## Util

### 1NC -- Util

#### The standard maximizing expected wellbeing, ie hedonistic act utilitarianism.

#### Prefer:

#### 1] Pleasure and pain *are* intrinsic value and disvalue – everything else *regresses* – robust neuroscience.

Blum et al. 18

Kenneth Blum, 1Department of Psychiatry, Boonshoft School of Medicine, Dayton VA Medical Center, Wright State University, Dayton, OH, USA 2Department of Psychiatry, McKnight Brain Institute, University of Florida College of Medicine, Gainesville, FL, USA 3Department of Psychiatry and Behavioral Sciences, Keck Medicine University of Southern California, Los Angeles, CA, USA 4Division of Applied Clinical Research & Education, Dominion Diagnostics, LLC, North Kingstown, RI, USA 5Department of Precision Medicine, Geneus Health LLC, San Antonio, TX, USA 6Department of Addiction Research & Therapy, Nupathways Inc., Innsbrook, MO, USA 7Department of Clinical Neurology, Path Foundation, New York, NY, USA 8Division of Neuroscience-Based Addiction Therapy, The Shores Treatment & Recovery Center, Port Saint Lucie, FL, USA 9Institute of Psychology, Eötvös Loránd University, Budapest, Hungary 10Division of Addiction Research, Dominion Diagnostics, LLC. North Kingston, RI, USA 11Victory Nutrition International, Lederach, PA., USA 12National Human Genome Center at Howard University, Washington, DC., USA, Marjorie Gondré-Lewis, 12National Human Genome Center at Howard University, Washington, DC., USA 13Departments of Anatomy and Psychiatry, Howard University College of Medicine, Washington, DC US, Bruce Steinberg, 4Division of Applied Clinical Research & Education, Dominion Diagnostics, LLC, North Kingstown, RI, USA, Igor Elman, 15Department Psychiatry, Cooper University School of Medicine, Camden, NJ, USA, David Baron, 3Department of Psychiatry and Behavioral Sciences, Keck Medicine University of Southern California, Los Angeles, CA, USA, Edward J Modestino, 14Department of Psychology, Curry College, Milton, MA, USA, Rajendra D Badgaiyan, 15Department Psychiatry, Cooper University School of Medicine, Camden, NJ, USA, Mark S Gold 16Department of Psychiatry, Washington University, St. Louis, MO, USA, “Our evolved unique pleasure circuit makes humans different from apes: Reconsideration of data derived from animal studies”, U.S. Department of Veterans Affairs, 28 February 2018, accessed: 19 August 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6446569/>, R.S.

**Pleasure** is not only one of the three primary reward functions but it also **defines reward.** As homeostasis explains the functions of only a limited number of rewards, the principal reason why particular stimuli, objects, events, situations, and activities are rewarding may be due to pleasure. This applies first of all to sex and to the primary homeostatic rewards of food and liquid and extends to money, taste, beauty, social encounters and nonmaterial, internally set, and intrinsic rewards. Pleasure, as the primary effect of rewards, drives the prime reward functions of learning, approach behavior, and decision making and provides the **basis for hedonic theories** of reward function. We are attracted by most rewards and exert intense efforts to obtain them, just because they are enjoyable [10].

Pleasure is a passive reaction that derives from the experience or prediction of reward and may lead to a long-lasting state of happiness. The word happiness is difficult to define. In fact, just obtaining physical pleasure may not be enough. One key to happiness involves a network of good friends. However, it is not obvious how the higher forms of satisfaction and pleasure are related to an ice cream cone, or to your team winning a sporting event. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure [14].

Pleasure as a hallmark of reward is sufficient for defining a reward, but it may not be necessary. A reward may generate positive learning and approach behavior simply because it contains substances that are essential for body function. When we are hungry, we may eat bad and unpleasant meals. A monkey who receives hundreds of small drops of water every morning in the laboratory is unlikely to feel a rush of pleasure every time it gets the 0.1 ml. Nevertheless, with these precautions in mind, we may define any stimulus, object, event, activity, or situation that has the potential to produce pleasure as a reward. In the context of reward deficiency or for disorders of addiction, homeostasis pursues pharmacological treatments: drugs to treat drug addiction, obesity, and other compulsive behaviors. The theory of allostasis suggests broader approaches - such as re-expanding the range of possible pleasures and providing opportunities to expend effort in their pursuit. [15]. It is noteworthy, the first animal studies eliciting approach behavior by electrical brain stimulation interpreted their findings as a discovery of the brain’s pleasure centers [16] which were later partly associated with midbrain dopamine neurons [17–19] despite the notorious difficulties of identifying emotions in animals.

Evolutionary theories of pleasure: The love connection BO:D

Charles Darwin and other biological scientists that have examined the biological evolution and its basic principles found various mechanisms that steer behavior and biological development. Besides their theory on natural selection, it was particularly the sexual selection process that gained significance in the latter context over the last century, especially when it comes to the question of what makes us “what we are,” i.e., human. However, the capacity to sexually select and evolve is not at all a human accomplishment alone or a sign of our uniqueness; yet, we humans, as it seems, are ingenious in fooling ourselves and others–when we are in love or desperately search for it.

It is well established that modern biological theory conjectures that **organisms are** the **result of evolutionary competition.** In fact, Richard Dawkins stresses gene survival and propagation as the basic mechanism of life [20]. Only genes that lead to the fittest phenotype will make it. It is noteworthy that the phenotype is selected based on behavior that maximizes gene propagation. To do so, the phenotype must survive and generate offspring, and be better at it than its competitors. Thus, the ultimate, distal function of rewards is to increase evolutionary fitness by ensuring the survival of the organism and reproduction. It is agreed that learning, approach, economic decisions, and positive emotions are the proximal functions through which phenotypes obtain other necessary nutrients for survival, mating, and care for offspring.

