## 1

#### Interpretation: The affirmative may not specify a just government in which a right to strike ought to be recognized.

#### “A” is an indefinite article that modifies “just government” in the res – means that you have to prove the resolution true in a VACCUM, not in a particular instance

CCC (“Articles, Determiners, and Quantifiers”, http://grammar.ccc.commnet.edu/grammar/determiners/determiners.htm#articles, Capital Community College Foundation, a nonprofit 501 c-3 organization that supports scholarships, faculty development, and curriculum innovation) LHSLA JC/SJ

The three articles — a, an, the — are a kind of adjective. The is called the definite article because it usually precedes a specific or previously mentioned noun; a and an are called indefinite articles because they are used to refer to something in a less specific manner (an unspecified count noun). These words are also listed among the noun markers or determiners because they are almost invariably followed by a noun (or something else acting as a noun). caution CAUTION! Even after you learn all the principles behind the use of these articles, you will find an abundance of situations where choosing the correct article or choosing whether to use one or not will prove chancy. Icy highways are dangerous. The icy highways are dangerous. And both are correct. The is used with specific nouns. The is required when the noun it refers to represents something that is one of a kind: The moon circles the earth. The is required when the noun it refers to represents something in the abstract: The United States has encouraged the use of the private automobile as opposed to the use of public transit. The is required when the noun it refers to represents something named earlier in the text. (See below..) If you would like help with the distinction between count and non-count nouns, please refer to Count and Non-Count Nouns. We use a before singular count-nouns that begin with consonants (a cow, a barn, a sheep); we use an before singular count-nouns that begin with vowels or vowel-like sounds (an apple, an urban blight, an open door). Words that begin with an h sound often require an a (as in a horse, a history book, a hotel), but if an h-word begins with an actual vowel sound, use an an (as in an hour, an honor). We would say a useful device and a union matter because the u of those words actually sounds like yoo (as opposed, say, to the u of an ugly incident). The same is true of a European and a Euro (because of that consonantal "Yoo" sound). We would say a once-in-a-lifetime experience or a one-time hero because the words once and one begin with a w sound (as if they were spelled wuntz and won). Merriam-Webster's Dictionary says that we can use an before an h- word that begins with an unstressed syllable. Thus, we might say an hisTORical moment, but we would say a HIStory book. Many writers would call that an affectation and prefer that we say a historical, but apparently, this choice is a matter of personal taste. For help on using articles with abbreviations and acronyms (a or an FBI agent?), see the section on Abbreviations. First and subsequent reference: When we first refer to something in written text, we often use an indefinite article to modify it. A newspaper has an obligation to seek out and tell the truth. In a subsequent reference to this newspaper, however, we will use the definite article: There are situations, however, when the newspaper must determine whether the public's safety is jeopardized by knowing the truth. Another example: "I'd like a glass of orange juice, please," John said. "I put the glass of juice on the counter already," Sheila replied. Exception: When a modifier appears between the article and the noun, the subsequent article will continue to be indefinite: "I'd like a big glass of orange juice, please," John said. "I put a big glass of juice on the counter already," Sheila replied. Generic reference: We can refer to something in a generic way by using any of the three articles. We can do the same thing by omitting the article altogether. A beagle makes a great hunting dog and family companion. An airedale is sometimes a rather skittish animal. The golden retriever is a marvelous pet for children. Irish setters are not the highly intelligent animals they used to be. The difference between the generic indefinite pronoun and the normal indefinite pronoun is that the latter refers to any of that class ("I want to buy a beagle, and any old beagle will do.") whereas the former (see beagle sentence) refers to all members of that class

#### Violation: they spec [the People’s Republic of China]

#### Standards:

#### [1] precision – the counter-interp justifies them arbitrarily doing away with random words in the resolution which decks negative ground and preparation because the aff is no longer bounded by the resolution. Independent voter for jurisdiction – the judge doesn’t have the jurisdiction to vote aff if there wasn’t a legitimate aff.

#### [2] limits – the UN says there are 195 national governments but even that’s not an agreed upon brightline – explodes limits since there are tons of independent affs plus functionally infinite combinations, all with different advantages in different political situations. Kills neg prep and debatability since there are no DAs that apply to every aff – i.e. factors that affect labor shortages or unions in the US are different than in China – means the aff is always more prepared and wins just for speccing. There’s been China, Hungary, EU, Kazakhstan, US, India, UK, Egypt, Brazil and this is only the second tournament of the topic.

#### [3] tva – just read your aff as an advantage under a whole res advocacy, solves all ur offense- Potential abuse doesn’t permit 1AC abuse – allows you to be infinitely abusive in the 1AC-– if the neg doesn’t have specific prep, they’ll resort to cheaty word PICs which are net worse

#### Fairness – debate is a competitive activity that requires fairness for objective evaluation. Outweighs because it’s the only intrinsic part of debate – all other rules can be debated over but rely on some conception of fairness to be justified.

