## 1

#### Interpretation: Debaters must specify how they enforce the unconditional right of workers to strike.

#### Violation:

#### Standards:

#### 1 -Topic lit – enforcement is the core question of the topic and there's no consensus on normal means so you must spec.

**Weiss 00**, Marley. (Professor Weiss left the position of associate general counsel of the United Auto Workers to join the faculty as associate professor of law. Weiss had worked in the UAW Legal Department since her graduation from Harvard Law School. Professor Weiss spent her sabbatical leave in 1993–94, as a visiting professor at the Eötvös Loránd University Faculty of Law, in Budapest, Hungary, and returned there as a Visiting Fulbright Lecturer for the spring semester, 1997. Professor Weiss served as Chairperson of the National Advisory Committee to the U.S. National Administrative Office for the NAFTA Labor Side Agreement from 1994-2001. In 1996-1997, she served as Secretary-elect, and in 1997-1998, as Secretary, of the American Bar Association Section of Labor and Employment Law. Professor Weiss specializes in all facets of labor and employment law, including comparative and international aspects of the field, and has published on a wide range of related topics.) "The Right To Strike In Essential Services Under United States Labor Law." DigitalCommons@UM Carey Law | University of Maryland Francis King Carey School of Law Research, 2000, digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2189&context=fac\_pubs.

2. Strikes, Lockouts, and Other Lawful Primary Weapons under the NLRA The parties, both labor and management, are under a duty to bargain in good faith with each other, “but such obligation does not compel either party to agree to a proposal or require the making of a concession”. The essential idea here is that both sides must genuinely try to reach mutual agreement. However, this simple concept is extremely difficult to enforce, and employers too often resort to bad faith bargaining, bargaining on the surface with no real intention of concluding an agreement, as part of a strategy to eliminate union representation from the workplace. In addition, the duty to bargain is limited to matters falling within the Section 8(d) statutory phrase, “wages, hours, and other terms and conditions of employment”, and the right to strike is similarly limited to issues falling within the scope of mandatory bargaining as defined by that phrase. Although the phrase has been broadly construed in many respects, as to certain issues, the contrary has been the case. Capital redeployment, that is, relocation of operations, disinvestment in unionized plants, subcontracting, and plant closure decisions, provide employers with a potent set of weapons against unions. While bargaining over the effects of such decisions is plainly mandatory, the extent to which bargaining is required over the decisions themselves have been hotly contested.

#### This acts as a resolvability standard. Debate has to make sense and be comparable for the judge to make a decision which means it's an independent voter and outweighs.

#### 2 - Stable advocacy – 1AR clarification delinks neg positions that prove why enforcement in a certain instance is bad by saying it isn't their method of enforcement – wrecks neg ballot access and kills in depth clash.

#### CX doesn't check -

#### A - it kills 1NC construction pre-round since I don't know what you spec till in round

#### B - judges do not flow cross ex so its not verifiable

#### C - debaters will be shifty and lie.

#### 3 - Prep skew – I don't know what they will be willing to clarify until CX which means I could go 6 minutes planning to read a disad and then get screwed over in CX when they spec something else.

#### Paradigm:

#### Fairness – Debate is a competitive activity governed by rules. You can’t evaluate who did better debating if the round is structurally skewed, so fairness is a gateway to substantive debate.

#### DTD – Time spent on theory cant be compensated for, the 1nc was already skewed, and its key to deterring abuse.

#### Prefer Competing interps -

#### 1. reasonability is arbitrary and invites judge intervention.

#### 2. it Causes a race to the bottom where debaters push the limit as to how reasonably abusive, they can be.

#### No RVI’s -

#### 1. Chills some debaters from reading theory against abusive postions.

#### 2. incentivizes theory baiting where you can just bait theory to win.

## 2

#### Pleasure and pain are the starting point for moral reasoning—they’re our most baseline desires and the only things that explain the intrinsic value of objects or actions.

