness of such practice, instead seeking confirmation that "[states'] conduct is 'evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it. ",149 Trade agreements, for instance, may represent treaty law and may qualify as evidence of general practice, but they are typically entered into by States that have specific economic or political objectives rather than from a desire to embrace obligations arising under international law.15° Further, it is possible that even with respect to ILO conventions, widespread ratification is in part a function of acculturation, insofar as endorsements across a region contribute to socialized acceptance of norms on FOA, reassuring peer countries that protecting rights to association including the right to strike will not place them in an inferior competitive position. 151 That said, the ICJ often does infer the existence of *opinio juris* from a general practice and/or from determinations by national or international tribunals.152 And there are ample reasons to draw such an inference here. To start, FOA is consciously accepted as an obligation by ILO member states not simply through ratification of Convention 87 (covering more than 80 percent of them) but by virtue of membership itself. The ILO Constitution expressly requires support for FOA principles, and these principles are further imbedded through a tripartite governance structure that allocates power-sharing roles to worker organizations alongside governments and employers. 153 Thus, ILO members understand there is an underlying obligation to respect FOA in law and practice.154 A second reason is that domestic law can provide relevant evidence regarding the presence of opinio juris among states. Commitments to FOA expressed in national constitutions, statutes, and court decisions are not necessarily evidence of a state's belief that the principle is international as opposed to domestic law. Nonetheless, the International Law Commission has made clear that evidence of acceptance as law (opinio juris) "may take a wide range of forms," including but not limited to "official publications; government legal opinions; [and] decisions of national courts." 155 In this regard, the CEACR in 2012 identified 92 countries where "the right to strike is explicitly recognized, including at the constitutional level"; the list includes six countries that have not ratified Convention 87.156 Recognition in domestic law of a right to strike alongside a conscious decision not to ratify Convention 87 could give rise to an inference that these six countries are rejecting the right as a principle of international law. However, as explained earlier, national courts for two of the six non-ratifying countries (Brazil and Kenya) expressly invoke ILO membership and/or principles as guidance in their domestic law decisions.157 In addition, Canada—a country not listed among the 92 endorsing the right to strike in the 2012 General Survey—has since recognized a constitutional right to strike under national law, relying in part on international law principles including CEACR and CFA determinations.158 The Canadian Supreme Court had previously been explicit in invoking Convention 87, ICESCR, and ICCPR as "documents [that] reflect not only international consensus but also principles that Canada has committed itself to uphold." 159 Further, a third country in the group of six—South Korea—has affirmed in its trade agreements with the United States and the EU its obligation to "adopt and maintain in its statutes and regulations, and practices" FOA in accordance with the ILO Declaration.16° And in various CFA complaints against South Korea for violating FOA principles, including the right to strike, the Government has disputed the facts of the complaints while at the same time recognizing that such rights are embedded in international law.161 Accordingly, a more relevant reference point in this setting may be that "when States act in conformity with a treaty provision by which they are not bound . . . this may evidence the existence of acceptance as law (opinio juris) in the absence of any explanation to the contrary.3 3162 Stepping back, domestic law on FOA and the right to strike, which for many countries developed after Convention 87 and its initial applications by the CEACR and CFA, may be viewed in part as a window into countries' sense of obligation in law and practice. A state may at times adopt labor provisions of a trade agreement for reasons of comity or relative competitive advantage. These reasons may play a more modest role with respect to adoption of certain human rights treaties or ILO conventions. 163 But evidence of practice and obligation in the domestic law sphere—especially when informed by regard for international instruments—seems almost by definition to be a function of acceptance as law rather than susceptibility to strategic motivations. In this regard, there are numerous instances in recent years where governments have expanded their legislative protections for the right to strike following a period of dialogue with the CEACR, and that committee has recognized and applauded the changes in law. 164 Of particular relevance to the U.S. setting, these expansions have included assuring the right to strike for public sector employees and prohibiting the hiring of replacements for strikers. 165 A third reason to infer opinio juris (in addition to the centrality of FOA principles within the ILO Constitution and the strong evidence of FOA and right-to-strike practice and obligation under domestic law) involves recent statements from high officials in the United Nations indicating that the right to strike is understood by its leaders as CIL. In his 2016 report to the U.N. General Assembly, the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and association explained, "The right to strike has been established in international law for decades, in global and regional instruments, and is also enshrined in the constitutions of at least 90 countries. The right to strike has, in fact, become customary international law.'5166 In 2018, responding to a press briefing on a strike by U.N. employees following announced pay cuts, the Deputy Spokesman for the U.N. Secretary-General reiterated the U.N. view that the right to strike is indeed CIL and did so in the context of the right being asserted by public employees not involved in the administration of the state: Question: Does the Secretary-General believe that U.N. staff have a right to take part in industrial action? Deputy Spokesman: We believe the right to strike is part of customary international law. 167 These statements did not simply materialize in recent times. Two major U.N. Human Rights treaties—the ICESCR and the ICCPR—have been interpreted by their relevant treaty bodies to include a right to strike; these bodies have reaffirmed their joint commitment to the right to strike as part of FOA, and they regularly monitor governments' record of compliance with this right. 168 And as noted earlier, the two treaties—each ratified by over 80 percent of U.N members—include a clause explicitly identifying respect for ILO Convention 87. In sum, the principles of FOA including the right to strike would appear to satisfy both prongs of the CIL test. The widely recognized general practice on strikes has sufficient shape and contours: a basic right, three substantive exceptions (public servants involved in administration of the state, essential services in the strict sense of the term, and acute national emergencies), a recognition that strikers retain their employment relationship during the strike itself, and certain procedural prerequisites or attached conditions.169 There are variations in national practice and also disagreements at the margins about what the right to strike protects, but these aspects are not different in kind from diversity and contests regarding international rights prohibiting child labor, or for that matter domestic constitutional rights involving freedom of expression or the right to bear arms. As for opinio juris, a broad range of sources combine to establish that the general practice stems from a sense of acceptance and obligation: ILO foundation and structure; two widely endorsed United Nations human rights treaties; national constitutions; government representations; domestic legislative and judicial decisions that expressly refer to or impliedly accept international standards and practices; and contemporary U.N. leadership.

