## CP

#### Counterplan text: A just government ought to recognize the unconditional right of workers to strike except for police officers.

#### Police Strikes are used to combat racial progress and attempts to limit police power. Making them legal and easier only make progress much harder.

Andrew Grim 2020 What is the ‘blue flu’ and how has it increased police power? https://www.washingtonpost.com/outlook/2020/07/01/what-is-blue-flu-how-has-it-increased-police-power/

But the result of such protests matter deeply as we consider police reform today. Historically, blue flu strikes have helped expand police power, ultimately limiting the ability of city governments to reform, constrain or conduct oversight over the police. They allow the police to leverage public fear of crime to extract concessions from municipalities. This became clear in Detroit more than 50 years ago. In June 1967, tensions arose between Detroit Mayor Jerome Cavanagh and the Detroit Police Officers Association (DPOA), which represented the city’s 3,300 patrol officers. The two were at odds primarily over police demands for a pay increase. Cavanagh showed no signs of caving to the DPOA’s demands and had, in fact, proposed to cut the police department’s budget. On June 15, the DPOA escalated the dispute with a walkout: 323 officers called in sick. The number grew over the next several days as the blue flu spread, reaching a height of 800 absences on June 17. In tandem with the walkout, the DPOA launched a fearmongering media campaign to win over the public. They took out ads in local newspapers warning Detroit residents, “How does it feel to be held up? Stick around and find out!” This campaign took place at a time of rising urban crime rates and uprisings, and only a month before the 1967 Detroit riot, making it especially potent. The DPOA understood this climate and used it to its advantage. With locals already afraid of crime and displeased at Cavanagh’s failure to rein it in, they would be more likely to demand the return of the police than to demand retribution against officers for an illegal strike. The DPOA’s strategy paid off. The walkout left Detroit Police Commissioner Ray Girardin feeling “practically helpless.” “I couldn’t force them to work,” he later told The Washington Post. Rather than risk public ire by allowing the blue flu to continue, Cavanagh relented. Ultimately, the DPOA got the raises it sought, making Detroit officers the highest paid in the nation. This was far from the end of the fight between Cavanagh and the DPOA. In the ensuing months and years, they continued to tussle over wages, pensions, the budget, the integration of squad cars and the hiring of black officers. The threat of another blue flu loomed over all these disputes, helping the union to win many of them. And Detroit was not an outlier. Throughout the 1960s, ’70s and ’80s, the blue flu was a [ubiquitous and highly effective](https://www.akpress.org/our-enemies-in-blue.html) tactic in Baltimore, Memphis, New Orleans, Chicago, Newark, New York and many other cities. In most cases, as author Kristian Williams writes, “When faced with a walkout or slowdown, the authorities usually decided that the pragmatic need to get the cops back to work trumped the city government’s long term interest in diminishing the rank and file’s power.” But each time a city relented to this pressure, they ceded more and more power to police unions, which would turn to the strategy repeatedly to defend officers’ interests — particularly when it came to efforts to address systemic racism in police policies and practices. In 1970, black residents of Pittsburgh’s North Side neighborhood raised an outcry over the “hostile sadistic treatment” they experienced at the hands of white police officers. They lobbied Mayor Peter F. Flaherty to assign more black officers to their neighborhood. The mayor agreed, transferring several white officers out of the North Side and replacing them with black officers. While residents cheered this decision, white officers and the Fraternal Order of Police (FOP), which represented them, were furious. They slammed the transfer as “discrimination” against whites. About 425 of the Pittsburgh Police Department’s 1,600 police officers called out sick in protest. Notably, black police officers broke with their white colleagues and refused to join the walkout. They praised the transfer as a “long overdue action” and viewed the walkout as a betrayal of officers’ oath to protect the public. Nonetheless, the tactic paid off. After several days, Flaherty caved to the “open revolt” of white officers, agreeing to halt the transfers and instead submit the dispute to binding arbitration between the city and the police union. Black officers, though, continued to speak out against their union’s support of racist practices, and many of them later resigned from the union in protest. Similar scenarios played out in Detroit, Chicago and other cities in the 1960s and ’70s, as white officers continually staged walkouts to preserve the segregated status quo in their departments. These blue flu strikes amounted to an authoritarian power grab by police officers bent on avoiding oversight, rejecting reforms and shoring up their own authority. In the aftermath of the 1967 Detroit walkout, a police commissioner’s aide strongly criticized the police union’s strong-arm tactics, saying “it smacks of a police state.” The clash left one newspaper editor wondering, “Who’s the Boss of the Detroit Police?” But in the “law and order” climate of the late 1960s, such criticism did not resonate enough to stir a groundswell of public opinion against the blue flu. And police unions dismissed critics by arguing that officers had “no alternative” but to engage in walkouts to get city officials to make concessions. Crucially, the very effectiveness of the blue flu may be premised on a myth. While police unions use public fear of crime skyrocketing without police on duty, in many cases, the absence of police did not lead to a rise in crime. In New York City in 1971, [for example](https://untappedcities.com/2020/06/12/the-week-without-police-what-we-can-learn-from-the-1971-police-strike/), 20,000 officers called out sick for five days over a pay dispute without any apparent increase in crime. The most striking aspect of the walkout, as one observer noted, “might be just how unimportant it seemed.” Today, municipalities are under immense pressure from activists who have taken to the streets to protest the police killings of black men and women. Some have already responded by enacting new policies and cutting police budgets. As it continues, more blue flus are likely to follow as officers seek to wrest back control of the public debate on policing and reassert their independence.

