### Courts

#### The right to strike is Customary International Law, but the US fails to meet *opinio juris* standards. Perception of US insufficiency breeds uncertainty with confidence in international law and spirals into noncompliance – that causes a legitimacy crisis. No alt causes to legitimacy – FOA is central to the ILO and the biggest internal link.

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II. THE INTERNATIONAL RIGHT TO STRIKE AS CIL That an international right to strike is widely recognized by governments does not mean the right has assumed the status of CIL. This Part seeks to forge that link, to show how the international right to strike qualifies as CIL. It begins (II.A) by identifying the two basic elements of CIL and explaining why the right to strike is an integral textual and conceptual component of FOA. It then establishes (II.B and C) that FOA and the right to strike satisfy both elements of CIL—a general practice accepted by States, stemming from a sense of legal obligation. While there are variations and qualifiers at the national level, the contours of CIL status are clear: a basic right subject to three substantive restrictions; a recognition that strikers retain their employment relationship during the strike itself; and certain procedural prerequisites or limitations. 105 This Part next demonstrates (II.D) that the two U.S. practices discussed earlier as deviating from the international right to strike—denying all public employees the right and authorizing permanent replacement of lawful strikers— contravene core aspects of the right to strike as CIL. Finally (II.E), this Part introduces the complexities of the U.S. position on FOA and the right to strike as international rights, reflected in the failure to ratify Convention 87 while both Congress and the executive branch embrace Convention 87 principles including the right to strike. A. Initial Definitions and Considerations 1. CIL Standards The two basic elements that determine the existence and content of a rule of CIL are first, the requirement of a general practice by States, and second, the requirement that the general practice be undertaken from a sense of legal right or obligation (opinio juris).106 The first element is objective: whether there is a sufficiently widespread and consistent practice of States endorsing and adhering to the rule. Evidence of such a general practice may include governmental conduct in connection with treaties; legislative or administrative acts; decisions of national courts; conduct in relation to resolutions adopted by an international organization; diplomatic acts and correspondence; and executive operational conduct on the ground.107 The second element, opinio juris, is more subjective: the general practice must be undertaken based on its acceptance as law, rather than being accepted based on mere usage or habit or some pragmatic motive. As is true for general practice, evidence of acceptance as law may come in a range of forms. These include public statements made on behalf of States; government legal opinions; decisions of national courts; treaty provisions; diplomatic correspondence; and conduct related to resolutions adopted by an international organization.108 2. The Right to Strike as Integral to FOA Freedom of association is one of the core principles on which the ILO was founded and continues to exist. 109 As set forth under Convention 87, FOA includes a series of integral elements, of which the right to strike is one. The two ILO supervisory mechanisms that have regularly applied or interpreted Convention 87 have understood it to include the right to strike from the early days of the Convention’s existence.110 Leading U.N. human rights covenants also recognize FOA as a basic right, including the right to strike as a component. 111 And the labor provisions of the 2019 U.S.-Mexico-Canada trade agreement include the following statement: “For greater certainty, the right to strike is linked to the right to freedom of association, which cannot be realized without protecting the right to strike.”112 Accordingly, if FOA is seen as Customary International Law (CIL), and the right to strike is an essential component of FOA, then the right to strike should also be understood to be part of CIL. Consider in this regard the following integral elements of Convention 87. The fact that as part of FOA, workers and employers “shall have the right to establish and . . . to join organizations of their own choosing without previous authorization”113 means the State may not impose unreasonably high membership requirements that hinder the establishment of organizations, or require that members may not join several different organizations. 114 Similarly, the fact that under FOA, workers and employers “shall have the right to . . . elect their representatives in full freedom [and that] public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof,”115 means the State may not impose limits on candidates due to their nationality, literacy, political opinions, moral standing, or for workers, their non-employment in the employer’s occupation or enterprise. 116 And the fact that as part of FOA, workers “shall have the right . . . to organize their. . . activities and to formulate their programs” free “from any interference [by the public authorities]”117 means that worker organizations, in order to defend the occupational interests of their members, have the right to hold trade union meetings, the right to have access to places of work and to communicate with management, and the right to organize nonviolent protest action including strikes. 118 B. FOA and the Right to Strike as General Practice There is ample support that FOA is widely accepted in objective terms. Convention 87 has been ratified by 155 countries, or 83 percent of the 187 ILO Member States. 119 In addition, the ILO Constitution, endorsed by all members, specifies the critical role of FOA both in its 1919 founding document and the 1944 Declaration of Philadelphia as a constitutional addition.120 More recently, ILO Declarations issued in 1998 and 2008, again embraced by all members, make clear that even Member States that have not ratified Convention 87 are obligated to act in good faith to respect and effectuate FOA principles.121 Beyond the ILO realm, workers’ freedom of association, including the right to form and join trade unions and expressly the right to strike, is recognized in the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by the United Nations General Assembly to be effective 1976.122 The Covenant has been ratified by 171 countries, including two of the four large-population countries that have not ratified Convention 87.123 Another major UN Human Rightstreaty, the International Covenant on Civil and Political Rights (ICCPR), also adopted by the U.N. General Assembly to be effective in 1976, recognizes FOA including the right to form and join trade unions. 