#### Drop the debater – a] deter future abuse and b] set better norms for debate.

#### Competing interps – [a] reasonability is arbitrary and encourages judge intervention since there’s no clear norm, [b] it creates a race to the top where we create the best possible norms for debate.

#### No RVIs – a] illogical, you don’t win for proving that you meet the burden of being fair, logic outweighs since it’s a prerequisite for evaluating any other argument, b] RVIs incentivize baiting theory and prepping it out which leads to maximally abusive practices

## 2

#### Ethics must begin a priori and the meta-ethic is bindingness.

#### [1] Uncertainty – our experiences are inaccessible to others which allows people to say they don’t experience the same, however a priori principles are universally applied to all agents.

#### [2] Bindingness – I can keep asking “why should I follow this” which results in skep since obligations are predicated on ignorantly accepting rules. Only reason solves since asking “why reason?” requires reason which is self-justified.

#### That means we must universally will maxims— any non-universalizable norm justifies someone’s ability to impede on your ends.

#### Thus, the standard is consistency with the categorical imperative.

#### Prefer –

#### [1] All other frameworks collapse—non-Kantian theories source obligations in extrinsically good objects, but that presupposes the goodness of the rational will.

#### [2] Theory – Frameworks are topicality interps of the word ought so they should be theoretically justified. Prefer on resource disparities—a focus on evidence and statistics privileges debaters with the most preround prep which excludes lone-wolfs who lack huge evidence files. A debate under my framework can easily be won without any prep since huge evidence files aren’t required.

#### [3] No 1AR Framework: It moots 7 minutes of the 1NC and exacerbates the AFF infinite prep time so I should be able to compensate by choosing. They justify substantive skews by shifting frame of offense.

#### Negate:

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

Gourevitch 18 [Alex; Brown University; “The Right to Strike: A Radical View,” American Political Science Review; 2018; [https://sci-hub.se/10.1017/s0003055418000321]](https://sci-hub.se/10.1017/s0003055418000321%5d//SJWen) Justin

\*\*Edited for ableist language

Every liberal democracy recognizes that workers have a right to strike. That right is protected in law, sometimes in the constitution itself. Yet strikes pose serious problems for liberal societies. They involve violence and coercion, they often violate some basic liberal liberties, they appear to involve group rights having priority over individual ones, and they can threaten public order itself. Strikes are also one of the most common forms of disruptive collective protest in modern history. Even given the dramatic decline in strike activity since its peak in the 1970s, they can play significant roles in our lives. For instance, just over the past few years in the United States, large illegal strikes by teachers ~~paralyzed~~ froze major school districts in Chicago and Seattle, as well as statewide in West Virginia, Oklahoma, Arizona, and Colorado; a strike by taxi drivers played a major role in debates and court decisions regarding immigration; and strikes by retail and foodservice workers were instrumental in getting new minimum wage and other legislation passed in states like California, New York, and North Carolina. Yet, despite their significance, there is almost no political philosophy written about strikes.1 This despite the enormous literature on neighboring forms of protest like nonviolence, civil disobedience, conscientious refusal, and social movements.

The right to strike raises far more issues than a single essay can handle. In what follows, I address a particularly significant problem regarding the right to strike and its relation to coercive strike tactics. I argue that strikes present a dilemma for liberal societies because for most workers to have a reasonable chance of success they need to use some coercive strike tactics. But these coercive strike tactics both violate the law and infringe upon what are widely held to be basic liberal rights. To resolve this dilemma, we have to know why workers have the right to strike in the first place. I argue that the best way of understanding the right to strike is as a right to resist the oppression that workers face in the standard liberal capitalist economy. This way of understanding the right explains why the use of coercive strike tactics is not morally constrained by the requirement to respect the basic liberties nor the related laws that strikers violate when using certain coercive tactics.

#### 2] Means to an end: employees ignore their duty to help their patients in favor of higher wages which treats them as a means to an end.