Behavioral reward functions have evolved to help individuals to survive and propagate their genes. Apparently, people need to live well and long enough to reproduce. Most would agree that homo-sapiens do so by ingesting the substances that make their bodies function properly. For this reason, foods and drinks are rewards. Additional rewards, including those used for economic exchanges, ensure sufficient palatable food and drink supply. Mating and gene propagation is supported by powerful sexual attraction. Additional properties, like body form, augment the chance to mate and nourish and defend offspring and are therefore also rewards. Care for offspring until they can reproduce themselves helps gene propagation and is rewarding; otherwise, many believe mating is useless. According to David E Comings, as any small edge will ultimately result in evolutionary advantage [21], additional reward mechanisms like novelty seeking and exploration widen the spectrum of available rewards and thus enhance the chance for survival, reproduction, and ultimate gene propagation. These functions may help us to obtain the benefits of distant rewards that are determined by our own interests and not immediately available in the environment. Thus the distal reward function in gene propagation and evolutionary fitness defines the proximal reward functions that we see in everyday behavior. That is why foods, drinks, mates, and offspring are rewarding.

There have been theories linking pleasure as a required component of health benefits salutogenesis, (salugenesis). In essence, under these terms, pleasure is described as a state or feeling of happiness and satisfaction resulting from an experience that one enjoys. Regarding pleasure, it is a double-edged sword, on the one hand, it promotes positive feelings (like mindfulness) and even better cognition, possibly through the release of dopamine [22]. But on the other hand, pleasure simultaneously encourages addiction and other negative behaviors, i.e., motivational toxicity. It is a complex neurobiological phenomenon, relying on reward circuitry or limbic activity. It is important to realize that through the “Brain Reward Cascade” (BRC) endorphin and endogenous morphinergic mechanisms may play a role [23]. While natural rewards are essential for survival and appetitive motivation leading to beneficial biological behaviors like eating, sex, and reproduction, crucial social interactions seem to further facilitate the positive effects exerted by pleasurable experiences. Indeed, experimentation with addictive drugs is capable of directly acting on reward pathways and causing deterioration of these systems promoting hypodopaminergia [24]. Most would agree that pleasurable activities can stimulate personal growth and may help to induce healthy behavioral changes, including stress management [25]. The work of Esch and Stefano [26] concerning the link between compassion and love implicate the brain reward system, and pleasure induction suggests that social contact in general, i.e., love, attachment, and compassion, can be highly effective in stress reduction, survival, and overall health.

Understanding the role of neurotransmission and pleasurable states both positive and negative have been adequately studied over many decades [26–37], but comparative anatomical and neurobiological function between animals and homo sapiens appear to be required and seem to be in an infancy stage.

Finding happiness is different between apes and humans

As stated earlier in this expert opinion one key to happiness involves a network of good friends [38]. However, it is not entirely clear exactly how the higher forms of satisfaction and pleasure are related to a sugar rush, winning a sports event or even sky diving, all of which augment dopamine release at the reward brain site. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure.

Remarkably, there are pathways for ordinary liking and pleasure, which are limited in scope as described above in this commentary. However, there are **many brain regions**, often termed hot and cold spots, that significantly **modulate** (increase or decrease) our **pleasure or** even produce **the opposite** of pleasure— that is disgust and fear [39]. One specific region of the nucleus accumbens is organized like a computer keyboard, with particular stimulus triggers in rows— producing an increase and decrease of pleasure and disgust. Moreover, the cortex has unique roles in the cognitive evaluation of our feelings of pleasure [40]. Importantly, the interplay of these multiple triggers and the higher brain centers in the prefrontal cortex are very intricate and are just being uncovered.

Desire and reward centers

It is surprising that many different sources of pleasure activate the same circuits between the mesocorticolimbic regions (Figure 1). Reward and desire are two aspects pleasure induction and have a very widespread, large circuit. Some part of this circuit distinguishes between desire and dread. The so-called pleasure circuitry called “REWARD” involves a well-known dopamine pathway in the mesolimbic system that can influence both pleasure and motivation.

In simplest terms, the well-established mesolimbic system is a dopamine circuit for reward. It starts in the ventral tegmental area (VTA) of the midbrain and travels to the nucleus accumbens (Figure 2). It is the cornerstone target to all addictions. The VTA is encompassed with neurons using glutamate, GABA, and dopamine. The nucleus accumbens (NAc) is located within the ventral striatum and is divided into two sub-regions—the motor and limbic regions associated with its core and shell, respectively. The NAc has spiny neurons that receive dopamine from the VTA and glutamate (a dopamine driver) from the hippocampus, amygdala and medial prefrontal cortex. Subsequently, the NAc projects GABA signals to an area termed the ventral pallidum (VP). The region is a relay station in the limbic loop of the basal ganglia, critical for motivation, behavior, emotions and the “Feel Good” response. This defined system of the brain is involved in all addictions –substance, and non –substance related. In 1995, our laboratory coined the term “Reward Deficiency Syndrome” (RDS) to describe genetic and epigenetic induced hypodopaminergia in the “Brain Reward Cascade” that contribute to addiction and compulsive behaviors [3,6,41].

Furthermore, ordinary “liking” of something, or pure pleasure, is represented by small regions mainly in the limbic system (old reptilian part of the brain). These may be part of larger neural circuits. In Latin, hedus is the term for “sweet”; and in Greek, hodone is the term for “pleasure.” Thus, the word Hedonic is now referring to various subcomponents of pleasure: some associated with purely sensory and others with more complex emotions involving morals, aesthetics, and social interactions. The capacity to have pleasure is part of being healthy and may even extend life, especially if linked to optimism as a dopaminergic response [42].