124 The ICCPR has been ratified by 173 countries, including three of the four largepopulation countries that have not ratified Convention 87; its human rights committee has consistently recognized the right to strike as part of FOA under the Covenant. 125 Indeed, of the 187 ILO Member States, only 11 relatively smallpopulation countries have not ratified at least one of Convention 87, the ICESCR, or the ICCPR.126 FOA is also expressly recognized in a labor setting in the European Convention on Human Rights, which has been ratified by all 48 countries in the Council of Europe. 127 At a national level, the vast majority of constitutions provide for freedom of association, although some use general language that (unlike the international instruments just mentioned) does not specify workers or trade unions. 128 Apart from States’ nearly-universal embrace of FOA as a general matter, the right to strike itself has been broadly accepted by governments. As noted earlier, more than 90 countries have made a public commitment to the right to strike in their constitutions. 129 These commitments have translated to actual practice when national courts have relied on guidance from the CEACR and CFA in assuring compliance with their constitutional right to strike. Judicial interpretation of the international right as part of applying a domestic constitution often involves assuring compliance by governments or employers,130 though it also may require compliance by unions. 131 And compliance with the international right to strike may even emanate from application of a national constitution that endorses FOA without being explicit about the right to strike.132 Among the many national courts that have invoked the CEACR and/or CFA in support of a right to strike,133 two other cases worth noting involve Brazil and Kenya because neither country has ratified Convention 87. In 2012, the Labour Court in Brazil ordered reinstatement of workers terminated for participating in a work stoppage. 134 Under Brazil’s Constitution, “norms that define fundamental rights and guarantees are directly applicable.”135 Given that the Court found that the employer’s conduct had violated the principle of freedom of association and the free exercise of the right to strike, it seems that the “principle of freedom of association” was being directly applied as a matter of customary international law rather than through a ratified treaty or convention.136 In 2013, the Industrial Court of Kenya ordered the reinstatement of five workers dismissed for participating in a strike and strike-related activities. The Court’s reasoning derived from Kenya’s general participation in the ILO, including “respect for International Labour Standards,” rather than direct application of fundamental norms as in the Brazil case.137 The Industrial Court invoked a report by the CEACR and decisions by the CFA to support its decision; its recognition of FOA as an accepted international standard suggests that reports from the ILO supervisory bodies served as evidence of CIL.138 Finally, states’ widespread practice is reflected in the negotiation of trade agreements over the past two decades that recognize both FOA and the right to strike. Since 2003, labor provisions in U.S. trade agreements have regularly featured linkages to FOA as one of the fundamental ILO norms. 139 The commitment by signatory states to FOA as understood under the 1998 ILO Declaration has been progressively strengthened during this period—from providing that parties “shall strive to ensure” protection of FOA under domestic laws140 to specifying that parties shall “adopt and maintain [FOA rights] in [their] statutes and regulations, and practices thereunder.”141 The latest trade agreement, involving the United States, Mexico, and Canada (approved as a successor to NAFTA) expressly provides that the right to FOA necessarily includes protection for the right to strike.142 Trade agreements involving EU countries also feature commitments to respect and implement under domestic law the principles of FOA as understood in the ILO context. 143 This wide network of similarly worded, mostly bilateral trade agreements addressing the subject of FOA constitutes additional evidence of general practice for CIL purposes. 144 The pervasive nature of actual practice regarding FOA and the right to strike does not mean that the right’s content is static or fixed. To be sure, there is broad acceptance of the two previously discussed features on which U.S. law is out of step: the prohibition on permanent replacements145 and public employees’ right to strike with certain exceptions. 146 And although particular limits on the right may vary from one country to another, there is an international consensus that the right exists and that any limits should be reasonable.147 The International Court of Justice (ICJ) does not require uniformity in practice in order to establish CIL, and indeed, it has countenanced some degree of variation: The Court does not consider that, for a rule to be established as customary, the corresponding practice must be in absolutely rigorous conformity with the rule. In order to deduce the existence of customary rules, the Court deems it sufficient that the conduct of States should, in general be consistent with such rules.148 C. FOA and the Right to Strike as Opinio Juris There is also considerable support for the proposition that the general practice of states on FOA and the right to strike stems from acceptance as a matter of legal obligation. Admittedly, while the existence of opinio juris may be inferred from a general practice, the International Court of Justice (ICJ) has at times noted the insufficiency or inconclusiveness of such practice, instead seeking confirmation that “[states’] conduct is ‘evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it.’”149 Trade agreements, for instance, may represent treaty law and may qualify as evidence of general practice, but they are typically entered into by States that have specific economic or political objectives rather than from a desire to embrace obligations arising under international law.150 Further, it is possible that even with respect to ILO conventions, widespread ratification is in part a function of acculturation, insofar as endorsements across a region contribute to socialized acceptance of norms on FOA, reassuring peer countries that protecting rights to association including the right to strike will not place them in an inferior competitive position.151 That said, the ICJ often does infer the existence of opinio juris from a general practice and/or from determinations by national or international tribunals.152 And there are ample reasons to draw such an inference here. To start, FOA is consciously accepted as an obligation by ILO member states not simply through ratification of Convention 87 (covering more than 80 percent of them) but by virtue of membership itself. The ILO Constitution expressly requires support for FOA principles, and these principles are further imbedded through a tripartite governance structure that allocates power-sharing roles to worker organizations