## Spikey Stuff

Pics good

**Standards:**

**1] PICs are key to in depth debate and policymaking education.**

**Branson 07 (Josh Branson, CSIS and graduated from Harvard Law. “Reflections about debate and policymaking” 2007.) IB**

Well, thats not the way it worked at all, at least for me. No doubt in a collegiate debate judged by one of ya’ll I could have killed them all on the Pan K, probably even if we talked slow, but in the real world, **I was** kind of surprised to find that the knowledge generated by debate proved to be fairly damn cursory and artificial. I could rattle off a list of most of the arguments for/against most of the general nonproliferation doctrines, but a lot of the empirical and factual basis for these arguments was completely missing in my brain. I could make the basic claim for almost anything in the field, but the technical issues that underlines a lot of them (the names and locations of the Russian CW destruction plants, an understanding of how the fine points of the budget process works, how a capital market sanction would actually be implemented, where did we get our intelligence that revealed Chinese serial proliferators selling bombs to AQ Khan, how does a centrifuge cascade work and why exactly would multilateral sanctions undermine Irans ability to get uranium gas piping technology, the names of the key players in the various foreign governments that make nonproliferation policy etc) was all missing. Maybe this stuff sounds pretty boring, and some of it is, but this is the type of stuff that really determines whether or not policies are successful and whether or not they are effectively promulgated. But the details pretty much get left out in debates, replaced by a simplistic and power-worded DA that culminates in nuclear winter.’ To my surprise, when setting out in the nonproliferation world, you don’t get to make grand pronouncements about the impact of funding Nunn-Lugar on US soft power or whether funding it would cause a budget deficit which would collapse the global economy and cause multiple scenarios for nuclear war. Instead, most of the work that is done is deciding which and what type of Russian facilities to allocate the money to, knowing the specific people within the Russian government we can trust, which types of nuclear disposition is safest and what types of transportation we should use when moving spent fuel back to storage, etc. When dealing with these discussions repeatedly, I found that debate had provided me a very sound abstract conceptual frame through which to analyze the general issues being raised, but little in a way of meaningfully engaging the policy process. Of course, debaters can learn this language. There are plenty who have. But I’d wonder whether or not people who claim that debate has trained people for this life are mistaking correlation with causation. Two other interesting conclusions: A) To all the people who attack debate for propounding an overly elitist and undemocratic discourse and undermines good broadly appealing public speaking skills: I think you’ve got it backwards. Yes, a lot of debates involve jargon, no question. But at least in my experience, I found that debate provided me the opposite. The times I was most confident at CSIS were when we were doing public debates or discussions in front of unqualified audiences. I could take on even the most senior experts; in these types of forums, I could out debate them and rhetorically counteract their vast experience/knowledge advantage. On the flip side, when I was in conferences with only experts in the field, I often felt at a severe disadvantage. In forums like this, bad arguments get called out, and rhetorically powerful but intellectually flimsy claims are pretty much non-starters. Debate experience wasn’t a ton of help. In terms of research, I did feel that all the debate research I’ve done provided some advantages and gave me a marginal edge over a lot of other people at CSIS, but nothing enormous. Most of the people there, even though they’d never done debate, can research just as well as the average college debater (ESPECIALLY on technical issues). I realize there are problems with the sample size etc, but it made me think twice about the infallible research advantages supposedly generated by policy debate. B) **How to make debate more like the technical policy world? Narrower debates. PICs are vital to this (sorry, Duck). Thinking back on my 8 years in debate, the topic about which I can best converse with experts about is the design of emissions trading schemes. That was because the literature was deep and the prevalence ofupstream/downstream/auctioned/timetable PICs narrowed the debates and forced a real in-depth discussion.** I just don’t think we get that in a ton of debates, because most PICs are either wanky rhetoric PICs (and yes I was an extreme culprit) or something even worse like Consultation. Thinking back on it, I don’t think that the legal topic was worded particularly poorly, I just think that our strategic norms of judging/debating create a lot of problems in generating the type of education a lot of us want. But one of the most striking thing for me about last year’s topic was that I learned more from Repko’s post about his day at the Supreme Court than I did from all the debates I judged combined. In any event, how to create the types of narrow debates that will general real sustainable expertise on topics is tough. I think that we’ve got to learn how to become accepting as a community of analytical smart arguments to answer carded-yet-stupid arguments, maybe start accepting intrinsicness (something that I might post on some other day) as a way to eliminate politics DAs and consultation CPs, and start modifying our theory dispositions to be willing to call out bullshit CPs (see DHeidts new judge philosophy), and finally moving away from the cult of new and surprise arguments (see below). This will also involve changing the way we teach kids as they enter debate; I know I, for one, am going to change the way I teach camp this summer to include at least a little of these thoughts. Of course, the focus must remain on winning above all else, but I think that that pursuit can be synthesized with a change in some of our debate practices. 2. Why an elite or technical discourse is important My second conclusion is directed at people who decry the topic process because it’s too technical, too narrow, drown out the personal or the things that people want to talk about. Again, my opinion is that this is backwards. I think it’s a major problem that more of the people who conduct policy and who are influential in the process are not well-schooled in the actual empirical pragmatic details of the policies that they are advocating. I’ve read a significant amount about Iraq lately, and got to talk to a bunch of people who were intimately involved in the process, and one of the primary problems was that too much of our policy was executed in a cavalier and emotion-laden fashion. The dangerous pursuit of the “liberation of the oppressed” Iraqis at the expense of all the obvious problems entailed with that pursuit, the complete “lack of a plan,” for how to stabilize the country, and an utter ignorance of the technical or real policy issues facing a peacebuilding operation of that magnitude---these are all issues that come up REPEATEDLY when discussing the reason we went into Iraq in such a cavalier and short-sighted manner. A bunch of the more scathing indicts of the topic committee’s work---that the topic is too technical, that it undermines creativity etc…these are traits that for me are reflected in some of the most loathsome policymakers we have. Bush is by all accounts an idiot when it comes to policy expertise, but he’s the president that most people would love to have a beer with, and one who has let his personal conviction guide his policymaking more than any I can remember. His administration appears to conceive of the world in relatively simple generic conceptual dichotomies (stay the course vs. cut and run, terrorists are good or evil, our intelligence is either 100% accurate or its not). Is that really what we want our topics to boil down to? A be nice to the Middle East topic? Because its in the extra 60 words that the real problems with policy are revealed, and its there that we find the difference between an effective invasion that removes a horrible dictator from power and one which kills thousands of people and causes the region to implode. Yeah, you can rail against the elitism and technical nature of a lot of the academic literature all you want, and say that policy debate is exclusionary, but I think that we need more of the elite technical people and fewer of the smoke and mirrors BS artists running things. The policy world could use more Naveens and DHeidts. 3. Qualifications matter. Way more than I thought. My boss this year was the guy who basically ran our proliferation policy under Clinton, and has decades of experience negotiating with foreign officials, of dealing hands-on with our nuclear posture, of having access to intelligence at the highest levels etc. No matter how sweet we debaters think we are at analyzing things, there is a real difference between people like that and those of us who lack that experience. In debate, this guy’s opinion is basically equal to a J.D. Candidate’s. In any other arena, that is a laughable proposition. In debate, by far more important than how credible or qualified your argument is how NEW it is. You surprise the other team with a new strategy (no matter how idiotic) and the chances are good that you will win. Of course, that doesn’t really work in the think tank world. I actually think that debate would be way more educational and realistic if teams were forced to disclose their arguments before hand. I understand all the problems with mandating this, and realize it won’t happen, but I do think that the cult of newness at times is profoundly uneducational. 4. A large percentage of “fairness” impact arguments in debate are stupid. **People’s obsession with “fairness” or “competitive equity” is misguided. One of the most valuable things about debate is adapting to unfair circumstances. If the neg runs conditional CPs, get better and deal with it**. If the aff doesn’t specify their agent, figure out something else besides your same old agent CP. **This is what the policy world is like; you’ve got to react and deal with tough situations. Do I think it’s fair that it’s hard to get published without a graduate degree or personal connections?** Not really. Are most people in the policy community open-minded and unbiased? Nope. **Policymaking is about dealing with unfair and difficult situations, and sometimes debate can be the same way. Looking back, for me a lot of the most intellectually invigorating parts of debate were also the hardest and most “unfair.”** It was unfair that Klinger was so fast and clear, it was unfair that MSU at times read short shitty unpredictable evidence, it was unfair that Fullerton didn’t have a plan and was able to emotionally intimidate judges, it was unfair that a lot of people resented me because I wanted to win and didn't exert much effort socializing at tournaments, it was unfair that some judges were biased and we had to adapt our arguments, and it was unfair that Emory had more card cutters on their team than we did. I’m sure a lot of people feel similar or worse things about debating against Northwestern. **But adapting to this stuff is part of life, and certainly part of the policy world. But in debate we certainly cry foul a lot. Maybe too much.**

**This evidence ow – It s from a real debater who became a policymaker, and says that PICs are key and created portable skills for them in the policy world which outweighs any hypothetical claims by a high schooler**

**Education outweighs fairness**

**a) Portability-no one will care or remember about one instance of in round abuse but educational benefits are portable and can be applied to the real world,**

**b) in your model every debate just turns into a theory debate attempting to create the fairest circumstances possible which causes substance crowd out which outweighs on urgency since we only have 2 months to debate the topic,**

Infinite pics- 7 min 1nc checks

Death outweighs

1. People act even though they’re gonna die- disproves
2. The subject experiences more pleasure if their life is better

Extinction first

Nuke war evidence never says extinction

Bioterror says It’s the biggest threat- not that it’s probable

People always survive- isolated or nuclear/bioterror bunkers

Comparing extinction fails- we can’t compare such small risk and if we do we rely on editorials which is bad evidence ethics because it’s not real evidene