Psychiatric illness often includes symptoms of an abnormal inability to experience pleasure, referred to as anhedonia. A negative feeling state is called dysphoria, which can consist of many emotions such as pain, depression, anxiety, fear, and disgust. Previously many scientists used animal research to uncover the complex mechanisms of pleasure, liking, motivation and even emotions like panic and fear, as discussed above [43]. However, as a significant amount of related research about the specific brain regions of pleasure/reward circuitry has been derived from invasive studies of animals, these cannot be directly compared with subjective states experienced by humans.

In an attempt to resolve the controversy regarding the causal contributions of mesolimbic dopamine systems to reward, we have previously evaluated the three-main competing explanatory categories: “liking,” “learning,” and “wanting” [3]. That is, dopamine may mediate (a) liking: the hedonic impact of reward, (b) learning: learned predictions about rewarding effects, or (c) wanting: the pursuit of rewards by attributing incentive salience to reward-related stimuli [44]. We have evaluated these hypotheses, especially as they relate to the RDS, and we find that the incentive salience or “wanting” hypothesis of dopaminergic functioning is supported by a majority of the scientific evidence. Various neuroimaging studies have shown that anticipated behaviors such as sex and gaming, delicious foods and drugs of abuse all affect brain regions associated with reward networks, and may not be unidirectional. Drugs of abuse enhance dopamine signaling which sensitizes mesolimbic brain mechanisms that apparently evolved explicitly to attribute incentive salience to various rewards [45].

Addictive substances are voluntarily self-administered, and they enhance (directly or indirectly) dopaminergic synaptic function in the NAc. This activation of the brain reward networks (producing the ecstatic “high” that users seek). Although these circuits were initially thought to encode a set point of hedonic tone, it is now being considered to be far more complicated in function, also encoding attention, reward expectancy, disconfirmation of reward expectancy, and incentive motivation [46]. The argument about addiction as a disease may be confused with a predisposition to substance and nonsubstance rewards relative to the extreme effect of drugs of abuse on brain neurochemistry. The former sets up an individual to be at high risk through both genetic polymorphisms in reward genes as well as harmful epigenetic insult. Some Psychologists, even with all the data, still infer that addiction is not a disease [47]. Elevated stress levels, together with polymorphisms (genetic variations) of various dopaminergic genes and the genes related to other neurotransmitters (and their genetic variants), and may have an additive effect on vulnerability to various addictions [48]. In this regard, Vanyukov, et al. [48] suggested based on review that whereas the gateway hypothesis does not specify mechanistic connections between “stages,” and does not extend to the risks for addictions the concept of common liability to addictions may be more parsimonious. The latter theory is grounded in genetic theory and supported by data identifying common sources of variation in the risk for specific addictions (e.g., RDS). This commonality has identifiable neurobiological substrate and plausible evolutionary explanations.

Over many years the controversy of dopamine involvement in especially “pleasure” has led to confusion concerning separating motivation from actual pleasure (wanting versus liking) [49]. We take the position that animal studies cannot provide real clinical information as described by self-reports in humans. As mentioned earlier and in the abstract, on November 23rd, 2017, evidence for our concerns was discovered [50]

In essence, although nonhuman primate brains are similar to our own, the disparity between other primates and those of human cognitive abilities tells us that surface similarity is not the whole story. Sousa et al. [50] small case found various differentially expressed genes, to associate with pleasure related systems. Furthermore, the dopaminergic interneurons located in the human neocortex were absent from the neocortex of nonhuman African apes. Such differences in neuronal transcriptional programs may underlie a variety of neurodevelopmental disorders.

In simpler terms, the system controls the production of dopamine, a chemical messenger that plays a significant role in pleasure and rewards. The senior author, Dr. Nenad Sestan from Yale, stated: “Humans have evolved a dopamine system that is different than the one in chimpanzees.” This may explain why the behavior of humans is so unique from that of non-human primates, even though our brains are so surprisingly similar, Sestan said: “It might also shed light on why people are vulnerable to mental disorders such as autism (possibly even addiction).” Remarkably, this research finding emerged from an extensive, multicenter collaboration to compare the brains across several species. These researchers examined 247 specimens of neural tissue from six humans, five chimpanzees, and five macaque monkeys. Moreover, these investigators analyzed which genes were turned on or off in 16 regions of the brain. While the differences among species were subtle, **there was** a **remarkable contrast in** the **neocortices**, specifically in an area of the brain that is much more developed in humans than in chimpanzees. In fact, these researchers found that a gene called tyrosine hydroxylase (TH) for the enzyme, responsible for the production of dopamine, was expressed in the neocortex of humans, but not chimpanzees. As discussed earlier, dopamine is best known for its essential role within the brain’s reward system; the very system that responds to everything from sex, to gambling, to food, and to addictive drugs. However, dopamine also assists in regulating emotional responses, memory, and movement. Notably, abnormal dopamine levels have been linked to disorders including Parkinson’s, schizophrenia and spectrum disorders such as autism and addiction or RDS.