#### Those strikes cement a police culture which leads to endless amounts of racist violence and the bolstering of the prison industrial complex.

Chaney and Ray 13, Cassandra (Has a PhD and is a professor at LSU. Also has a strong focus in the structure of Black families) , and Ray V. Robertson (Also has a PhD and is a criminal justice professor at LSU). "Racism and police brutality in America." *Journal of African American Studies* 17.4 (2013): 480-505. SM//do I really need a card for this

Racism and Discrimination According to Marger (2012), “racism is an ideology, or belief system, designed to justify and rationalize racial and ethnic inequality” (p. 25) and “discrimination, most basically, is behavior aimed at denying members of particular ethnic groups’ equal access to societal rewards” (p. 57). Defining both of these concepts from the onset is important for they provide the lens through which our focus on the racist and discriminatory practices of law enforcement can occur. Since the time that Africans [African Americans] were forcibly brought to America, they have been the victims of racist and discriminatory practices that have been spurred and/or substantiated by those who create and enforce the law. For example, The Watts Riots of 1965, the widespread assaults against Blacks in Harlem during the 1920s (King 2011), law enforcement violence against Black women (i.e., Malaika Brooks, Jaisha Akins, Frankie Perkins, Dr. Mae Jemison, Linda Billups, Clementine Applewhite) and other ethnic women of color (Ritchie 2006), the beating of Rodney King, and the deaths of Amadou Diallo in the 1990s and Trayvon Martin more recently are just a few public examples of the historical and contemporaneous ways in which Blacks in America have been assaulted by members of the police system (King 2011; Loyd 2012; Murch 2012; Rafail et al. 2012). In Punishing Race (2011), law professor Michael Tonry’s research findings point to the fact that Whites tend to excuse police brutality against Blacks because of the racial animus that they hold against Blacks. Thus, to Whites, Blacks are viewed as deserving of harsh treatment in the criminal justice system (Peffley and Hurwitz 2013). At first glance, such an assertion may seem to be unfathomable, buy that there is an extensive body of literature which suggests that Black males are viewed as the “prototypical criminal,” and this notion is buttressed in the media, by the general public, and via disparate sentencing outcomes (Blair et al. 2004; Eberhardt et al. 2006; Gabiddon 2010; Maddox and Gray 2004; Oliver and Fonash 2002; Staples 2011). For instance, Blair et al. (2004) revealed that Black males with more Afrocentric features (e.g., dark skin, broad noses, full lips) may receive longer sentences than Blacks with less Afrocentric features, i.e., lighter skin and straighter hair (Eberhardt et al. 2006). Shaun Gabiddon in Criminological Theories on Race and Crime (2010) discussed the concept of “Negrophobia” which was more extensively examined by Armour (1997). Negrophobia can be surmised as an irrational of Blacks, which includes a fear of being victimized by Black, that can result in Whites shooting or harming an AfricanAmerican based on criminal/racial stereotypes (Armour 1997). The aforementioned racialized stereotypical assumptions can be deleterious because they can be used by Whites to justify shooting a Black person on the slightest of pretense (Gabiddon 2010). Finally, African-American males represent a group that has been much maligned in the larger society (Tonry 2011). Further, as victims of the burgeoning prison industrial complex, mass incarceration, and enduring racism, the barriers to truly independent Black male agency are ubiquitous and firmly entrenched (Alexander 2010; Chaney 2009; Baker 1996; Blackmon 2008; Dottolo and Stewart 2008; Karenga 2010; Martin et al. 2001; Smith and Hattery 2009). Thus, racism and discrimination heightens the psychological distress experienced by Blacks (Robertson 2011; Pieterse et al. 2012), as well as their decreased mortality in the USA (Muennig and Murphy 2011). Police Brutality Against Black Males According to Walker (2011), police brutality is defined as “the use of excessive physical force or verbal assault and psychological intimidation” (p. 579). Although one recent study suggests that the NYPD has become better behaved due to greater race and gender diversity (Kane and White 2009), Blacks are more likely to be the victims of police brutality. A growing body of scholarly research related to police brutality has revealed that Blacks are more likely than Whites to make complaints regarding police brutality (Smith and Holmes 2003), to be accosted while operating [driving] a motorized vehicle (“Driving While Black”), and to underreport how often they are stopped due to higher social desirability factors (TomaskovicDevey et al. 2006). Interestingly, data obtained from the General Social Survey (GSS), a representative sample conducted biennially by the National Opinion Research Center at the University of Chicago for the years 1994 through 2004, provide further proof regarding the acceptance of force against Blacks. In particular, the GSS found Whites to be significantly (29.5 %) more accepting of police use of force when a citizen was attempting to escape custody than Blacks when analyzed using the chi-squared statistical test (p The average Southern policeman is a promoted poor White with a legal