Moen 16, Ole Martin (PhD, Research Fellow in Philosophy at University of Oslo). "An Argument for Hedonism." Journal of Value Inquiry 50.2 (2016): 267. SM

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative. 2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good. 3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value. Although pleasure and pain thus seem to be good candidates for intrinsic value and disvalue, several objections have been raised against this suggestion: (1) that pleasure and pain have instrumental but not intrinsic value/disvalue; (2) that pleasure and pain gain their value/disvalue derivatively, in virtue of satisfying/frustrating our desires; (3) that there is a subset of pleasures that are not intrinsically valuable (so-called “evil pleasures”) and a subset of pains that are not intrinsically disvaluable (so-called “noble pains”), and (4) that pain asymbolia, masochism, and practices such as wiggling a loose tooth render it implausible that pain is intrinsically disvaluable. I shall argue that these objections fail. Though it is, of course, an open question whether other objections to P1 might be more successful, I shall assume that if (1)–(4) fail, we are justified in believing that P1 is true itself a paragon of freedom—there will always be some agents able to interfere substantially with one’s choices. The effective level of protection one enjoys, and hence one’s actual degree of freedom, will vary according to multiple factors: how powerful one is, how powerful individuals in one’s vicinity are, how frequent police patrols are, and so on. Now, we saw above that what makes a slave unfree on Pettit’s view is the fact that his master has the power to interfere arbitrarily with his choices; in other words, what makes the slave unfree is the power relation that obtains between his master and him. The difﬁculty is that, in light of the facts I just mentioned, there is no reason to think that this power relation will be unique. A similar relation could obtain between the master and someone other than the slave: absent perfect state control, the master may very well have enough power to interfere in the lives of countless individuals. Yet it would be wrong to infer that these individuals lack freedom in the way the slave does; if they lack anything, it seems to be security. A problematic power relation can also obtain between the slave and someone other than the master, since there may be citizens who are more powerful than the master and who can therefore interfere with the slave’s choices at their discretion. Once again, it would be wrong to infer that these individuals make the slave unfree in the same way that the master does. Something appears to be missing from Pettit’s view. If I live in a particularly nasty part of town, then it may turn out that, when all the relevant factors are taken into account, I am just as vulnerable to outside interference as are the slaves in the royal palace, yet it does not follow that our conditions are equivalent from the point of view of freedom. As a matter of fact, we may be equally vulnerable to outside interference, but as a matter of right, our standings could not be more different. I have legal recourse against anyone who interferes with my freedom; the recourse may not be very effective—presumably it is not, if my overall vulnerability to outside interference is comparable to that of a slave— but I still have full legal standing.68 By contrast, the slave lacks legal recourse against the interventions of one speciﬁc individual: his master. It is that fact, on a Kantian view—a fact about the legal relation in which a slave stands to his master—that sets slaves apart from freemen. The point may appear trivial, but it does get something right: whereas one cannot identify a power relation that obtains uniquely between a slave and his master, the legal relation between them is undeniably unique. A master’s right to interfere with respect to his slave does not extend to freemen, regardless of how vulnerable they might be as a matter of fact, and citizens other than the master do not have the right to order the slave around, regardless of how powerful they might be. This suggests that Kant is correct in thinking that the ideal of freedom is essentially linked to a person’s having full legal standing. More speciﬁcally, he is correct in holding that the importance of rights is not exhausted by their contribution to the level of protection that an individual enjoys, as it must be on an instrumental view like Pettit’s. Although it does matter that rights be enforced with reasonable effectiveness, the sheer fact that one has adequate legal rights is essential to one’s standing as a free citizen. In this respect, Kant stays faithful to the idea that freedom is primarily a matter of standing—a standing that the freeman has and that the slave lacks. Pettit himself frequently insists on the idea, but he fails to do it justice when he claims that freedom is simply a matter of being adequately (and reliably) shielded against the strength of others. As Kant recognizes, the standing of a free citizen is a more complex matter than that. One could perhaps worry that the idea of legal standing is something of a red herring here—that it must ultimately be reducible to a complex network of power relations and, hence, that the position I attribute to Kant differs only nominally from Pettit’s. That seems to me doubtful. Viewing legal standing as essential to freedom makes sense only if our conception of the former includes conceptions of what constitutes a fully adequate scheme of legal rights, appropriate legal recourse, justiﬁed punishment, and so on. Only if one believes that these notions all boil down to power relations will Kant’s position appear similar to Pettit’s. On any other view—and certainly that includes most views recently defended by philosophers—the notion of legal standing will outstrip the power relations that ground Pettit’s theory.