alongside governments and employers.153 Thus, ILO members understand there is an underlying obligation to respect FOA in law and practice.154 A second reason is that domestic law can provide relevant evidence regarding the presence of opinio juris among states. Commitments to FOA expressed in national constitutions, statutes, and court decisions are not necessarily evidence of a state’s belief that the principle is international as opposed to domestic law. Nonetheless, the International Law Commission has made clear that evidence of acceptance as law (opinio juris) “may take a wide range of forms,” including but not limited to “official publications; government legal opinions; [and] decisions of national courts.”155 In this regard, the CEACR in 2012 identified 92 countries where “the right to strike is explicitly recognized, including at the constitutional level”; the list includes six countries that have not ratified Convention 87.156 Recognition in domestic law of a right to strike alongside a conscious decision not to ratify Convention 87 could give rise to an inference that these six countries are rejecting the right as a principle of international law. However, as explained earlier, national courts for two of the six non-ratifying countries (Brazil and Kenya) expressly invoke ILO membership and/or principles as guidance in their domestic law decisions. 157 In addition, Canada—a country not listed among the 92 endorsing the right to strike in the 2012 General Survey— has since recognized a constitutional right to strike under national law, relying in part on international law principles including CEACR and CFA determinations. 158 The Canadian Supreme Court had previously been explicit in invoking Convention 87, ICESCR, and ICCPR as “documents [that] reflect not only international consensus but also principles that Canada has committed itself to uphold.”159 Further, a third country in the group of six—South Korea—has affirmed in its trade agreements with the United States and the EU its obligation to “adopt and maintain in its statutes and regulations, and practices” FOA in accordance with the ILO Declaration.160 And in various CFA complaints against South Korea for violating FOA principles, including the right to strike, the Government has disputed the facts of the complaints while at the same time recognizing that such rights are embedded in international law.161 Accordingly, a more relevant reference point in this setting may be that “when States act in conformity with a treaty provision by which they are not bound . . . this may evidence the existence of acceptance as law (opinio juris) in the absence of any explanation to the contrary.”162 Stepping back, domestic law on FOA and the right to strike, which for many countries developed after Convention 87 and its initial applications by the CEACR and CFA, may be viewed in part as a window into countries’ sense of obligation in law and practice. A state may at times adopt labor provisions of a trade agreement for reasons of comity or relative competitive advantage. These reasons may play a more modest role with respect to adoption of certain human rights treaties or ILO conventions. 163 But evidence of practice and obligation in the domestic law sphere—especially when informed by regard for international instruments—seems almost by definition to be a function of acceptance as law rather than susceptibility to strategic motivations. In this regard, there are numerous instances in recent years where governments have expanded their legislative protections for the right to strike following a period of dialogue with the CEACR, and that committee has recognized and applauded the changes in law.164 Of particular relevance to the U.S. setting, these expansions have included assuring the right to strike for public sector employees and prohibiting the hiring of replacements for strikers.165 A third reason to infer opinio juris (in addition to the centrality of FOA principles within the ILO Constitution and the strong evidence of FOA and rightto-strike practice and obligation under domestic law) involves recent statements from high officials in the United Nations indicating that the right to strike is understood by its leaders as CIL. In his 2016 report to the U.N. General Assembly, the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and association explained, “The right to strike has been established in international law for decades, in global and regional instruments, and is also enshrined in the constitutions of at least 90 countries. The right to strike has, in fact, become customary international law.”166 In 2018, responding to a press briefing on a strike by U.N. employees following announced pay cuts, the Deputy Spokesman for the U.N. SecretaryGeneral reiterated the U.N. view that the right to strike is indeed CIL and did so in the context of the right being asserted by public employees not involved in the administration of the state: Question: Does the Secretary-General believe that U.N. staff have a right to take part in industrial action? Deputy Spokesman: We believe the right to strike is part of customary international law.167 These statements did not simply materialize in recent times. Two major U.N. Human Rights treaties—the ICESCR and the ICCPR—have been interpreted by their relevant treaty bodies to include a right to strike; these bodies have reaffirmed their joint commitment to the right to strike as part of FOA, and they regularly monitor governments’ record of compliance with this right. 168 And as noted earlier, the two treaties—each ratified by over 80 percent of U.N members—include a clause explicitly identifying respect for ILO Convention 87. In sum, the principles of FOA including the right to strike would appear to satisfy both prongs of the CIL test. The widely recognized general practice on strikes has sufficient shape and contours: a basic right, three substantive exceptions (public servants involved in administration of the state, essential services in the strict sense of the term, and acute national emergencies), a recognition that strikers retain their employment relationship during the strike itself, and certain procedural prerequisites or attached conditions. 169 There are variations in national practice and also disagreements at the margins about what the right to strike protects, but these aspects are not different in kind from diversity and contests regarding international rights prohibiting child labor, or for that matter domestic constitutional rights involving freedom of expression or the right to bear arms. As for opinio juris, a broad range of sources combine to establish that the general practice stems from a sense of acceptance and obligation: ILO foundation and structure; two widely endorsed United Nations human rights treaties; national constitutions; government representations; domestic legislative and judicial decisions that expressly refer to or impliedly accept international standards and practices; and contemporary U.N. leadership.