#### 3] Free-riding: strikes are a form of free-riding since those who don’t participate still reap the benefits.

Dolsak and Prakash 19 [Nives and Aseem; We write on environmental issues, climate politics and NGOs; “Climate Strikes: What They Accomplish And How They Could Have More Impact,” 9/14/19; Forbes; <https://www.forbes.com/sites/prakashdolsak/2019/09/14/climate-strikes-what-they-accomplish-and-how-they-could-have-more-impact/?sh=2244a9bd5eed>] Justin

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

#### 4] The aff homogenizes all strikes as an unconditional right which is unethical.

Loewy 2K, Erich H. "Of healthcare professionals, ethics, and strikes." Cambridge Q. Healthcare Ethics 9 (2000): 513. (Erich H. Loewy M.D., F.A.C.P., was born in Vienna, Austria in 1927 and was able to escape first to England and then to the U.S. in late 1938. He was initially trained as a cardiologist. He taught at Case Western Reserve and practiced in Cleveland, Ohio. After 14 years he devoted himself fully to Bioethics and taught at the University of Illinois for 12 years. In 1996 he was selected as the first endowed Alumni Association Chair of Bioethics at the University of California Davis School of Medicine and has taught there since.) JG

It would seem then that the ethical considerations for workers striking in an industry such as a shoe factory or a chain grocery store are quite different from the ethical considerations for workers in sanitation, police, or fire departments, or for professionals such as teachers or those involved directly in healthcare. Even in the latter “professional” category, there are subtle but distinct differences of “rights” and obligations. However, one cannot conclude that for workers in essential industries strikes are simply ethically not permissible, whereas they are permissible for workers in less essential industries. Strikes, by necessity, injure another, and injuring another cannot be ethically neutral. Injuring others is prima facie ethically problematic—that is, unless a good and weighty argument for doing so can be made, injuring another is not ethically proper. Striking by a worker, in as much as doing so injures another or others, is only a conditional right. A compelling ethical argument in favor of striking is needed as well as an ethical argument in favor of striking at the time and in the way planned. It remains to delineate the conditions under which strikes, especially strikes by workers in essential industries and even more so by persons who consider themselves to be “professionals,” may legitimately proceed and yet fulfill their basic purpose.

#### Interpretation: affs must not read new offense in the 1AR related to a new FW, recontextualize or weigh aff arguments under a different FW, or turn the 1nc FW.

#### 1] Phil Clash and Time Skew- anything else allows them to concede our framework and go for 4 minutes of turns which o/w since phil is unique to LD and time is the only quantifiable metric

#### 2] Skew- They have an advantage on the contention since they get 2ar spin so they can sway judge psychology.

## 3

#### Counterplan text – the People’s Republic of China ought to

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

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

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

Brudney 21 [James; 2/8/21; Joseph Crowley Chair in Labor and Employment Law, Fordham Law School; “The Right to Strike as Customary International Law,” THE YALE JOURNAL OF INTERNATIONAL LAW, Vol 46, <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1710&context=yjil>] Justin \*\* Brackets in original