sanction to use a weapon. His social heritage has taught him to despise the Negroes, and he has had little education which could have changed him….The result is that probably no group of Whites in America have a lower opinion of the Negro people and are more fixed in their views than Southern policeman. (Myrdal 1944, pp. 540–541) Myrdal (1944) was writing on results from a massive study that he undertook in the late 1930s. He was writing at a time that even the most conservative among us would have to admit was not a colorblind society (if one even believes in such things). But current research does corroborate his observations that less educated police officers tend to be the most aggressive and have the most formal complaints filed against them when compared to their more educated counterparts (Hassell and Archbold 2010; Jefferis et al. 2011). Tonry (2011) delineates some interesting findings from the 2001 Race, Crime, and Public Opinion Survey that can be applied to understanding why the larger society tolerates police misconduct when it comes to Black males. The survey, which involved approximately 978 non-Hispanic Whites and 1,010 Blacks, revealed a divergence in attitudes between Blacks and Whites concerning the criminal justice system (Tonry 2011). For instance, 38 % of Whites and 89 % of Blacks viewed the criminal justice system as biased against Blacks (Tonry 2011). Additionally, 8 % of Blacks and 56 % of Whites saw the criminal justice system as treating Blacks fairly (Tonry 2011). Perhaps most revealing when it comes to facilitating an environment ripe for police brutality against Black males, 68 % of Whites and only 18 % of Whites expressed confidence in law enforcement (Tonry 2011). Is a society wherein the dominant group overwhelming approves of police performance willing to do anything substantive to curtail police brutality against Black males? Police brutality is not a new phenomenon. The Department of Justice (DOJ) office of Civil Rights (OCR) has investigated more than a dozen police departments in major cities across the USA on allegations of either racial discrimination or police brutality (Gabbidon and Greene 2013). To make the aforementioned even more clear, according to Gabbidon and Greene (2013), “In 2010, the OCR was investigating 17 police departments across the country and monitoring five settlements regarding four police agencies” (pp. 119–120). Plant and Peruche (2005) provide some useful information into why police officers view Black males as potential perpetrators and could lead to acts of brutality. In their research, the authors suggest that since Black people in general, and Black males in particular, are caricatured as aggressive and criminal, police are more likely to view Black men as a threat which justifies the disproportionate use of deadly force. Therefore, it is not beyond the realm of possibility that police officers’ decisions to act aggressively may, to some extent, be influenced by race (Jefferis et al. 2011). The media’s portrayals of Black men are often less than sanguine. Bryson’s (1998) work in this area provides empirical evidence that the mass media that has been instrumental in portraying Black men as studs, super detectives, or imitation White men and has a general negative effect on how these men are regarded by others. Such characterizations can be so visceral in nature that “prototypes” of criminal suspects are more likely to be African-American (Oliver et al. 2004). Not surprisingly, the more Afrocentric the African-American’s facial features, the more prone he or she is expected to be deviant (Eberhardt et al. 2006). Interestingly, it is probable that less than flattering depictions of Black males on television and in news stories are activating pre-existing stereotypes possessed by Whites as opposed to facilitating their creation. According to Oliver et al. (2004), “it is important to keep in mind that media consumption is an active process, with viewers’ existing attitudes and beliefs playing a larger role in how images are attended to, interpreted, and remembered” (p. 89). Moreover, it is reductionist to presuppose that individual is powerless in constructing a palatable version of reality and is solely under the control of the media and exercises no agency. Lastly, Peffley and Hurwitz (2013) describe what can be perceived as one of the more deleterious results of negative media caricatures of Black males. More specifically, the authors posit that most Whites believe that Blacks are disproportionately inclined to engage in criminal behavior and are the deserving on harsh treatment by the criminal justice system. On the other hand, such an observation is curious because most urban areas are moderate to highly segregated residentially which would preclude the frequent and significant interaction needed to make such scathing indictments (Bonilla-Silva 2009). Consequently, the aforementioned racial animus has the effect of increased White support for capital punishment if questions regarding its legitimacy around if capital punishment is too frequently applied to Blacks (Peffley and Hurwitz 2013; Tonry 2011). Ultimately, erroneous (negative) portrayals of crime and community, community race and class identities, and concerns over neighborhood change all contribute to place-specific framing of “the crime problem.” These frames, in turn, shape both intergroup dynamics and support for criminal justice policy (Leverentz 2012).