#### Respecting ICJ rulings on the right to strike secures the legitimacy of the ICJ as an international mediation body.

Hofmann and Schuster 16

[Claudia and Norbert; February 2016; Dr. Claudia Hofmann works as a research associate at the Chair for Public Law and Policy at the University of Regensburg. She specializes in public international law (in particular the field of socio-economic human rights and equality-oriented policies), social law, constitutional and administrative law. Norbert Schuster works as a lawyer in Berlin and teaches at the University of Bremen. He specialises in labour law; “It ain’t over ‘til it’s over: the right to strike and the mandate of the ILO Committee of Experts revisited,” <https://global-labour-university.org/fileadmin/GLU_Working_Papers/GLU_WP_No.40.pdf>] Justin -recut CAT

BASES FOR A POTENTIAL RULING BY THE INTERNATIONAL COURT OF JUSTICE The question of whether the Committee has left the area of interpretation and entered the sphere of standard-setting can only be answered on a case by case basis. As has been indicated before, the primary question for an advisory opinion of the ICJ is whether Convention No. 87 contains a right to strike (see Section IV). What follows is, therefore, a cursory glance at the legal bases for an ICJ opinion, so as to sketch the broad outlines of a possible decision. Under Art 37.1 of the ILO Constitution, taken together with Art 36 of the ICJ Statute, the International Court of Justice is responsible for questions or differences of opinion about the interpretation of the ILO Constitution and the ILO Conventions. This reflects the function of the ICJ as an international mediation body inasmuch as cases are to be referred to the ICJ when the parties to a treaty disagree about the interpretation of a norm within the treaty. Let us assume that such a disagreement exists here as to whether, in particular, Art 3 of ILO Convention No. 87 also accords trade unions a right to strike.85 The Committee of Experts and the Committee on Freedom of Association have expressed a legal opinion on this. In the current legal situation, i.e. in the absence of concrete rules explicitly granting the Committee of Experts a corresponding interpretative competence, the competence to decide on this issue rests with the ICJ. Upon what sources of law and which principles will the ICJ base its decision? Two provisions are particularly relevant here. One is Art 38 of the ICJ Statute and the other is Art 31 of the Vienna Convention on the Law of Treaties (VCLT).

#### ICJ legitimacy is key to global multilateralism and crisis stability – it’s declining now.

Korneliou 18

Kornelios Korneliou 18 [Permanent Representative of Cyprus and Vice-President of the 73rd Session of the UN General assembly, "Report of the International Court of Justice," United Nations, 10-25-2018 <https://www.un.org/pga/73/2018/10/25/report-of-the-international-court-of-justice/>] Recut Justin -recut CAT