1ar theory

Not all dtd/highest- incentivizes spamming friv shells- have to justify for spec shells

Comparative world

Comparative world means pics count lol

Presumption

1. U said u wouldn’t vote on trix bullshit
2. They said trix bad above
3. 7- Things can be false and not bad
4. 8- No warrant why permissibility means you affirm- permissibility is a floor

## 1

Interpretation: affirmative debaters must offer a hypothetical implementation of the resolution, to clarify aff debaters must run a plan

Violation- they defend the ‘general principle’ of a resolution

Standards

1- policy education

Absent implementation we don’t learn about policy since policy talk requires implementation and feasibility texts

Outweighs phil framing since

A- philosophy is useless if you can’t apply it

B- philosophy is constructed from the natural world so it depends on policy to exist

C- real world education on policy is more useful- nobody makes policy based on phil in real life

Implication is that plans control the internal link to real world education and that their phil is incomplete- that’s an independent disad

2- prep skew

They can redefine what a ‘strike’ is in the 1ar, meaning I don’t know which disads link which skews me on pre round prep- killing fairness

Voters

Education- only portable skill we take from debate

Fairness

a- constitutive of competitive activity

B- meta constraint on all arguments since we can’t determine truth or falsity if i couldn’t test their ideas

Dtd on plan spec- it’s their entire aff so dta means they concede

Competing interps first

A- modular debate produces the best norms- outweighs on scope

B- reasonability invites judge intervention which makes debate meaningless

No rvis- illogical, you don’t get a medal for not cheating- logic outweighs since everything depends on it- proven cuz they’re gonna try to refute this with logic

## 2

#### Welcome to the age of acceleration. Crises of reification are tearing apart the way we experience and our present theories aren’t gonna save us. The role of the ballot is defeating these reifications

Wenning, Mario (2011), "Daoism as Critical Theory", Comparative Philosophy, ,

https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1017&context=comparativephilosophy. Accessed on July 15, 2021. r0w@n

Pathologies are social and psychological deformations on a structural level manifesting themselves in social institutions, individual patterns of beliefs, motivations and practices. The pathologies which critical theory has been diagnosing can be summarized, following Marx, Lukacs and Weber, as a combination of reification, disenchantment and acceleration. In the process of increasingly understanding intersubjective-, self- and world-relationships primarily from the perspective of exchanging equivalent commodities on a market governed increasingly, and sometimes exclusively, by a competition for these commodities, individuals become systematically estranged from the objects they produce, the process of production, themselves, and from the community of fellow human beings.12 The pathology of reification (Verdinglichung) arising from the exchange principle governing ever more dimensions of society has been analyzed, drawing on the early Marx and Lukacs, from a variety of perspectives.13 Originally reification referred to the process of making singular human beings and experiences similar and exchangeable by abstracting from their unique qualities. While the concept seemed outdated for a long time due to its implicit assumption of a human essence from which one could become estranged, it made an astonishing comeback. Whether it is a critique of the reification/distortion of communication,14 the reification of relationships of intersubjective recognition,15 the reification of gender roles16 or the 12 Karl Marx (1973, 108-111). 13 See for example Axel Honneth, (2005). 14 Jürgen Habermas (1984). 15 Axel Honneth (1996). 57 Comparative Philosophy 2.2 (2011) WENNING reification of conceptions of the self,17 what is being criticized are relationships primarily controlled by a fixed logic of instrumental reason and strategic bargaining processes rather than mutual understanding, recognition, care for the self, love and other preconditions of leading a good life within the constraints of justice. Apart from the attempts to shed light on reification as a major form of pathology in modern societies, it is a significant success of recent work in critical social theory to emphasize that not all pathologies of modernity can be reduced to intersubjective pathologies of communication and reification.18 People in late modern societies do not just suffer from being used rather than understood or being invisible rather than recognized. They also suffer from what Max Weber called ‗disenchantment‘ (Entzauberung). In the process of increased rationalization, traditional sources of meaning that were sedimented in inherited religious traditions, social institutions and customs have lost their power in orienting lives. Finally, **the process that reification and the vanishing of resources of meaning have been engaged in is one of an increasing acceleration** (Beschleunigung) in which, as Marx puts it, ―everything that is solid melts into the air‖. We witness a progressively increasing speed not only of technological innovation, but of social change since the late medieval period. While there was an intergenerational speed of change in the early modern period, and a generational speed of change during classical and high modernity, **late modernity is characterized by an intragenerational speed of change** in which **the basic parameters of coordinating one‘s life change within a lifetime.** In this latest stage of acceleration, the only thing that is certain is that what was taken to be certain today might not be certain tomorrow.19 This acceleration is both subjectively experienced and corresponds to objective modes of accelerated life ranging from processing information, the transportation of goods and people, voting behavior to the change of significant others and professions. Increased change of environments and values undermines traditional forms of identity formation since actors are forced to constantly reassess and readjust their forms of life, practices and sets of convictions. All three pathologies constitute forms of social injury. While the psychological impact of **reification leads to systematic forms** of forced inclusion or exclusion, **of being restricted to or being left out of fixed identities**, and the process of disenchantment corresponds to a sense of existential absurdity in a world devoid of binding resources of meaning, the pressures of increasing acceleration are experienced in terms of existential exhaustion and anxiety. As a consequence, there is an increased sense of superfluousness and being antiquated, a fear to be left behind in, or fall outside of the rushing hamster's wheel of late modern societies. . However distinct these pathologies might appear, it is crucial to notice that there is a close linkage between these three briefly outlined pathological tendencies of modern societies. Not only are reification, disenchantment and acceleration historically connected, they also imply each other on a conceptual level. Reification consists in seeing the world primarily from the vantage point of being a means or a toolbox from which means can be utilized in order to bring about a desired end. In this objectifying process, the end justifies the variable means and is the only factor taken to be intrinsically valuable. This end, then, is understood as not presently realized but as a future possibility the reality of which depends on the implementation of one's plan of action. Bernard Williams, the eminent British moral philosopher, stresses this point by arguing that without projecting an aim into the future, life would become meaningless. He argues for ―the idea of a man's ground projects providing the motive force which propels him into the future, and gives him a reason for living.‖20 If it were the case that our very existence would be safeguarded only as long as we intentionally pursue future-directed goals and projects in increasingly rationalized ways, it would mean that actors would be doomed to be increasingly alienated from a present they could at best regard as offering instrumentally useful, but intrinsically insignificant means for a supposedly meaningful future. Seen from the temporal horizon of the actor engaged in instrumental reasoning and action, the present events, actions, objects and subjects lack any intrinsic value. They are regarded as merely ―useful for‖ certain projects rather than significant in virtue of what they are. The moment a project is realized, the satisfaction vanishes since it is not futural anymore. By presupposing such a restricted conception of projective action as the reason for living, the present environment an actor navigates in is transformed into pure immanence in which prediction becomes possible to the point of resembling an analytic judgment: assuming that we know what we want, and if we can do what we want while nobody keeps us from doing it, what we want will become realized. Novelty is being reduced to the discovery of new implications of what has already been familiar. Effort is generated once we see the end of our action as external to our spontaneously generated attachments. It grows out of the attempt to realize the stipulated end in ever more innovative, efficient and predictable ways in which spontaneity is, at best, forced towards a goal. The goal at which effort is directed often drops out of focus during the acceleration process or it loses its appeal. It seems external to the actor who has been trapped in a means-ends apparatus. This rationalization process increasingly becomes independent from the specificity of ends pursued and impossible to get out of. With every rationalized act the actor moves deeper into the quicksand of a world of suppressed spontaneity. The consequence of this seemingly autonomous rationalization process famously described by Weber as an ―iron cage‖ is that the present is being downgraded as insignificant on its own terms when compared to the future gains one promises oneself as the payoff of one's actions. Processes of innovation become the norm and speed up because actors hope to do and achieve ever more goals in increasingly shorter segments of emptied time. Actors rush to a future, which can in principle never be actualized. Paul Virillio fittingly describes this blind acceleration process of chasing structurally elusive future goals in increasingly higher speeds of innovation adequately as a ―rushing standstill‖. From within the ―iron cage‖ of modernity true innovation, which would have to be different from mere acceleration or enhancement and would require deliberating about alternative present ends, seems increasingly impossible.21 The new is transfigured into the only variable that is to be expected. Instrumental action as the reified forgetfulness of the meaning resources of the present for the sake of the projected future thus seems without alternative. The consequence is what Hermann Lübbe refers to as a ‗Gegenwartsschrumpfung‘, a continuing shrinking of the present under the complimentary pressures of the tendencies of melancholic musealization of irretrievably lost pasts and forced innovation to run after structurally elusive futures.22 The dilemma with which critical theorists see themselves confronted is that whatever emancipatory tendencies – be they introduced as forms of resistance, mutual understanding, recognition etc. – are being proposed as means for a future end, instrumental action is reenacted under a normative guise and the domination of the future over the rest of time is thus further sedimented. As soon as instrumental actors propose or just point to emancipatory forms of action, they replicate and reenact the same temporal logic that it originally diagnosed as the problem of modernity, i.e., the belief that the future can be mastered through acts of projective planning. The problem of this projective planning mentality is not that things often turn out differently than planned, but that the actor sidesteps and thereby undermines the significance of the present and sees it simply as something to be used for future ends. In other words, by downgrading the present including its modes of action to being "for the sake of the future," critical theory denigrates the present to the status of a prefuture, a state of emptiness that is used as a resource rather than lived in. A theory exposing and explaining social pathologies is keen on pointing to the inescapable mechanisms preventing the emancipatory use of reason through action. Such an exclusive focus on the diagnosis and emergence of pathologies coincides with developing an ethics of melancholy that emphasizes the inescapable specter of instrumental reason. Looking back in a melancholy state of mind over the long history of failed revolutions, it only sees what has been irretrievably lost in the wake of histories of catastrophes.23 The present is now seen as an appendix to a past larger than life, an after-past. By replacing the search for an alternative mode of present potentiality with a focus on the traumatic experiences of history, it forecloses the possibility of emancipatory action in the present and thereby reverses the temporal logic of modernity. By replacing the infatuation of the projected future over the present, a new domination – that of the past over the present – is being introduced and sedimented. While the former domination – that of the future over the present - corresponded to forms of blind activism, the latter – that of the past over the present - leads to a state of passivity, an inhibition, which replaces the engagement with the present for the contemplation of mnemonic art. The consequence is not a liberation of the past (which is in principle impossible) or a liberation of the present, but an extension of the temporal pressure put on the present. While the classical modernists only had to justify themselves with respect to the future, late modernists also have to justify themselves with respect to the past. This detour was intended to show that the instrumental actor finds himself in a dilemma that seems impossible to get out off. The shrinking of the present arising out of instrumental action constitutes a theoretical as well as practical impasse. A transcultural engagement with Daoism understood as another critical theory could turn out to be fruitful given that it emerged within a cultural context in which instrumental action has not been the only or even primary form of action. First, however, it needs to be asked whether it is at all legitimate to interpret Daoism as another critical theory. In the second part of the paper I will first show that Daoism can be understood as a critical theory and then discuss whether it offers an insight that could overcome the uneasy relationship between critical theory and emancipatory action with a focus on the present. The goal is to show that the proto-Daoists Lao Zi and Zhuang Zi, commonly referred to as "Lao-Zhuang", provide a promising path which points to an alternative approach of addressing the vexing problem of instrumental action expressing itself in the pathologies of reification, disenchantment and acceleration. At the risk of engaging in anachronistic hermeneutics by applying texts from a different tradition which date back two and a half-millennia, the benefits of tapping rich conceptual sources providing a new insight into entrenched philosophical preconceptions seem overwhelming. Compared to European traditions, Daoism's long history of addressing phenomena of reification and change in theoretical, as well as practical ways, provides an immense richness not only for a reorientation of critical theory, but also in terms of envisioning emancipatory practices. The insight into the fluidity of social dynamics and the fluid subjectivity of actors anticipates many of the developments of late modern societies. At the same time Daoism offers us correctives to these developments. The early Daoist acknowledgment of the value of idling and uselessness, for example, allows us to level a critique of the pathologies of reification, disenchantment and acceleration deriving from a reduction of action to instrumental action. A critical theory in the spirit of Daoism would not simply disclose pathologies. It would also offer constructive resources which allow us to critically address and, as far as possible, overcome these pathologies without providing yet another reifying project that sells out on the potentiality of the present for the sake of the future.