## CP

#### Counterplan Text: A just government ought to formally declare that customary international law compels not enforcing restrictions and/or conditions on strikes.

#### CP solves and avoids the net benefit. CIL is legally binding and enforceable.

**Brudney 21** (Professor James J. Brudney is the Joseph Crowley Chair in Labor and Employment Law at Fordham Law School. Professor Brudney served for six years as Chief Counsel and Staff Director of the U.S. Senate Subcommittee on Labor. He has been Adjunct Professor of Law at the Georgetown Law Center and Visiting Professor of Law at Harvard Law School. His scholarly writing is in the areas of workplace law and statutory interpretation. Professor Brudney is co-chair of the Public Review Board for the United Auto Workers International Union, and is a member of the Committee of Experts of the International Labor Organization “The Right to Strike as Customary International Law”. 2021.)

This Article pursues a different path. Using international labor and human rights doctrine, it analyzes **the right to strike** as an integral element of freedom of association among workers, and concludes that this right **has achieved the status of customary international law** (CIL). It then explores possible ways to incorporate such an international right in the U.S. context, recognizing certain very real jurisdictional and remedial challenges. Recourse to international law sources has garnered support from several current and recent justices, 10 but the tide may be ebbing. Given evidence of contemporary Supreme Court reluctance to accept developments in international human rights law asserted by foreign nationals as U.S. federal law,11 or to refer to foreign constitutions when interpreting federal constitutional rights,12 the arguments developed here may be discounted by some readers as more of an aspiration than a practical possibility. There are several reasons, however, to look past this position. For a start, **establishing the right to strike as CIL is an important development in itself,** beyond as well as within the U.S. judicial context. Because CIL has long been an incorporated source of English common law upon which courts may draw as required, 13 the international right to strike may be applicable in British and related common law settings. Moreover, **state courts have invoked CIL** **when relevant to resolving disputes under their own laws**, 14 **and** they **may choose to apply this** international **right to reconsider the restrictions imposed on strikes under state statutes**. Additionally, **worker movements in this country may make use of CIL as part of their vocabulary to defend the legality of strikes outside the courtroom**.15 Although the Supreme Court as currently constituted appears skeptical of CIL applications in a foreign affairs context, it has considered international human rights law relevant to domestic legal challenges in relatively recent times.16 In this regard, commentators and judges have long invoked CIL or its antecedent “law of nations” in aspirational as well as pragmatic terms. On diverse matters such as slave trading and slavery, reasonable and proportionate forms of criminal punishment, and the right to a healthy environment, international human rights doctrine has been deemed applicable even when U.S. laws and courts seemed inhospitable to recognizing relevant legal protections. 17 In what follows, the Article addresses four distinct questions. The first question involves the contents and contours of the right to strike as recognized under international instruments. The **international right is embedded within two widely endorsed U**nited **N**ations **human rights treaties,**18 **and was recently reaffirmed by the human rights committees responsible for monitoring implementation of those treaties**19 **It is set** forth **in** more **precise and detailed terms** pursuant to Convention 87 of the International Labor Organization (ILO) addressing freedom of association (FOA), and the interpretations given to that convention by ILO supervisory bodies. Notwithstanding recent objections from employers’ groups, the right is recognized by the overwhelming majority of governments that have ratified Convention 87 as being an integral part of the Convention. In this regard, there is an established ILO jurisprudence on the right to strike, developed by two of its key supervisory committees—the independent Committee of Experts (CEACR), and the tripartite Committee on Freedom of Association (CFA),20 and reinforced by observations from the two UN human rights committees. 