In the face of the headwinds against the multilateral system and global institutions, including direct attacks on their legitimacy, the International Court of Justice stands as testament to the principles of peace and justice in a multilateral world. Today’s debate builds on fifty years of exchange between the Court and the General Assembly, allowing Member States the opportunity to debate the work of the Court. This historic exchange is particularly pertinent to the 73rd Session of the General Assembly, which aims to ‘make the UN relevant to all’. The court system serves as a bulwark against arbitrariness and provides the mechanism for peaceful settlement of disputes, guaranteeing the stability so necessary for international cooperation. For the peoples of the world, the court may be far away but its impact is real. Excellencies, I am encouraged by the continued and enhanced confidence in the International Court of Justice. Not only has the Court’s workload increased over the last 20-years but this trend has continued into the period under review, demonstrating unequivocally that there remains a need and desire for a multilateral mechanism to address legal challenges of international concern. The variety of cases addressed by the court, and the fact that these cases stem from four continents, is also testament to the universality of the Court. In fact, as of today a total of 73 Member States have accepted, as compulsory, the jurisdiction of the Court. In addition to the Court’s role in advancing multilateralism, its judgements and advisory opinion directly influence the development and strengthening of the rule of law in countries the world over. As stated by the report: “everything the court does is aimed at promoting and reinforcing the rule of law, through its judgement and advisory opinions, it contributes to developing and clarifying international law.” Finally, at a time when human rights abuses and conflict devastate the lives of millions, and when tensions simmer in regions throughout the world, the adjudication of disputes between states remains an essential role of the Court in preserving peace and security. We welcome the continued readiness by the Court to intervene when other diplomatic or political means have proven unsuccessful. For Member States, respect for the decisions, judgements, advice, and orders of the Court remains critical for the efficacy and longevity of the international Justice System. The General Assembly has thus called upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute. In closing, allow me to reiterate: if we are to preserve the international multilateral system, then adherence and respect for international law remains key.

#### [Mecklin] The multilateral system and i-law are K2 heading off interlocking catastrophic risks – that’s a threat multiplier.

Mecklin 21

John Mecklin, Bulletin of the Atomic Scientists, “This is your COVID wake-up call: It is 100 seconds to midnight.” 2021 Doomsday Clock Statement, January 27, 2021. *Founded in 1945 by Albert Einstein and University of Chicago scientists who helped develop the first atomic weapons in the Manhattan Project, the*Bulletin of the Atomic Scientists *created the Doomsday Clock two years later, using the imagery of apocalypse (midnight) and the contemporary idiom of nuclear explosion (countdown to zero) to convey threats to humanity and the planet. The Doomsday Clock is set every year by the Bulletin’s Science and Security Board in consultation with its Board of Sponsors, which includes 13 Nobel laureates. The Clock has become a universally recognized indicator of the world’s vulnerability to catastrophe from nuclear weapons, climate change, and disruptive technologies in other domains.* <https://thebulletin.org/doomsday-clock/current-time/> -CAT