Nora Volkow, the director of NIDA, pointed out that one alluring possibility is that the neurotransmitter dopamine plays a substantial role in humans’ ability to pursue various rewards that are perhaps months or even years away in the future. This same idea has been suggested by Dr. Robert Sapolsky, a professor of biology and neurology at Stanford University. Dr. Sapolsky cited evidence that dopamine levels rise dramatically in humans when we anticipate potential rewards that are uncertain and even far off in our futures, such as retirement or even the possible alterlife. This may explain what often motivates people to work for things that have no apparent short-term benefit [51]. In similar work, Volkow and Bale [52] proposed a model in which dopamine can favor NOW processes through phasic signaling in reward circuits or LATER processes through tonic signaling in control circuits. Specifically, they suggest that through its modulation of the orbitofrontal cortex, which processes salience attribution, dopamine also enables shilting from NOW to LATER, while its modulation of the insula, which processes interoceptive information, influences the probability of selecting NOW versus LATER actions based on an individual’s physiological state. This hypothesis further supports the concept that disruptions along these circuits contribute to diverse pathologies, including obesity and addiction or RDS.

#### Bindingness-- I could put my hand on a hot stove and I’d automatically pull it back before a signal is sent to my brain-- deliberation fails to be morally binding because one could always ask “why not?”

#### 2] Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first which is the most intuitive. That outweighs: A] Parsimony – metaphysics relies on long chains of questionable claims that make conclusions less likely. B] Hijacks – intuitions are inevitable since even every framework must take some unjustified assumption as a starting point.

#### 3] No intent-foresight distinction— If we foresee a consequence, then it becomes part of our deliberation which makes it intrinsic to our action since we intend it to happen.

#### 4] Actor specificity:

#### A] 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.

#### B] States lack wills or intentions since policies are collective actions. Actor-specificity comes first since different agents have different ethical standings. Link turns calc indites because the alt would be *no* action.

#### 5] Fission proves personal identity is reductionist – psychological continuity doesn’t exist.

Olson 17 –Eric T. Olson, professor of philosophy at the University of Sheffield ("Personal Identity", The Stanford Encyclopedia of Philosophy (Summer 2017 Edition), <https://plato.stanford.edu/archives/sum2017/entries/identity-personal/>,)

A more serious worry for psychological-continuity views is that **you could be psychologically continuous with two past or future people at once. If your cerebrum—the upper part of the brain largely responsible for mental features—were transplanted, the recipient would be psychologically continuous with you by anyone’s lights** (even though there would also be important psychological differences). The psychological-continuity view implies that she would be you. If we destroyed one of your cerebral hemispheres, the resulting being would also be psychologically continuous with you. (Hemispherectomy—even the removal of the left hemisphere, which controls speech—is considered a drastic but acceptable treatment for otherwise-inoperable brain tumors: see Rigterink 1980.) What if we did both at once, destroying one hemisphere and transplanting the other? Then too, the one who got the transplanted hemisphere would be psychologically continuous with you, and would be you according to the psychological-continuity view. **But now suppose that both hemispheres are transplanted, each into a different empty head**. (We needn’t pretend, as some authors do, that the hemispheres are exactly alike.) **The two recipients—call them Lefty and Righty—will each be psychologically continuous with you**. The psychological-continuity view as we have stated it implies that any future being who is psychologically continuous with you must be you. **It follows that you are Lefty and** also that you are **Righty. But that cannot be: if you and Lefty are one and you and Righty are one, Lefty and Righty cannot be two**. And yet they are. To put the point another way, **suppose Lefty is hungry at a time when Righty isn’t**. If you are Lefty, you are hungry at that time. If you are Righty, you aren’t. **If you are Lefty and Righty, you are both hungry and not hungry at once: a contradiction**.

#### That proves util – if persons are not a continuous unit then distribution among them is irrelevant – we just maximize good experiences since only experiences are morally evaluable – other theories err by presuming the person is a separate entity.

#### 6] Use epistemic modesty for evaluating the framework debate: that means compare the probability of the framework times the magnitude of the impact under a framework. Prefer for 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.

#### 7] TJFs---prefer util:

#### A] Predictable literature -- util ensures that we have a wide breadth of literature about the topic to read because contention level arguments are centered around current events and substantive. Outweighs because of accessibility – it's difficult to access paywalled philosophical journals and to make sense of them AND get coaching to learn every jargony trick, but general topic literature like the news is easily accessible.

#### B] Topic ed -- util ensures topical research and debate because we have to analyze the consequences of the plan versus the neg advocacy. Outweighs -- only two months for the topic, Phil ed is not an impact -- blitzing thru blippy analytics creates no knowledge retention, online articles and textbooks solve their offense much better.

#### 1] Extinction outweighs: A] Reversibility- it forecloses the alternative because we can’t improve society if we are all dead B] Structural violence- death causes suffering because people can’t get access to resources and basic necessities C] Objectivity- body count is the most objective way to calculate impacts because comparing suffering is unethical D] Uncertainty- if we’re unsure about which interpretation of the world is true, we should preserve the world to keep debating about it

#### 9] Calc indicts fail: A] Ethics- it would indict everything since they use events to understand how their ethics have worked B] Reciprocity- they are NIBs that create a 2:1 skew where I have to answer them to access offense while they only have to win one C] Internalism- asking why we value pain and pleasure is nonsensical cuz the answer is intrinsic since we just do, which means we still prefer hedonism despite shortcomings.

## CP

### 1NC – Shell

#### Counterplan text – A just government ought to

#### ---enter a prior, binding, and genuine consultation with the International Court of Justice to issue a binding ruling to recognize an unconditional right of workers to strike.

#### ---pass a concurrent resolution that non-compliance with the International Court of Justice’s ruling constitutes an enforceable violation of Charter obligations.

#### ICJ says yes and creates a culture of *acculturation* that socializes acceptance of international law – the aff shreds that.

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

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.

#### Ruling 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

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).