21 The Article summarizes this jurisprudence and describes how protections for the international right exceed U.S. protections for the right to strike in two key areas. **The international law** **prohibit**ion on **private employers’ ability to permanently replace** lawfully **striking workers** conflicts with Supreme Court precedent construing the National Labor Relations Act (NLRA). 22 And the international law protection for public employee strikes with only limited exceptions conflicts with the NLRA’s allowing states to prohibit all strikes by their employees. At the same time, the international right is hardly untethered: it includes a range of exceptions and limitations that constrain its scope in certain ways when compared with U.S. statutory law. The second question is whether this international right to strike qualifies as CIL. The Article contends that it does, based on the existence of widespread State practice in which ratification or conformity reflects opinio juris, a genuine sense of obligation under international law. In addition to Convention 87 having been ratified by more than 80 percent of ILO Member States, the right to strike as an integral part of FOA is an element in broader ILO documents that obligate all countries, including those like the U.S. that have not ratified the Convention.23 Relatedly, the right is recognized through the two previously mentioned U.N. Covenants whose language expressly incorporates the guarantees provided for in Convention 87. **The right is further established in prominent decisions from transnational courts, and in domestic legal frameworks around the world** (constitutions, statutes, and high court decisions), reinforcing the argument that widespread respect from governments is based on a sense of legal obligation. Further, the broad-based evidence from domestic legal frameworks indicates that ratification reflects not simply formal commitment but active compliance by governments. Application of the international right to strike recognizes variations in nationally-specific approaches. However, the two key areas in which U.S. law deviates from the international right—approving permanent replacements for lawful strikers and allowing the prohibition of all public employee strikes—are central elements of the right itself, rather than more marginal aspects subject to national circumstances. Finally, notwithstanding that U.S. statutory protections for strikes deviate from international standards in these two areas, respect for the international right is reflected in legislation enacted by Congress in recent decades, and by executive action indicating the express understanding of the Obama and Trump Administrations that the right to strike is an integral part of FOA.24

#### Spurs and advances workers movements globally.

**Brudney 21** (Professor James J. Brudney is the Joseph Crowley Chair in Labor and Employment Law at Fordham Law School. Professor Brudney served for six years as Chief Counsel and Staff Director of the U.S. Senate Subcommittee on Labor. He has been Adjunct Professor of Law at the Georgetown Law Center and Visiting Professor of Law at Harvard Law School. His scholarly writing is in the areas of workplace law and statutory interpretation. Professor Brudney is co-chair of the Public Review Board for the United Auto Workers International Union, and is a member of the Committee of Experts of the International Labor Organization “The Right to Strike as Customary International Law”. 2021.)

