# 1AC vs Harrison MB

### 1AC - Soft Power

#### First, inherency, the US fails to recognize the right to strike --- SCOTUS rulings causes severe infringements

Pope 10 [James Gray Pope is a professor of Law at Rutgers University. “The Right to Strike Under the United States Constitution: Theory, Practice, and Possible Implications for Canada.” NO DATE. UToronto Law. https://www.law.utoronto.ca/documents/conferences2/StrikeSymposium09\_Pope.pdf]

In practice, however (with the sole exception of the Wolff Packing case, discussed below), the Supreme Court has upheld restrictions on the right to strike without considering their effect on the ability of workers to influence their conditions of employment. As a result, U.S. law is extraordinarily unprotective of the right to strike. The Court has, for example, approved the privilege of employers to permanently replace economic strikers, upheld a flat prohibition on secondary strikes, and sustained flat bans on public employee rights.6 The ILO’s Committee on Freedom of Association has concluded that each of these outcomes violates international standards.7 Scholars have suggested that the permanent replacement rule, in particular, has contributed to a drastic decline in strike activity in the U.S.8 Once labor’s great equalizer, the threat of a strike has been appropriated by management both in negotiations, where employers are more likely to threaten permanent replacement than unions are to threaten a strike, and in organizing drives, where the threat of permanent replacement is “Exhibit Number One” against unionizing.9

#### US soft power is wavering --- there’s still hope for recovery but it requires consistency

Brand 5-2 [Brand finance reports on a wide array of domestic and global news stories; news topics include politics/government, business, technology, religion, sports/entertainment, science/nature, and health/lifestyle. “The decline of US soft power? Last year's ranking leader, America plummets down the Global Soft Power Index.” May 2, 2021. https://www.prnewswire.com/news-releases/the-decline-of-us-soft-power-last-years-ranking-leader-america-plummets-down-the-global-soft-power-index-301238970.html]

LONDON, March 2, 2021 /PRNewswire/ -- A year of widespread turmoil is starkly reflected in America's steep drop in the Global Soft Power Index 2021, making the US the fastest-falling soft power nation globally. Defined as ability to influence the preferences and behaviors of other nations around the world, soft power is linked to attraction or persuasion, rather than coercion. Between a turbulent election campaign and a haphazard COVID-19 response, the US lost its position as the world's soft power superpower, falling from last year's 1st to 6th position in 2021. With an overall Index score of 55.9 out of 100, down by -11.2 points on last year's 67.1 – the US recorded a more significant decline than any other nation in the ranking. With former President Donald Trump's hesitance to acknowledge the scale and severity of the pandemic criticized at home and abroad, the US places at the very bottom of the Index's COVID-19 metric, ranking at an abysmal 105th place among all nations rated in the study. David Haigh, CEO of Brand Finance, commented: "The raging of the virus across the US combined with President Trump's rebuke of medical expertise and touting of reckless home-remedies is the most likely culprit for the waning of America's long-held role model status internationally, at a time where sensible global leadership has arguably been most needed." Unveiled at the virtual Global Soft Power Summit 2021, hosted by leading brand valuation consultancy Brand Finance in partnership with BBC Global News, the Global Soft Power Index 2021 represents the most comprehensive research study on perceptions of nation brands – capturing the opinions of 75,000 respondents across 100 countries. Playing host to various speakers, the Summit also included inputs from David Miliband, CEO and President of the International Rescue Committee, as well as Joseph Nye – the Harvard University Professor originally responsible for coining the phrase 'soft power'. According to Professor Nye, the demise of US soft power began as early as 2017 under the Trump administration, but there is hope for recovery: "Trump's narrow view of international allies, withdrawal from global agreements like the Paris Climate Accord, and lack of support for the WHO were already damaging American soft power before COVID-19 even hit. "Trump was the first president that did not place a high emphasis on values. When America emphasized values, it made the nation more attractive to society, hence our soft power was unrivalled. "The question is if we can recover our soft power, and I think the answer is yes. If America continues making progress on vaccines and can get the pandemic under control, coupled with a sharp economic recovery, then our prospects look good. So, if I were to comment on what the Global Soft Power Index will say next year, I believe the US will be back on an upward trend." David Miliband, in turn, warned of the challenges ahead and underlined the importance of integrity and internal unity for soft power: "There are more power centers today than ever before, and this increased competition for soft power means reproducing past results is going to be much tougher. In this regard, I think the US is going to have to work a lot harder to re-establish its reputation in the next four years. "If a nation is divided, it becomes harder to attract others, and soft power will suffer as a result. Every government lives in coalition with its own people, regardless of the type of rule in place, and the greatest threat to the soft power of a country is dissonance between what it says it stands for and what its actions reveal it to stand for."

#### Failure to comply with ILO on labor strikes hurts US soft power

Rosenberg 20 [Eli Rosenberg covers work and labor for The Washington Post.. “U.S. accused of violating international labor laws, forced-labor protections in new complaint.” October 7, 2020. https://www.washingtonpost.com/business/2020/10/08/international-complaint-worker-protections/]

The Labor Department and Occupational Safety and Health Administration did not respond to a request for comment. The National Labor Relations Board declined to comment. The complaint points to two main avenues of failure for U.S. labor law and policy: the country’s antiquated labor laws, such as the 1935 National Labor Relations Act, which leaves farmers, gig workers, contractors and other classes of workers without protection; and the softening of workers’ protections by the Trump administration that has continued into the pandemic. Some of the complaint’s harshest words were reserved for the Trump administration’s orders declaring industries such as meatpacking essential, compelling them to stay open even amid potential novel coronavirus outbreaks, while federal agencies, including OSHA, declined to issue enforceable safety regulations. “These executive orders gave a green light for employers to force workers to report for work and risk their lives or lose their jobs,” said the complaint, signed by Trumka and SEIU President Mary Kay Henry. “This is tantamount to forced labor.” The complaint highlighted the racial implications of these orders too, arguing one executive order was inherently discriminatory because the vast majority of meatpacking workers who contracted the coronavirus were Black or Hispanic. The complaint also took aim at other ways Trump’s labor agencies rolled back protections for workers. During the pandemic’s early weeks, the NLRB, which oversees union elections, suspended them, giving companies more time to maneuver against them, the complaint charged. The NLRB also issued a memo in March that the union presidents said signaled employers could avoid bargaining about proposed layoffs because of the pandemic. And in two cases in August, the NLRB said companies were in the clear for dismissing workers who expressed concern about safety issues during the pandemic, even though workers have protections from the National Labor Relations Act from being fired in many cases for raising safety concerns at work. “Each of these decisions disarms workers and their unions in the face of management actions to violate their collective bargaining rights in the Covid-19 crisis,” the complaint said. “Since these memoranda also serve as instructions to NLRB regional authorities on how to handle similar cases, they have a cascading effect that will undermine workers’ rights in weeks and months ahead as the pandemic continues to ravage American workplaces.” As they rushed to maintain U.S. meat supply, big processors saw meat plants become covid-19 hot spots, worker illnesses spike It also put a spotlight on OSHA, charged with upholding worker safety regulations, noting that the agency failed to issue a safety standard businesses would be required to adhere to for coronavirus safety. “The complaint is stunning in its level of detail and the number of examples,” said Joseph A. McCartin, a U.S. labor expert at Georgetown University. “What becomes clear is that the U.S. is far from an example for how to protect workers and is actually showing itself to be well behind the curve.” McCartin said the type of complaint was not very typical of prosperous, democratic countries. Countries that had complaints investigated by the U.N. labor body in 2019 include Burundi, China, Myanmar, Pakistan and France. Though the ILO does not have any enforcement power, a finding against the United States after an investigation could have serious ramifications for the country’s reputation, McCartin said. “It would strengthen politically the argument that our laws are inadequate,” McCartin said. “It could help to bring some political pressure to bear on those agencies if in the eyes of the world and this duly designated committee that the U.S. is found to be failing to ensure basic human rights.” The United States participates in the ILO but has not signed on to all of its conventions. “The committee’s finding that the U.S. is in violation of these essential international standards would make it a lot more difficult for the U.S. to hold other countries accountable,” said Lance Compa, a labor law expert who helped draft the complaint. “To the extent that the committee finds that the U.S. has violated international standards, it makes it a lot more difficult for the U.S. to, for example, hold China accountable for labor rights violations. Or Russia, or India, or Brazil.” Henry, SEIU’s president, said that state of labor protections in the United States was “unconscionable.”