#### That prevents harmonization of norms and throws the functioning of international institutions into question – prefer empirics.

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For several decades, the right to strike has been one of the most controversial parts of the law of the International Labour Organisation (ILO). Even though it has not been explicitly enshrined in the Conventions on the right to freedom of association (especially not in Convention 87 on Freedom of Association and Protection of the Right to Organise (1948) and in Convention 98 on the Application of the Principles of the Right to Organise and to Bargain Collectively (1949)), since the early 1950s, the ILO supervisory bodies have recognised the right to strike as an essential element of trade union rights enabling workers to collectively defend their economic and social interests. Since its seminal recommendation in the United Kingdom of Great Britain and Northern Ireland case of 1952,1 the Governing Body’s Committee on Freedom of Association (CFA) has considered that Article 3 of Convention 87 also guarantees the right to strike, and has developed, since then, detailed ‘case law’ which has been summarised by the International Labour Office in a ‘Digest’ and since 2018 in a ‘Compilation’.2 The Committee of Experts on the Application of Conventions and Recommendations (CEACR), another body established by the ILO Governing Body, has taken the same path since the late 1950s.3 Despite this long-standing interpretive practice of these two important supervisory bodies in respect of Convention No. 87, the right to strike has become controversial since the end of the Cold War. In the 81st session of the International Labour Conference (ILC) in 1994, it was already being challenged by the employers’ group.4 But the Rubicon was definitely crossed in 2012, when the employers’ representatives on the ILO Conference Committee on the Application of Standards (CAS) refused, for the first time, to deal—as it had done previously—with a list of Member States that had seriously violated Conventions of the ILO as long as the workers’ group would not accept a revision of the mandate of the CEACR.5 At the heart of this incident was the recognition of the right to strike by the CEACR even though, according to the view of the employers’ side, the Committee was not empowered to interpret ILO law with binding effect. This incident temporarily resulted in an institutional crisis within the ILO supervisory system, since the ILO’s tripartite structure which underlies the constitution of the ILO presupposes that the three constituents cooperate in good faith within the organisation’s bodies. An attitude of refusal on the part of only one of the constituents therefore necessarily brings into question the functioning of the ILO.

#### Scenario one is SDG:

#### Harmonizing international labor standards are key to Sustainable Development Goals – compliance is key.

ILO 15 [International Labor Organization; The International Labour Organization is a United Nations agency whose mandate is to advance social and economic justice through setting international labour standards. Founded in October 1919 under the League of Nations, it is the first and oldest specialised agency of the UN; “The benefits of International Labour Standards,” No date stated but most recent event cited is 2015, <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/the-benefits-of-international-labour-standards/lang--en/index.htm>] Justin

International labour standards are first and foremost about the development of people as human beings. In the Declaration of Philadelphia (1944), the international community recognized that “labour is not a commodity”. Labour is not an inanimate product, like an apple or a television set, that can be negotiated for the highest profit or the lowest price. Work is part of everyone’s daily life and is crucial to a person’s dignity, well-being and development as a human being. Economic development should include the creation of jobs and working conditions in which people can work in freedom, safety and dignity. In short, economic development is not undertaken for its own sake, but to improve the lives of human beings. International labour standards are there to ensure that it remains focused on improving the life and dignity of men and women. Decent work resumes the aspirations of humans in relation to work. It brings together access to productive and suitably remunerated work, safety at the workplace and social protection for families, better prospects for personal development and social integration, freedom for individuals to set out their claims, to organize and to participate in decisions that affect their lives, and equality of opportunity and treatment for all men and women. Decent work is not merely an objective, it is a means of achieving the specific targets of the new international programme of sustainable development. At the United Nations General Assembly in September 2015, decent work and the four pillars of the Decent Work Agenda – employment creation, social protection, rights at work and social dialogue – became the central elements of the new Sustainable Development Agenda 2030 . Goal 8 of the 2030 Agenda calls for the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. Moreover, the principal elements of decent work are broadly incorporated into the targets of a large number of the 16 Goals of the United Nations new vision of development. An international legal framework for fair and stable globalization Achieving the goal of decent work in the globalized economy requires action at the international level. The world community is responding to this challenge in part by developing international legal instruments on trade, finance, the environment, human rights and labour. The ILO contributes to this legal framework by elaborating and promoting international labour standards aimed at making sure that economic growth and development go hand-in-hand with the creation of decent work. The ILO’s unique tripartite structure ensures that these standards are backed by governments, employers and workers alike. International labour standards therefore lay down the basic minimum social standards agreed upon by all the players in the global economy. A level playing field An international legal framework on social standards ensures a level playing field in the global economy. It helps governments and employers to avoid the temptation of lowering labour standards in the hope that this could give them a greater comparative advantage in inter- national trade. In the long run, such practices do not benefit anyone. Lowering labour standards can encourage the spread of low-wage, low-skill and high-turnover industries and prevent a country from developing more stable high-skilled employment, while at the same time slowing the economic growth of trade partners. Because international labour standards are minimum standards adopted by governments and the social partners, it is in everyone’s interest to see these rules applied across the board