**Application of CIL on behalf of U.S. workers** in domestic courts faces distinct challenges. The Article has examined these challenges and proposed ways in which they may be countered if not overcome. In the short-term, the challenges may seem too large in light of jurisdictional and procedural hurdles, linked in many ways to the Supreme Court’s current reluctance to accept international human rights law in a federal court setting. Nonetheless, the exploration of this international right remains important for a number of reasons. A common law right to strike **may open doors to litigation for public employees** in states that are more hospitable to recognizing CIL than the current majority of justices. **The right also may have immediate utility for American workers seeking a persuasive language in which to justify their growing interest in strike activities**. Further, given that the Court in its relatively recent past has recognized the relevance of international human rights law, there is reason to believe that it may do so again—in which case this in-depth analysis of how one significant human right has been advanced and applied in other countries may well be of value. **Finally, arguments stemming from the right to strike under international law are sure to have ongoing resonance beyond U.S. borders, as the right continues to be developed and debated on the global stage.**

#### CIL is critical to solve climate change threats. Relying only on treaty commitments fails.

**Clark 18** (Kayla Clark is a lawyer at Morgan Lewis. Education: University of Notre Dame Law School, 2018, J.D. California Polytechnic State University, 2015, B.A. “The Paris Agreement: Its Role in International Law and American Jurisprudence”. 5-10-2018.)

Moreover, the long-term nature of the Paris Agreement has the additional benefit of potentially creating **c**ustomary **i**nternational **l**aw **regarding** international **environmental norms** and development. Customary international law, **recognized to be legally binding** on participating nations,65 **can** be shaped when a custom, such as a commitment to **consistently reduce** greenhouse gas **emissions**, becomes regarded as law. Evidence of customary international law can include: general acceptance by the participants; adherence for a sufficient duration; consistent understanding of the terms and stable enforcement; and a finding of opinio juris––evidence that the terms are seen as law.66 If it can be shown throughout the Paris Agreement’s implementation that the terms, including participants’ commitments and implementation of goals, transitioned from mere statutory obligations to **c**ustomary **i**nternational **l**aw, then the Paris Agreement **stands a credible chance at recognition beyond the limits of** the **treaty**’s **text.** The architecture of the Agreement, with an aspirational goals of temperature reduction and evaluation periods every five years beginning in 2023, leaves ample time for the already binding international treaty to take on another stable and well-recognized form—customary international law.67 In addition to the aspirational goals of the Paris Agreement, the nuanced form of differentiation between nations is a feature that positions the pact for success. The differentiation is meant to be both inclusive and empowering to all participants.68 Beginning with the preamble of the Agreement, “one finds in a condensed manner carefully crafted expressions of the main tensions underpinning the entire text, between developed and developing countries, between more vulnerable countries and the rest, between countries that expect to suffer from measures that ‘respond’ to climate change and the rest . . .”69 The Agreement is facilitated by each state voluntarily committing to reduce its emissions reductions. All states are asked to commit to some amount of emissions reduction, but no states are assigned a mandatory reductions target, as they were in Kyoto. **Under** Paris, “[s]tates thus choose their level of ambition subject to two requirements, namely the regular updating––at least every five years . . . and **a**n obligation of non-regression . . . .”70 The Paris Agreement’s **voluntary contribution scheme** seeks to diffuse the sharply divisive Annex 1 and non-Annex 1 strategy of the Kyoto Protocol, as well as reduce the coercive effect of mandatorily assigned targets. The Annex strategy not only excluded many developing countries, chief of which included high