#### The standard is maximizing expected well-being:

#### 1. 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. Intuitions outweigh—they’re the foundational basis for any argument and theories that contradict our intuitions are most likely false even if we can’t deductively determine why.

#### 2. 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. No intent-foresight distinction – the actions we take are inevitably informed by predictions from certain mental states, meaning consequences are a collective part of the will.

#### c. Actor-specificity comes first since different agents have different ethical standings. Takes out util calc indicts since they’re empirically denied and link turns them because the alt would be no action.

#### 3. Extinction comes first under any framework.

Pummer 15 [Theron, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford. “Moral Agreement on Saving the World” Practical Ethics, University of Oxford. May 18, 2015] AT

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### a. Gateway issue - we need to be alive to assign value and debate competing moral theories- extinction literally ends the debate on “ought”.

#### b. moral theories were formulated prior to the Anthropocene and human capacity for collective death so they cannot be relied on in situations of existential risk.

#### c. no coherent moral theory can allow for extinction because it means the end of value.

#### 4. Intuitions ow – if a very well justified, logical theory concluded "genocide” you wouldn’t say “huh I guess genocide is good” you would abandon it – also proves death outweighs because it’s counterintuitive to say extinction of the whole world doesn’t matter.

#### 5. Bindingness – Util is the only prescriptive moral theory since pain and pleasure are intrinsically binding and guide action. That outweighs if a ethical theory has no reason to guide action than anyone could say “why not” and not follow the theory only binding ethics can be applicable. Anything else devolves to skepticism since we can’t generate obligations absent grounds for accepting them.

#### 6. Phenomenal introspection - it’s the most epistemically reliable - historical moral disagreement over internal conceptions of morality such as questions of race, gender, class, religion, etc prove the fallibility of non-observational based ethics - introspection means we value happiness because we can determine that we each value it - just as I can observe a lemon’s yellowness, we can make those judgements about happiness.

#### 7. Theoretically prefer util – its DTA.

#### a. Ground – every impact functions under util whereas other ethics flow to one side exclusively.

#### b. Topic lit – most articles are written through the lens of util because they’re crafted for policymakers and the general public who take consequences to be important, not philosophy majors. Key to fairness and education.

## 3

#### CP Text: \_\_\_\_ should enter a prior, binding, and genuine consultation with the International Court of Justice to issue a binding ruling to \_\_\_\_\_\_

#### ICJ says yes and socializes acceptance of FOA – achieves follow on from perception.

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).

#### 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 laundry list of existential impacts.

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.

## 4

#### Global tech innovation high now.

Mercury News et al 21 [Mercury News and East Bay Times Editorial Boards, June 4, 2021, “Editorial: How America can Win the Global Tech War” <https://www.mercurynews.com/2021/06/04/editorial-why-silicon-valley-needs-endless-frontier-bill/> //gord0]

The nation that wins the global tech race will dominate the 21st century. This has been true since the 1800s. Given the rapid pace of innovation and tech’s impact on our economy and defense capabilities in the last decade, there is ample evidence to suggest that the need for investment in tech research and development has never been greater. China has been closing the tech gap in recent years by making bold investments in tech with the intent of overtaking the United States. This is a tech war we cannot afford to lose. It’s imperative that Congress pass the Endless Frontier Act and authorize the biggest R&D tech investment in the United States since the Apollo years. Rep. Ro Khanna, D-Santa Clara, made a massive increase in science and technology investment a major part of his platform while campaigning for a seat in Congress in 2016. Now the co-author of the 600-page legislation is on the cusp of pushing through a bipartisan effort that has been years in the making. Khanna and his co-authors, Senate Majority Leader Chuck Schumer, D-N.Y., Sen. Todd Young, R-Ind., and Rep. Mike Gallagher, R-Wisc., are shepherding the bill through the Senate, which is expected to approve it sometime later this month. That would set up a reconciliation debate between the House and Senate that would determine the bill’s final language. The ultimate size of the investment is still very much up in the air. Khanna would like Congress to authorize $100 billion over a five-year period for critical advancements in artificial intelligence, biotechnology, cybersecurity, semiconductors and other cutting-edge technologies. The Senate is talking of knocking that number down to $50 billion or $75 billion. They should be reminded of China Premier Li Keqiang’s March announcement that China would increase its research and development spending by an additional 7% per year between 2021 and 2025. The United States still outspends China in R&D, spending $612 billion on research and development in 2019, compared to China’s $514 billion. But the gap is narrowing. At the turn of the century, China was only spending $33 billion a year on R&D, while the United States was spending nearly 10 times that amount. The bill would authorize 10 technology hubs throughout the nation designed to help build the infrastructure, manufacturing facilities and workforce needed to help meet the nation’s tech goals. Building tech centers throughout the United States should also create more support for the industry across the country. Tech’s image has taken a beating in recent years — the emergence of the term “Big Tech” is hardly a positive development — and the industry will need all the support it can muster in Congress. The United States continues to have a crucial tech edge over its competitors, most notably China. The only way we can hope to win the 21st century is to make significant investments in research and development that will spark the next wave of innovation.