#### That’s key to head off a laundry list of interacting catastrophic risks, the combination of which causes extinction and amplifies every other threat.

Tom Cernev & Richard Fenner 20, Australian National University; Centre for Sustainable Development, Cambridge University Engineering Department, "The importance of achieving foundational Sustainable Development Goals in reducing global risk," Futures, Vol. 115, January 2020, Elsevier. Recut Justin

4.1. Cascading failures Fig. 3 demonstrates that cascade failures can be transmitted through the complex inter-relationships that link the Sustainable Development Goals. Randers, Rockstrom, Stoknes, Goluke, Collste, Cornell, Donges et al. (2018) have suggested that where meeting some SDGs impact negatively on others, this may lead to “crisis and conflict accelerators” and “threat multipliers” resulting in conflicts, instability and migrations. Ecosystem stresses are likely to disproportionately affect the security and social cohesion of fragile and poor communities, amplifying latent tensions which lead to political instabilities that spread far beyond their regions. The resulting “bad fate of the poor will end up affecting the whole global system"(Mastrojeni, 2018). Such possibilities are likely to go beyond incremental damage and lead to runaway collapse. The World Economic Forums’ Global Risks Report for 2018 shows the top five global risks in terms of likelihood and impact have changed from being economic and social in 2008 to environmental and technological in 2018, and are closely aligned with many SDGs (World Economic Forum, 2018). The report notes “that we are much less competent when it comes to dealing with complex risks in systems characterised by feedback loops, tipping points and opaque cause-and-effect relationships that can make intervention problematic”. The most likely risks expected to have the greatest impact currently include extreme weather events natural disasters, cyber attacks, data fraud or theft, failure of climate change mitigation and water crises. These are represented in Fig. 3 by the following exogenous variables. “Climate change” drives the need for Climate Action (SDG 13), “Cyber threat” may adversely impact technology implementation and advancement which will disrupt Sustainable Cities and Communities (SDG 11); Decent Work and Economic Growth (SDG 8) and the rate of introduction of Affordable and Clean Energy (SDG 7), with reductions in these goals having direct consequences in also reducing progress in the other goals which they are closely linked to. “Data Fraud or Threat” has the capacity to inhibit innovation and Industrial Performance (SDG 9), reducing competitiveness (and having the potential to erode societal confidence in governance processes). “Water Crises” (linked with climate change) have a direct impact on Human Health and Well Being (SDG 3) as well as reducing access to Clean Water and Sanitation (SDG 6) and reducing agricultural production which increases Hunger (SDG 2). The causal loop diagram also highlights “Conflict” as a variable (driven by multiple environmental-socio-economic factors) which together with regions most impacted by climate degradation will lead to an increase in migrant refugees enhancing the spread of disease and global pandemic risk, thus impacting directly on Human Health and Well Being (SDG 3) 4.2. Existential and catastrophic risk The level and consequences of these risks may be severe. Existential Risks (ER) have a wide scope, with extreme danger, and are “a risk that threatens the premature extinction of humanity or the permanent and drastic destruction of its potential for desirable future development” (Farquhar et al., 2017,) essentially being an event or scenario that is “transgenerational in scope and terminal in intensity” (Baum & Handoh, 2014). With a smaller scope, and lower level of severity, global catastrophic risk is defined as a scenario or event that results in at least 10 million fatalities, or $10 trillion in damages (Bostrom & Ćirković, 2008). Global Catastrophic Risk (GCR) events are those which are global, but they are durable in that humanity is able to recover from them (Bostrom & Ćirković, 2008; Cotton-Barratt, Farquhar, Halstead, Schubert, & Snyder-Beattie, 2016) but which still have a long-term impact (Turchin & Denkenberger, 2018b). Achieving the Sustainable Development Goals can be considered to be a means of reducing the long-term global catastrophic and existential risks for humanity. Conversely if the targets represented across the SDGs remain unachieved there is the potential for these forms of risk to develop. This association combined with the likely emergence of new challenges over the next decades (Cook, Inayatullah, Burgman, Sutherland, & Wintle, 2014) means that it is of great value to identify points within the systems representations of the Sustainable Development Goals that could both lead to global catastrophic risk and existential risk, and conversely that could act as prevention, or leverage points in order to avoid such outcomes. This identification in turn enables sensible policy responses to be constructed (Sutherland & Woodroof, 2009). Whilst existential threats are unlikely, there is extensive peril in global catastrophic risks. Despite being lesser in severity than existential risks, they increase the likelihood of human extinction (Turchin & Denkenberger, 2018a) through chain reactions (Turchin & Denkenberger, 2018a), and inhibiting