#### States have to focus on even the smallest issues – they’ll inevitably spill up to catastrophe

Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, sean!

All polarities are reconciled in the relationship between the particular focus and its field. To use singularity and plurality as a familiar polarity, a person is certainly a unique, nonsubstitutable individual, but as a radically contextualized matrix of relationships, this same person is also a manifold of selves all implicated within this individuality. Focus and field is thus another way of declaring the inseparability of the one and the many, of continuity and multiplicity, of uniqueness (aloneness) and commonality (sharedness). The reconciliation of polarities means that in any particular event, there is a continuity between the inconsequential and the important, between equilibrium and agitation. This being the case, the Daodejing insists that if small matters are not attended to, they can have cascading consequences in which equilibrium gives way to turmoil. In giving this apothegm a political application, the text evokes the image of a royal progress in which the ruler must be unrelentingly attentive to the basics—to the provisioning supply wagons upon which the well-being of not only the ruler, but all the travelers depends. Within the walls of the state itself, the ruler’s person is no different from all the other matters of concern to the court, and as such, must be given appropriate care. This chapter might well be read together with chapters 7 and 13. If rulers treat all things with equal seriousness and respect, their own persons will be taken care of as a matter of course. The way to be rid of such personal concerns is to be rid of the distinction between one’s person and the world in which we live. One both values one’s person and loses one’s person in a thoroughgoing integration into one’s field of experience. This is what the Zhuangzi calls “hiding the world in the world.”74 After all, “those who begrudge their persons as though they were the world can be put in charge of the world” (chapter 13).

#### The 1AC’s constant run from death saps the ability to find meaning in life

Laozi, Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, sean! \*NOTE: I partially cite one of the original poems of the Daodejing here, written by Laozi. The translation and commentary is by Ames and Hall\*

Death is real and, wherever there is life, it is not far away. However, to separate death out from the life experience and inveigh against it as something to be avoided at all costs prevents us from appreciating the fragility and preciousness of life that is made possible by this same delicious temporality. Life is made meaningful by death. Death as natural closure punctuates a most particular event in the ongoing transformation of things. Properly understood, a healthy death can be lived well and can enhance the lives of all involved; misunderstood, a resentful death can sour life and become a focus of dread and loathing that robs everyone, especially those left to carry on, of their life energy. The Zhuangzi as a sustained reflection on the relationship between life and death provides many insightful anecdotes that take us beyond grief and suffering. For example: Not long thereafter, Ziyu fell ill, and Zisi went to ask after him. “Extraordinary!” said Ziyu. “The transformer of things continues to make me all gnarly and bent. He hunches me up so badly that my vital organs are above my head while my chin is buried in my belly button. My shoulders are higher than my crown, and my hunchback back points to the heavens. Something has really gone haywire with the yin and yang vapors!” ... “Do you resent this?” asked Zisi. “Indeed no,” replied Ziyu. “What’s to resent? If in the course of things it transforms my left arm into a cock, I’ll use it to tell the time of day. If it goes on to transform my right arm into a crossbow bolt, I’ll use it to shoot me an owl for roasting. If it then transforms my buttocks into wheels and my spirit into a horse, I will ride about on them without need of further transportation.... What’s to resent?”152 Zhuangzi’s conception of life and death is commonsensical. Empirically we know nothing of permanence and annihilation. In fact, all we know of experience is persistence within change. It is on this basis that the Zhuangzi concludes: “Once we take the heavens and earth to be a giant forge and transformation to be the great ironsmith, wherever I go is just fine. Relaxed I nod off and happily I awake.”153

#### Rationalism blinds us to specific circumstances, to the flow of the universe, to the people, to any policy options outside of the standard

Pettman 05, Ralf Pettman, Taoism and The Concept of Global Security, International Relations of the Asian-Pacific, 2005, <https://sci-hub.se/https://doi.org/10.1093/irap/lci103>, r0w@n