#### Unionization wrecks innovation.

**Frick 15**, Walter. (Walter Frick is executive editor, membership at Quartz. Before that he was an editor at Harvard Business Review for six years, most recently as Deputy Editor of HBR.org. He's based in Boston and is interested in economics, technology, and the future of media.) "When Treating Workers Well Leads to More Innovation." Harvard Business Review, 3 Nov. 2015, hbr.org/2015/11/when-treating-workers-well-leads-to-more-innovation.

But not everything that’s good for workers is necessarily good for innovation. A forthcoming paper in Management Science examined the impact of unionization on innovation. It looked at U.S. firms from 1980 to 2005 that voted to unionize, but where the vote was close. The idea was that a close vote mirrored an experiment – the vote could plausibly have gone either way, so it was somewhat random whether the firm ended up unionized. The researchers found that unionization caused a significant decline in innovation, measured by the number and quality of patents issued. (Previous research on how unionization impacts innovation, measured by R&D spending, has been more mixed.) Why might some worker benefits make firms more innovative, but not others? Economic theory suggests the answer may have to do with long-term incentives. If workers feel pressure to deliver results in the short-term, either for fear of being fired or in order to be promoted, they may be less likely to pursue riskier innovations. On the other hand, if failure in the short-term is acceptable or even rewarded, and if workers have a stake in the company’s long-term performance, they should be more likely to innovate. Employee stock options clearly meet these criteria, by tying workers’ incentives to the long-term fate of the company. Other worker benefits may also encourage workers to take a longer view, at least indirectly; more satisfied workers stay at the firm longer, and therefore have more of a stake in the company’s long-term success. Labor laws may have a similar effect. So what’s different about unions? Daniel Bradley, a professor at the University of South Florida and co-author of the unionization study, suggested the answer is loyalty. “Union employees invest significantly less in their company’s 401k compared to non-union workers,” he told me, citing a 2009 study which interprets this fact as evidence that union workers are less loyal to their employer. “Unionization inhibits employee loyalty,” he continued, “because having a too loyal workforce would jeopardize the collective bargaining process.” “Ultimately, firms must find a way of motivating employees to be willing to take risks in order to come up with innovative inventions,” said Edward Podolski-Boczar, professor at LaTrobe, and co-author of the worker treatment paper. “Not all forms of improved employee conditions naturally translate into improved innovation outcomes,” he added, when I asked about the unionization result. But as his research demonstrates, many do. Treating workers well is part of building an innovative company, but it isn’t enough. Employees also need to have a long-term stake in the company’s success.

#### Victories like the aff mobilizes unions in the IT sector.

Vynck et al 21 [Gerrit De; Carleton University, BA in Journalism and Global Politics, tech reporter for The Washington Post. He writes about Google and the algorithms that increasingly shape society. He previously covered tech for seven years at Bloomberg News; Nitashu Tiku; Columbia University, BA in English, New York University, MA in Journalism, Washington Post's tech culture reporter based in San Francisco; Macalester College, BA in English, Columbia University, MS in Journalism, reporter for The Washington Post who is focused on technology coverage in the Pacific Northwest; “Six things to know about the latest efforts to bring unions to Big Tech,” The Washington Post; https://www.washingtonpost.com/technology/2021/01/26/tech-unions-explainer/]//SJWen

In response to tech company crackdowns and lobbying, gig workers have shifted their strategy to emphasize building worker-led movements and increasing their ranks, rather than focusing on employment status as the primary goal, says Veena Dubal, a law professor at the University of California Hastings College of the Law in San Francisco. The hope is that with President Biden in the White House and an even split in the Senate, legislators will mobilize at the federal level, through the NLRA or bills such as the PRO Act, to recognize gig worker collectives as real unions.