C. FOA and the Right to Strike as Opinio Juris There is also considerable support for the proposition that the general practice of states on FOA and the right to strike stems from acceptance as a matter of legal obligation. Admittedly, while the existence of opinio juris may be inferred from a general practice, the International Court of Justice (ICJ) has at times noted the insufficiency or inconclusiveness of such practice, instead seeking confirmation that "[states'] conduct is 'evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it. ",149 Trade agreements, for instance, may represent treaty law and may qualify as evidence of general practice, but they are typically entered into by States that have specific economic or political objectives rather than from a desire to embrace obligations arising under international law.15° Further, it is possible that even with respect to ILO conventions, widespread ratification is in part a function of acculturation, insofar as endorsements across a region contribute to socialized acceptance of norms on FOA, reassuring peer countries that protecting rights to association including the right to strike will not place them in an inferior competitive position. 151 That said, the ICJ often does infer the existence of opinio juris from a general practice and/or from determinations by national or international tribunals.152 And there are ample reasons to draw such an inference here. To start, FOA is consciously accepted as an obligation by ILO member states not simply through ratification of Convention 87 (covering more than 80 percent of them) but by virtue of membership itself. The ILO Constitution expressly requires support for FOA principles, and these principles are further imbedded through a tripartite governance structure that allocates power-sharing roles to worker organizations alongside governments and employers. 153 Thus, ILO members understand there is an underlying obligation to respect FOA in law and practice.154 A second reason is that domestic law can provide relevant evidence regarding the presence of opinio juris among states. Commitments to FOA expressed in national constitutions, statutes, and court decisions are not necessarily evidence of a state's belief that the principle is international as opposed to domestic law. Nonetheless, the International Law Commission has made clear that evidence of acceptance as law (opinio juris) "may take a wide range of forms," including but not limited to "official publications; government legal opinions; [and] decisions of national courts." 155 In this regard, the CEACR in 2012 identified 92 countries where "the right to strike is explicitly recognized, including at the constitutional level"; the list includes six countries that have not ratified Convention 87.156 Recognition in domestic law of a right to strike alongside a conscious decision not to ratify Convention 87 could give rise to an inference that these six countries are rejecting the right as a principle of international law. However, as explained earlier, national courts for two of the six non-ratifying countries (Brazil and Kenya) expressly invoke ILO membership and/or principles as guidance in their domestic law decisions.157 In addition, Canada—a country not listed among the 92 endorsing the right to strike in the 2012 General Survey—has since recognized a constitutional right to strike under national law, relying in part on international law principles including CEACR and CFA determinations.158 The Canadian Supreme Court had previously been explicit in invoking Convention 87, ICESCR, and ICCPR as "documents [that] reflect not only international consensus but also principles that Canada has committed itself to uphold." 159 Further, a third country in the group of six—South Korea—has affirmed in its trade agreements with the United States and the EU its obligation to "adopt and maintain in its statutes and regulations, and practices" FOA in accordance with the ILO Declaration.16° And in various CFA complaints against South Korea for violating FOA principles, including the right to strike, the Government has disputed the facts of the complaints while at the same time recognizing that such rights are embedded in international law.161 Accordingly, a more relevant reference point in this setting may be that "when States act in conformity with a treaty provision by which they are not bound . . . this may evidence the existence of acceptance as law (opinio juris) in the absence of any explanation to the contrary.3 3162 Stepping back, domestic law on FOA and the right to strike, which for many countries developed after Convention 87 and its initial applications by the CEACR and CFA, may be viewed in part as a window into countries' sense of obligation in law and practice. A state may at times adopt labor provisions of a trade agreement for reasons of comity or relative competitive advantage. These reasons may play a more modest role with respect to adoption of certain human rights treaties or ILO conventions. 163 But evidence of practice and obligation in the domestic law sphere—especially when informed by regard for international instruments—seems almost by definition to be a function of acceptance as law rather than susceptibility to strategic motivations. In this regard, there are numerous instances in recent years where governments have expanded their legislative protections for the right to strike following a period of dialogue with the CEACR, and that committee has recognized and applauded the changes in law. 164 Of particular relevance to the U.S. setting, these expansions have included assuring the right to strike for public sector employees and prohibiting the hiring of replacements for strikers. 165 A third reason to infer opinio juris (in addition to the centrality of FOA principles within the ILO Constitution and the strong evidence of FOA and right-to-strike practice and obligation under domestic law) involves recent statements from high officials in the United Nations indicating that the right to strike is understood by its leaders as CIL. In his 2016 report to the U.N. General Assembly, the U.N. Special Rapporteur on the rights to freedom of peaceful assembly and association explained, "The right to strike has been established in international law for decades, in global and regional instruments, and is also enshrined in the constitutions of at least 90 countries. The right to strike has, in fact, become customary international law.'5166 In 2018, responding to a press briefing on a strike by U.N. employees following announced pay cuts, the Deputy Spokesman for the U.N. Secretary-General reiterated the U.N. view that the right to strike is indeed CIL and did so in the context of the right being asserted by public employees not involved in the administration of the state: Question: Does the Secretary-General believe that U.N. staff have a right to take part in industrial action? Deputy Spokesman: We believe the right to strike is part of customary international law. 167 These statements did not simply materialize in recent times. Two major U.N. Human Rights treaties—the ICESCR and the ICCPR—have been interpreted by their relevant treaty bodies to include a right to strike; these bodies have reaffirmed their joint commitment to the right to strike as part of FOA, and they regularly monitor governments' record of compliance with this right. 168 And as noted earlier, the two treaties—each ratified by over 80 percent of U.N members—include a clause explicitly identifying respect for ILO Convention 87. In sum, the principles of FOA including the right to strike would appear to satisfy both prongs of the CIL test. The widely recognized general practice on strikes has sufficient shape and contours: a basic right, three substantive exceptions (public servants involved in administration of the state, essential services in the strict sense of the term, and acute national emergencies), a recognition that strikers retain their employment relationship during the strike itself, and certain procedural prerequisites or attached conditions.169 There are variations in national practice and also disagreements at the margins about what the right to strike protects, but these aspects are not different in kind from diversity and contests regarding international rights prohibiting child labor, or for that matter domestic constitutional rights involving freedom of expression or the right to bear arms. As for opinio juris, a broad range of sources combine to establish that the general practice stems from a sense of acceptance and obligation: ILO foundation and structure; two widely endorsed United Nations human rights treaties; national constitutions; government representations; domestic legislative and judicial decisions that expressly refer to or impliedly accept international standards and practices; and contemporary U.N. leadership.