#### Soft power fosters multilateralism---solves extinction but also renews the institutional foundation of the global order

John G. Ikenberry 11, Albert G. Milbank Professor of Politics and International Affairs at Princeton, Spring, “A World of Our Making”, http://www.democracyjournal.org/20/a-world-of-our-making.php?page=all

Grand Strategy as Liberal Order Building **American dominance** of the global system **will eventually yield to the rise of other powerful states. The unipolar moment will pass. In facing this circumstance, American grand strategy should be informed by answers to this question: What sort of international order would we like to see in place in 2020 or 2030 when America is less powerful?** Grand strategy is a set of coordinated and sustained policies designed to address the long-term threats and opportunities that lie beyond the country’s shores. Given the great shifts in the global system and the crisis of liberal hegemonic order, how should the United States pursue grand strategy in the coming years? The answer is that **the United States should work with others to rebuild and renew the institutional foundations of the liberal international order** and along the way re-establish its own authority as a global leader. The United States is going to need to invest in alliances, partnerships, multilateral institutions, special relationships, great-power concerts, cooperative security pacts, and democratic security communities. That is, **the United States will need to return to the great tasks of liberal order building.** It is useful to distinguish between two types of grand strategy: positional and milieu oriented. With a positional grand strategy, a great power seeks to diminish the power or threat embodied in a specific challenger state or group of states. Examples are Nazi Germany, Imperial Japan, the Soviet bloc, and perhaps—in the future—Greater China. With a milieu-oriented grand strategy, a great power does not target a specific state but seeks to structure its general international environment in ways that are congenial with its long-term security. This might entail building the infrastructure of international cooperation, promoting trade and democracy in various regions of the world, and establishing partnerships that might be useful for various contingencies. My point is that under conditions of unipolarity, in a world of diffuse threats, and with pervasive uncertainty over what the specific security challenges will be in the future, this milieu-based approach to grand strategy is necessary. The United States does not face the sort of singular geopolitical threat that it did with the fascist and communist powers of the last century. Indeed, compared with the dark days of the 1930s or the Cold War, America lives in an extraordinarily benign security environment. Rather than a single overriding threat, the United States and other countries face a host of diffuse and evolving threats. **Global** warming**,** nuclear proliferation, jihadist terrorism, energy security**, health** pandemics**—these and other dangers loom on the horizon. Any of these threats** could endanger **Americans’** lives **and way of life either directly or indirectly** by destabilizing the global system **upon which American security and prosperity depends**. What is more, these threats are interconnected—and it is their interactive effects that represent the most acute danger. And **if** several of **these threats materialize at the same time and interact to generate greater** violence and instability, then **the global order itself, as well as the foundations of American national security, would be put at risk.** What unites these threats and challenges is that they are all manifestations of rising security interdependence. More and more of what goes on in other countries matters for the health and safety of the United States and the rest of the world. Many of the new dangers—such as health pandemics and transnational terrorist violence—stem from the weakness of states rather than their strength. At the same time, technologies of violence are evolving, providing opportunities for weak states or nonstate groups to threaten others at a greater distance. When states are in a situation of security interdependence, they cannot go it alone. They must negotiate and cooperate with other states and seek mutual restraints and protections. The United States can-not hide or protect itself from threats under conditions of rising security interdependence. It must get out in the world and work with other states to build frameworks of cooperation and leverage capacities for action against this unusually diverse, diffuse, and unpredictable array of threats and challenges. This is why a milieu-based grand strategy is attractive. **The objective is to shape the international environment to maximize your capacities to protect the nation from threats.** To engage in liberal order building is to invest in international cooperative frameworks—that is, rules, institutions, partnerships, networks, standby capacities, social knowledge, etc.—in which the United States operates. **To build international order is to increase the global stock of “social capital**”—**which is the term** Pierre Bourdieu, Robert Putnam, and other **social scientists have used to define the actual and potential resources and capacities within a political community, manifest in and through its networks of social relations, that are available for solving collective problems.** If American grand strategy is to be organized around liberal order building, what are the specific objectives and what is the policy agenda? There are five such objectives. First, the United States needs to lead in the building of an enhanced protective infrastructure that helps prevent the emergence of threats and limits the damage if they do materialize. Many of the threats mentioned above are manifest as socioeconomic backwardness and failure that cause regional and international instability and conflict. These are the sorts of threats that are likely to arise with the coming of global warming and epidemic disease. What is needed here is institutional cooperation to strengthen the capacity of governments and the international com-munity to prevent epidemics or food shortages or mass migrations that create global upheaval—and mitigate the effects of these upheavals if they occur. The international system already has a great deal of this protective infrastructure—institutions and networks that pro-mote cooperation over public health, refugees, and emergency aid. But as the scale and scope of potential problems grow in the twenty-first century, investments in these preventive and management capacities will also need to grow. Early warning systems, protocols for emergency operations, standby capacities, etc.—these safeguards are the stuff of a protective global infrastructure. Second, the United States should recommit to and rebuild its security alliances. The idea is to update the old bargains that lie behind these security pacts. In NATO, but also in the East Asia bilateral partner-ships, the United States agrees to provide security protection to the other states and brings its partners into the process of decision-making over the use of force. In return, these partners agree to work with the United States—providing manpower, logistics, and other types of support—in wider theaters of action. The United States gives up some autonomy in strategic decision-making, although it is more an informal restraint than a legally binding one, and in exchange it gets cooperation and political support. Third, the United States should reform and create encompassing global institutions that foster and legitimate collective action. The first move here should be to reform the United Nations, starting with the expansion of the permanent membership on the Security Council. Several plans have been proposed. All of them entail adding new members—such as Germany, Japan, India, Brazil, South Africa, and others—and reforming the voting procedures. Almost all of the candidates for permanent membership are mature or rising democracies. The goal, of course, is to make them stakeholders in the United Nations and thereby strengthen the primacy of the UN as a vehicle for global collective action. There really is no substitute for the legitimacy that the United Nations can offer to emergency actions—humanitarian interventions, economic sanctions, uses of force against terrorists, and so forth. Public support in advanced democracies grows rapidly when their governments can stand behind a UN-sanctioned action. Fourth, the United States should accommodate and institution-ally engage China. China will most likely be a dominant state, and the United States will need to yield to it in various ways. The United States should respond to the rise of China by strengthening the rules and institutions of the liberal international order—deepening their roots, integrating rising capitalist democracies, sharing authority and functional roles. The United States should also intensify cooperation with Europe and renew joint commitments to alliances and multilateral global governance. The more that China faces not just the United States but the entire world of capitalist democracies, the better. This is not to argue that China must face a grand counterbalancing alliance against it. Rather, it should face a complex and highly integrated global system—one that is so encompassing and deeply entrenched that it essentially has no choice but to join it and seek to prosper within it. The United States should also be seeking to construct a regional security order in East Asia that can provide a framework for managing the coming shifts. The idea is not to block China’s entry into the regional order but to help shape its terms, looking for opportunities to strike strategic bargains at various moments along the shifting power trajectories and encroaching geopolitical spheres. The big bargain that the United States will want to strike is this: to accommodate a rising China by offering it status and position within the regional order in return for Beijing’s acceptance and accommodation of Washington’s core strategic interests, which include remaining a dominant security provider within East Asia. In striking this strategic bargain, the United States will also want to try to build multilateral institutional arrangements in East Asia that will tie China to the wider region. Fifth, the United States should reclaim a liberal internationalist public philosophy. When American officials after World War II championed the building of a rule-based postwar order, they articulated a distinctive internationalist vision of order that has faded in recent decades. It was a vision that entailed a synthesis of liberal and realist ideas about economic and national security, and the sources of stable and peaceful order. These ideas—drawn from the experiences with the New Deal and the previous decades of war and depression—led American leaders to associate the national interest with the building of a managed and institutionalized global system. What is needed today is a renewed public philosophy of liberal internationalism—a shift away from neoliberal-ism—that can inform American elites as they make trade-offs between sovereignty and institutional cooperation. Under this philosophy, the restraint and the commitment of American power went hand in hand. Global rules and institutions advanced America’s national interest rather than threatened it. The alternative public philosophies that have circulated in recent years—philosophies that champion American unilateralism and disentanglement from global rules and institutions—did not meet with great success. So an opening exists for America’s postwar vision of internationalism to be updated and rearticulated today. The United States should embrace the tenets of this liberal public philosophy: Lead with rules rather than dominate with power; provide public goods and connect their provision to cooperative and accommodative policies of others; build and renew international rules and institutions that work to reinforce the capacities of states to govern and achieve security and economic success; keep the other liberal democracies close; and let the global system itself do the deep work of liberal modernization. **As it navigates this brave new world, the United States will find itself needing to share power and rely in part on others to ensure its security**. **It will not be able to depend on unipolar power or airtight borders.** It will need, above all else, authority and respect as a global leader. **The United States has lost some of that authority and respect in recent years. In committing itself to a grand strategy of liberal order building, it can begin the process of gaining it back.**

#### Institutional legitimacy checks conflict escalation even after hegemony erodes---key to prevent global transition wars and power vacuums

- No risk of heg bad

- Emulation is key to hegemony—that solves global conflict—empirics

- No offense—legitimacy through institutions reduces the need for material intervention