carbon emitters like China and India, but also disheartened developed countries that felt that even a good faith attempt at meeting their target emissions would make only a marginal impact on overall climate change efforts.71 Additionally, the distinction between Annex 1 and non-Annex 1 under the Kyoto Protocol restricted the ability or motivation of developing countries to reduce their greenhouse gas emissions, as they were not required to participate.72 Now, developing **countries like China or India cannot shirk participation merely because of their developing status**.73 The Paris Agreement reflects the principle of common but differentiated responsibilities, but implements this international law doctrine more effectively. Though all participating nations must voluntarily assume and be accountable for their emission reduction goals, accommodations for developing countries are also included. To offset the cost on now-included developing countries, the Paris Agreement incorporates adaptation by developing countries as a goal, and urges developed countries to provide developing states with financial and logistical support. Including mechanisms to support adaptation is a new way to address climate change, responsive to the reality that, as Vinuales writes, “[i]t may be that climate change is no longer a matter of precaution but one of prevention – preventing acknowledged risk.”74 Creating infrastructure and advancing technology in developing nations, via funding from developed nations, recognizes the different capacities of different countries, reflects the common but differentiated responsibilities doctrine, and focuses on adaptation. However, the Agreement still expects developing nations to contribute throughout the adaptation process. The third promising feature of the Paris Agreement is the innovative approach to oversight and enforcement. Compared to the Kyoto Protocol’s mandatory and legally-binding emissions reductions, the Paris Agreement takes a less coercive, information-based approach.75 Through the construction of **i**nternational **law**, the Paris Agreement hopes to use both official and unofficial sources of pressure in its information-based enforcement. As Falkner writes, the Paris Agreement **relies on a “two-level game” logic that unites domestic climate politics with strategic international interaction**.76 Though the Paris Agreement does not impute a legal obligation for states to actually reduce their emissions per their commitments, it does require periodic reports to be disclosed to the participants of the Agreement. These reports will occur every five years, beginning in 2023, and will provide the international community with a transparent look into the efforts of other states to combat climate change.77 The information garnered from these periodic reports, and their subsequent review, may facilitate the “naming and shaming” of states that have not succeeded in meeting their goals.78 **The peer pressure function should work effectively**between nations, as they may easily identify **and** call out those that have failed to make a good faith effort to meet their voluntary contributions. The mandatory reporting serves to make the Agreement transparent and legitimate to the international community.79 The naming and shaming also **anticipates pressure on the contributing parties from civil society**, as governments of underperforming countries may experience naming and shaming by environmental groups, the media, and other interested parties.80 Domestically, after nations choose their emission reduction contribution, they will likely face some pressure from groups in their country regarding their performance under the contribution. Internationally, the Agreement is also designed to create peer pressure among states, which could be exerted on states that are failing to meet their commitments. The naming and shaming function between states delivers the brunt of the Agreement’s enforcement mechanism. Though the enforcement tools of the Paris Agreement do not create actual legal liability for states that neglect their commitments, the enforcement strategies should not be seen as toothless.81 By **operating with multiple kinds of enforcement**, and engaging with both domestic and international paradigms over a long period of time, the Paris Agreement consciously **increases the** likelihood of **immediate enforcement** and **of** transitioning from mere statute to **binding customary international law**.82