#### Ruling on the right to strike secures the legitimacy of the ICJ as an international mediation body.

Hofmann and Schuster 16 [Claudia and Norbert; February 2016; Dr. Claudia Hofmann works as a research associate at the Chair for Public Law and Policy at the University of Regensburg. She specializes in public international law (in particular the field of socio-economic human rights and equality-oriented policies), social law, constitutional and administrative law. Norbert Schuster works as a lawyer in Berlin and teaches at the University of Bremen. He specialises in labour law; “It ain’t over ‘til it’s over: the right to strike and the mandate of the ILO Committee of Experts revisited,” <https://global-labour-university.org/fileadmin/GLU_Working_Papers/GLU_WP_No.40.pdf>] Justin

BASES FOR A POTENTIAL RULING BY THE INTERNATIONAL COURT OF JUSTICE The question of whether the Committee has left the area of interpretation and entered the sphere of standard-setting can only be answered on a case by case basis. As has been indicated before, the primary question for an advisory opinion of the ICJ is whether Convention No. 87 contains a right to strike (see Section IV). What follows is, therefore, a cursory glance at the legal bases for an ICJ opinion, so as to sketch the broad outlines of a possible decision. Under Art 37.1 of the ILO Constitution, taken together with Art 36 of the ICJ Statute, the International Court of Justice is responsible for questions or differences of opinion about the interpretation of the ILO Constitution and the ILO Conventions. This reflects the function of the ICJ as an international mediation body inasmuch as cases are to be referred to the ICJ when the parties to a treaty disagree about the interpretation of a norm within the treaty. Let us assume that such a disagreement exists here as to whether, in particular, Art 3 of ILO Convention No. 87 also accords trade unions a right to strike.85 The Committee of Experts and the Committee on Freedom of Association have expressed a legal opinion on this. In the current legal situation, i.e. in the absence of concrete rules explicitly granting the Committee of Experts a corresponding interpretative competence, the competence to decide on this issue rests with the ICJ. Upon what sources of law and which principles will the ICJ base its decision? Two provisions are particularly relevant here. One is Art 38 of the ICJ Statute and the other is Art 31 of the Vienna Convention on the Law of Treaties (VCLT).

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

Kornelios Korneliou 18 [Permanent Representative of Cyprus and Vice-President of the 73rd Session of the UN General assembly, "Report of the International Court of Justice," United Nations, 10-25-2018 <https://www.un.org/pga/73/2018/10/25/report-of-the-international-court-of-justice/>] Recut Justin

In the face of the headwinds against the multilateral system and global institutions, including direct attacks on their legitimacy, the International Court of Justice stands as testament to the principles of peace and justice in a multilateral world. Today’s debate builds on fifty years of exchange between the Court and the General Assembly, allowing Member States the opportunity to debate the work of the Court. This historic exchange is particularly pertinent to the 73rd Session of the General Assembly, which aims to ‘make the UN relevant to all’. The court system serves as a bulwark against arbitrariness and provides the mechanism for peaceful settlement of disputes, guaranteeing the stability so necessary for international cooperation. For the peoples of the world, the court may be far away but its impact is real. Excellencies, I am encouraged by the continued and enhanced confidence in the International Court of Justice. Not only has the Court’s workload increased over the last 20-years but this trend has continued into the period under review, demonstrating unequivocally that there remains a need and desire for a multilateral mechanism to address legal challenges of international concern. The variety of cases addressed by the court, and the fact that these cases stem from four continents, is also testament to the universality of the Court. In fact, as of today a total of 73 Member States have accepted, as compulsory, the jurisdiction of the Court. In addition to the Court’s role in advancing multilateralism, its judgements and advisory opinion directly influence the development and strengthening of the rule of law in countries the world over. As stated by the report: “everything the court does is aimed at promoting and reinforcing the rule of law, through its judgement and advisory opinions, it contributes to developing and clarifying international law.” Finally, at a time when human rights abuses and conflict devastate the lives of millions, and when tensions simmer in regions throughout the world, the adjudication of disputes between states remains an essential role of the Court in preserving peace and security. We welcome the continued readiness by the Court to intervene when other diplomatic or political means have proven unsuccessful. For Member States, respect for the decisions, judgements, advice, and orders of the Court remains critical for the efficacy and longevity of the international Justice System. The General Assembly has thus called upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute. In closing, allow me to reiterate: if we are to preserve the international multilateral system, then adherence and respect for international law remains key.

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

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

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

#### The perm wrecks legitimacy.

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

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

## 4

#### Permissibility and presumption negate – a. the resolution indicates the affirmative is proactive, and permissibility would deny the existence of an obligation b. Statements are more often false than true because any part can be false. This means you negate if there is no offense because the resolution is probably false.

## Case

#### You don’t solve your aff – your solvency advocate makes the distinction between collective bargaining and strikes – read the evidence because it definitely points out that the right to strike is distinct from collective bargaining. Double-bind: either

#### A] You defend it which makes you extra-T – that’s a voter for inflating solvency and exploding limits to anything that relates to the topic.