- Institutions provide a framework to reach agreement—prevents conflict escalation and solves existential threats

- The alternative is global power vacuums—those escalate

- Institutions are key to manage the transition—creating US-modeled institutions prevents conflict even after heg declines

Kromah 9 (Lamii Moivi Kromah, Department of International Relations University of the Witwatersrand, February 2009, “The Institutional Nature of U.S. Hegemony: Post 9/11”, <http://wiredspace.wits.ac.za/bitstream/handle/10539/7301/MARR%2009.pdf>)

After WWII the U.S. established organizations such as the United Nations, NATO and others. In each these new regimes it make Germany a member and eventual an integral partner. The interests of the leader are projected on a universal plane: What is good for the hegemon is good for the world. The hegemonic state is successful to the degree that other states emulate it. Emulation is the basis of the consent that lies at the heart of the hegemonic project.41 Since wealth depended on peace the U.S set about creating institutions and regimes that promoted free trade, and peaceful conflict resolution. U.S. benevolent hegemony is what has kept the peace since the end of WWII. The upshot is that U.S. hegemony and liberalism have produced the most stable and durable political order that the world has seen since the fall of the Roman Empire. It is not as formally or highly integrated as the European Union, but it is just as profound and robust as a political order, Kant’s Perpetual Peace requires that the system be diverse and not monolithic because then tyranny will be the outcome. As long as the system allows for democratic states to press claims and resolve conflicts, the system will perpetuate itself peacefully. A state such as the United States that has achieved international primacy has every reason to attempt to maintain that primacy through peaceful means so as to preclude the need of having to fight a war to maintain it.42 This view of the post-hegemonic Western world does not put a great deal of emphasis on U.S. leadership in the traditional sense. U.S. leadership takes the form of providing the venues and mechanisms for articulating demands and resolving disputes not unlike the character of politics within domestic pluralistic systems.43 America as a big and powerful state has an incentive to organize and manage a political order that is considered legitimate by the other states. It is not in a hegemonic leader's interest to preside over a global order that requires constant use of material capabilities to get other states to go along. Legitimacy exists when political order is based on reciprocal consent. It emerges when secondary states buy into rules and norms of the political order as a matter of principle, and not simply because they are forced into it. But if a hegemonic power wants to encourage the emergence of a legitimate political order, it must articulate principles and norms, and engage in negotiations and compromises that have very little to do with the exercise of power.44 So should this hegemonic power be called leadership, or domination? Well, it would tend toward the latter. Hierarchy has not gone away from this system. Core states have peripheral areas: colonial empires and neo-colonial backyards. Hegemony, in other words, involves a structure in which there is a hegemonic core power. The problem with calling this hegemonic power "leadership" is that leadership is a wonderful thing-everyone needs leadership. But sometimes I have notice that leadership is also an ideology that legitimates domination and exploitation. In fact, this is often the case. But this is a different kind of domination than in earlier systems. Its difference can be seen in a related question: is it progressive? Is it evolutionary in the sense of being better for most people in the system? I think it actually is a little bit better. The trickle down effect is bigger-it is not very big, but it is bigger.45 It is to this theory, Hegemonic Stability that the glass slipper properly belongs, because both U.S. security and economic strategies fit the expectations of hegemonic stability theory more comfortably than they do other realist theories. We must first discuss the three pillars that U.S. hegemony rests on structural, institutional, and situational. (1) Structural leadership refers to the underlying distribution of material capabilities that gives some states the ability to direct the overall shape of world political order. Natural resources, capital, technology, military force, and economic size are the characteristics that shape state power, which in turn determine the capacities for leadership and hegemony. If leadership is rooted in the distribution of power, there is reason to worry about the present and future. The relative decline of the United States has not been matched by the rise of another hegemonic leader. At its hegemonic zenith after World War II, the United States commanded roughly forty five percent of world production. It had a remarkable array of natural resource, financial, agricultural, industrial, and technological assets. America in 1945 or 1950 was not just hegemonic because it had a big economy or a huge military; it had an unusually wide range of resources and capabilities. This situation may never occur again. As far as one looks into the next century, it is impossible to see the emergence of a country with a similarly commanding power position. (2) Institutional leadership refers to the rules and practices that states agree to that set in place principles and procedures that guide their relations. It is not power capabilities as such or the interventions of specific states that facilitate concerted action, but the rules and mutual expectations that are established as institutions. Institutions are, in a sense, self-imposed constraints that states create to assure continuity in their relations and to facilitate the realization of mutual interests. A common theme of recent discussions of the management of the world economy is that institutions will need to play a greater role in the future in providing leadership in the absence of American hegemony. Bergsten argues, for example, that "institutions themselves will need to play a much more important role.46 Institutional management is important and can generate results that are internationally greater than the sum of their national parts. The argument is not that international institutions impose outcomes on states, but that institutions shape and constrain how states conceive and pursue their interests and policy goals. They provide channels and mechanisms to reach agreements. They set standards and mutual expectations concerning how states should act. They "bias" politics in internationalist directions just as, presumably, American hegemonic leadership does. (3) Situational leadership refers to the actions and initiatives of states that induce cooperation quite apart from the distribution of power or the array of institutions. It is more cleverness or the ability to see specific opportunities to build or reorient international political order, rather than the power capacities of the state, that makes a difference. In this sense, leadership really is expressed in a specific individual-in a president or foreign minister-as he or she sees a new opening, a previously unidentified passage forward, a new way to define state interests, and thereby transforms existing relations. Hegemonic stability theorists argue that international politics is characterized by a succession of hegemonies in which a single powerful state dominates the system as a result of its victory in the last hegemonic war.47 Especially after the cold war America can be described as trying to keep its position at the top but also integrating others more thoroughly in the international system that it dominates. It is assumed that the differential growth of power in a state system would undermine the status quo and lead to hegemonic war between declining and rising powers48, but I see a different pattern: the U.S. hegemonic stability promoting liberal institutionalism, the events following 9/11 are a brief abnormality from this path, but the general trend will be toward institutional liberalism. Hegemonic states are the crucial components in military alliances that turn back the major threats to mutual sovereignties and hence political domination of the system. Instead of being territorially aggressive and eliminating other states, hegemons respect other's territory. They aspire to be leaders and hence are upholders of inter-stateness and inter-territoriality.49 The nature of the institutions themselves must, however, be examined. They were shaped in the years immediately after World War II by the United States. The American willingness to establish institutions, the World Bank to deal with finance and trade, United Nations to resolve global conflict, NATO to provide security for Western Europe, is explained in terms of the theory of collective goods. It is commonplace in the regimes literature that the United States, in so doing, was providing not only private goods for its own benefit but also (and perhaps especially) collective goods desired by, and for the benefit of, other capitalist states and members of the international system in general. (Particular care is needed here about equating state interest with "national" interest.) Not only was the United States protecting its own territory and commercial enterprises, it was providing military protection for some fifty allies and almost as many neutrals. Not only was it ensuring a liberal, open, near-global economy for its own prosperity, it was providing the basis for the prosperity of all capitalist states and even for some states organized on noncapitalist principles (those willing to abide by the basic rules established to govern international trade and finance). While such behaviour was not exactly selfless or altruistic, certainly the benefits-however distributed by class, state, or region-did accrue to many others, not just to Americans.50 For the truth about U.S. dominant role in the world is known to most clear-eyed international observers. And the truth is that the benevolent hegemony exercised by the United States is good for a vast portion of the world's population. It is certainly a better international arrangement than all realistic alternatives. To undermine it would cost many others around the world far more than it would cost Americans-and far sooner. As Samuel Huntington wrote five years ago, before he joined the plethora of scholars disturbed by the "arrogance" of American hegemony; "A world without U.S. primacy will be a world with more violence and disorder and less democracy and economic growth than a world where the United States continues to have more influence than any other country shaping global affairs”.51 I argue that the overall American-shaped system is still in place. It is this macro political system-a legacy of American power and its liberal polity that remains and serves to foster agreement and consensus. This is precisely what people want when they look for U.S. leadership and hegemony.52 If the U.S. retreats from its hegemonic role, who would supplant it, not Europe, not China, not the Muslim world –and certainly not the United Nations. Unfortunately, the alternative to a single superpower is not a multilateral utopia, but the anarchic nightmare of a New Dark Age. Moreover, the alternative to unipolarity would not be multipolarity at all. It would be ‘apolarity’ –a global vacuum of power.53 Since the end of WWII the United States has been the clear and dominant leader politically, economically and military. But its leadership as been unique; it has not been tyrannical, its leadership and hegemony has focused on relative gains and has forgone absolute gains. The difference lies in the exercise of power. The strength acquired by the United States in the aftermath of World War II was far greater than any single nation had ever possessed, at least since the Roman Empire. America's share of the world economy, the overwhelming superiority of its military capacity-augmented for a time by a monopoly of nuclear weapons and the capacity to deliver them--gave it the choice of pursuing any number of global ambitions. That the American people "might have set the crown of world empire on their brows," as one British statesman put it in 1951, but chose not to, was a decision of singular importance in world history and recognized as such.54 Leadership is really an elegant word for power. To exercise leadership is to get others to do things that they would not otherwise do. It involves the ability to shape, directly or indirectly, the interests or actions of others. Leadership may involve the ability to not just "twist arms" but also to get other states to conceive of their interests and policy goals in theory thus shifts from the ability to provide a public good to the ability to coerce other states. A benign hegemon in this sense coercion should be understood as benign and not tyrannical. If significant continuity in the ability of the United States to get what it wants is accepted, then it must be explained. The explanation starts with our noting that the institutions for political and economic cooperation have themselves been maintained. Keohane rightly stresses the role of institutions as "arrangements permitting communication and therefore facilitating the exchange of information. By providing reliable information and reducing the costs of transactions, institutions can permit cooperation to continue even after a hegemon's influence has eroded. Institutions provide opportunities for commitment and for observing whether others keep their commitments. Such opportunities are virtually essential to cooperation in non-zero-sum situations, as gaming experiments demonstrate. Declining hegemony and stagnant (but not decaying) institutions may therefore be consistent with a stable provision of desired outcomes, although the ability to promote new levels of cooperation to deal with new problems (e.g., energy supplies, environmental protection) is more problematic. Institutions nevertheless provide a part of the necessary explanation.56 In restructuring the world after WWII it was America that was the prime motivator in creating and supporting the various international organizations in the economic and conflict resolution field. An example of this is NATO’s making Western Europe secure for the unification of Europe. It was through NATO institutionalism that the countries in Europe where able to start the unification process. The U.S. working through NATO provided the security and impetus for a conflict prone region to unite and benefit from greater cooperation. Since the United States emerged as a great power, the new ways. This suggests a second element of leadership, which involves not just the marshalling of power capabilities and material resources. It also involves the ability to project a set of political ideas or principles about the proper or effective ordering of po1itics. It suggests the ability to produce concerted or collaborative actions by several states or other actors. Leadership is the use of power to orchestrate the actions of a group toward a collective end.55 By validating regimes and norms of international behaviour the U.S. has given incentives for actors, small and large, in the international arena to behave peacefully. The uni-polar U.S. dominated order has led to a stable international system. Woodrow Wilson’s zoo of managed relations among states as supposed to his jungle method of constant conflict. The U.S. through various international treaties and organizations as become a quasi world government; It resolves the problem of provision by imposing itself as a centralized authority able to extract the equivalent of taxes. The focus of the identification of the interests of others with its own has been the most striking quality of American foreign and defence policy. Americans seem to have internalized and made second nature a conviction held only since World War II: Namely, that their own wellbeing depends fundamentally on the well-being of others; that American prosperity cannot occur in the absence of global prosperity; that American freedom depends on the survival and spread of freedom elsewhere; that aggression anywhere threatens the danger of aggression everywhere; and that American national security is impossible without a broad measure of international security.57