humanity’s response to other risks (Farquhar et al., 2017). It is necessary to consider risks that may seem small, as when acting together, they can have extensive consequences (Tonn, 2009). Furthermore, the high adaptability potential of humans, and society, means that for humanity to become extinct, it is most likely that there would be a series of events that culminate in extinction as opposed to one large scale event (Tonn & MacGregor, 2009; Tonn, 2009). Whilst the prospect of existential risk, or global catastrophic risk can seem distant, the Stern Review on the Economics of Climate Change estimated the risk of extinction for humanity as 0.1 % annually, which accumulates to provide the risk of extinction over the next century as 9.5 % (Cotton-Barratt et al., 2016). With respect to identifying these risks, it is known that in particular, “positive feedback loops… represent the gravest existential risks” (Kareiva & Carranza, 2018), with pollution also having the potential to pose an existential risk. With respect to reinforcing feedback loops, there is particular concern about the effects of time delay, and the level of uncertainty when feedback loops interact (Kareiva & Carranza, 2018). It is difficult to identify the exact thresholds that are associated with tipping points (Moore, 2018), which leads to global catastrophic risk or existential risk, and thus it is necessary to understand the events that can lead to existential risks (Kareiva & Carranza, 2018). Table 1 identifies possible global catastrophic risks and existential risks as reported in the literature and from Fig. 3 these are aligned to the Sustainable Development Goals they impact on the most. 4.3. Linking risks with progress in the SDGs Generally it is the Outcome/Foundational and Human input SDGs that are most directly related. For example as the movement of refugees increases pandemic risk, poverty levels in low and middle income countries increase reducing the health of the population, and so restricting access to education which further enhances poverty and birth rates rise as family sizes increases generating unsustainable population growth which furthers the migration of refugees (Fig. 5). Fig. 3 shows that leverage points to reduce refugees lies in SDG 16 (Peace Justice and Strong Institutions), reducing malnutrition through alleviating SDG 2 (Zero Hunger) and taking SDG 13 (Climate Action) to avoid the mass movement of people to avoid the impacts of global warming. Global warming itself will drive disruptive changes in both terrestial and aquatic ecosystems affecting SDG 15 (Life on Land) and SDG 14 (Life Below Water) adding to their vulnerability to increases in pollution driven by a growing economy. Loop B (in Fig. 4)shows the constraints associated with SDG 13 (Climate Action) may slow the economic investment in industry and infrastructure reducing the pollution generated, encouraging adoption of SDG 7 (Affordable and Clean Energy) whilst stimulating carbon reduction and measures such as afforestation, which will also improve the foundational environmental goals. Depletion of resources and biodiversity are strongly linked to SDG 12 (Responsible Consumption and Production) through measures such as halving global waste, reducing waste generation through recycling reuse and reduction schemes, and striving for more efficient industrial processes. The more resources that are used, the less responsible is Consumption and Production which may thus reduce biodiversity (Fig. 3) and increase the amounts of wastes accumulating in the environment. The final driver of Global Catastrophic Risk is an agricultural shortfall which will increase global Hunger (SDG 2) and widen the Inequality (SDG 10) between rich and poor nations and individuals. Quality Education (SDG 4) is important as a key leverage point to stimulate the generation and adoption of new technologies to improve energy (SDG 7) and water supplies (6) which can enhance agricultural production. Such linkages are convincingly examined and demonstrated in the recent film “The Boy Who Harnessed the Wind” (2019), based on a factual story of water shortages in Malawi in the mid 2000s. These examples may appear self evident, but it is the connections between the goals and how they adjust together that is important to consider so the consequence of policy actions in one area can be fully understood. Because of the underlying system structures global threats can quickly transmit through the system. Water Crises will limit the water available for agriculture and basic needs which in turn will stimulate a decline in Gender Equality (SDG 5). Technology disruption from cyber attacks will restrict the ability to operate Sustainable Cities and Communities (SDG 11) and potentially expose populations to extreme events by disrupting transport, health services, and the ability to pay for adaptation and mitigation of climate related threats from a weakened economy. Conflict (in all forms) will increase refugees and climate change provides the backdrop against which all these interactions will play out.

### 1AC – FW

#### Any moral valuation presupposes the unconditional worth of humanity because when agents pursue any end, all value placed upon an object is contingent upon the agent for example a pencil is only valuable to me so long as it can write my paper. Agents have unconditional value because they possess the ability to confer value that stems from their reason. That outweighs.