#### B] OR you don’t – so there’s a right to strike turn – we read blue.

Dongfang 11 Han Dongfang 4-6-2011 "Liberate China's Workers" <https://archive.md/7RvDG#selection-307.0-316.0> (director of China Labour Bulletin, a nongovernmental organization that defends the rights of workers in China.)//Elmer

HONG KONG — **There is no legal right to strike in China**, but there are strikes every day. Factory workers, hotel employees, teachers and taxi drivers regularly withdraw their labor and demand a better deal from their employer. Strikes are often successful, and these days strike leaders hardly ever get put in prison. It may seem ironic that workers in a nominally Communist country don’t have the right to strike, and that workers are apparently willing to defy the Communist Party by going out on strike. But China effectively abandoned Communism and embraced capitalism many years ago. And in a capitalist economy, strikes are a fact of life. Chinese scholars, government **officials** and even some businessmen have long recognized this fact and have **called for the** **restoration of the right to strike**, **which was removed from the Constitution of the People’s Republic of China in 1982**. **Deng Xiaoping feared that the economic reforms he was introducing would lead to labor unrest.** Although Deng and his successors were able to quiet labor unrest and strike action for a while, the trend over the last five years or so has been clear. As the business leader Zeng Qinghong noted recently, the number of strikes is increasing every year. Mr. Zeng, who is head of the Guangzhou Automobile Co., reported that in just two months last summer, there were more than 20 strikes in the automotive industry in the Pearl River Delta alone, and that new strikes were occurring all the time. Mr. Zeng suggested in a submission to this year’s National People’s Congress, China’s annual legislature, that the right to strike should be restored because it was a basic right of workers in a market economy and a natural adjunct to the right to work. I agree with Mr. Zeng on this point and would like to take his argument one step further. The **right to strike** **is** clearly important, but the most vital and fundamental right of workers is **the right to collective bargaining**. After all, **why do workers go out on strike**? Very simply, they go on strike **for higher pay and better working conditions**. **The strike is not an end in itself but is part of a bargaining process.** And **if the collective bargaining process were more effective**, in many cases, **workers would not need to go out on strike at all**. If you talk to factory workers, most will tell you they would rather not go on strike if they can avoid it. Indeed, most only go on strike because they have no alternative. **China’s workers want and need an alternative**. They want **a system** in **which they can raise their demands** for higher pay and discuss those demands **in** peaceful, **equal and constructive negotiations** with management. **If workers can achieve their goals through peaceful collective bargaining, in the long run there will be fewer strikes**, workers will be better paid and labor relations will be vastly improved. We also have to be aware that if the right to strike is reinstated in the Constitution in isolation — without the right to collective bargaining — there would be a danger that the right of workers to go on strike might actually be eroded. Just look at the right to stage a public demonstration. Chinese citizens do have the constitutional right to demonstrate but in reality they have to apply to the police for permission, and of course very few of those applications are granted. Likewise, if workers have to apply to the authorities before they can go on strike, the right to strike will become meaningless. Moreover, the number of strikes would not be reduced because workers would continue to go out on strike regardless and labor relations will deteriorate even further. On the other hand, if the **right to strike** is framed in a way that **can** **liberate workers** and **encourage** **and empower them to engage in collective bargaining**, **safe** **in the knowledge that they have a powerful weapon that can be deployed if necessary, labor relations will be enhanced** and the number of strikes might actually decrease. There is a saying in China that “you should not only focus on your head when you have headache because the real reason for the headache could be your foot.” As Mr. Zeng noted, the rapidly increasing number of strikes in China has become a major headache, not only for business but for the government as well. If the government wants to reduce the number of strikes in China, it needs to take a holistic approach and address the root cause of the problem — the absence of an effective collective bargaining system in which democratically elected workers’ representatives can negotiate better pay and conditions with their employer. If such a system can be implemented in China it would obviously benefit workers but it would also **benefit employers** like Mr. Zeng who are **concerned** **about** **high worker turnover and the loss of production through strike action.** Crucially, it is also in the interest of the Chinese government to introduce collective bargaining. The authorities may be nervous about handing power to the workers but they should bear in mind that by doing so they would aid the development of more harmonious labor relations, which could lead to the Communist Party’s goal of creating a more prosperous, stable and harmonious society.

#### THE RIGHT TO STRIKE WOULD NEVER BE ENFORCED IN CHINA- MEANS NO SOLVENCY- SUPERCHARGED BY THAT CHINA IS THE ONLY ONE DOING THE AFF

Nham 07 Nham, Mayoung. "The right to strike or the freedom to strike: can either interpretation improve working conditions in China." Geo. Wash. Int'l L. Rev. 39 (2007): 919.