### 1AC - Treaty Cred

#### Biden has the chance to turn over a new leaf --- Trump’s non-compliance with human rights laws decked legitimacy --- new policies are key

Sutton and Kenney 19 [Trevor Sutton is a senior fellow for National Security and International Policy at American Progress. Previously, Sutton worked at the U.N. Development Programme and International Organization for Migration. Carolyn Kenney is a senior policy analyst for National Security and International Policy at American Progress. “Taking The High Ground.” October 23, 2019. https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/]

When it comes to President Donald Trump and human rights, it’s hard to know where to begin. Like many aspects of the Trump presidency, his administration’s approach to promoting and defending human rights abroad has at various points appeared driven by indifference, malice, incompetence, or some combination of the three. Indeed, the administration’s record on human rights to date provides cause for concern. Under President Trump, the United States has sought to undermine multiple international bodies focused on advancing and protecting human rights;[1](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-1) blindly supported the Saudi-led campaign in Yemen despite overwhelming evidence of war crimes and the killing of *Washington Post* columnist Jamal Khashoggi;[2](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-2) launched a broad assault on women’s rights through such actions as the reinstatement and expansion of the Global Gag Rule and the removal of reproductive rights from human rights reporting;[3](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-3) and engaged in a range of abhorrent practices toward asylum seekers in U.S. custody, including separating minors from their families and attempting to prevent domestic violence victims from obtaining asylum.[4](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-4) In addition, the president has in his public statements expressed admiration for the leaders of authoritarian regimes and their repressive practices, while creating needless friction with long-standing democratic allies in Europe.[5](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-5) All this points to a dispiriting backslide in U.S. global leadership on human rights, a leadership that—while inconsistent and often hypocritical—has been a powerful force for good over many decades.[6](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-6) Such a retreat could not have come at a worse time. As the United States disengages from human rights, other states with authoritarian governments, such as China and Russia, have grown more aggressive in their long-standing campaigns to water down and reframe the global human rights agenda in a way that excuses their own violations and those of their autocratic partners.[7](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-7) In July, Secretary of State Mike Pompeo announced the creation of a new body within the State Department whose purpose would be to give him “advice on human rights grounded in our nation’s founding principles and the principles of the 1948 Universal Declaration of Human Rights.”[8](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-8) The body, called the Commission on Unalienable Rights, has been greeted with skepticism by human rights advocates and lawmakers, many of whom have rightly observed that the State Department already possesses a highly respected bureau focused on monitoring and responding to human rights conditions across the world. In introducing the commission, Pompeo drew a distinction between “inalienable” and “ad-hoc” rights and implied that many of the principles championed by the human rights community deserved subordinate status.[9](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-9) That statement, along with the anti-LGBTQ views of a number of the commission’s members, have raised widespread alarm that the Trump administration is seeking to make an end run around the traditional understanding of human rights that has guided U.S. foreign policy for decades in order to reorient U.S. human rights policy toward a narrow “religious freedom” agenda.[10](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-10) All of this begs the question: Can the United States be a credible and effective advocate for human rights after President Trump? There are reasons for cautious optimism. In the past, global audiences have been willing to turn the page on ugly episodes in U.S. foreign policy with the inauguration of a new administration. Consider, for example, the willingness of U.S. partners and allies in places such as Europe, the Middle East, and Latin America to work with the Obama administration after a deterioration in relations during the George W. Bush years, most notably in the negotiation of a deal with Iran over its nuclear program or the reestablishment of diplomatic ties with Cuba.[11](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-11) In addition, the most high-profile U.S. foreign policy initiatives related to human rights, such as the annual Country Reports on Human Rights Practices and Trafficking in Persons Reports, remain highly respected in foreign capitals and among civil society. Despite the Trump administration’s hostility to the project, it has not been able to abandon U.S. commitments to human rights entirely. Several decades of congressional legislation obligate the executive branch to engage in multiple forms of human rights reporting and advocacy, as well as constrain its action in a number of important areas, such as the training of foreign military units who have committed human rights violations.[12](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-12) These requirements have led the current administration, like those before it, to call attention to many grave human rights situations across the world, albeit with an emphasis on major U.S. adversaries or competitors such as Iran, Venezuela, and China.[13](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-13) The administration has also used its authority under the Global Magnitsky Act to impose sanctions on a small number of human rights violators worldwide.[14](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-14) All this being said, undoing the damage inflicted by President Trump and restoring credibility to U.S. human rights advocacy will not be easy and cannot be accomplished with a reversion to the previous status quo. Dissolving Secretary Pompeo’s commission and forcefully repudiating the policies of the Trump administration will be important first steps, but they will not be enough on their own. Through a blend of ideology and incompetence, Trump and his allies at home and abroad have weakened global adherence to human rights and sabotaged key institutions committed to advancing human rights in the international system. Fixing what Trump has broken will require a more forceful and expansive commitment to human rights than anything previous administrations have put forward.