Specific comparisons of Taoist and non-Taoist approaches to global security Having briefly tried to define Taoism and the Tao, and having indicated some of the problems that arise in trying to doing so, I shall now move to the nub of the matter, which is to compare Taoism and rationalism in epistemological terms. I will then compare Taoist thinking with more rationalist thinking about global security in ‘human’ terms, and then with rationalist thinking about global security in more conventional terms. 4.1 Comparing Taoist and rationalist epistemologies The profundity of the concept of the Tao seems to preclude us from using Taoism to describe its meaning in logical, empirical, analytical terms. As a consequence we are typically invited to talk in analogical and metaphorical terms instead. But this is to jeopardize at once the sympathy of most contemporary social scientists, who as a group are likely to require something much more publicly verifiable before considering it reliable. Rationalists are not about to content themselves with accounts of an aptitude for living 6 The story is that of the drunk who returns home at night and loses his key while trying to open the front door to his home. He is subsequently found by a neighbour looking under a lamplight some distance away. After asking what the drunk is doing, and where he lost his key, the neighbour then asks why the drunk is not looking outside his front door. The drunk replies to the effect that the light is brighter under the lamp. Taoism and the concept of global security 71 expressed in ‘stories, verses, maxims’ and the like (Graham, 1989, pp. 199– 200; Giles, 1961 [1889]) If historically or philosophically minded, they will want to be more systematic. If positivists, they will want to use the hypothetico-deductive method. So let us be clear. Rationalism, which is the doctrine within which most thinking and practice about the concept of global security is currently done, prioritizes reason as an end in itself. Taoism, which is the doctrine I am trying to bring to bear upon the rationalist construction of this concept, is a way of thinking and practice that does not. It prioritizes sacral (and in this instance, Taoist) insights instead. These two are seemingly incommensurable. They would seem to represent an unbridgeable epistemological divide. Their protagonists not only talk different analytical languages, they talk past each other as well, which is just what I want to prevent, not just because I do not like dialogues of the deaf, but more importantly, because I think it is to capitulate to rationalism. From the rationalist perspective, Taoism looks anti-rational. As such, it is at best interesting. It is not reliable knowledge. From the Taoist perspective, however, rationalism is what one does with the rational part of one’s mind. It is only part of what Taoists do, nor need it be the larger part, since it includes the injunction to live in a state of sacral spontaneity. I noted above that rationalism is compromised at its root by the kind of self that is required if rationalism is to succeed. I argued that the individuated self – at one mind’s remove from the community – is objectifying. This self is created in turn by learning to be mentally distanced from the communalist context into which ‘one’ was born. Rationalism valorizes this individuated self, typically turning it into a primary normative purpose. Because this bias is built into rationalism itself, and because it limits and distorts so thoroughly what rationalism can do, we have to go outside rationalism to compensate for it. Otherwise, whenever we use rationalism, we will get the world right, but we will also get the world wrong. The most straightforward compensation procedure I know is one that enjoins us to get close to listen, and to take part, that is, to actively eschew the objectifying mind-gaze to participate in what one wants to understand. Anthropologists do this when they immerse themselves in a society not their own. The compensation bid need not stop there, however. It can be carried over from the social ground to the sacral one (and in this case the Taoist one), thus providing the kind of insight not otherwise available to rationalists because of how they choose to know. Those rationalists who get this far will no doubt want to follow their Taoist insights up by considering them rationally, but at least they will have Taoist insights to follow up. At least, having accepted immersion in the ‘shal- 72 Ralph Pettman low’ or meditative end of the experiential pool,7 or even beyond, they may have learned what otherwise they would not have been able to. The rationalist may even want to follow this up with further attempts to take part, and further rationalist reappraisals. By which point we will have constructed a cycle of knowing that is already rolling rationalism forward across the epistemological divide. We are still faced with fundamental uncertainty about the ground on which we stand (though most natural scientists will remain oblivious, and many social scientists likewise.) By eternally returning to both rationalism and Taoism, however, we no longer have to set the one up in opposition to the other. We do not have to abandon our regard for rigour, or our preference for specified indices of comparison, or for reassessing sacral insights in non-sacral ways. But nor do we have to abandon the idea that Taoism has something meaningful to say about the concept of global security. The two are no longer placed in contention, since to place them thus is to cleave to the rationalist line as the surest way to know what is true, and to ignore the way the ontological character of rationalism compromises any such surety. While we are used to having sacral illusion dispelled by analytic clarity, we are not so used to having analytic illusion dispelled by sacral clarity. That is the task before us, however, and it is a task with normative implications considerably more extensive than those rationalists would valorize. How does moving onto Taoist ground, and immersing ourselves in Taoist experience, play out in practice? Our section on mapping the concept of global security began by highlighting the making of modernity. If we start with this general project, and cast it in the light of the general Taoist knack for sacral spontaneity, we see at once how little this knack has to do with the rationalist way of thinking or being. Where the modernist/rationalist talks of empirical logic and scientific representation, the sacralist/Taoist talks (in Graham’s terms, at least) of the rejection of empirical logic, and an ‘infinite regress, testing by tests which in the end are themselves untested’ (Graham, 7 Arriving at Taoist precepts requires the use of what Waley calls ‘quietism’, or the ‘gradual inward-turning of . . . thought’ (Waley, 1934, pp. 43, 45). This involves the use of the mind in non-rationalist, indeed anti-rationalist ways, that allow it to become less distracted and more aware. For rationalists, meditation as a research methodology is too subjective. Why should we accept the results of Taoist quietism, they say, as a way to plan global security, for example, when we can use rationalist bargaining strategies and mediation practices instead? Why, for that matter, should we treat exploitation or global destitution or environmental neglect with meditative detachment, rather than with objective plans for changing the world for the better? Why should we use non-rational illumination to help rulers order the inter-state system when we have publically replicable ways of thinking that allow us to do so scientifically (Graham, 1989, p. 234)? Taoists respond by comparing their accounts of the world with modernist ones. They point out how modernist state-makers are taught to understand world affairs by objectifying. They point out how knowing of this sort is circumscribed by the nature of the primary experience that makes untrammelled reasoning possible (individuation). And they see themselves as eschewing these limits by inviting a different kind of primary experience. Taoism and the concept of global security 73 1981, pp. 10, 11). Where the rationalist talks of the hypothetico-deductive method, the Taoist talks (again in Graham’s terms) of an understanding of the ‘mysterious order which runs through all things’, and the universal motion of chi energy (Graham, 1981, pp. 12, 19–20). Where the rationalist talks of a detached and individuated intellectual vantage-point, separate from society, where reason can be given free reign to cogitate and communicate, the Taoist talks (in Hansen’s terms this time) of ‘heart-minds’ (Hansen, 1992, pp. 53, 85–86). Taoists respond to the situation they are in by unfocusing, that is, by allowing themselves to act with the ‘immediacy of an echo’, rather than the self-consciousness of someone who applies general principles. (Graham, 1981, pp. 6, 12, 14). They invite, in other words, the kind of recognition the ‘heart’ gives ‘when the mind is silent’ (Krishnamurti, 1972, p. 34). This is metaphorical language, but we are not, after all, trying to ascertain what is scientifically true. We are trying to locate scientific truth-finding within its sacral context.8 Faced with global security planning, Taoists highlight the way rationalist attempts to anticipate a particular foreign policy can only reach so far. Taoists highlight how those who really know what they are doing tend to eschew conscious thought to attend instead to the ‘total situation’. This ‘knack’, like a feel for the way a bacterium works, or for how to play a musical instrument, is not one that can be ultimately explained (Graham, 1983, p. 7). Taoists also compare the way they face the future with the way it is faced by those who promote the national interest, for example, or the relevant capitalist/corporate, politico-social, bourgeois, or masculinist interest. The rationalist entertains options A, B, and C, and plays out each one in advance, in a bid to anticipate what will turn out the best. Except that it is not possible to anticipate what will turn out the best. In choosing one policy option, the others cease to exist. Once, for example, option B is chosen, options A and C have no chance of happening. Option A might have been better, or might have been worse. Likewise option C. With the B policy chosen, these alternatives are no longer alternatives. Which is why contemplating such alternatives was futile in the first place, and making decisions on the basis of such contemplations makes no sense at all. It is not possible, that is, to know rationally what is in the national interest. To rely on rationalism is, therefore, to overplay rationalism, which is to underplay Taoism in turn, and to underplay sacral spontaneity (Graham, 1981, p. 14). 8 This is why Taoists see intellectual detachment in terms of a ‘returning’ to the ‘‘root’ or ‘trunk’ or ‘seed’ . . . [or] ‘gate’ . . . [or] ‘axis’ . . .’ (Graham, 1981, p. 21), and tend not to posit a reality behind appearances, as modernists/rationalists do. Taoist thought is figured against a very different metaphysical ground. As Graham says: ‘In so far as we can co-ordinate the Chinese concepts with our own, it seems that the physical world has more being and reality than the Way. However it is only by grasping the Way that we mirror the physical world clearly . . .’ (Graham, 1981, p. 21). 74 Ralph Pettman Modernist proponents of global security demur. Enough people in the world live as if modernist conceptions of global security ought to prevail, they note, for most of these conceptions to prevail in practice. Enough people behave as if world order is made up of sovereign states, for example, for this way of ordering world affairs to be a tangible, global reality. The same applies to liberal marketeering, global modes of making civil identity, the global formation of capitalist classes, the global advent of social movements, and the global advent of gender-specific practices. There is a self-fulfilling quality to the modernist project, and we must deal with its global consequences, they argue, whether the Taoist critique of the rationalist cause is valid or not. This is not to say that the people of the world live in the best of all possible worlds. Perhaps there is a preferred alternative, though perhaps (and this is the Taoist thought) there is no ‘preferred alternative’ either, at least of a rationally accessible sort. Perhaps it is a matter of standing back to look at this cosmos that we are all in, then standing close to listen, then feeling as best we can for how it moves, before standing back to look once more. Perhaps we might even learn something in taking ourselves through such a process, something we might need to know if we are to understand global security. 4.2 Comparing Taoist concerns with human security ones Speaking of the people of the world, I will now move to consider the concept of global security in terms of human security. The concept of human security still tends to be used to describe everything that the statist/militarist forms of security thinking are not (Paris, 2001). I think this is a mistake since I think it is more useful to see strategic security thinking as one aspect of human security thinking. I shall heed the conventional distinction here, however, as a way of comparing Taoist ideas and non-strategic security ones. The Taoist is likely to turn first to the pre- and post-modernist margins that modernist/rationalists create as they seek to extend their hegemonic grasp. Modernists consign to the margins those not deemed rationalistic enough, like women, and those who do not accept modernity as being necessarily beneficial, like many environmentalists. While feminists highlight the male-made character of global security, most feminists are also modernists, however. As such they are not in much of an epistemological mood to listen to Taoists, who they tend to think of as representing a pre-modernist way of thinking. Environmentalists, meanwhile, highlight the impact modernist humankind is having upon the planet’s ecosystems. The modernists among them tend to dismiss Taoist thinking likewise. The Taoist might turn next to those who speak the different analytic lan- Taoism and the concept of global security 75 guages mapped in the first section of this article with regard to the different assumptions analysts make about human nature and nurturing practices. Since those who speak these languages are all rationalists, however, the Taoist is likely to meet with the epistemological incomprehension already discussed. Perhaps the Taoist should apply a more specific Taoist technique, therefore. Perhaps a more particular expression of the Taoist perspective will be able to gain better purchase on the rationalist position. In this section I shall look at human security in the light of the Taoist preference for wu-wei, that is, active pacifism, or ‘no unnatural action’, or, as Graham calls it, ‘Doing Nothing’ (Graham, 1981, p. 288; 1989, pp. 232–233). To Needham, wu-wei means not using force when ‘subtler methods of persuasion, or simply letting things alone to take their own course’ promises a good outcome (Needham, 1956, pp. 37, 68). To Merton it means ‘perfect action – because . . . carried out . . . in perfect harmony with the whole . . . [and] not “conditioned” or “limited” by our own individual needs . . . desires . . . theories and ideas’ (Merton, 1965, p. 28). To Hansen it means action that avoids ‘artificially induced or learned purposes or desires . . . [since g]etting rid of wei . . . [means] freeing us from society’s purposes, socially induced desires, social distinctions or meaning structures . . .’ (Hansen, 1992, p. 214). Clearly, we are going to encounter here the same translation troubles we did earlier. A general reading of the Taoist literature seems to suggest that the Taoist sees wu-wei as a demonstrably caring, humble, frugal, yielding, and wise way to respond, however. It is the kind of (re)action that spares lives as much as it can, while leaving people as much as possible to themselves. It is the kind of (re)action that deals with large matters while they are still small, and fosters ‘being content’. It is the kind of counsel state-makers heed when they keep their ‘sharpest weapons where none can see them’, and regard all weapons as not ‘lovely’. It opposes conquest by force of arms, knows ‘the male’ and yet cleaves to that which is ‘female’, seeks the welfare of ordinary people, and endeavours to see and hear as ordinary people do. It tries not to stimulate the desire for products that are hard to get, and it tries not to legislate kindness or morality, exalt fame or riches, or rely upon either the ritual or overt use of power. In short, it tries to foster gentle friendships, true words, good government, due regulation, and effective deeds (Lao Tzu, 1997, pp. 11, 29, 31, 32, 37, 49, 75, 77, 81). Despite all the in-built universals (what constitutes wisdom or compassion? what is a true word? what is good government? what is an effective deed?), this concept is not a vague one. If it still seems so, it is given a graphic account in the practise of Taoist-inspired martial arts like that of tai 76 Ralph Pettman chi chuan, or judo, or aikido. In tai chi chuan the force of the opponent is returned or redirected, making it possible to prevail by yielding rather than by retaliating. This has important implications for conflict management and conflict resolution, even though it may well be one thing to redirect a punch to the person, and quite another to topple the global edifice of gender discrimination or capitalist exploitation, or to fight a guerrilla war. In Japanese judo, which is derived from the Chinese martial arts, weaker people learn to overcome stronger ones by moving in ways that do not offer resistance (Creel, 1970, p. 67). The same principle is manifest in aikido, a Taoist-style meditation in martial movement, where the purpose is to bring the self into accord ‘with the universe itself ’. This requires the practitioner to prevail over the ‘mind of discord’ in itself. In practice, this does not mean retreat. Nor does it mean retaliation. It means completing the task we all purportedly have, that is ‘to reconcile the world and make human beings one family’ (Uyeshiba, 1963, pp. 177, 178; Pettman, 1993). Returning to the analytic map of the concept of global security provided at the start, we can now compare the thinking of those who speak as liberal analysts of the inter-state system or society, for example, with their optimistic assumptions about the capacity for tit-for-tat behaviour, and Taoist thinking, which makes no such assumptions, and is not constrained by the rationalist context in which such assumptions are articulated. Wu-wei decrees no need to return tit-for-tat in promoting global security. It may mean practising reciprocity. It may not. There is no conceptual obligation either way, since ‘no unnatural action’ is not a contractual practice. The Tao te ching espouses a sense of the human whole instead. Since the Taoist also eschews legislated forms of morality, he or she is not bound to the kind of agreements that make international alliances and organizations possible. In dealing with global security matters, he or she seeks to employ sacral spontaneity rather than analytic deliberation, artlessness rather than purposefulness, and to engage in action not planned in the more premeditated way. This sounds to rationalist ears like a recipe for disaster, since it appears to lack all the certainty they are used to in securing global affairs. There are no agreed rules, or agreed habits of international practice where rules cannot be established, or established ways of using force where co-operative means fail. They are likely to point to the Hitlers of this world, who revel in Taoist-style spontaneity, and who take millions of innocent people down with them. And they are right to do so. Taoists are not racist fascists, however. This kind of spontaneity is not Taoist, even when it gets couched in sacral terms. The key Taoist works read nothing like the ideological writings of a Hitler or one of his ilk. Indeed, they speak from a perspective that shows these writings to be human Taoism and the concept of global security 77 atavisms. They repudiate them comprehensively. Moreover, Hitler was the product of rationalism gone awry. Reaching for the mind-view that made for his rise in the first place is not what we necessarily want to do next. If we turn to the rationalist proponents of world government, we find those who are more optimistic than the liberals about the possibility of global governance, and we find that Taoists do not make this kind of assumption either. Nor do they accept the conceptual constraints involved. Taoists do not see people as being calculating or altruistic. In practise ‘no unnatural action’ makes for a mirror-like appraisal of the moment. It may mean promoting world governance or government. It may not. Given the sacral spontaneity that wu-wei represents, any policy choice may be preferred (Graham, 1981, p. 91). It will depend on what lets most people live out their lives relatively unharassed. In terms of the politico-economic (market-making) dimension to world affairs, the practice of wu-wei may or may not stand in stark contrast to the dog-eat-dog thinking of contemporary economic protectionists, the tit-for-tat thinking of global marketeers, and the hail-fellow-well-met thinking of international socialists. While protectionists always see a need to defend their country against the predatory behaviour of trading and investing ‘others’, Taoists may or may not feel obliged to respond with economic nationalism of this sort. Likewise with the free trading and investing practices that those who see human beings as basically calculating espouse (though the Tao te ching does eschew the stimulation of a desire for products that are hard to get). Nor do Taoists necessarily espouse the planned production and distribution policies that altruistic socialists find most congenial either (though the Tao te ching does recommend distributing a country’s wealth evenly, without legislating kindness). If we focus upon issues to do with global economic development and human want, we can see that Taoists are not constrained to the rationalist languages currently used here to do their thinking with. The concept of wu-wei frees us from the constraints these languages impose. This does not mean that wu-wei prescribes set developmental policies of some other kind, or has a solution it can bring to bear upon a specific famine (though Taoism does enjoin us to be frugal and content, foster the welfare of ordinary people, and not exalt riches). It does mean that wu-wei will always see economic well-being as part of the security equation, however, which is still not an acknowledged part of the rationalist approach to global security. It will always argue that people should not want, as well, which is not yet the basic position in the rationalist world either. In terms of the politico-social dimension to world affairs, we can see how the practice of wu-wei may or may not entail the dog-eat-dog thinking of 78 Ralph Pettman contemporary nationalists, the tit-for-tat thinking of modernist proponents of human rights and democracy, or the hail-fellow-well-met thinking of modernist proponents of social movements. Taoism is not constrained to any particular policy or policies. Indeed, it enjoins us not to get caught up in the conventional thinking that these rationalist ways of talking about the self-in-world-society represent. This does not make it a panacea (though the humane and caring character of Taoism would make it the basis for one, as would its sense of cosmic respect). It does invite us to move beyond the rationalist way of thinking, though, to entertain the Taoist level of experience, before deciding what to do. Which brings us to that part of the analytic map sketched at the beginning that accounts for those who emphasize the importance of human nurturing practices, not human nature. Classical marxists emphasize the materialist nature of the nurturing environment, articulating an analytic language that describes and explains the concept of global security in terms of the capitalist mode of production, capitalist exploitation, and the relevant class struggle. Neo-marxists add a mentalist note to this story to account for the hegemonic power of the ruling class, and its capacity to craft a concept of global security that serves its particular interests. Taoist spontaneity is radically different in that it does not portend any particular alternative to the analytic certainties (neo)marxist doctrines represent. Nor does it preclude the policies they prescribe or proscribe. Wu-wei practice seeks responses that are more immediate, instead, and more appropriate to the global security situation, as read as a whole, and from one moment to the next. It seeks a sense of the whole security situation, before affirming that sense in such a way as to nurture as many concerned as possible. Of the analytic languages that articulate preconceptions about human nurturing practices, constructivism is the one most like Taoism. This analytic language highlights the mentalist aspect of the nurturing environment. It does not recommend any particular policy response, since it merely highlights the mentally-made component to them all. Taoism can look very similar, particularly when we find the Tao te ching recommending that we should think as ordinary people think, which is just what the so-called ‘commonsense’ version of constructivism does (Pettman, 2000). While constructivism does not prescribe a particular way of thinking about the concept of global security, it is still rationalist, however, and it still constrains us to a mentalist rather than a materialist consideration of the concept. Taoism does not. It is non-rationalist and sacralist. And while most rationalists are likely to find this a recipe for epistemological anarchy, some may find that it is an opportunity to explore and assess productive ways of thinking that rationalism precludes. Taoism and the concept of global security 79 4.3 Comparing Taoist concerns with conventional strategic ones The dominant (though not necessarily the most important) language spoken about contemporary world affairs is the (neo)realist one. It articulates all of our dog-eat-dog notions about an anarchic world system, and global and regional balances of power. Compare the concept of wu-wei. This would seem to have nothing to do with the whole politico-strategic spectrum (Pettman, 1998, p. 176). On the one hand we have the classical realist dialect of alliance-hopping, and the neo-realist dialect of structural reasons for self-help. We have prescriptions for the pursuit of the national self-interest, and for the proscription of intervention in other states’ affairs. We have state-centricity, and pessimistic assumptions about human nature. On the other hand we have the Taoist determination to make no such assumptions and accept no such constraints. We have clear but not dogmatic opposition to conquest by force of arms. We have the decision to be as flexible as possible about what foreign policies to adopt, and how to implement them. We have the determination to act or react with profound, indeed sacral spontaneity. Rationalists aptly point out that anything less than sacral spontaneity is likely to fall flat on its face. While we wrestle with whether we are profound enough, however, we can always, as the Tao te ching recommends, keep the state’s biggest guns out of sight, treat them as unattractive (no parades or fly-pasts), use overt force extremely reluctantly, ensure that collateral human damage is kept to an absolute minimum if we do have to use force, and treat any success as a tragedy not a triumph. The ultimate issue in the politico-strategic realm is war. How does wu-wei apply here? Human warring is regularly analysed rationally in terms of a range of causes, kinds and consequences. The results of these analyses are used to plan appropriate politico-strategic practices, whether of an offensive, defensive, or pre-emptive kind. Human warring can also be analysed by meditating, however – that is, by not cogitating so self-consciously upon the ways in which we relate to each other and the world. The results of these meditations can then be used to practice neither offence, defence, or preemption, but a kind of watchfulness, a kind of non-anticipation, a way of being in the world-moment that is equaniminous, open, and aware. The latter is the one that wu-wei exemplifies. It would be worthy but fruitless to try and deal with world conflict