#### All other frameworks collapse—other theories source obligations in extrinsically good objects, but that presupposes the goodness of the rational will.

#### That justifies universalizable ends – A) a priori principles like reason apply to everyone since they are independent of human experience and B) any non-universalizable norm justifies someone’s ability to impede on your ends i.e. if I want to eat ice cream, I must recognize that others may affect my pursuit of that end and demand the value of my end be recognized by others.

#### There are two models of universal freedom—the non-interference model and the non-domination model. The non-interference holds that someone’s freedom is violated if they are actually interfered with, whereas the non-domination model holds that someone’s freedom is violated if someone has the capacity to arbitrarily interfere. For example, a slave with a benevolent master would be free under non-interference b/c the master let’s them set and pursue whatever ends they want, but unfree under freedom as non-domination b/c their freedom is contingent upon the master who has the capacity to interfere arbitrarily.

#### Prefer the non-domination model:

#### Freedom is good but the non-interference model of freedom allows absolute institutional control—non-domination solves.

Pettit 97 Philip Pettit (Laurence Rockefeller University Professor of Politics and Human Values at Princeton University). “Freedom with Honor: A Republican Ideal.” Spring 1997. <http://www.princeton.edu/~ppettit/papers/FreedomwithHonor_SocialResearch_1997.pdf>

And so to my claim about the constitutional consistency of freedom as noninterference with institutional humiliation. For the lesson of our reflections is that **if the task is to promote negative liberty** overall then **the best constitution**al arrangement for doing that **may involve leaving some** people **with** a certain **power of interfering in** the **lives of others**. But if some people have such a power of interfering with others then, cases of covert manipulation apart, it will generally be salient to relevant parties that they have that power: everyone is going to be interested, after all, in whether some people dominate others in this way and it will usually be evident from the allocation of resources that they do or do not exercise such domination (Pettit, 1997, ch. 2). And **where** it is salient to all that **a dominates b,** then it will equally be salient that **if b does anything in the domain of a’s power,** then **b does that by** the **implicit leave**—by the grace and favor—**of a. There may not be much actual interference** practiced in the relationship **but it will still be** the case, and it will still be saliently the case, **that b acts** and lives **at the mercy of a. With such manifest domination, of course, humiliation routinely follows**. The subordinate party has to look out for the moods and feelings of the dominating person. They have to make sure that they stay on their best side. **They will naturally seek to ingratiate themselves with their superior**, if that is possible, **and** they **may** even find themselves inclined to **bow and scrape**. The subordinate party will live in a position where **their grounds for self-respect are** severely **compromised**; they will be forced to accept a considerable measure of humiliation. I earlier associated the absence of humiliation with enjoying a voice and being given an ear. The connection between domination and humiliation comes out nicely in the loss of voice that domination entails. The dominated person is obliged to watch what they say, having an eye to what will please their dominators; they have to impress their dominators, wherever that is possible, and try to win a higher ranking in their opinion. But **such a person will naturally be presumed to lack an independent voice**, at least in the area where domination is relevant. They will fail to make the most basic claim on the attention of the more powerful, for they will easily be seen as attention-seekers: they will easily be seen in the way that adults often see precocious children. They may happen to receive attention but they will not command attention; **they may happen to receive respect but they will not command respect.**

#### Additionally Prefer:

#### [a] Willing to abide by their ethical theory presupposes we have freedom in the first place. Thus, making an argument for another standard concedes the authority to mine.

#### Thus, the standard is consistency with universality as non-domination.

#### [1] Presumption and Permissibility affirm: a] Statements are true before false since if I told you my name, you’d believe me. b] If anything is permissible, then so is the aff since there is nothing prohibiting us.

#### [2] Consequences Fail: a] Every action has infinite stemming consequences, because every consequence can cause another consequence so we can’t predict. b] Induction is circular because it relies on the assumption that nature will hold uniform and we could only reach that conclusion through inductive reasoning based on observation of past events. c] Every action is infinitely divisible, only intents unify because we commit the end point of an action – but consequences cannot determine what step of action is moral d] Yes act/omission distinction – there are infinite events occurring over which you have no control, so you can never be moral

### 1AC – Advocacy

#### Thus, the advocacy – Resolved: A just government ought to recognize the unconditional right of workers to strike.

### 1AC – Offense

#### Recognizing the right to strike would transform dominating power structures.

Lazar 20 [Orlando; 10/6/20; St. Edmund Hall & Balliol College, University of Oxford; “Work, Domination, and the False Hope of Universal Basic Income,” <https://link.springer.com/article/10.1007/s11158-020-09487-9>] Justin

If workers can simply leave and subsist on an adequate level of basic income, then they can very credibly threaten to do so rather than suffer under the dominating power structures of their workplaces. More than this, employers will know that their workers have this option. In response to some gross overstep of managerial power this might take the form of an actual threat, but in normal circumstances it would function as an implicit threat on the part of the worker. The threat to strike works in the same way: where the right to strike is protected, that threat functions quietly and implicitly, and needs only rarely become explicit. The genuine ability to exit would become more than a tool to contest, after the fact, managerial decisions; it would be an ever-present possibility, raising the bargaining power of individual workers and reshaping their relationship to their employers. Rather than just the ability to exit, an adequate UBI gives workers various abilities—by the reckoning of one supporter, the powers to ‘enter, undominatedly stay, exit, and restart all kinds of social relations, starting with work relations’ (Casassas 2016, p. 9). In this sense the power structures of individual workplaces would be transformed, with managers no longer able to monopolise the residual authority described in the previous section.