#### Anthropogenic warming causes extinction --- mitigation efforts now are key

**Griffin, 2015**(David, Professor of Philosophy at Claremont, “The climate is ruined. So can civilization even survive?”, CNN, 4/14/2015, [http://www.cnn.com/2015/01/14/opinion/co2-crisis-griffin/](https://fortimail.mpsomaha.org/fmlurlsvc/?fewReq=:B:JVE3PDg8Nyt7MD8jPStkaTA9PDc9PCt+ZGpjbHl4f2gwNDw8a2lpaThrbD8+PGs9bGs8OD84Ozw0bDo9aD40NWtrbGhvNWw8byt5MDw7PjQ/Pjo1PzkrfGRpMDxPT0tiQkFoPTw+OTQ4IDxPT0tiQkFqPTw+OTQ4K39ufXkwZ354Yzg1Ok1gZGFhbH9pfX4jYn9qK24wPjsrZWlhMD0=&url=http%3a%2f%2fwww.cnn.com%2f2015%2f01%2f14%2fopinion%2fco2-crisis-griffin%2f) )

Although most of us worry about other things, climate scientists have become increasingly worried about the survival of civilization. For example, Lonnie Thompson, who received the U.S. National Medal of Science in 2010, said that **virtually all climatologists "are now convinced that global warming poses a clear and present danger to civilization."**Informed journalists share this concern. The climate crisis "threatens the survival of our civilization," said Pulitzer Prize-winner Ross Gelbspan. Mark Hertsgaard agrees, **saying that the continuation of global warming "would create planetary conditions all but certain to end civilization as we know it."**These scientists and journalists, moreover, are worried not only about the distant future but about the condition of the planet for their own children and grandchildren. James Hansen, often considered the world's leading climate scientist, entitled his book "Storms of My Grandchildren." The threat to civilization comes primarily from the increase of the level of carbon dioxide (CO2) in the atmosphere, due largely to the burning of fossil fuels. Before the rise of the industrial age, CO2 constituted only 275 ppm (parts per million) of the atmosphere. But it is now above 400 and rising about 2.5 ppm per year. Because of the CO2 increase, the planet's average temperature has increased 0.85 degrees Celsius (1.5 degrees Fahrenheit). Although this increase may not seem much, it has already brought about serious changes. The idea that we will be safe from "dangerous climate change" if we do not exceed a temperature rise of 2C (3.6F) has been widely accepted. But many informed people have rejected this assumption. In the opinion of journalist-turned-activist Bill McKibben, "the one degree we've raised the temperature already has melted the Arctic, so we're fools to find out what two will do." His warning is supported by James Hansen, who declared that "a target of two degrees (Celsius) is actually a prescription for long-term disaster." The burning of coal, oil, and natural gas has made the planet warmer than it had been since the rise of civilization 10,000 years ago. Civilization was made possible by the emergence about 12,000 years ago of the "Holocene" epoch, which turned out to be the Goldilocks zone - not too hot, not too cold. But now, says physicist Stefan Rahmstorf, "We are catapulting ourselves way out of the Holocene." **This catapult is dangerous, because we have no evidence civilization can long survive with significantly higher temperatures**. And yet, the world is on a trajectory that would lead to an increase of 4C (7F) in this century. In the opinion of many scientists and the World Bank, this could happen as early as the 2060s. What would "a 4C world" be like? According to Kevin Anderson of the Tyndall Centre for Climate Change Research (at the University of East Anglia), "during New York's summer heat waves the warmest days would be around 10-12C (18-21.6F) hotter [than today's]." Moreover, he has said, above an increase of 4C only **about 10% of the human population will survive.**Believe it or not, some scientists consider Anderson overly optimistic. The main reason for pessimism is the fear that the planet's temperature may be close to a tipping point that would initiate a "low-end runaway greenhouse," involving "out-of-control amplifying feedbacks." This condition would result, says Hansen, if all fossil fuels are burned (which is the intention of all fossil-fuel corporations and many governments). **This result "would make most of the planet uninhabitable by humans."** Moreover, many scientists believe that runaway global warming could occur much more quickly, because the rising temperature caused by CO2 could release massive amounts of methane (CH4), which is, during its first 20 years, 86 times more powerful than CO2. Warmer weather induces this release from carbon that has been stored in methane hydrates, in which enormous amounts of carbon -- four times as much as that emitted from fossil fuels since 1850 -- has been frozen in the Arctic's permafrost. And yet now the Arctic's temperature is warmer than it had been for 120,000 years -- in other words, more than 10 times longer than civilization has existed. According to Joe Romm, a physicist who created the Climate Progress website, methane release from thawing permafrost in the Arctic "is the most dangerous amplifying feedback in the entire carbon cycle." The amplifying feedback works like this: The warmer temperature releases millions of tons of methane, which then further raise the temperature, which in turn releases more methane. The resulting threat of runaway global warming may not be merely theoretical. Scientists have long been convinced that methane was central to the fastest period of global warming in geological history, which occurred 55 million years ago. Now a group of scientists have accumulated evidence that methane was also central to the greatest extinction of life thus far: the end-Permian extinction about 252 million years ago. Worse yet, whereas it was previously thought that significant amounts of permafrost would not melt, releasing its methane, until the planet's temperature has risen several degrees Celsius, recent studies indicate that a rise of 1.5 degrees would be enough to start the melting. What can be done then? Given the failure of political leaders to deal with the CO2 problem, it is now too late to prevent terrible developments. **But it may -- just may -- be possible to keep global warming from bringing about the destruction of civilization. To have a chance, we must, as Hansen says, do everything possible to "keep climate close to the Holocene range" -- which means, mobilize the whole world to replace dirty energy with clean as soon as possible.**