#### Technological innovation solves every existential threat – which outweighs.

Matthews 18 Dylan. Co-founder of Vox, citing Nick Beckstead @ Rutgers University. 10-26-2018. "How to help people millions of years from now." Vox. https://www.vox.com/future-perfect/2018/10/26/18023366/far-future-effective-altruism-existential-risk-doing-good

If you care about improving human lives, you should overwhelmingly care about those quadrillions of lives rather than the comparatively small number of people alive today. The 7.6 billion people now living, after all, amount to less than 0.003 percent of the population that will live in the future. It’s reasonable to suggest that those quadrillions of future people have, accordingly, hundreds of thousands of times more moral weight than those of us living here today do. That’s the basic argument behind Nick Beckstead’s 2013 Rutgers philosophy dissertation, “On the overwhelming importance of shaping the far future.” It’s a glorious mindfuck of a thesis, not least because Beckstead shows very convincingly that this is a conclusion any plausible moral view would reach. It’s not just something that weird utilitarians have to deal with. And Beckstead, to his considerable credit, walks the walk on this. He works at the Open Philanthropy Project on grants relating to the far future and runs a charitable fund for donors who want to prioritize the far future. And arguments from him and others have turned “long-termism” into a very vibrant, important strand of the effective altruism community. But what does prioritizing the far future even mean? The most literal thing it could mean is preventing human extinction, to ensure that the species persists as long as possible. For the long-term-focused effective altruists I know, that typically means identifying concrete threats to humanity’s continued existence — like unfriendly artificial intelligence, or a pandemic, or global warming/out of control geoengineering — and engaging in activities to prevent that specific eventuality. But in a set of slides he made in 2013, Beckstead makes a compelling case that while that’s certainly part of what caring about the far future entails, approaches that address specific threats to humanity (which he calls “targeted” approaches to the far future) have to complement “broad” approaches, where instead of trying to predict what’s going to kill us all, you just generally try to keep civilization running as best it can, so that it is, as a whole, well-equipped to deal with potential extinction events in the future, not just in 2030 or 2040 but in 3500 or 95000 or even 37 million. In other words, caring about the far future doesn’t mean just paying attention to low-probability risks of total annihilation; it also means acting on pressing needs now. For example: We’re going to be better prepared to prevent extinction from AI or a supervirus or global warming if society as a whole makes a lot of scientific progress. And a significant bottleneck there is that the vast majority of humanity doesn’t get high-enough-quality education to engage in scientific research, if they want to, which reduces the odds that we have enough trained scientists to come up with the breakthroughs we need as a civilization to survive and thrive. So maybe one of the best things we can do for the far future is to improve school systems — here and now — to harness the group economist Raj Chetty calls “lost Einsteins” (potential innovators who are thwarted by poverty and inequality in rich countries) and, more importantly, the hundreds of millions of kids in developing countries dealing with even worse education systems than those in depressed communities in the rich world. What if living ethically for the far future means living ethically now? Beckstead mentions some other broad, or very broad, ideas (these are all his descriptions): Help make computers faster so that people everywhere can work more efficiently Change intellectual property law so that technological innovation can happen more quickly Advocate for open borders so that people from poorly governed countries can move to better-governed countries and be more productive Meta-research: improve incentives and norms in academic work to better advance human knowledge Improve education Advocate for political party X to make future people have values more like political party X ”If you look at these areas (economic growth and technological progress, access to information, individual capability, social coordination, motives) a lot of everyday good works contribute,” Beckstead writes. “An implication of this is that a lot of everyday good works are good from a broad perspective, even though hardly anyone thinks explicitly in terms of far future standards.” Look at those examples again: It’s just a list of what normal altruistically motivated people, not effective altruism folks, generally do. Charities in the US love talking about the lost opportunities for innovation that poverty creates. Lots of smart people who want to make a difference become scientists, or try to work as teachers or on improving education policy, and lord knows there are plenty of people who become political party operatives out of a conviction that the moral consequences of the party’s platform are good. All of which is to say: Maybe effective altruists aren’t that special, or at least maybe we don’t have access to that many specific and weird conclusions about how best to help the world. If the far future is what matters, and generally trying to make the world work better is among the best ways to help the far future, then effective altruism just becomes plain ol’ do-goodery.