#### Socialism fails if we can’t change the fundamental disconnect between people

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This consciousness is a sense of the world’s inherent goodness, and that a balance between the other and oneself is necessary to experience that beauty. 83 It is an awareness that separation is only for the experience of community and ultimately Oneness and the Dao. It also follows, as some people in early America understood, only when the common weal and individual pursuits are in harmony can people enjoy true equality and liberty and thus the freedom to pursue that happiness the world provides. This enlightened sense brings together Immanuel Kant’s individualism and Jeremy Bentham’s utilitarianism in a way that achieves much more than either could do separately. 84 81 PENNSYLVANIA CONSTITUTION OF 1776, Article XIV (noting “[t]hat a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep a government free”). 82 For an early case law comment on this point, see Currie’s Administrators v. Mutual Assurance Society, 14 Va. 315 (Va. 1809) (noting that a legislature could not limit a subsequent legislature’s actions on a particular matter, but only admonish that any change would violate a natural principle). 83 Professor Gabel calls for realizing an “unalienated relatedness,” while Professor Kennedy might refer to this consciousness as an “intersubjective zap.” See Gabel and Kennedy, Roll Over, supra note 36, at 1-14 (1984). Gabel also noted that union and otherness represent a false duality. Id. at 21. 84 Bentham’s utilitarianism would be considered a communalism to the extent it is concerned with the greatest good for the greatest number of people. In harmony with individualism, this communalism achieves the greatest good for everyone. In other words, there are no losers. Similarly, with respect to Kant’s individualism, people are not considered a means to an end. Electronic copy available at: https://ssrn.com/abstract=2441773 17 The problem is not liberalism per se.85 A strict republicanism, as in state Communism, was as dysfunctional as the Lochner era’s liberalism—both lasted less than 50 years. Whereas capitalism overemphasized the individual, Communism overplayed the communal. Without a genuine connection among people, the forced equality saps the work spirit and the society crumbles. Nor is the solution a capitalistic-socialism, as in modern China—in contrast with the socialisticcapitalism found in America. Emphasizing socialist principles without a deeper connection among the people also only perpetuates a wayward system. The two sets of social norms may differ, but the underlying problem is the same. To foster or preserve this consciousness, the law needs to structure social institutions and decide legal disputes in ways that facilitate this consciousness. In this respect, as in early America, the law must promote a harmonious balance between the common weal and individual pursuits, and discourage purely private material aims, recognizing they are neither productive nor fulfilling as they may seem. In this role, the law must be integrative—it must contemplate various personal and social factors, including the psychological, sociological, political, and economic. 86 At the level of legal theory, the opposing sides like Formalism and 85 This point, and critique of CLS, was noted early on. See Mark Hager, Book Review, Against Liberal Ideology: A Guide to Critical Legal Studies, by Mark Kelman, 37 AM. L. REV. 1051, 1057-59 (1988). 86 Professor Gabel has suggested that such a legal system will stress restorative justice, mediation movements, holistic lawyers and integrated legal education. See Gabel, Spiritual Practice, supra note 33, at 530-531. Electronic copy available at: https://ssrn.com/abstract=2441773 18 Realism as well as naturalism and positivism also must come back together—again as in early America—to constitute a simple holistic wisdom.87 Attaining a harmonious consciousness, at the same time, will reduce the need for law and legal theory. 88 Daoism stresses that in a balanced state, people believe the goodness has occurred naturally.89 Rather than a stratified society, which many early Americans also sought to avoid, people will seek arrangements where they can live and work in harmony with each other. There thus will be less overt economic conflict. Even in contractual matters, people will seek solutions that benefit all— recognizing that to injure another is to injure the group and ultimately oneself. In torts, similarly, the grounded consciousness will make people reasonable in their daily interactions and reduce negligence. When an accident occurs, the focus will also be on restoring the group’s balance—a solution where all may win. Some may question whether such a consciousness and way of life is possible or even preferable to today’s economic circumstances? At the end of feudalism, many also questioned America’s experiment with democracy, and it worked well in some portions of the country for several decades. The eventual widespread loss of this consciousness and balance between the common weal and individual pursuits, moreover, was not due to economic necessity. Rather, it stemmed from a pride in 87

#### The alternative is creating a harmonious consciousness, making the law integrative, contemplative, and reconsiderate of the Western paradigm

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Gabel also noted that union and otherness represent a false duality. Id. at 21. 84 Bentham’s utilitarianism would be considered a communalism to the extent it is concerned with the greatest good for the greatest number of people. In harmony with individualism, this communalism achieves the greatest good for everyone. In other words, there are no losers. Similarly, with respect to Kant’s individualism, people are not considered a means to an end. Electronic copy available at: https://ssrn.com/abstract=2441773 17 The problem is not liberalism per se.85 A strict republicanism, as in state Communism, was as dysfunctional as the Lochner era’s liberalism—both lasted less than 50 years. Whereas capitalism overemphasized the individual, Communism overplayed the communal. Without a genuine connection among people, the forced equality saps the work spirit and the society crumbles. Nor is the solution a capitalistic-socialism, as in modern China—in contrast with the socialisticcapitalism found in America. Emphasizing socialist principles without a deeper connection among the people also only perpetuates a wayward system. The two sets of social norms may differ, but the underlying problem is the same. To foster or preserve this consciousness, the law needs to structure social institutions and decide legal disputes in ways that facilitate this consciousness. In this respect, as in early America, the law must promote a harmonious balance between the common weal and individual pursuits, and discourage purely private material aims, recognizing they are neither productive nor fulfilling as they may seem. In this role, the law must be integrative—it must contemplate various personal and social factors, including the psychological, sociological, political, and economic. 86 At the level of legal theory, the opposing sides like Formalism and 85 This point, and critique of CLS, was noted early on. See Mark Hager, Book Review, Against Liberal Ideology: A Guide to Critical Legal Studies, by Mark Kelman, 37 AM. L. REV. 1051, 1057-59 (1988). 86 Professor Gabel has suggested that such a legal system will stress restorative justice, mediation movements, holistic lawyers and integrated legal education. See Gabel, Spiritual Practice, supra note 33, at 530-531. Electronic copy available at: https://ssrn.com/abstract=2441773 18 Realism as well as naturalism and positivism also must come back together—again as in early America—to constitute a simple holistic wisdom.87 Attaining a harmonious consciousness, at the same time, will reduce the need for law and legal theory. 88 Daoism stresses that in a balanced state, people believe the goodness has occurred naturally.89 Rather than a stratified society, which many early Americans also sought to avoid, people will seek arrangements where they can live and work in harmony with each other. There thus will be less overt economic conflict. Even in contractual matters, people will seek solutions that benefit all— recognizing that to injure another is to injure the group and ultimately oneself. In torts, similarly, the grounded consciousness will make people reasonable in their daily interactions and reduce negligence. When an accident occurs, the focus will also be on restoring the group’s balance—a solution where all may win. Some may question whether such a consciousness and way of life is possible or even preferable to today’s economic circumstances? At the end of feudalism, many also questioned America’s experiment with democracy, and it worked well in some portions of the country for several decades. The eventual widespread loss of this consciousness and balance between the common weal and individual pursuits, moreover, was not due to economic necessity. Rather, it stemmed from a pride in 87 Opposite theories like formalism and realism as well as naturalism and positivism unite in a wise contemplation to restore the Dao. 88 Others have noted that a common vision of the “Good” reduces explicit laws and legal institutions. See, e.g., ROBERT MANGABEIRA UNGER, LAW IN MODERN SOCIETY 241-242 (1976). 89 The Daodejing stresses this natural way. See, e.g., TAO TE CHING, supra note 5, at 73 (ch. 17). Electronic copy available at: https://ssrn.com/abstract=2441773 19 purely material gain—a sense that the individual self could outstrip the whole. It was a wrong step in a right direction. With a holistic consciousness, people again will be free to create and invent new ways of doing things. These new ways, moreover, will accord with the underlying natural order and thus be more productive than the former methods. In the present, post-capitalistic-industrial era, this harmonious approach will open up new metaphysical-physical possibilities, which have few, if any, of the negative side effects, such as pollution, cancer and war, of the discordant system. Just as America’s early homesteading outstripped feudalistic agricultural systems, a holistic approach to manufacturing will surpass the capitalistic-industrial order’s methods. In connection with a harmonious economy, this consciousness, by creating a stable community of secure individuals, will free people from the alienation and thus errant desire and displacement activity of modern societies. In the balanced state, people will be free to experience the world on a deeper and fuller basis. 90 Each person will have the opportunity to realize his or her unique contribution to the whole and thereby attain the happiness that ordinary existence promises. The social norms that previously channeled and controlled displacement activity will become redundant. When it comes to any such displacement conflict, the law will seek integrative ways to restore individual and societal balance. Finally, this consciousness, by showing individual health is related to universal principles of balance and harmony, will encourage people to lead healthy lives and 90 CLS scholars seeking to transcend ill-liberal tendencies have noted this relationship. See, e.g., Gabel and Kennedy, Roll Over, supra note 36. Electronic copy available at: https://ssrn.com/abstract=2441773 20 take responsibility for their illnesses. Daoist metaphysics demonstrates that harmony between the Yin and Yang applies all the way down to the cellular level (and farther). 91 When people live in balance, they accord with universal principles and experience physical, spiritual, and mental health. People will also recognize disease is a sign of imbalance and a call for adjusting a person’s consciousness. This natural health and individual responsibility will greatly reduce the need for tertiary social welfare norms. This basic change, of course, goes deeper than general legal norms. It calls for a reconsideration of the modern Western paradigm based on material separation (e.g., Newtonian physics, Darwinian biology, Freudian psychology, and Weberian sociology). As already noted, Daoism shows that the explicit separation is only for an implicit connection and ultimately Oneness and the Dao. 92 At the same time, this change in consciousness calls for a return to a holistic sense, as America’s founders understood, of people and the world as inherently good (the divine essence itself). This lucidity will resolve many disputes within academic fields and between science and religious forums. It will bring the various strands of thinking back under a single roof. In this respect, Daoism is a complete account of reality. 93 91 See WANG, YINYANG, supra note 6, at 2, citing the 200 C.E. Huangdi Neijing. 92 Quantum physics certainly challenges the traditional order, and some notable physicists have already argued an approach similar to Daoism. See, e.g., DAVID BOHM, WHOLENESS AND THE IMPLICATE ORDER (1980). See also, DAVID BOHM,ON CREATIVITY 104 (1996) (calling for a new mathematics that calls attention to a whole movement and to particular things only in some secondary function). 93 It’s not that this grand unified theory can be proven rationally, as Daoism holds, it can only be shown that it could be no other way. Electronic copy available at: https://ssrn.com/abstract=2441773 21 At some point, this change in consciousness is inevitable—as Daoism illustrates, the present situation is unsustainable. Conflict has served its purpose: disharmony is necessary for the experience of harmony and ultimately Oneness and the Dao. As described in Part III, however, the current economic conflict is dysfunctional, and the cultural and social welfare strife crippling.94 Throughout history, a conflicted society has always had to evolve or it would collapse;95 and, again, neither the law nor any other social norm could do anything about it. Many of America’s late 18th century constitutionalists understood that the conflict between liberalism and republicanism was inimical to democracy and a natural happiness. As Daoism also notes, this question is not a philosophical issue, it is a metaphysical point. Daoism demonstrates the whole is greater than the sum of its parts. When the implicit connection and explicit separation come together in harmony, a person may experience Oneness and ultimately the Dao.96 This ancient wisdom is simple but profound. In the modern era, thinkers must work to understand its implications. 97 There is much to do within current fields like physics, health, and divinity. In typical 94 Externalities are much greater than most people recognize, and include things like routine pollution, war and cancer. 95 Feudalism, for example, either transitioned to a balanced homesteading (something akin to early America) or collapsed (like what happened in Russia). 96 Professor Wang also noted this point. See WANG, YINYANG, supra note 6, at 223 (describing how “[t]he whole emergent regularity is more than the sum of its parts”). 97 For the many nuances of just the Yin and Yang, see Professor Wang’s book. WANG, YINYANG, supra note 6. Electronic copy available at: https://ssrn.com/abstract=2441773 22 Daoist fashion, this Eastern understanding calls for a Western pragmatism.98 In such a harmoniousstate may lie the solution to the world’s present challenges.