#### That contradicts international labor law --- the right to strike is protected

Weissbrodt 14 [David Weissbrodt, University of Minnesota Law School. “Compliance of the United States with International Labor Law.” 2014. <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1372&context=faculty_articles>]

The ILO considers the right to strike to be a fundamental union right, while U.S. labor law may restrict, or prohibit altogether, the right to strike. Appreciable differences exist be tween the ILO and U.S. approaches, particularly in regard to protected strikes, picketing, replacement workers, limitations on the right to strike, and public employee work stoppages. 1. Protected Strikes The ILO protects the right to strike as a way to defend union and employee occupational, social, and economic interests.150 Under ILO standards, “an acute national emergency” is the only time a blanket ban on strikes can be instituted.151 Unlike the United States, the ILO does not restrict sympathy and recognition strikes.152 U.S. labor law protects unfair labor practice strikes,153 the majority of private sector economic strikes,154 work preservation strikes,155 and certain organizational strikes. Noticeable differences exist concerning the treatment of secondary union activity. ILO standards generally permit all forms of secondary activity and boycotts.157 The United States allows only a minimal amount of secondary union activity.158 Peaceful, non-coercive requests to a U.S. secondary employer or employees thereof to stop dealing with the goods and services of the primary employer are permitted.159 In addition, a U.S. union may appeal to consumers to withhold purchasing the primary employer’s products or services.160 The NLRA largely prohibits all other forms of secondary union activity.161 2. Picketing The ILO takes a more permissive approach to picketing than the United States, since its standards permit prohibitions only if the picketing “ceases to be peaceful.”162 In order to remain peaceful under ILO standards, picketing cannot “disturb[] public order and threaten[] workers who continued work.”163 union; a rival union strikes within the election bar period; the strike is done without an election petition being filed within a reasonable time; and the strike is against an already certified union. See Goldman & Corrada, supra note Picketing in the United States, even if it remains peaceful, may be enjoined to effectuate public policy.164 Under the ILO, member states can require that pickets only be located near an employer—generally the only place permitted by U.S. labor law.165 The United States views picketing as a free speech right protected by the Constitution—as a result, blanket bans on picketing are prohibited.166 The NLRA does, however, prohibit some recognitional picketing.167 U.S. labor law does permit picketing for economic and area standards purposes.168 While U.S. labor law prohibits picketing for publicity purposes against a neutral party, other concerted employee action for such purposes are considered legal.169 3. Replacement Workers Under ILO standards, when permanently replacing workers exercising their right to strike, employers risk the relaxation of the right to strike and affect the exercise of union rights.170 ILO standards state that hiring replacement workers may inhibit the right to strike and freedom of association, and employers may not dismiss employees who choose to exercise their right to strike.171 Under U.S. law, employers may not permanently replace employees exercising their right to strike when the strike is protesting employer unfair labor practices.172 U.S. employers may, however, hire permanent replacements and only offer reinstatement to former strikers as vacancies arise.173 Both the ILO and United States proscribe employers from granting benefits to strike replacements and employees who return to work.174 U.S. employees face a considerable risk when striking for economic purposes. While U.S. employers may not discharge employees engaged in an economic strike, the employers may hire replacement workers with no guarantee that the striking employees’ jobs will be available when the strike ends.175 Furthermore, a U.S. employer may, under certain circumstances, permanently replace an employee honoring a picket line in order to preserve the efficient operation of business.176 Contrary to ILO standards, U.S. employers have the right to inform employees during the bargaining process that if a union forces a strike, the employer will hire permanent replacements.177 4. Limitations on the Right to Strike ILO Convention No. 87 prohibits nearly all restrictions on the right to strike.178 ILO standards only permit member states to restrict strikes (1) of a purely political nature,179 (2) by workers in essential service areas,180 (3) by public workers exercising authority in the name of a state,181 (4) during “an acute national emergency,”182 and (5) affecting minimum safety and occupational services.183 Collective bargaining agreements in the United States generally contain some form of a no-strike clause.184 Moreover, when a collective bargaining agreement does not include a nostrike clause, one may be inferred for bargaining subjects covered by compulsory arbitration.185 Under the NLRA, a U.S. court may enjoin a strike when the strike is over a grievance the parties are bound to arbitrate.186 U.S. labor laws also restrict most recognitional strikes, strikes that occur during the insulated period prior to the expiration of a CBA, and hot cargo agreements.187 By contrast, ILO standards view the right to strike as a natural “corollary to the right to organize.”188 If the United States were to ratify ILO Convention No. 87, most of the restrictions on secondary union activity would be prohibited.189 Currently, the United States prohibits secondary strikes that induce or encourage a strike or other refusal to handle goods.190 In addition, U.S. laws prohibit strikes that threaten, coerce, or restrain any person.191 U.S. labor laws ban strikes to achieve secondary boycotts.192 The ILO does not comment on the permissibility of lockouts; some member states permit lockouts, while others prohibit lockouts.193 In the United States, lockouts are permissible absent proof of an unlawful motive.194 A lockout in the United States must also have a “business or bargaining justification” and must not be “designed to destroy the union.”195 5. Public Employee Work Stoppages The ILO extends the fundamental right to strike, with few limitations, to public employees.196 Public workers in essential services197 and public servants exercising authority in the name of the state198 may be prohibited from work stoppages. The ILO allows a minimum safety service limitation “to the extent necessary to comply with statutory safety requirements.”199 In addition, the ILO permits a minimum operation service limitation for public services of fundamental importance, as well as for non-essential services where the extent and duration of a work stoppage might result in an acute national emergency.200 If the United States were to comply with ILO standards, federal and state governments would face a reduced ability to restrict public employees’ right to strike.201 While the ILO provides compensation to those whose right to strike may be restricted, the United States does not generally offer any such compensation.202 Currently, most public employee work stoppages are prohibited in the United States.203 A number of alternatives do exist for U.S. state and local employees. In most states, either party can call for intervention by way of state mediation.204 At a bargaining impasse, most states allow either side to initiate a fact-finding procedure to help resolve a dispute.205 The majority of U.S public strikes result from municipal or school district employees.206 U.S. federal law imposes greater penalties for illegal public work stoppages than international labor law. For example, a union can be decertified if it encourages workers to participate in a prohibited work stoppage.207 Additionally, employees may be prosecuted, a court may issue an injunction, and employees can become disqualified from further federal employment for an indefinite period of time.208 Under ILO standards, decertification should only be possible through judicial channels.209 The difference in treatment of public employee work stoppages creates a gulf between U.S. labor law and ILO standards.

**Ensuring the US can’t flagrantly violate regimes is necessary to global treaty strength**

**Keehn et al. 16** [Emily Nagisa Keehn is the Associate Director of the Human Right Porject at Harvard Law, Anna Crowe is a Clinical Instructor and Lecturer on Law at the Human Rights Program, Yee Htun is the Director of Myanmar Program for Justice Trust, “Investing in International Human Rights in the Age of Trump,” December 15, 2016, Human Rights@Harvard Law, <http://hrp.law.harvard.edu/staff/investing-in-international-human-rights-in-the-age-of-trump>]

It is now well trodden discourse that the election of Donald Trump, like the rise in nationalist movements in Europe, is both creating and reflecting paradigmatic shifts in the way we view global institutions. These shifts point to pressing concerns for the international human rights project. The xenophobic, rights-abusive platform of the Trump campaign put the human rights community on notice, and we have assumed a defensive stance to protect the potential roll-back of hard-won progress. In the era of Trump, **we believe the U.S. human rights community must continue to draw on i**nternational **human rights law as an advocacy and accountability tool, partnering with international movements and actors to stop rhetoric from becoming reality.** For U.S. scholars, lawyers, policymakers and activists committed to the defense of human rights, the rhetoric and fledgling policies of the incoming administration have raised strategic and existential questions. In this new era, we are examining and debating critical concerns about the state and utility of international human rights law, and questioning where to place our resources. For those of us working within law schools, we face added questions from students, some of whom feel a crisis of conscience about where best to stake their social justice careers. From our perspective we must continue to invest in international human rights.To begin with, **we must dispel with the false dichotomy that pits domestic rights against the international human rights regime**. International human rights norms are implemented by domestic actors and often embedded in national constitutions. And human rights abuses are not a phenomenon that ‘happens’ abroad, violating the rights of ‘others’ who are unconnected to us. The systemic interlinkages in our globalized world make us common rights-holders, in issues spanning trade and the environment, to counter terrorism. The international system exists as a failsafe for local and domestic efforts. No domestic space is a paradigm of human rights virtue and we all benefit from the scrutiny of global institutions. Granted, international human rights law has limited power in U.S. courts, but **it is not impotent**. We have seen its **persuasive function** in important **Supreme Court** Cases such as Lawrence v Texas, which struck down the sodomy law in Texas, and **Roper v Simmons,** which abolished capital punishment for people under 18. **There is further work to do in pushing back against American exceptionalism by both diffusing international norms, and keeping human rights language and knowledge alive, in the U.S. legal community and judiciary** – if anything, **U.S. human rights activists have perhaps prematurely given up on the project of making international human rights law enforceable in U.S. courts.** History shows that **human rights violations carry reputational risks, and have tangible costs for national security and the U.S.’s geopolitical position.** For instance, the Bush-era war on terror and the torture memos made the U.S. an outlier to established international law, damaged its moral authority, and fanned the flames of conflict. During this period of what may be a redux in U.S. human rights ‘deviance’, we must fight to limit damage to the integrity of human rights norms. **This requires our continued engagement with global institutions mandated with international human rights law protection, to prevent and seek accountability for any new violations, and to protect against the dismantling of important gains**. This could include backslides in progress under international U.S. leadership in the areas of LGBTQI rights, women’s health and reproductive rights, and a strengthened UN Human Rights Council. Protecting gains also means safeguarding against cuts in U.S. government support for human rights defenders around the world who are working with vulnerable people in hostile environments. Finally, we must demonstrate heterogeneity and dissent in U.S. voices in international settings, and avoid brain drain and the deskilling of the U.S. human rights community. For humanistic and principled reasons, concern for human rights should not follow national borders or be driven by nationalist impulses. This cuts to the core of our group identity as a human rights constituency, committed to the foundational principles of universal application of human rights for all. Today’s shifting ground and the risks of a regressive trajectory present an opportunity **to re-double efforts and promote the resonance of international norms domestically**. **Now, more than ever, work needs to be done to bring the U.S. into a larger comparative framework**. **Human rights actors are needed in both domestic and international institutions to serve as critical, reinforcing bridges between these two arenas**.