## CASE

### FRAMING

#### Under Kantianism, any action would be permissible.

#### 1. We can never know the intention of another agent.

Human, All Too Human. Friedrich Wilhelm Nietzsche 96 Translated by R. J Hollingdale. Cambridge: Cambridge University Press, 1996.

**Our experience of another person**, for example, no matter how close he stand to us, **can never be complete, so that we would have a logical right to** a total **evaluation of him; all evaluations are premature and are bound to be.** Finally, **the standard by which we measure, our own being, is** not an unalterable magnitude, we are **subject to moods and fluctuations, and yet we would have to know ourselves as** a **fixed** standard **to** be able justly to **assess the relation between ourself and anything else** whatever.

#### I contend that recognizing a right to strike violates liberty

#### Right to strike causes intimidation and coercion.

**Gourevitch 16** , Alex. (Alex Gourevitch, associate professor of political science at Brown University, 6-13-2016, accessed on 10-12-2021, *Perspectives on Politics*, "Quitting Work but Not the Job: Liberty and the Right to Strike", <https://sci-hub.se/10.1017/S1537592716000049>) \*brackets in original //D.Ying recut

A second problem follows on the first. If workers have rights to the jobs they are striking then they must have some powers to enforce those rights. Such powers might include mass picketing, secondary boycotts, sympathy strikes, coercion and intimidation of replacement workers, even destruction or immobilization of property—the familiar panoply of strike actions. While workers have sometimes defended such actions without using the specifically juridical language of “rights,” in many cases they have used that kind of appeal. 21 Even when they have not employed rights discourse, they have invoked some related notion of demanding fair terms to their job. 22 Each and any of the above listed activities of a strike—pickets, boycotts, sympathy actions—are part of the way workers not only press their demands but claim their right to the job. Strikers regularly implore other workers not to cross picket lines and take struck jobs. These are more than speech acts. At the outer edges, they amount to intimidation and coercion. Or at least, workers claim the right to intimidate and coerce if the state will not itself enforce this aspect of their right to strike. Liberal societies rarely permit a group of individuals powers that come close and even cross over into rights of private coercion. It is no surprise that regulation and repression of these strike activities have been the source of some of the most serious episodes of labor-related violence in U.S. and European history. 23 So, alongside the unclear basis for the strikers’ rights to their jobs, the problem for a liberal society is that this right seems to include private rights of coercion or at least troubling forms of social pressure.

#### Strikes violate fundamental rights.

**Gourevitch 16** , Alex. (Alex Gourevitch, associate professor of political science at Brown University, 6-13-2016, accessed on 10-12-2021, *Perspectives on Politics*, "Quitting Work but Not the Job: Liberty and the Right to Strike", <https://sci-hub.se/10.1017/S1537592716000049>) \*brackets in original //D.Ying recut

Yet there is more. The standard strike potentially threatens the fundamental freedoms of three specific groups. • Freedom of contract. It conflicts with the freedom of contract of those replacement workers who would be willing to take the job on terms that strikers will not. Note that this is not a possible conflict but a necessary one. Strikers claim the job is theirs, which means replacements have no right to it. But replacements claim everyone should have the equal freedom to contract with an employer for a job. • Property rights. A strike seriously interferes with the employer’s property rights. The point of a strike is to stop production. But the point of a property right is that, at least in the owner’s core area of activity, nobody else has the right to interfere with ~~his~~ [their] use of that property. The strikers, by claiming that the employer has no right to hire replacements and thus no way of employing his property profitably, effectively render the employer unfree to use his property as he sees fit. To be clear, strikers claim the right not just to block replacement workers, but to prevent the employer from putting his property to work without their permission. For instance, New Deal “sit-down” strikes made it impossible to operate factories, which was one reason why the courts claimed it violated employer property rights. 24 Similarly, during the Seattle general strike in 1919, the General Strike Committee forced owners to ask permission to engage in certain productive activities—permission it often denied. 25 • Freedom of association. Though the conceptual issues here are complicated, a strike can seriously constrain a worker’s freedom of association. It does so most seriously when the strike is a group right, in which only authorized representatives of the union may call a strike. In this case, the right to strike is not the individual’s right in the same way that, say, the freedom to join a church or volunteer organization is. Moreover, the strike can be coercively imposed even on dissenting members, especially when the dissenters work in closed or union shops. That is because refusal to follow the strike leads to dismissal from the union, which would mean loss of the job in union or closed shops. The threat of losing a job is usually considered a coercive threat. So not only might workers be forced to join unions—depending on the law—but also they might be forced to go along with one of the union’s riskiest collective actions. Note that each one of these concerns follows directly from the nature of the right to strike itself. Interference with freedom of contract, property rights, and the freedom of association are all part and parcel of defending the right that striking workers claim to “their” jobs. These are difficult forms of coercive interference to justify on their own terms and they appear to rest on a claim without foundation. Just what right do workers have to jobs that they refuse to perform?