#### UN Charter solves – empirics.

Abiodun 18 [Amuda-Kannike, and Sylvanus Abila. "A Critical Examination of the Enforcement of ICJ Decisions through the Organs of the United Nations." Journal of Law and Criminal Justice 6.1 (2018): 21-46. Faculty of Law at Poma University] Elmer

Further, the study has also shown that irrespective of the powers of the enabling statute, **there is the need to resort to the UN Charter for such directive especially where non-compliance** of a recalcitrant party can threaten world peace and security. To this end, as was observed in the Pan Am case, the UN Charter is **superior to any other international instrument** and its provisions **can be the basis for judgment enforcement directives to an international organization to act** outside the mandates of its enabling statu8te. It is recommended that there should be immediate restriction of the use of “veto” power on the ICJ decisions in other to give enough respect to the said decision by not only the member nations but all the nations of the World. This will bring about separation of powers to work in favour of the ICJ as an independent institution instead of being subjected to the control and manipulations of the permanent members of the Security Council. The provisions of Article 94(2) of the UN Charter should be amended to state that the Security Council should immediately ensure compliance with the ICJ Decisions instead of “if they deem necessary”. It is equally recommended that once there is a decision of the ICJ, it must be readily carried out by all the organs of the United Nations and any member nation who refused to carry out or support the carrying out of such decision or decisions should be the suspended or expelled from membership of the organs of the United Nations, or even from the United Nations in General in addition to the penalty of a fine of $100,000 (one hundred thousand dollars) within 3 months of non-compliance.

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

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

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.

#### Multilateralism solves a bunch of impacts – even a tiny net benefit is enough to o/w the AFF

Esther Brimmer 14 [Assistant Secretary for the Bureau of International Organization Affairs at the United States Department of State from April 2009 to June 2013, “Smart Power” and Multilateral Diplomacy, June, <http://transatlantic.sais-jhu.edu/publications/books/Smarter%20Power/Chapter%204%20brimmer.pdf>] Recut Justin

Over the subsequent decade, the variable definitions of Smart Power have evolved to reflect a rapidly changing foreign affairs landscape – a landscape shaped increasingly by transnational issues and what can only be described as truly global challenges. Nations of the world must now calibrate their foreign policy investments to try to leverage new opportunities while protecting their interests from emerging vulnerabilities. Smart Power is no longer an alternative path; it is a four-lane imperative. ¶ The world in 2014 is fundamentally different from previous periods, growing vastly more interconnected, interdependent, networked, and complex. National economies are in many cases inextricably intertwined, with cross-border imports and exports increasing nearly tenfold over the past forty years, and more than doubling over just the past decade. At the same time, we are all connected – and connected immediately – to news and events that in past generations would have been restricted to their local vicinities.¶ Consider, for example, the 2011 tsunami that devastated parts of Japan. Not only did we know in real time of the earthquake that triggered the tsunami, we had live coverage of some of the tsunami’s most devastating impacts and then round-the-clock coverage of the Fukushima nuclear power plant crisis. Communications technology brings such events to us without delay and in high definition. This communications revolution, headlined by the explosion of social media, carries with it the almost unlimited potential to inform and educate. It also provides people and communities with new ability to influence and advance their causes – both benevolent and otherwise, as the dramatic events of recent years in North Africa and the Middle East have made clear. ¶ At the same time, global power is more diffuse today than in centuries. Although predictions of the nation-state’s demise have gone unrealized, non-state actors – including NGOs, corporations, and international organizations - are more influential today than perhaps at any point in human history. The same might be said for transnational criminal networks and other harmful actors. Concurrently, we are witnessing the rise of new centers of influence – the so-called “emerging” nations – that are seeking and gaining positions of global leadership. These emerging powers bring unique histories and new perspectives to the discussion of current challenges and the future of global governance. Several of these countries are democracies and share many of the core values of the United States; others have sharply different political systems and perspectives. All are gauging how to be more active in the global arena. ¶ It is this new, more diffused global system that must now find means of addressing today’s pressing global challenges – challenges that in many cases demand Smart Power ingenuity. From terrorism to nuclear proliferation, climate change to pandemic disease, transnational crime to cyber attacks, violations of fundamental human rights to natural disasters, today’s most urgent security challenges pay no heed to state borders. ¶ So, just as global power is more diffuse, so too are the opposing threats and challenges, and it is in this new reality that the United States must define and employ its Smart Power resources. That reality demands a definition that must now far exceed the origin parameters of hard and soft. Many of these challenges would be unresponsive to traditional Hard tools (coercion, economic sanctions, military force), while the application of Soft tools (norm advancement, cultural influence, public diplomacy) in customary channels is likely to provide unsatisfactory impact. ¶ Ultimately, the other component necessary in today’s Smart Power alchemy is robust, focused, and sustained international cooperation. In effect, in an increasing number of instances, Smart Power must now feature shared power, and in that context foreign policy choices must follow two related but distinct axes. ¶ First, those policy choices must strengthen a state’s overall stature and influence (rather than diminish it), leaving the state undertaking the action in a position of equal or greater global standing. This is easier said than done. The proliferation in challenges facing all states has created a need for multiple, simultaneous diplomatic transactions among a broadening cast of actors. Given the nature of today’s threats facing states both large and small, those transactions have never been more frequent and at times overlapping – a reality that requires new agility and synchronization within foreign policy hierarchies. States that are less capable of responding to this new reality may experience diminished political capital and international standing by acting on contemporary threats in isolation or without a full appreciation of the reigning international sentiment. Many observers have highlighted U.S. decision-making in advance of the 2003 Iraq invasion as indicative of just this phenomenon. ¶ Alternatively, states applying a new Smart Power approach to their foreign policy recognize the overlapping need to maintain global standing and stature while seeking resolution of individual policy challenges. We see considerable effort on the part of emerging powers to find just that balance, and I would argue that the United States has also made great strides in that regard since 2009. ¶ Second, Smart Power policy choices must contribute to the strength and resilience of the international system. As noted above, the globalization of contemporary challenges and security threats has augmented the need for effective cooperation among states and other international actors, and placed even greater demands on the global network of international institutions, conferences, frameworks, and groupings in which these challenges are more and more frequently addressed. Given this heightened need for structures to facilitate international collaboration, states are more rarely undertaking foreign policy courses of action that entirely lack a multilateral component, or that feature no interaction with or demands upon the international architecture. As recent American history shows, even states with unilateral tendencies have found themselves returning to the multilateral fold to address aspects of a threat or challenge that simply cannot be addressed effectively alone.