#### Non-domination requires restriction of the employer’s power to arbitrarily impose their will on employees.

Bogg 17 [Alan. Alan L Bogg is Professor in Law at the [University of Bristol Law School](https://research-information.bris.ac.uk/en/organisations/university-of-bristol-law-school). 'Republican Non-Domination and Labour Law: New Normativity or Trojan Horse?', (2017), 33, International Journal of Comparative Labour Law and Industrial Relations, Issue 3, pp. 391-417, <https://kluwerlawonline.com/journalarticle/International+Journal+of+Comparative+Labour+Law+and+Industrial+Relations/33.3/IJCL2017017>] SJ//VM

According to Pettit, this equal civic status requires the effective public resourcing and protection of ‘basic liberties’ in the relations between private citizens.46 These ‘basic liberties’ consist of those freedoms that are capable of being exercised and enjoyed equally by all citizens. This would require the republican state to entrench such freedoms as ‘the freedom to think what you like’ and ‘the freedom to travel within the society’ as ‘basic liberties’.47 The specification and content of these ‘basic liberties’ is determined through Pettit’s ‘free-person heuristic,’ or ‘eyeball test’: ‘people should securely enjoy resources and protections to the point where they … can look others in the eye without reason for the fear or deference that a power of interference might inspire; they can walk tall and assume the public status, objective and subjective, of being equal in this regard with the best.’48 It is a great strength of Pettit’s account of ‘basic liberties’ that it is rooted in a concern to ameliorate private domination between citizens. By contrast, standard liberal accounts of freedom focus on state infringement of freedom, and are sometimes sceptical of the ‘horizontal’ extension of public rights into the private sphere.49 This also marks an important difference with the structure of Lovett’s republican argument, where his discussion of basic liberties is framed as a concern to impose constitutional limits on public democratic processes.50 On Pettit’s republican account, the ‘basic liberties’ demarcate a protected zone of freedoms that must be insulated from arbitrary interference by other private parties.51 In particular, Pettit’s eyeball test leads to the need for ‘special insulation’ of the ‘basic liberties’ within ‘relationships like those of wife and husband, employee and employer, debtor and creditor, where there are often asymmetries of power’.52 Pettit is therefore concerned to elaborate a republican account of labour standards, and the employment relation lies at the centre of Pettit’s democratic theory. This ‘special insulation’ regime of republican labour law requires the state to impose legal duties on the stronger party to restrain the arbitrary exercise of private power. This would include ‘for cause’ dismissal protection, encompassing ‘constraints within workplace relations that deny an employer the right to fire without cause, imposing something like a requirement to defend an appeal against dismissal in an agreed forum.’53 It also includes ‘legalizing the unionization of employees and recourse to strike action’.54 This is because ‘the resort to collective action…may represent the only hope of winning freedom as non-domination for those who are employed.’55 Pettit defends the public provision of unemployment insurance to resource effective ‘exit’ rights for workers, as part of a public republican programme of insurance for citizens. 56 Pettit’s approach to ‘special insulation’ is also attuned to the specific vulnerabilities of precarious workers. For example, in their republican audit of Spanish governmental reforms implemented under Prime Minister Zapatero, Luis Marti and Pettit offer a favourable assessment of specific legal measures to protect illegal migrant-workers and those employed on fixed term contracts.57

### UV

#### Interpretation: The negative may not read an alternative ethical theory – to clarify, they may not read a different ethical framework ie util/prag/virtue ethics etc.

#### Violation: It’s preemptive

#### Prefer-

#### 1] Time skew- Winning the negative framework moots 6 minutes of 1AC offense and forces a 1AR restart against a 7 min 1NC – outweighs on quantifiability and reversibility – I can’t get back time lost and it’s the only way to measure abuse.

#### 2] Topic Ed- Every debate would just be a framework debate which crowds out our ability to have core debates about the topic – that outweighs- A] Time Frame- We only have 2 months to debate the topic B] Inclusion- Phil and K literature is incredibly dense and requires a vast amount of prior knowledge and experience which excludes novices while topic literature is less esoteric

Fairness is a voter- intrinsic to the debate; education- terminal impact to debate; DTD and CI- deter futue abuse, and sets the best norms and rzn is arbtrary and invites judge intervention; no rvi- means 7 minute dump on something they chose

#### 1] 1AR theory is legit – anything else means infinite abuse – drop the debater, competing interps, and the highest layer – 1AR are too short to make up for the time trade-off – no RVIs – 6 min 2NR means they can brute force me every time.