The obvious criticism and problem with legally recognizing a right to strike in China is that there are still no guarantees that protection of this right will be enforced, even if it is a human right. 139 Reports of rampant labor rights abuses in China continue to emerge; it is unclear whether these abuses are a product of facially inadequate labor laws or inadequate enforcement of these laws.' 40 Given China's history of human rights abuses, especially with respect to labor, 41 the likelihood of the state protecting a worker's fundamental right to strike is not promising. Therefore, in order to truly improve the plight of Chinese workers, measures must be taken to ensure that there is more than just an illusory right to strike. Two possible options are reforming the All-China Federation of Trade Unions or placing international pressure on China to enforce a right to strike provision. As discussed in the following subsections, however, these options are problematic and unlikely to result in real reform.

#### TOO MANY BARRIERS TO AN EFFECTIVE LABOR MOVEMENT- CCP WOULD NEVER GIVE UP CONTROL OF UNIONS

Nham 07 Nham, Mayoung. "The right to strike or the freedom to strike: can either interpretation improve working conditions in China." Geo. Wash. Int'l L. Rev. 39 (2007): 919.

The problem with this solution, however, is that it ignores the serious impediments that hinder the ACFTU from transforming itself into an enforcer of workers' rights. Using the ACFTU or any other union to enforce the right to strike would require a serious reform of Chinese law, ACFTU ideology, and government attitudes towards independent unions and strikes. First, the Trade Union Law would have to be revised in order to remove the obligation on unions to safeguard the Communist Party's interests and policies, as well as the rights of workers. 146 Second, the ACFTU and its leaders would have to completely change their attitude towards strikes. Rather than trying to prevent strikes before they happen or condemning them when they do occur, 147 the ACFTU would have to embrace and to protect strikes. A pro-strike role for the ACFTU would be a complete shift in the ACFTU's attitude towards strikes and may require the ACFTU to change more than it can. Finally, reforming the ACFTU and using it as a means of enforcing the right to strike would face serious opposition from the Chinese government. It is more than likely that the government would be unwilling to relinquish its control over the ACFTU because doing so is perceived as a threat to the continued existence of the Communist regime. 148 One of the principal reasons why the Chinese government has maintained such tight control over unions is because it fears that a mass organization of workers could lead to an overthrow of the government. 149 If the ACFTU becomes free of government control and has the power to organize and initiate strikes, then the government would feel even more threatened. Therefore, it is not as simple for the ACFTU to transform into a protector of workers' rights as gaining independence from the government.

#### CHINESE UNIONS ARE CONTROLLED BY THE CCP, MEANS EFFECTIVE LABOR NEGOTIATIONS AND COLLECTIVE BARGAINING ARE IMPOSSIBLE

Estlund 18 Estlund, Cynthia (Rein Professor of Law at the New York University School of Law). "6. Can China Secure Labor Peace without Independent Unions? Strikes and Collective Bargaining with Chinese Characteristics." A New Deal for China’s Workers?. Harvard University Press, 2018. 123-148.

That leads to a more general point foreshadowed in Chapter 4: when a strike is led and organized by a union that can negotiate effectively with the employer, and that is bound by reasonable restrictions on the permissible scope of industrial action, the union can in turn “regulate” the workers, keeping them within legally prescribed boundaries. The union can tell the workers: “If you follow our lead, we will get you a better deal.” And the union can get a better deal if it can credibly promise to end the strike on that condition. Genuinely representative unions thus stand at the core of Western collective bargaining systems: unions both enable workers to advance their economic interests and enable societies to regulate the scope and intensity of industrial action by serving as intermediate regulatory institutions. But unions can play that role only if they are seen by the workers as their faithful agents. The official union in China is something quite different. It is supposed to represent workers’ interests, but its various branches are controlled by the Party above the level of the enterprise, and its enterprise branches are largely controlled by enterprise management. There have been periodic efforts to make the enterprise trade unions more accountable to the workers; that is the subject of the next chapter. But as things stand, workers who are aggrieved, and who want to make demands on their employer, do not regard the union at any level as their faithful agent. The union cannot regulate the workers because the workers do not trust the union.

#### LABOR MOVEMENTS CAN BE COOPTED TO STIFFLE WORKER DISSATISFACTION

Estlund 18 Estlund, Cynthia (Rein Professor of Law at the New York University School of Law). "6. Can China Secure Labor Peace without Independent Unions? Strikes and Collective Bargaining with Chinese Characteristics." A New Deal for China’s Workers?. Harvard University Press, 2018. 123-148.