Humanity continues to suffer as the COVID-19 pandemic spreads around the world. In 2020 alone, this novel disease killed 1.7 million people and sickened at least 70 million more. The pandemic revealed just how unprepared and unwilling countries and the international system are to handle global emergencies properly. In this time of genuine crisis, governments too often abdicated responsibility, ignored scientific advice, did not cooperate or communicate effectively, and consequently failed to protect the health and welfare of their citizens. As a result, many hundreds of thousands of human beings died needlessly. Though lethal on a massive scale, this particular pandemic is not an existential threat. Its consequences are grave and will be lasting. But COVID-19 will not obliterate civilization, and we expect the disease to recede eventually. Still, the pandemic serves as a historic wake-up call, a vivid illustration that national governments and international organizations are unprepared to manage nuclear weapons and climate change, which currently pose existential threats to humanity, or the other dangers—including more virulent pandemics and next-generation warfare—that could threaten civilization in the near future. Accelerating nuclear programs in multiple countries moved the world into less stable and manageable territory last year. Development of hypersonic glide vehicles, ballistic missile defenses, and weapons-delivery systems that can flexibly use conventional or nuclear warheads may raise the probability of miscalculation in times of tension. Events like the deadly assault earlier this month on the US Capitol renewed legitimate concerns about national leaders who have sole control of the use of nuclear weapons. Nuclear nations, however, have ignored or undermined practical and available diplomatic and security tools for managing nuclear risks. By our estimation, the potential for the world to stumble into nuclear war—an ever-present danger over the last 75 years—increased in 2020. An extremely dangerous global failure to address existential threats—what we called “the new abnormal” in 2019—tightened its grip in the nuclear realm in the past year, increasing the likelihood of catastrophe. Governments have also failed to sufficiently address climate change. A pandemic-related economic slowdown temporarily reduced the carbon dioxide emissions that cause global warming. But over the coming decade fossil fuel use needs to decline precipitously if the worst effects of climate change are to be avoided. Instead, fossil fuel development and production are projected to increase. Atmospheric greenhouse gas concentrations hit a record high in 2020, one of the two warmest years on record. The massive wildfires and catastrophic cyclones of 2020 are illustrations of the major devastation that will only increase if governments do not significantly and quickly amplify their efforts to bring greenhouse gas emissions essentially to zero. As we noted in our [last Doomsday Clock statement](https://thebulletin.org/doomsday-clock/current-time/), the existential threats of nuclear weapons and climate change have intensified in recent years because of a threat multiplier: the continuing corruption of the information ecosphere on which democracy and public decision-making depend. Here, again, the COVID-19 pandemic is a wake-up call. False and misleading information disseminated over the internet—including misrepresentation of COVID-19’s seriousness, promotion of false cures, and politicization of low-cost protective measures such as face masks—created social chaos in many countries and led to unnecessary death. This wanton disregard for science and the large-scale embrace of conspiratorial nonsense—often driven by political figures and partisan media—undermined the ability of responsible national and global leaders to protect the security of their citizens. False conspiracy theories about a “stolen” presidential election led to rioting that resulted in the death of five people and the first hostile occupation of the US Capitol since 1814. In 2020, online lying literally killed. Considered by themselves, these negative events in the nuclear, climate change, and disinformation arenas might justify moving the clock closer to midnight. But amid the gloom, we see some positive developments. The election of a US president who acknowledges climate change as a profound threat and supports international cooperation and science-based policy puts the world on a better footing to address global problems. For example, the United States has already announced it is rejoining the Paris Agreement on climate change and the Biden administration has offered to extend the New START arms control agreement with Russia for five years. In the context of a post-pandemic return to relative stability, more such demonstrations of renewed interest in and respect for science and multilateral cooperation could create the basis for a safer and saner world. Because these developments have not yet yielded substantive progress toward a safer world, they are not sufficient to move the Clock away from midnight. But they are positive and do weigh against the profound dangers of institutional decay, science denialism, aggressive nuclear postures, and disinformation campaigns discussed in our 2020 statement. The members of the Science and Security Board therefore set the Doomsday Clock at 100 seconds to midnight, the closest it has ever been to civilization-ending apocalypse and the same time we set in 2020. It is deeply unfortunate that the global response to the pandemic over the past year has explicitly validated many of the concerns we have voiced for decades. We continue to believe that human beings can manage the dangers posed by modern technology, even in times of crisis. But if humanity is to avoid an existential catastrophe—one that would dwarf anything it has yet seen—national leaders must do a far better job of countering disinformation, heeding science, and cooperating to diminish global risks. Citizens around the world can and should organize and demand—through public protests, at ballot boxes, and in other creative ways—that their governments reorder their priorities and cooperate domestically and internationally to reduce the risk of nuclear war, climate change, and other global disasters, including pandemic disease. We have experienced the consequences of inaction. It is time to respond.

## Case

#### 1---1AR theory is skewed towards the aff – a] the 2NR must cover substance and over-cover theory, since they get the collapse and persuasive spin advantage of the 3min 2AR, b] their responses to my counter interp will be new, which means 1AR theory necessitates intervention. C] Timeskew---They get 7/6 time advantage D] Implications – a) reject 1AR theory since it can’t be a legitimate check for abuse, b) drop the arg and reasonability to minimize the chance the round is decided unfairly c) Yes RVIs since they correct 2nr theory/substance split

### Ov – circumvention

#### They have zero implementation mechanism- they just use Jewish laws. This eans circumvention is inevitable because governments won’t follow.

#### ICJ literally solves the entirty of the Aff- all countries that are just should implenet this through the ICJ which is the K IL for stregthening

Also the case has No IL for how Unconditional right to strike increases unionization- this means that the CP still increase unionazatioon through ICJ.

**Unions make strikes less effective and less common**

**Maynard 12**

Melissa (Melissa Maynard is a senior officer with The Pew Charitable Trusts' Fiscal 50), 9-25-2012, "Public Strikes Explained: Why There Aren't More of Them," Pew Trusts, [https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2012/09/25/public-strikes-explained-why-there-arent-more-of-them //](https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2012/09/25/public-strikes-explained-why-there-arent-more-of-them%20//) AW

Strikes often end without an agreement but come with significant costs for both sides. They can damage public opinion toward both elected leaders and the public employees involved, and bring real financial **consequences for the strikers**. Strikes have been especially rare in the budget-cutting environment that has been the reality in most states for the past few years. This isn't because labor relations are generally rosy — far from it. But striking public workers tend not to fare well in the court of public opinion because the public expects them to share in the widespread economic pain. “Strikes tend to be won or lost on public support more than anything else," says Joseph Slater, professor at the University of Toledo College of Law. “[Workers] may rightly feel put upon, but they have to be very leery of alienating the public.” Few politicians have been thrown out of office for supporting cuts to public employee pay and benefits in recent years, despite the toll those cuts have taken on labor relations. **Many public sector union contracts include “no strike clauses” as a condition of employment, even in states where strikes are legal.** In some cases, the terms of the prior agreement remain in force even after a contract expires until a new agreement is reached, giving workers little incentive to negotiate but also little motivation to strike.