**Myriad emerging threats risk extinction --- try-or-die for maximizing treaty regime strength**

**Brooks 14** [Rosa, 11/13, Professor of Law at Georgetown & Schwartz Sr. Fellow at the New America Foundation, November 13, 2014, <http://www.foreignpolicy.com/articles/2014/11/13/a_strategyless_nation_america_democrats_grand_strategy_foreign_policy>]

I've written about these issues before (here and here), and at risk of being both a narcissist and a broken record, I'll quote myself: The world has grown more complex. Believe it. The world now contains more people living in more states than ever before, and we're all more interconnected. A hundred years ago, the world population was about 1.8 billion, there were roughly 60 sovereign states in the world, the automobile was still a rarity, and there were no commercial passenger flights and no transcontinental telephone service. Fifty years ago, global population had climbed to more than 3 billion and there were 115 U.N. member states, but air travel was still for the wealthy and the personal computer still lay two decades in the future. Today? We've got 7 billion people living in 192 U.N. member states and a handful of other territories. These 7 billion people take 93,000 commercial flights a day from 9,000 airports, drive 1 billion cars, and carry 7 billion mobile phones around with them. In numerous ways, life has gotten substantially better in this more crowded and interconnected era. Seventy years ago, global war killed scores of millions, but interstate conflict has declined **sharply** since the end of World War II, and the creation of the **U**nited **N**ations ushered in a far more egalitarian and democratic form of international governance than existed in any previous era. Today, militarily powerful states are far less free than in the pre-U.N. era to use overt force to accomplish their aims, and the world now has numerous transnational courts and dispute-resolution bodies that collectively offer states a viable alternative to the use of force. The modern international order is no global utopia, but it sure beats colonial domination and **world wars**. In the 50 years that followed World War II, medical and agricultural advances brought unprecedented health and prosperity to most parts of the globe. More recently, the communications revolution has enabled exciting new forms of nongovernmental cross-border alliances to emerge, empowering, for instance, global human rights and environmental movements. In just the last two decades, the near-universal penetration of mobile phones has had a powerful leveling effect: All over the globe, people at every age and income level can use these tiny but powerful computers to learn foreign languages, solve complex mathematical problems, create and share videos, watch the news, move money around, or communicate with far-flung friends. All this has had a dark side, of course. As access to knowledge has been democratized, so too has access to the tools of violence and destruction, and greater **global interconnectedness** enables disease, pollution, and conflict to **spread quickly** and easily **beyond borders**. A hundred years ago, no single individual or nonstate actor could do more than cause localized mayhem; today, we have to worry about massive bioengineered threats created by tiny terrorist cells and globally devastating cyberattacks devised by malevolent teen hackers. Even as many forms of power have grown more democratized and diffuse, other forms of power have grown more concentrated. A very small number of states control and consume a disproportionate share of the world's resources, and a very small number of individuals control most of the world's wealth. (According to a 2014 Oxfam report, the 85 richest individuals on Earth are worth more than the globe's 3.5 billion poorest people). Indeed, **from a species-survival perspective**, the world has grown **vastly more dangerous over the last century**. Individual humans live longer than ever before, but a small number of states now possess the unprecedented ability to destroy large chunks of **the human race** and possibly the **Earth itself** -- all in a matter of days or even hours. What's more, though the near-term threat of interstate nuclear conflict has greatly diminished since the end of the Cold War, nuclear material and know-how are now both less controlled and less controllable. Amid all these changes, our world has also grown far more uncertain. We possess more information than ever before and vastly greater processing power, but the accelerating pace of global change has far exceeded our collective ability to understand it, much less manage it. This makes it increasingly difficult to make predictions or calculate risks. As I've written previously: We literally have no points of comparison for understanding the scale and scope of the risks faced by humanity today. Compared to the long, slow sweep of human history, the events of the last century have taken place in the blink of an eye. This should ... give us pause when we're tempted to conclude that today's trends are likely to continue. Rising life expectancy? That's great, but if climate change has consequences as nasty as some predict, a century of rising life expectancy could turn out to be a mere blip on the charts. A steep decline in interstate conflicts? Fantastic, but less than 70 years of human history isn't much to go on.... That's why one can't dismiss the risk of catastrophic events [such as disastrous climate change or **nuclear conflict**] as "high consequence, **low probability**." How do we compute the probability of catastrophic events of a type that has never happened? Does 70 years without nuclear annihilation tell us that there's a low probability of nuclear catastrophe -- or just tell us that we haven't had a nuclear catastrophe yet?... Lack of catastrophic change might signify a system in stable equilibrium, but sometimes -- as with earthquakes -- pressure may be building up over time, undetected.... Most analysts assumed the Soviet Union was stable -- until it collapsed. Analysts predicted that Egypt's Hosni Mubarak would retain his firm grip on power -- until he was ousted. How much of what we currently file under "Stable" should be recategorized under "Hasn't Collapsed Yet"? This, then, is the character of world messiness in this first quarter of the 21st century. So on to the next question: Where, in all this messiness, does the United States find itself? This has urgent implications for U.S. strategic planning. Precisely because U.S. global power may very well continue to decline, the United States should use the very considerable military, political, cultural, and economic power it still has to foster the international order most likely to benefit the country if it someday loses that power. The ultimate objective of U.S. grand strategy should be the creation of an equitable and peaceful international order with an effective system of global governance — one that is built upon respect for human dignity, **human rights**, and the rule of law, with robust mechanisms for resolving thorny collective problems. We should seek this not because it’s the “morally right” thing for the United States to do, but because a maximin decision rule should lead us to conclude that this will offer the United States and its population the best chance of continuing to thrive, even in the event of a radical future decline in U.S. wealth and power. But, one might argue, the United States already tries to promote such a global order — right? Sure it does — but only inconsistently, and generally as something of an afterthought. We pour money into our military and intelligence communities, but starve our diplomats and development agencies. We fixate on the threat du jour, often exaggerating it and allowing it to distort our foreign policy in self-destructive ways (cf. Iraq War), while viewing matters such as United Nations reform or reform of global economic institutions or environmental protection rules as tedious and of low priority. If we take seriously the many potential dangers lurking in the unknowable future, however, **fostering a stronger, fairer, and more effective system of international governance** **would become** a matter of urgent national self-interest and **our highest strategic priority** — something that should be reflected both in our policies and in our budgetary decisions. An effective global governance system would need to be built upon the recognition that states remain the primary mode of political and social organization in the international sphere, but also upon the recognition that new forms of social organization continue to evolve and may ultimately displace at least some states. **An effective and dynamic international system** will need to develop **innovative ways to bring such new actors and organizations within the ambit of international law and institutions**, both as responsible creators of law and institutions and as responsible subjects.

### Plan

#### Resolved: The United States federal government ought to recognize the unconditional right of workers to strike.

Brudney 21 [James; 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; January 2021; <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1710&context=yjil>]

\*\*\*CIL = customary international law

3. Federal Courts’ Position on CIL as National Law

What about the position of the federal courts toward CIL and its acceptance as national law in the US? The leading Supreme Court decision, Sosa v. AlvarezMachain, 219 involved a claim by Alvarez-Machain for violation of CIL under the Alien Tort Statute (ATS).220 A cause of action under the ATS may be distinguished from the right to strike setting in two respects. As a jurisdictional matter, the ATS typically involves lawsuits alleging violations of CIL committed in foreign countries and brought by citizens of foreign countries. By contrast, as developed in parts III and IV, the right to strike as CIL would be asserted by U.S. workers against U.S. employers within the U.S. Further, as explained in Part III, the CIL right to strike is to be asserted directly as a form of federal common law, rather than being applied through a particular statute that may impose its own historically grounded limits.221

At the same time, the substantive standard set forth in Sosa is relevant in allowing for suitably delineated CIL to be directly applied in domestic federal and state court contexts.222 While urging lower courts to exercise a “restrained conception” when considering new causes of action based on CIL, the Court in Sosa added that such claims can be recognized if “rest[ing] on a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18th-century paradigms we have recognized.”223 The Court’s formulation in the ATS setting is slightly different from the two elements—general practice and opinio juris—that have been discussed at length in defining and applying modern CIL.224 But Sosa’s emphasis on international law norms that are precisely defined and reflect the importance of general practice is compatible with contemporary conceptions of CIL.225