#### The perm wrecks legitimacy.

Shany, 14– [Yuval, Hersch Lauterpacht Chair in Public International Law and Dean, Hebrew U of Jerusalem, Assessing the Effectiveness of International Courts, Google Books, p. 103-109] Recut Justin

Outcome-related factors Judicial independence and impartiality pertain to the rules and conditions governing the judicial decision-making process and to certain practices featured in the judicial decision-making process itself. All of these notions do not cover, however, the outputs and outcomes of adjudication per se. We have no way of ascertaining merely on the basis of the contents of an international courts decision to hold in favor of one party and against the other, or to adopt a specific interpretation of a legal provision, whether the decision has been taken in a manner that is independent and impartial. Still, studying the **actual outputs and outcomes** generated by international courts may provide us with important insights regarding judicial independence and impartiality. **Most significantly**, the courts **ongoing record** of generating decisions running **contrary to the interests of powerful states** and other constituencies may be **prima facie indicative of its actual independence or lack thereof** (ie, a possible proxy for judicial independence). A record of court judgments manifesting a **clash between law and power** would also, most probably, **impact the courts reputation for independence** (which is a structural asset related, but analytically **separate from, actual independence**-supporting structures and processes). Thus, independent structures and processes create a "**feedback loop**," by influencing the courts **reputation for independence**, which **affects the courts structures** and, in turn, its processes and outcomes.26 For example, a series of controversial decisions issued by the court deemed as **catering to the interest of powerful states** (an outcome indicator of judicial independence) may suggest that the court in question has been operating in a **less than fully independent manner**, or that an **informal dependency** has been created. Consequently, the value of the courts **reputation for independence**—an intangible "asset" the court possesses—might **decrease**. At the same time, a solid record of "speaking law to power" may **strengthen the courts independent image**.27 In any event, changes in the **perceived independence** of international courts may **impact these courts' legitimacy** in the eyes of potential parties and **render them more or less credible** institutions. The **newly acquired or lost credibility** may, in turn, affect the ability of courts to **attract new cases** and to **generate compliance** with their judgments. Ultimately, **changes in the perceived independence** of international courts may **modify these courts goal attainment potential**.28 Note, however, that international actors possessing high levels of control or influence over the court may react differently to changes in a courts independence than international actors possessing low levels of control or influence. Strong states, for example, may dislike the reduced ability to influence judicial outcomes attendant to increased judicial independence and may distance themselves from courts whose perceived independence is growing.2'1 A similar analysis to the one undertaken above with respect to perceptions of judicial independence could also be employed in relation to perceptions of judicial impartiality. A reputation for impartiality is a structural "asset," which feeds on the degree to which judicial outputs—court decisions—are viewed by relevant constituencies to reflect justifiable preferences. Thus, the strong criticism directed against the 1966 judgment of the ICJ on South West Africa implied a perception of illegitimate conservative bias among many of the judges on the Court. Indeed, the **loss of credibility** attendant to perceived impartiality might have led large parts of the developing world to **disengage from the Court**.30 It also led to political efforts to change the composition of the bench, so as to ensure greater representation for positions sympathetic to the interests of developing countries (a structural fix to an allegedly inadequate process).31 Developing countries' hostility towards the Court **abated significantly**, however, following the ICJ judgment in Military and Paramilitary Activities in Nicaragua, which was **perceived as indicative** of a move away from the age of conservatism and indicative of a greater willingness on the part of the bench to "speak law to power."32 In sum, the relationship between the different operative categories comprising the effectiveness model enable evaluation of more advanced stages of the operative category chain in order to better understand the nature and quality of antecedent links in the same chain. Evaluation of outcomes may offer us valuable insights into the independence and impartiality of the judicial process, and evaluation of outcomes and process may serve as an indicator of the adequacy of the independence and impartiality structures that have been put in place.

-----

## Case

### UV

#### Presumption and permissibility negate – a) the resolution indicates the aff has to prove an obligation, and permissibility would deny the existence of an obligation, b) statements are more often false than true because any part can be false. This means you negate if there is no offense because the resolution is probably false. c) if we presume things true we’d accept conspiracy theories, d) if we presume things true then if we presume “presumption false” is true it’d be infinitely regressive.

#### Counter interp: The neg may contest if presumption and permissibility affirm if the AFF is a non-utilitarian framework. They violate if their standard isn’t “maximizing expected wellbeing”.

#### The CI is key to avoid Phil affs having blippy skep or permissibility triggers, otherwise they cause infinite abuse because the aff could trigger presumption and read this itnerp so we’d never be able to engage the AFF.