Collective appeasement is only one facet of the official response to unrest, of course. Another option is individual appeasement or co-optation. Some grassroots leaders might be neutralized by being promoted into management or hired onto a local union staff. A Chinese labor scholar described this tactic as an application of Mao’s advice on dealing with dissenters: “Mix with sand” (chan sha zi). 28 Of course, grassroots worker activists in the West may also be co-opted by employers or entrenched union officials. But the temptation to succumb to such inducements is much greater in China. First, there is no alternative “career path” as a worker-leader within an independent union movement, as there is in the West (difficult though it may be). Second, workers who persist in their independent activism in China face a high risk of serious reprisals. For whether or not workers’ collective demands are addressed, their leaders face a range of sanctions.

#### EVEN WHEN STRIKES THEMSELVES ARE LEGAL THEY CAN STILL BE SHUT DOWN BY CRIMINALIZING ACTIVITY RELATED TO STRIKING

Estlund 18 Estlund, Cynthia (Rein Professor of Law at the New York University School of Law). "6. Can China Secure Labor Peace without Independent Unions? Strikes and Collective Bargaining with Chinese Characteristics." A New Deal for China’s Workers?. Harvard University Press, 2018. 123-148.

Sanctions come in many varieties. Strikers and their leaders are routinely fired, and courts accept participation in a work stoppage as a lawful reason for dismissal, as discussed below. But the risk of discharge pales beside the other risks that face China’s worker activists. Activists who make connections across factories, or who openly encourage the spread of strikes, might be detained or relocated, or even criminally prosecuted. Even ordinary strikers can face such consequences. For example, in May 2014, over seventy workers protesting Walmart’s modest severance payments in Hunan were detained without charges for a week, and eleven Guangdong security guards were convicted by a Guangzhou court for “disturbing public order” after a dispute with their employers.29 Even if striking itself is not prohibited, attempting to publicize a strike or protest can readily run afoul of vague criminal prohibitions. For example, in August 2013, when hospital security guards hung a large banner from their Guangzhou clinic’s roof to publicize their strike, they were arrested for “illegally gathering and disturbing the social order” and jailed for nine months.30 In May 2015, nine striking bike light manufacturing workers were arrested by police for “disturbing public order.”3

#### LABOR VICTORIES WILL ALWAYS BE LIMITED BY THE FACT THE STATE IN CHINA HAS THE ABILITY TO SET WAGES

Estlund 18 Estlund, Cynthia (Rein Professor of Law at the New York University School of Law). "6. Can China Secure Labor Peace without Independent Unions? Strikes and Collective Bargaining with Chinese Characteristics." A New Deal for China’s Workers?. Harvard University Press, 2018. 123-148.

One thing is clear: Unlike the United States, and in spite of its partial conversion to the gospel of market ordering, China is not inhibited legally or ideologically from direct state intervention in determination of wages through the official trade union. Employers, who are actually embedded in markets, may well push back against active party-state involvement in wage setting, both in particular negotiations and at the policy level. And they may succeed, for employers still have plenty of pull behind the scenes with local party-state officials, and still hold the keys to the economic growth that remains central to the career trajectories of those officials. But employers in China cannot invoke any deep policy or doctrine or ideology of “collective freedom of contract”—of leaving the determination of the results of collective bargaining to the “free play of economic forces”—such as the National Labor Relations Act (NLRA) interposes in the United States as a barrier to official intervention in wage setting at the company level.3

#### UNIONS ARE CONTROLLED BY THE STATE AND ARE THEREFORE UNABLE TO EFFECTIVELY COLLECTIVELY BARGAIN

Estlund 18 Estlund, Cynthia (Rein Professor of Law at the New York University School of Law). "6. Can China Secure Labor Peace without Independent Unions? Strikes and Collective Bargaining with Chinese Characteristics." A New Deal for China’s Workers?. Harvard University Press, 2018. 123-148.

Collective bargaining, and especially sectoral bargaining, can constrain wages at both the high and low ends. That is so even in democratic countries with independent labor movements. Nationally organized independent unions can take a long and broad view of workers’ interests, and can bargain for a fair quid pro quo in exchange for “wage restraint” that benefits the economy as a whole. But unless workers are well represented, sectoral bargaining can become a vehicle for simple employer collusion—a way to cap wage levels below what the market would bear, and to limit employer competition in tight labor markets, without any future rewards for workers’ forbearance. The risk of employer collusion is high in China, where the workers’ official representatives answer to party officials, who are in turn often beholden to local businesses. Especially when multiemployer bargaining is a response to tight labor markets and rising wages, as in Zhejiang, one suspects it does more to restrain workers’ bargaining power than to enhance it.

### 1NC – AT: Advantage

#### The advantage is NUQ – strikes are rising and legality is irrelevant – we read blue.

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