Lower courts have understood that Sosa sets a “‘high bar to new private causes of action’ alleging violations of CIL”226 based on whether the sources of such law are “sufficiently specific, universal, and obligatory.”227 But they have proceeded to recognize such causes of action when “multiple international agreements (including one that is binding on more than 160 signatory states), as well as the domestic laws of over 80 states, adopt a particular definition of that norm.”228 As has been amply demonstrated in sections B and C of this Part, the universality of the claims based on the right to strike as part of FOA can qualify under this approach. The right is recognized under multiple international agreements (including ILO conventions ratified by over 150 states and other international agreements ratified by over 170 states); regional human rights agreements around the world; domestic constitutions and laws in over 90 countries; and major court decisions at both a regional and national level. Further, this CIL norm includes a sufficient level of specificity regarding the two key areas that are the focus of analysis for purposes of U.S. law: the right of public employees to engage in strike activities with limited exceptions and the right of all strikers to be protected against permanent replacement.229

All of the above suggests that U.S. failure to ratify Convention 87 is likely to be compatible with its recognizing FOA and the right to strike as CIL.230 At the same time, there is no independent or tripartite analysis comparing Convention 87 to U.S. labor law, identifying what changes in national and state law would be needed to comply with the Convention in general and the right to strike in particular. 231 U.S. employer representatives have expressed concern that ratification would alter national and state labor law in a number of important respects including the right to strike.232 Given the U.S. historical position of nonobjection alongside non-ratification, the Article next addresses whether—even if the right to strike under FOA is accepted as CIL in traditional international law terms and is recognized under the Sosa standard—the right can be asserted in U.S. courts as CIL. This question implicates several distinct problems, which are discussed in Parts III and IV.

#### Reforming labor relations and our economy is key to international standing

Fernandez and Otis 07 [Dídimo Castillo Fernández Center for Research and Advanced Studies in Population, Autonomous University, Mexico. “Hegemony and the U.S. Labor Model.” Latin American Perspectives , Jan., 2007, Vol. 34, No. 1, The Crisis of U.S. Hegemony in the Twenty-First Century (Jan., 2007), pp. 64-72. Sage Publications, Inc. https://www.jstor.org/stable/27647995]

At least from the end of World War II until the beginning of the 1970s, the United States was a full hegemonic power. Since then, with the appearance of other major economic actors on the international stage, the central position of the United States has deteriorated. Certainly, there is no disintegration, but the threat of it is real and has various economic, cultural, and ideological dimensions. The rapidity with which other devel oped economies are displacing U.S. power gives the impression of an imminent decline, although the United States has made strategic moves oriented toward preventing that decline. The external threat is perhaps most noticeable, but internal factors have called into question the so-called American Dream, weakening its very legitimacy and future. Internally, the United States is a decadent society. The principles, ideals, and beliefs that originally gave meaning and continuity to the country's charter have lost force in the face of the deterioration of living conditions wrought by the current economic model and the limited possibilities for social ascent that it offers. The gap between poor and rich has widened. The United States can no longer presume to be recognized as offering a model of social ascent to which every American can aspire and that other countries of the globe might imitate. Put more bluntly, the U.S. labor model has lost its guarantees as well as its supporters. With social mobility no longer ensured, the United States is no longer the great country of promises that gave birth to so much confidence. The U.S. labor market model is now widely rejected, particularly in Europe, where the U.S. economy is con sidered a rule-less, Wild West one, with unacceptable social implications. In a way, social mobility was the substrate that gave meaning, validity, and confidence to the American social model, and social mobility has stagnated and closed down for the immense majority of the native and immigrant population. The current American social environment is marked by uncertainty due to increasingly precarious jobs, social inequality, and growing poverty. The United States has not lost hegemony because of increased inequality or poverty, but the current situation has, predictably, undermined its legitimacy and the confidence that the prior labor model enjoyed before the capitalist restructuring of the mid-1970s. The United States is a country in evident decline. In terms of the possibility for social mobility, it is no longer the promised land. The belief in U.S. superiority and hegemony has eroded. The American Dream may well be experiencing its death throes. If the republic is lost, the empire weakened, that dream is inevitably lost.

#### Economic rights are necessary to restore global image --- the right to strike implies the right to work

Sutton and Kenney 19 [Trevor Sutton is a senior fellow for National Security and International Policy at American Progress. Previously, Sutton worked at the U.N. Development Programme and International Organization for Migration. Carolyn Kenney is a senior policy analyst for National Security and International Policy at American Progress. “Taking The High Ground.” October 23, 2019. https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/]

U.S. human rights policy has traditionally focused on civil and political rights—such as freedom of speech, worship, and assembly—and protections against arbitrary deprivations of life, liberty, and property. But for much of the international community—including many key U.S. allies and partners—human rights also encompass social and economic rights such as the right to an adequate standard of living, the right to health care, and the right to just working conditions. In the immediate aftermath of World War II, the United States was a proponent of social and economic rights but quickly soured on them as anti-communism became the defining feature of U.S. foreign policy during the Cold War.[38](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-38) The skepticism toward social and economic rights has continued in the present day. Today, the United States is one of only a small number of countries—and the only high-income democracy—that has not ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), although President Jimmy Carter signed the treaty in 1977.[39](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-39)

There remains significant disagreement over the precise mechanism by which compliance with economic and social rights should be assessed and enforced. Nonetheless, there is an overwhelming international consensus that economic and social rights are human rights and that governments are required to satisfy them in proportion to their resources and capabilities. The Obama administration took significant steps in this direction, including by affirming that it was “committed to not defeating the object and purpose of” the ICESCR.[40](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-40) It also provided support for the development of the sustainable development goals (SDGs), an international development agenda whose objectives closely track many of the rights enshrined in the ICESCR, in addition to civil and political rights. The Trump administration, by contrast, has sought to characterize the SDGs as “non-binding documents that do not create rights or obligations under international law.”[41](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-41) Not coincidentally, the United States was recently assessed to be the industrialized country that had done the least to achieve the SDGs, behind Russia.[42](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-42)

Going forward, there is little reason for an administration that cares about human rights to approach social and economic rights with reluctance or hostility. Social and economic rights are no substitute for political and civil rights, but they have become an important part of the global human rights conversation and constitute a serious and widely accepted framework for addressing some of the gravest threats facing humanity, such as economic inequality, climate change, and corruption. In addition, a growing body of research points to the connection between the failure to realize social and economic rights and the rise of right-wing populist and authoritarian movements that campaign on an explicitly xenophobic and anti-human rights agenda.[43](https://www.americanprogress.org/issues/security/reports/2019/10/23/476234/taking-high-ground/#fn-476234-43) Viewed from this perspective, advancing social and economic rights can lessen the likelihood of a backslide in political and civil rights, especially in fragile democracies.

### 1AC - Util

**The standard is maximizing expected wellbeing:**

#### Pleasure and pain are intrinsically valuable. people consistently regard pleasure and pain as good reasons for action, despite the fact that pleasure doesn’t seem to be instrumentally valuable for anything.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281]

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value.

#### 2. existential threats outweigh-

#### a. Extinction outweighs.

--- must preserve infinite lives and generations.

--- question of intergenerational equity.

--- existential threats are underestimated: global public good, intergenerational, unprecedented, scope neglect.

GPP 17 (Global Priorities Project, Future of Humanity Institute at the University of Oxford, Ministry for Foreign Affairs of Finland, “Existential Risk: Diplomacy and Governance,” Global Priorities Project, 2017, <https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf>, Accessed 7/22/2017, Kent Denver-jKIM)