#### Strikes violate individual autonomy by exercising coercion.

**Gourevitch 18**, Alex. (I am an associate professor of political science in the Department of Political Science. I have been an assistant professor at McMaster University, a Post-Doctoral Research Associate at Brown University's Political Theory Project, and a College Fellow at Harvard University. I received my Ph.D in political science from Columbia University in 2010.) “The Right to Strike: A Radical View.” American Political Science Review, vol. 112, no. 4, 2018, pp. 905–917., doi:10.1017/S0003055418000321.

\*\*Edited for ableist language

Every liberal democracy recognizes that workers have a right to strike. That right is protected in law, sometimes in the constitution itself. Yet strikes pose serious problems for liberal societies. They involve violence and coercion, they often violate some basic liberal liberties, they appear to involve group rights having priority over individual ones, and they can threaten public order itself. Strikes are also one of the most common forms of disruptive collective protest in modern history. Even given the dramatic decline in strike activity since its peak in the 1970s, they can play significant roles in our lives. For instance, just over the past few years in the United States, large illegal strikes by teachers ~~paralyzed~~ [froze] major school districts in Chicago and Seattle, as well as statewide in West Virginia, Oklahoma, Arizona, and Colorado; a strike by taxi drivers played a major role in debates and court decisions regarding immigration; and strikes by retail and foodservice workers were instrumental in getting new minimum wage and other legislation passed in states like California, New York, and North Carolina. Yet, despite their significance, there is almost no political philosophy written about strikes.1 This despite the enormous literature on neighboring forms of protest like nonviolence, civil disobedience, conscientious refusal, and social movements. The right to strike raises far more issues than a single essay can handle. In what follows, I address a particularly significant problem regarding the right to strike and its relation to coercive strike tactics. I argue that strikes present a dilemma for liberal societies because for most workers to have a reasonable chance of success they need to use some coercive strike tactics. But these coercive strike tactics both violate the law and infringe upon what are widely held to be basic liberal rights. To resolve this dilemma, we have to know why workers have the right to strike in the first place. I argue that the best way of understanding the right to strike is as a right to resist the oppression that workers face in the standard liberal capitalist economy. This way of understanding the right explains why the use of coercive strike tactics is not morally constrained by the requirement to respect the basic liberties nor the related laws that strikers violate when using certain coercive tactics.

#### Those who don’t participate still get the benefits – causes free-riding.

**Dolsak**, Nives, **and** Aseem **Prakash 19**. (NIVES DOLŠAK, PH.D. Professor, School of Marine and Environmental Affairs Director, School of Marine and Environmental Affairs Stan and Alta Barer Endowed Professorship in Sustainability Science in honor of Edward L. Miles Adjunct Professor, Department of Political Science) (Aseem Prakash is Professor of Political Science, the Walker Family Professor for the College of Arts and Sciences, and the Founding Director of the Center for Environmental Politics. He is the Founding Editor of the Cambridge University Press Series in Business and Public Policy as well as Cambridge Elements in Organizational Response to Climate Change: Business, Governments & Nonprofits. Professor Prakash's research focuses on climate governance, NGOs, and voluntary regulation. He has a byline in Forbes.com. Aseem Prakash is a member of National Academies of Sciences, Engineering, and Medicine's Board on Environmental Change and Society and International Research Fellow at the Center for Corporate Reputation, University of Oxford. He was elected to the position of the Vice President of the International Studies Association for the period, 2015-2016. His recent awards include the American Political Science Association's 2020 Elinor Ostrom Career Achievement Award in recognition of "lifetime contribution to the study of science, technology, and environmental politics," the International Studies Association's 2019 Distinguished International Political Economy Scholar Award that recognizes "outstanding senior scholars whose influence and path-breaking intellectual work will continue to impact the field for years to come," as well its 2018 James N. Rosenau Award for "scholar who has made the most important contributions to globalization studies" and the European Consortium for Political Research Standing Group on Regulatory Governance's 2018 Regulatory Studies Development Award that recognizes a senior scholar who has made notable "contributions to the field of regulatory governance.") "Climate Strikes: What They Accomplish And How They Could Have More Impact." Forbes, 14 Sept. 2019, www.forbes.com/sites/prakashdolsak/2019/09/14/climate-strikes-what-they-accomplish-and-how-they-could-have-more-impact/?sh=559378135eed.