#### The alternative creates a balanced state that solves your aff and everything else

Joseph Pratt 14, A Daoist Take on American Legal Theory, No Publication, 5-26-2014, DOA: 10-26-2021, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2441773, r0w@n

This point, and critique of CLS, was noted early on. See Mark Hager, Book Review, Against Liberal Ideology: A Guide to Critical Legal Studies, by Mark Kelman, 37 AM. L. REV. 1051, 1057-59 (1988). 86 Professor Gabel has suggested that such a legal system will stress restorative justice, mediation movements, holistic lawyers and integrated legal education. See Gabel, Spiritual Practice, supra note 33, at 530-531. Electronic copy available at: https://ssrn.com/abstract=2441773 18 Realism as well as naturalism and positivism also must come back together—again as in early America—to constitute a simple holistic wisdom.87 Attaining a harmonious consciousness, at the same time, will reduce the need for law and legal theory. 88 Daoism stresses that in a balanced state, people believe the goodness has occurred naturally.89 Rather than a stratified society, which many early Americans also sought to avoid, people will seek arrangements where they can live and work in harmony with each other. There thus will be less overt economic conflict. Even in contractual matters, people will seek solutions that benefit all— recognizing that to injure another is to injure the group and ultimately oneself. In torts, similarly, the grounded consciousness will make people reasonable in their daily interactions and reduce negligence. When an accident occurs, the focus will also be on restoring the group’s balance—a solution where all may win. Some may question whether such a consciousness and way of life is possible or even preferable to today’s economic circumstances? At the end of feudalism, many also questioned America’s experiment with democracy, and it worked well in some portions of the country for several decades. The eventual widespread loss of this consciousness and balance between the common weal and individual pursuits, moreover, was not due to economic necessity. Rather, it stemmed from a pride in 87 Opposite theories like formalism and realism as well as naturalism and positivism unite in a wise contemplation to restore the Dao. 88 Others have noted that a common vision of the “Good” reduces explicit laws and legal institutions. See, e.g., ROBERT MANGABEIRA UNGER, LAW IN MODERN SOCIETY 241-242 (1976). 89 The Daodejing stresses this natural way. See, e.g., TAO TE CHING, supra note 5, at 73 (ch. 17). Electronic copy available at: https://ssrn.com/abstract=2441773 19 purely material gain—a sense that the individual self could outstrip the whole. It was a wrong step in a right direction. With a holistic consciousness, people again will be free to create and invent new ways of doing things. These new ways, moreover, will accord with the underlying natural order and thus be more productive than the former methods. In the present, post-capitalistic-industrial era, this harmonious approach will open up new metaphysical-physical possibilities, which have few, if any, of the negative side effects, such as pollution, cancer and war, of the discordant system. Just as America’s early homesteading outstripped feudalistic agricultural systems, a holistic approach to manufacturing will surpass the capitalistic-industrial order’s methods. In connection with a harmonious economy, this consciousness, by creating a stable community of secure individuals, will free people from the alienation and thus errant desire and displacement activity of modern societies. In the balanced state, people will be free to experience the world on a deeper and fuller basis. 90 Each person will have the opportunity to realize his or her unique contribution to the whole and thereby attain the happiness that ordinary existence promises. The social norms that previously channeled and controlled displacement activity will become redundant. When it comes to any such displacement conflict, the law will seek integrative ways to restore individual and societal balance. Finally, this consciousness, by showing individual health is related to universal principles of balance and harmony, will encourage people to lead healthy lives and 90 CLS scholars seeking to transcend ill-liberal tendencies have noted this relationship. See, e.g., Gabel and Kennedy, Roll Over, supra note 36. Electronic copy available at: https://ssrn.com/abstract=2441773 20 take responsibility for their illnesses. Daoist metaphysics demonstrates that harmony between the Yin and Yang applies all the way down to the cellular level (and farther). 91

If I win the rotb you’re voting that over their plan and their framework

## 3

**CP Text: A just government ought to recognize an unconditional right of workers to strike except for public health officials and those who work in the public health industry.**

**In the squo, the right to strike is banned by the ILO for essential workers.**

**Chima 13** Chima, Sylvester C. “Global Medicine: Is It Ethical or Morally Justifiable for Doctors and Other Healthcare Workers to Go on Strike?” *BMC Medical Ethics*, BioMed Central, 19 Dec. 2013, bmcmedethics.biomedcentral.com/articles/10.1186/1472-6939-14-S1-S5. SJEP

Despite the fundamental importance of the right to strike in collective bargaining and industrial relations, it has been recognised that derogations or restrictions to this right may be necessary to avoid abuse or usage of this right contrary to the needs of the community [[33](https://bmcmedethics.biomedcentral.com/articles/10.1186/1472-6939-14-S1-S5#ref-CR33)]. **The concept of 'essential service' expresses the idea that certain activities are of such fundamental importance to the community, that their disruption may have particularly harmful consequences to the health, safety or welfare of members of the public [**[**51**](https://bmcmedethics.biomedcentral.com/articles/10.1186/1472-6939-14-S1-S5#ref-CR51)**]. Therefore one of the mechanisms by which governments or elected officials have used to manage the impact of strikes on certain professional groups has been to designate such groups as "essential workers". These employee groups are then statutorily prohibited from striking. In other words they are not allowed to withdraw their labour, regardless of the circumstances. The international labour organization (ILO) has provided a strict list of such "essential services", including the hospital sector, electricity services, water supply services, the telephone service, the police and the armed forces, the fire-fighting services, public or private prison services, the provision of food to pupils of school age and the cleaning of schools and air traffic control.** However, the ILO list is not exhaustive and a state can add other services to its national legislation if it these are deemed essential to its particular circumstances [[33](https://bmcmedethics.biomedcentral.com/articles/10.1186/1472-6939-14-S1-S5#ref-CR33)].

**It competes: Unconditional is not subject to any conditions (Google Definitions) – Sector is a condition**. **Our definitions outweigh on common usage -it’s the first definition on google definitions**

**Nurse strikes increase the percentage of patient mortality and destroy hospital finances – empirics.**

**Masterson 17** [Les Masterson. Managing editor at HCPro. “Nursing strikes can cause harm well beyond labor relations”. 8-15-2017. Healthcare Dive. https://www.healthcaredive.com/news/nursing-strikes-can-cause-harm-well-beyond-labor-relations/447627/.] SJ//VM