### Framing -- T/L

#### Framing issue – we both have competing theories of experience – it’s a question of determining what’s ethical from that:

#### 1] Constantly changing desires and actions do not change our ONTOLOGICAL NATURE—there’s no internal link between the flux of desires and the flux of agency and we don’t blindly follow our desires – if I get angry I don’t attack someone.

#### 2] Bindingness:

#### A] Instability proves subjectivity is constantly changing which means ethics is impossible. Just saying “we are in flux” doesn’t prescribe obligations or tell us what to do in any circumstance – proves no explanatory power. Independently triggers skep: fluidity means you can act upon anything and we can’t condemn actions.

#### B] Biology- only our theory can inform experiences, like how we pull our hand from a stove even without prior experiences because of neurology. It also proves we have intrinsic values which disproves fluidity.

#### \

#### ROB is to vote for the better debater. Only evaluating the consequences of the plan allows us to determine the practical impacts of politics and preserves the predictability that fosters engagement. Rigorous contestation and third and fourth-line testing are key to generate the self-reflexivity that creates ethical subjects.

#### The CP outweighs under the Aff FW:

#### 1] Certainty in the affirmative is static under their FW while consult CPs are fluid since they can change given differing perspectives

#### 2] Their offense won’t apply – this is not "strikes good/bad" since we agree that strikes are good – it’s just a question of if you want the affs static process or the CPs framework that introduces different voices.

#### Flux still requires a focus on extinction

Bernstein 02 (Richard J., Vera List Prof. Phil. – New School for Social Research, “Radical Evil: A Philosophical Interrogation”, p. 188-192)

There is a basic value inherent inorganic being, a basic affirmation, "The Yes' of Life" (IR 81). 15 "The self-affirmation of being becomes emphatic in the opposition of life to death. Life is the explicit confrontation of being with not-being. . . . The 'yes' of all striving is here sharpened by the active `no' to not-being" (IR 81-2). Furthermore — and this is the crucial point for Jonas — this affirmation of life that is in all organic being has a binding obligatory force upon human beings. This blindly self-enacting "yes" gains obligating force in the seeing freedom of man, who as the supreme outcome of nature's purposive labor is no longer its automatic executor but, with the power obtained from knowledge, can become its destroyer as well. He must adopt the "yes" into his will and impose the "no" to not-being on his power. But precisely this transition from willing to obligation is the critical point of moral theory at which attempts at laying a foundation for it come so easily to grief. Why does now, in man, that become a duty which hitherto "being" itself took care of through all individual willings? (IR 82). We discover here the transition from is to "ought" — from the self-affirmation of life to the binding obligation of human beings to preserve life not only for the present but also for the future. But why do we need a new ethics? The subtitle of The Imperative of Responsibility — In Search of an Ethics for the Technological Age — indicates why we need a new ethics. Modern technology has transformed the nature and consequences of human action so radically that the underlying premises of traditional ethics are no longer valid. For the first time in history human beings possess the knowledge and the power to destroy life on this planet, including human life. Not only is there the new possibility of total nuclear disaster; there are the even more invidious and threatening possibilities that result from the unconstrained use of technologies that can destroy the environment required for life. The major transformation brought about by modern technology is that the consequences of our actions frequently exceed by far anything we can envision. Jonas was one of the first philosophers to warn us about the unprecedented ethical and political problems that arise with the rapid development of biotechnology. He claimed that this was happening at a time when there was an "ethical vacuum," when there did not seem to be any effective ethical principles to limit ot guide our ethical decisions. In the name of scientific and technological "progress," there is a relentless pressure to adopt a stance where virtually anything is permissible, includ-ing transforming the genetic structure of human beings, as long as it is "freely chosen." We need, Jonas argued, a new categorical imperative that might be formulated as follows: "Act so that the effects of your action are compatible with the permanence of genuine human life"; or expressed negatively: "Act so that the effects of your action are not destructive of the future possibility of such a life"; or simply: "Do not compromise the conditions for an indefinite continuation of humanity on earth"; or again turned positive: "In your present choices, include the future wholeness of Man among the objects of your will."

### AT: Carlin

#### Alt causes to education---Family, religion, middle school, and life in the workplaces are alt causes to debate shaping subjectivity

#### They’re worse for education bc their FW is inaccessible to smaller programs who can’t engage dense and obscure literature which undermines the ability of people to engage debate.

### AT: Schaffer

#### 1] Cruel optimism negates bc they place hope in governemtns legislating away all violence against workers

#### 2] subjects can never access discursive theories if extinction happens so its try or die to negate

### Offense

#### The affirmation of the right to strike as something to be recognized places the energy that drives class struggle into containment, rendering the right conditional.

Marc Crépon & Micol Bez 19; Marc Crépon is a French philosopher and academic who writes on the subject of languages and communities in the French and German philosophies and contemporary political and moral philosophy. Micol Bez @ CPES (Cycle Pluridisciplinaire d’Études Supérieures) at the University of Paris Sciences and Letters. The Right to Strike and Legal War in Walter Benjamin's “Toward the Critique of Violence”. Critical Times 1 August 2019; 2 (2): 252–260. <https://read.dukeupress.edu/critical-times/article/2/2/252/141479/The-Right-to-Strike-and-Legal-War-in-Walter> brett

In other words, nothing would endanger the law more than the possibility of its authority being contested by a violence over which it has no control. The function of the law would therefore be, first and foremost, to contain violence within its own boundaries. It is in this context that, to demonstrate this surprising hypothesis, Benjamin invokes two examples: the right to strike guaranteed by the state and the law of war.