While strikes and protests build solidarity among their supporters, they are susceptible to collective action problems. This is because the goals that strikers pursue tend to create non-excludable benefits. That is, benefits such as climate protection can be enjoyed by both strikers and non-strikers. Thus, large participation in climate strikes will reveal that in spite of free-riding problems, a large number of people have a strong preference for climate action.

#### Universalizability fails to condemn clearly wrong acts.

Parfit 11 Derek, philosopher with great hair. “On What Matters” 2011. IB

To explain why theft is wrong, Kant writes: Were it to be a general rule to take away his belongings from everyone, mine and thine would be altogether at an end. For anything I might take from another, a third party would take from me. 312 As before, however, no one acts on the maxim ‘Always steal’. Many thieves act on the maxim ‘Steal when that would benefit me’. If this maxim were universally accepted and acted upon, that would not produce a world in such acts would never succeed. There would still be property, which would not always be successfully protected. Thieves would sometimes achieve their aims. When Kant discusses the maxim ‘Let no insult pass unavenged’, he claims that, if this maxim were universal, it would be ‘inconsistent with itself’, and would not ‘harmonize with itself’. 313 But if everyone acted on this maxim, that would not make it true that no one could succeed. It might even be true that every insult was avenged, so that everyone would succeed. Kant’s actual formula, we have found, fails to condemn many of the acts that are most clearly wrong. This formula does not condemn self-interested killing, injuring, coercing, lying, and stealing.

#### We don’t require reason for all actions.

Cohen 96, Gerald A (Marxist political philosopher who held the positions of Quain Professor of Jurisprudence, University College London and Chichele Professor of Social and Political Theory, All Souls College, Oxford.). "Reason, humanity, and the moral law." The sources of normativity (1996): 167-188. SM

The passage from 1 (which I shall not question) to 3 rests on 2, but I do not see that 2 is true, except in the trivial sense that, if I treat something as a reason, then it follows that I regard myself as, identify myself as, the sort of person who is treating that item, here and now, as a reason. I do not see that I must consult an independent conception of my identity to determine whether a possible spring of action is to be endorsed or not, nor even that such endorsement must issue in such a conception, other than in the indicated trivial sense. When I am thirsty, and, at a reflective level, I do not reject my desire to drink, I have, or I think that I have, a reason for taking water, but not one that reflects, or commits me to, a (relevandy) normative conception of my identity. Merely acting on reasons carries no such commitment. The inference from 3 to 5 depends on the idea that, being, as we are, inescapably reflective, we must employ the normative conception of our identities (that we therefore necessarily have) to 'endorse or reject'43 the impulses which present themselves to us as possible springs of action. But the very fact (supposing that it is one) that I must endorse and reject shows that I do not endorse a human impulse just because it is a human impulse. Human impulses are not, therefore, of value just because they are human. So, consistently with the structure of reflective consciousness, I can pass harsh judgment on my own, or on another's panoply of desires and bents, the more so if that other is disposed to endorse them. And if my endorsement of a given impulse means that I regard my humanity as pro tanto of positive value, then, by the same token, my rejection of another impulse must mean that I regard my humanity as pro tanto of negative value. No reason emerges for the conclusion that I must treat human beings, as such, as valuable, or for the requirement, which some might think a Kantian morality embodies, that I must treat them as equal in their value.