When officials at Tufts Medical Center in Boston refused to allow nurses just off of a one-day strike return to their jobs, the footage spread across TV news programs and social media. Boston Mayor Martin Walsh, a former labor leader, spoke in favor of the striking nurses and the hospital found itself in an uncomfortable spotlight. About 1,200 nurses went on a one-day strike after their union, the Massachusetts Nurses Association, and Tufts couldn't come to a new contract agreement after more than a year of negotiations. Tufts, in turn, [locked out the nurses](https://www.healthcaredive.com/news/12k-striking-nurses-barred-from-returning-to-work-at-boston-hospital/447088/) when they attempted to return to work the next day. Officials said the lockout was required because they needed to give at least five-day contracts to 320 temporary nurses brought in to fill the gap. [The nurses are back on the job](https://www.bostonglobe.com/metro/2017/07/17/tufts-medical-center-nurses-expected-return-work-monday/fXGBic58UjRv8934CeVgDJ/story.html) now without a new contract, but the strike and subsequent lockout got the public’s attention. Hospital strikes aren't that common — usually, the sides agree to a new contract. Strikes or threatened strikes in recent years have typically involved conflicts over pay, benefits and staff workloads. When strikes do happen, however, they can hurt a hospital’s reputation, finances and patient care. A [study on nurses’ strikes](https://dspace.mit.edu/openaccess-disseminate/1721.1/71824) in New York found that labor actions have a temporary negative effect on a hospital’s patient safety. Study authors Jonathan Gruber and Samuel A. Kleiner found that nurses’ strikes increased in-patient mortality by 18.3% and 30-day readmission by 5.7% for patients admitted during the strike. Patients admitted during a strike got a lower quality of care, they wrote. “We show that this deterioration in outcomes occurs only for those patients admitted during a strike, and not for those admitted to the same hospitals before or after a strike. And we find that these changes in outcomes are not associated with any meaningful change in the composition of, or the treatment intensity for, patients admitted during a strike,” they said. They said a possible reason for the lower quality is fewer major procedures performed during a strike, which could lead partially to diminished outcomes. The study authors found that patients that need the most nursing care are the ones who make out worst during strikes. “We find that patients with particularly nursing-intensive conditions are more susceptible to these strike effects, and that hospitals hiring replacement workers perform no better during these strikes than those that do not hire substitute employees,” they wrote. [Allina Health’s Abbott Northwestern Hospital in Minneapolis](http://www.beckershospitalreview.com/quality/cms-puts-allina-hospital-in-immediate-jeopardy-for-drug-error-during-nurses-strike.html) faced a patient safety issue during a strike last year that resulted in the CMS placing the hospital in “immediate jeopardy” status after a medication error. A replacement nurse administered adrenaline to an asthmatic patient through an IV rather than into the patient’s muscle. The patient, who was in the emergency room (ER), wound up in intensive care for three days because of the error. Allina said the error was not the nurse’s fault, but was the result of a communication problem. The CMS accepted the hospital plan of correction, which included having a nurse observer when needed and retraining ER staff to repeat back verbal orders. Hospitals also take a financial hit during strikes. Even the threat of a one- or two-day nurse strike can cost a hospital millions. Bringing in hundreds or thousands of temporary nurses from across the country is costly for hospitals. They need to advertise the positions, pay for travel and often give bonuses to lure temporary nurses. The most expensive recent nurse strike was when [about 4,800 nurses](https://www.healthcaredive.com/news/4800-striking-nurses-cost-allina-health-104-million/430523/) went on strike at Allina Health in Minnesota two times last year. The two strikes of seven days and 41 days cost the health system $104 million. The hospital also saw a $67.74 million operating loss during the quarter of those strikes. To find temporary replacements, [Allina needed to include enticing offers](https://www.healthcaredive.com/news/allina-to-search-for-1400-nurses-in-face-of-possible-strike/421079/), such as free travel and a $400 bonus to temporary nurses. Even the threat of a strike can cost millions. Brigham and Women’s Hospital in Boston spent more than $8 million and lost $16 million in revenue preparing for a strike in 2016. The 3,300-nurse union threatened to walk out for a day and much like Tufts Medical Center, Brigham & Women’s said the hospital would lock out nurses for four additional days if nurses took action. At that time, Dr. Ron Walls, executive vice president and chief operating officer at Brigham and Women’s Hospital, said the hospital [spent more than $5 million](https://www.bizjournals.com/boston/blog/health-care/2016/06/brigham-nurses-strike-already-costing-hospital.html) on contracting with the U.S. Nursing Corp. to bring on 700 temporary nurses licensed in Massachusetts. The hospital also planned to cut capacity to 60% during the possible strike and moved hundreds of patients to other hospitals. They also canceled procedures and appointments in preparation of a strike.

## Case

#### Strikes are yet another set of temporal reification- they empty worker’s pockets, and get circumvented by employer awareness, scabs, and power balances.

Organizing Work, 19, Why don’t strikes achieve more?, No Publication, 5-1-2019, DOA: 10-28-2021, https://organizing.work/2019/05/why-dont-strikes-achieve-more/, r0w@n

Acknowledging that unions are signing two-tier or rollback contracts is demoralizing. It is especially so at a time when labor is supposed to be in a strong bargaining position because of a decent economy with low unemployment. If strikes are the best tactic labor has, and the economic circumstances are in our favor, why are unions signing crappy contracts? Why don’t strikes achieve more? There are a number of factors that contain how effective strikes can be, and impel unions to settle them. For one thing, they are expensive. If a union is providing even minimal strike pay, it needs a war chest of millions of dollars to be able to support even a few hundred workers. Strikes drain union coffers, and they take a financial, physical, and emotional toll on workers as well, who aren’t usually earning as much in strike pay as they would on the job, while getting yelled at or hit by cars or freezing on the picket line. Quite often, strikes don’t succeed in completely shutting down a business, not least because employers can legally hire scabs. The product may suffer, and employers may take a hit, but they can hobble along (while draining the union’s bank account). (A note on the alleged $100 million loss suffered by Stop & Shop during the recent strike, which leftists also celebrated: that figure was put out by the employer, and is more than double an estimate put forward by an industry analyst. We should always remain skeptical about boss communications. In this case, they may be crying poverty to get workers to sign the proposed collective agreement.) Sometimes strikes end because of government intervention, as when workers are legislated back to work, or fired en masse. Less dramatically, the government can intervene to bring about some kind of settlement in the form of binding arbitration. Sometimes employers even goad unions into striking, knowing what a heavy toll strikes take. If an employer knows they can weather a strike much better than the union, they are perfectly incentivized to provoke one and starve the union out. The bottom line is that strikes, under the current labor relations system, are not the slam-dunk tactic the left takes them to be. Strikes can only take place when the contract has expired, and once the membership has been balloted. This means that the employer has years to prepare, knowing when the contract is set to expire. They probably even know roughly how long the strike can last. They’ve also seen strikes before, and aren’t bowled over by them. There is no element of surprise. They know the union won’t do anything too drastic like occupy the workplace or chain the doors shut. They hire scabs, they manage public relations (often by crying poverty or publicly claiming the union won’t come to the table), and they wait it out. Of course we in left labor circles sympathize with strikers and see their cause as morally and politically righteous. But sympathy is one matter, and clear-eyed analysis is another. That we wish workers victory does not mean we suspend judgement about the effectiveness of their tactics. Nor is any of this meant to judge or condemn unions for choosing the tactics that they do. Instead, it is about zooming out and understanding what factors are constraining the situation in general. When leftists picture strikes, they are probably in part remembering black-and-white images of workers in the 1910s and 1920s streaming out of factories and mines and violently clashing with Pinkerton guards. But strikes have been tamed by the labor relations framework established by the Wagner Act (the National Labor Relations Act) of 1935 and the Taft-Hartley Act of 1947. Those legislative measures were passed in response to massive upheaval, in which workers shut down production with strikes, or employers shut down production with lockouts. The goal of the Wagner Act is right there in its full title: “to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce.” The NLRA forced employers to sit down and bargain with workers, not out of a desire to strengthen workers as a class, but to funnel disputes between workers and bosses into a less disruptive process – in boardrooms and away from the shopfloor — so that economic production could continue. Taft-Hartley further contained strikes in numerous ways, again in response to creative and effective forms of economic disruption, by outlawing sympathy strikes, political strikes, “wildcat” strikes taken without the authorization of union leadership, secondary picketing and boycotts, and so on. Under this legal framework, strikes are a blunted tactic, quite intentionally so. They do accomplish something – in each of the three cases described above, workers would almost certainly have got a worse deal had they not struck. There are also strikes that yield apparently better deals, such as the contract bargained by Unite Here with Marriott hotels – arguably in part because contracts at seven different bargaining units expired simultaneously, allowing almost 8,000 workers to strike at once. But strikes don’t change the big-picture balance of power between employers and workers. Most of the time, strikes are like a fistfight in which one side gets a bloody nose, the other gets a black eye, and each walks away saying “You shoulda seen the other guy.” At best, a win looks like giving the other side two wounds while you only suffer one.

#### Laws are just a suggestion, the system will never work as is

International Brotherhood Of Teamsters, 19, Report Shows Companies Are Doing All They Can to Crush Unions, International Brotherhood of Teamsters, 12-19-2019, DOA: 10-28-2021, https://teamster.org/2019/12/report-shows-companies-are-doing-all-they-can-crush-unions/, r0w@n

Organizing workers to join a union is not an easy job. Companies will go to extreme lengths to quash any such efforts. And the law, as a new report by the Economic Policy Institute (EPI) explains, is merely an inconvenience for many. The document finds that employers are charged with violating federal law in 41.5 percent of all union election campaigns and illegally firing workers in nearly 20 percent of elections. The report is a comprehensive analysis of employer conduct in union representation elections supervised by the National Labor Relations Board in 2016 and 2017. “Employers routinely threaten, intimidate and fire workers when they try to form a union at their workplace,” said Celine McNicholas, EPI’s director of government affairs and a co-author of the report. “Employers face few consequences because our current labor law fails to provide works meaningful protections.” EPI’s document also details the “union avoidance” industry, estimating that employers spend nearly $340 million per year hiring anti-union lawyers and consultants to help prevent employers from organizing, including at some of the nation’s largest companies such as Google, Coca-Cola, AT&T and elsewhere. During the Obama administration, regulations to curb the so-called “persuader rule” were instituted that would have limited the ability of companies to force workers to participate in meetings with outside anti-union interlopers. But efforts to limit such activity were defanged. As it stands, in almost 30 percent of elections, employers were charged with illegally coercing, threatening or retaliating against workers for union support. Employers with larger bargaining units were more likely to be charged with violating the law, including some 54 percent of employers in elections involving more than 60 workers. “Far more workers want union representation than are able to obtain it under our current system,” Ben Zipperer, EPI’s economist and co-author of the report, said. “This is a result of not only decades of legislative and judicial attacks to workers’ rights, but also a largely secretive industry dedicated to helping employers derail unionization efforts.”