Let us return to the place that the right to strike occupies within class struggle. To begin with, the very idea of such a struggle implies certain forms of violence. The strike could then be understood as one of the recognizable forms that this violence can take. However, this analytical framework is undermined as soon as this form of violence becomes regulated by a “right to strike,” such as the one recognized by law in France in 1864. What this recognition engages is, in fact, the will of the state to control the possible “violence” of the strike. Thus, the “right” of the right to strike appears as the best, if not the only, way for the state to circumscribe within (and via) the law the relative violence of class struggles. We might consider this to be the perfect illustration of the aforementioned hypothesis. Yet, there are two lines of questioning that destabilize this hypothesis that we would do well to consider

First, is it legitimate to present the strike as a form of violence? Who has a vested interest in such a representation? In other words, how can we trace a clear and unequivocal demarcation between violence and nonviolence? Are we not always bound to find residues of violence, even in those actions that we would be tempted to consider nonviolent? The second line of questioning is just as important and is rooted in the distinction established by Georges Sorel, in his Reflections on Violence, between the “political strike” and the “proletarian general strike,” to which Benjamin dedicates a set of complementary analyses in §13 of his essay. Here, again, we are faced with a question of limits. What is at stake is the possibility for a certain type of strike (the proletarian general strike) to exceed the limits of the right to strike— turning, in other words, the right to strike against the law itself. The phenomenon is that of an autoimmune process, in which the right to strike that is meant to protect the law against the possible violence of class struggles is transformed into a means for the destruction of the law. The difference between the two types of strikes is nevertheless introduced with a condition: “The validity of this statement, however, is not unrestricted because it is not unconditional,” notes Benjamin in §7. We would be mistaken in believing that the right to strike is granted and guaranteed unconditionally. Rather

, it is structurally subjected to a conflict of interpretations, those of the workers, on the one hand, and of the state on the other. From the point of view of the state, the partial strike cannot under any circumstance be understood as a right to exercise violence, but rather as the right to extract oneself from a preexisting (and verifiable) violence: that of the employer. In this sense, the partial strike should be considered a nonviolent action, what Benjamin named a “pure means.”

The interpretations diverge on two main points. The first clearly depends on the alleged “violence of the employer,” a predicate that begs the question: Who might have the authority to recognize such violence? Evidently it is not the employer. The danger is that the state would similarly lack the incentive to make such a judgment call. It is nearly impossible, in fact, to find a single instance of a strike in which this recognition of violence was not subject to considerable controversy. The political game is thus the following: the state legislated the right to strike in order to contain class struggles, with the condition that workers must have “good reason” to strike. However, it is unlikely that a state systematically allied with (and accomplice to) employers will ever recognize reasons as good, and, as a consequence, it will deem any invocation of the right to strike as illegitimate. Workers will therefore be seen as abusing a right granted by the state, and in so doing transforming it into a violent means. On this point, Benjamin’s analyses remain extremely pertinent and profoundly contemporary. They unveil the enduring strategy of governments confronted with a strike (in education, transportation, or healthcare, for example) who, after claiming to understand the reasons for the protest and the grievances of the workers, deny that the arguments constitute sufficient reason for a strike that will likely paralyze this or that sector of the economy. They deny, in other words, that the conditions denounced by the workers display an intrinsic violence that justifies the strike. Let us note here a point that Benjamin does not mention, but that is part of Sorel’s reflections: this denial inevitably contaminates the (socialist) left once it gains power. What might previously have seemed a good reason to strike when it was the opposition is deemed an insufficient one once it is the ruling party. In the face of popular protest, it always invokes a lack of sufficient rationale, allowing it to avoid recognizing the intrinsic violence of a given social or economic situation, or of a new policy. And it is because it refuses to see this violence and to take responsibility for it that the left regularly loses workers’ support.

The second conflict of interpretation concerns what is at stake in the strike. For the state, the strike implies a withdrawal or act of defiance vis-à-vis the employer, while for the workers it is a means of pressuring, if not of blackmail or even of “hostage taking.” The diference is thus between an act of suspension (which can be considered nonviolent) and one of extortion (which includes violence). Does this mean that “pure means” are not free of ambiguity, and that there can be no nonviolent action that does not include a residue of violence? It is not clear that Benjamin’s text allows us to go this far. Nevertheless, the problem of pure means, approached through the notion of the right to strike, raises the following question: Could it be that the text “Zur Kritik der Gewalt,” which we are accustomed to reading as a text on violence, deals in fact with the possibility and ambiguity of nonviolence?

The opposition between the aforementioned conflicts of interpretation manifests itself in Benjamin’s excursus on the revolutionary strike, and specifically in the opposition between the political strike and the proletarian general strike, and in the meaning we should attribute to the latter. As previously discussed, the state will never admit that the right to strike is a right to violence. Its interpretative strategy consists in denying, as much as possible, the effective exercise of the right that it theoretically grants. Under these conditions, the function of the revolutionary strike is to return the strike to its true meaning; in other words, to return it to its own violence. In this context, the imperative is to move beyond idle words: a call to strike is a call to violence. This is the reason why such a call is regularly met with a violent reaction from the state, because trade unions force the state to recognize what it is trying to ignore, what it pretends to have solved by recognizing the right to strike: the irreducible violence of class struggles. This means that the previously discussed alternative between “suspension” and “extortion” is valid only for the political strike—in other words, for a strike whose primary vocation is not, contrary to that of the proletarian general strike, to revolt against the law itself. Essentially, the idea of a proletarian general strike, its myth (to borrow Sorel’s words), is to escape from this dichotomous alternative that inevitably reproduces and perpetuates the violence of domination.

#### This isn’t state rejection because we think the state may be useful in some instances, but the AFF’s usage of the state is uniquely bad because it empowers the Law and Straified Subjectivities that disempowers resistance.