1.2. THE ETHICS OF EXISTENTIAL RISK In his book Reasons and Persons, Oxford philosopher Derek Parfit advanced an influential argument about the importance of avoiding extinction: I believe that if we destroy mankind, as we now can, this outcome will be much worse than most people think. Compare three outcomes: (1) Peace. (2) A nuclear war that kills 99% of the world’s existing population. (3) A nuclear war that kills 100%. (2) would be worse than (1), and (3) would be worse than (2). Which is the greater of these two differences? Most people believe that the greater difference is between (1) and (2). I believe that the difference between (2) and (3) is very much greater. ... The Earth will remain habitable for at least another billion years. Civilization began only a few thousand years ago. If we do not destroy mankind, these few thousand years may be only a tiny fraction of the whole of civilized human history. The difference between (2) and (3) may thus be the difference between this tiny fraction and all of the rest of this history. If we compare this possible history to a day, what has occurred so far is only a fraction of a second.65 In this argument, it seems that Parfit is assuming that the survivors of a nuclear war that kills 99% of the population would eventually be able to recover civilisation without long-term effect. As we have seen, this may not be a safe assumption – but for the purposes of this thought experiment, the point stands. What makes existential catastrophes especially bad is that they would “destroy the future,” as another Oxford philosopher, Nick Bostrom, puts it.66 This future could potentially be extremely long and full of flourishing, and would therefore have extremely large value. In standard risk analysis, when working out how to respond to risk, we work out the expected value of risk reduction, by weighing the probability that an action will prevent an adverse event against the severity of the event. Because the value of preventing existential catastrophe is so vast, even a tiny probability of prevention has huge expected value.67 Of course, there is persisting reasonable disagreement about ethics and there are a number of ways one might resist this conclusion.68 Therefore, it would be unjustified to be overconfident in Parfit and Bostrom’s argument. In some areas, government policy does give significant weight to future generations. For example, in assessing the risks of nuclear waste storage, governments have considered timeframes of thousands, hundreds of thousands, and even a million years.69 Justifications for this policy usually appeal to principles of intergenerational equity according to which future generations ought to get as much protection as current generations.70 Similarly, widely accepted norms of sustainable development require development that meets the needs of the current generation without compromising the ability of future generations to meet their own needs.71 However, when it comes to existential risk, it would seem that we fail to live up to principles of intergenerational equity. Existential catastrophe would not only give future generations less than the current generations; it would give them nothing. Indeed, reducing existential risk plausibly has a quite low cost for us in comparison with the huge expected value it has for future generations. In spite of this, relatively little is done to reduce existential risk. Unless we give up on norms of intergenerational equity, they give us a strong case for significantly increasing our efforts to reduce existential risks. 1.3. WHY EXISTENTIAL RISKS MAY BE SYSTEMATICALLY UNDERINVESTED IN, AND THE ROLE OF THE INTERNATIONAL COMMUNITY In spite of the importance of existential risk reduction, it probably receives less attention than is warranted. As a result, concerted international cooperation is required if we are to receive adequate protection from existential risks. 1.3.1. Why existential risks are likely to be underinvested in There are several reasons why existential risk reduction is likely to be underinvested in. Firstly, it is a global public good. Economic theory predicts that such goods tend to be underprovided. The benefits of existential risk reduction are widely and indivisibly dispersed around the globe from the countries responsible for taking action. Consequently, a country which reduces existential risk gains only a small portion of the benefits but bears the full brunt of the costs. Countries thus have strong incentives to free ride, receiving the benefits of risk reduction without contributing. As a result, too few do what is in the common interest. Secondly, as already suggested above, existential risk reduction is an intergenerational public good: most of the benefits are enjoyed by future generations who have no say in the political process. For these goods, the problem is temporal free riding: the current generation enjoys the benefits of inaction while future generations bear the costs. Thirdly, many existential risks, such as machine superintelligence, engineered pandemics, and solar geoengineering, pose an unprecedented and uncertain future threat. Consequently, it is hard to develop a satisfactory governance regime for them: there are few existing governance instruments which can be applied to these risks, and it is unclear what shape new instruments should take. In this way, our position with regard to these emerging risks is comparable to the one we faced when nuclear weapons first became available. Cognitive biases also lead people to underestimate existential risks. Since there have not been any catastrophes of this magnitude, these risks are not salient to politicians and the public.72 This is an example of the misapplication of the availability heuristic, a mental shortcut which assumes that something is important only if it can be readily recalled. Another cognitive bias affecting perceptions of existential risk is scope neglect. In a seminal 1992 study, three groups were asked how much they would be willing to pay to save 2,000, 20,000 or 200,000 birds from drowning in uncovered oil ponds. The groups answered $80, $78, and $88, respectively.73 In this case, the size of the benefits had little effect on the scale of the preferred response. People become numbed to the effect of saving lives when the numbers get too large. 74 Scope neglect is a particularly acute problem for existential risk because the numbers at stake are so large. Due to scope neglect, decision-makers are prone to treat existential risks in a similar way to problems which are less severe by many orders of magnitude. A wide range of other cognitive biases are likely to affect the evaluation of existential risks.75

#### b. The magnitude of extinction justifies an escalator clause for utilitarian calculations --- this avoids abuses while ensuring just outcomes at the tail end of risk.

K. Kirkwood 9. School of Health Studies, Faculty of Health Sciences, University of Western Ontario. 06/01/2009. “In the Name of the Greater Good?” Emerging Health Threats Journal, vol. 2, no. 0. CrossRef, doi:10.3402/ehtj.v2i0.7092.

Public health authorities in many economically advantaged nations are bracing themselves to face future pandemics that will harm large numbers of citizens. Modern medical horrors such as Monkeypox or the much-feared future mutations of Avian Influenza (H5N1) are mentioned in the same breath as virulent strains of influenza, as a danger to our ‘way of living.’ Far beyond sickness and large numbers of death, an outbreak of one of these pandemics poses a real threat to long-term health, as well as to the social and economic well being of significant percentages of our surviving population.1 While confronting issues brought forth by a pandemic, the fundamental nature of ‘public health’ and its focus on the welfare of a population demands special attention to utilitarian considerations of promotion of the greatest good—in this case, health—as well as the limitation of illness and death in the ‘worst-case’ scenarios posed by the most lethal of pandemics. Of particular interest to this paper are questions related to the obligation of health-care workers (HCWs) to report to work in the face of heightened immunological threat and whether those same workers should have greater access to immunizations and treatments than should non-HCWs. Utilitarianism within public health ethics The fundamental feature of the ethical theory of utilitarianism states that moral behavior is that which promotes good and minimizes harm.2 In writings based on public health, utilitarianism is widely recognized as a fragment in the ethical ‘scheme’ of public health,3 but it is not afforded a stronger role for two primary reasons: first, considering its extreme position, utilitarianism is morally problematic,4 as it could literally permit anything in the name of the ‘greatest good to the greatest number,’ and second it is virtually impossible to live a moral life under the most extreme forms of utilitarianism, because the obligations are too difficult to discern (the ‘what’ of promoting the good) and impossible to execute (the ‘how’).5 Utilitarianism, in a moderate form, used in public health ethics, means that our actions and policies should be focused on increasing the total ‘net’ goodness rather than an average ‘net’ good for each person. The institutions of individual rights and the recognition of patient autonomy are not contradictory to this, but are believed to serve the overall good, as individual benefit increases the total good, and serves as a preventative measure of unjustified majoritarian actions against smaller groups. This model of utilitarianism is evident in many aspects of public healthFnot only through health-promotion projects that encourage the otherwise illness-free individuals to take up a more healthful diet and exercise regimen but also through harm-reduction programs, in which people with negative health behaviors such as abuse of drugs or dietary fats are aided to eliminate, or at least minimize the harm they cause to those around them. In everyday practice, the force of this utilitarian aspect has a supportive role along with other ethical elements of public health practice, and presents a balanced moral justification for all actions undertaken in accordance with this practice.6 However, I contend that there must be an ‘escalator clause’ in the utilitarian aspect that suggests that in the event of an extensive threat to the existence of a population, the force of this utilitarian aspect becomes the primary consideration in proportion to the threat. Therefore, the greater the threat, the greater the moral force of utilitarianism in making public health decisions. This also entails that the greater the threat, the greater the moral impetus to minimize the harm to the population. On duty, outbreaks, and distribution of resources Obligations to minimize harm and promote the goods of public health are not particularly controversial in times of relatively stable ‘good-health’ measures among the populace. The more troubling question emerges from the scenario in which promoting health and minimizing illness and death demands more from HCWsFhow can, or should, we compel HCWs to attend to their duties in the event that a highly lethal form of communicable disease should start spreading?7 Although current debates focus on questions of duty, and how much personal risk invalidates that commitment, utilitarian aspects of that obligation are not given enough weight in the debate. In many of the debates, the question of risk is posed in terms of how we do not expect a trained ‘first responder’ to recklessly endanger his or her life to save the life of another. The classic story of the lifeguard is offered as exemplar: a lifeguard is not expected to rescue a drowning swimmer if a shark is clearly present.8 Although this statement seems reasonable, it does not justify itself. By contrast, the consideration of the utilitarian aspect makes the point that in attempting to save a life, two are likely to be lost, thus propagating a greater total harm. The same holds true for the example of firefighters rushing into a house badly damaged by an active fire. Although there may be a life on that second floor to save, we do not expect any number of firefighters to sacrifice their lives for the doomed soul because the loss of many, including the original life in peril, is a maximization of harm, when harm should be minimized. When you control for the risks involved, such as using precautions to assure a level of safety for the rescuers, such as shark nets for the lifeguard, or safety gear for the firefighters, then the obligation to assist comes back into full force, as the potential for greater harm is manageable.9 It is the variable of risk, which creates variable demands on those whose duty it is to care for the population in times of crisis. We consider not only the risk to the obligated but also a question of the scope of risk to the population. In academic and public debates regarding the compulsion to attend to duty in the face of danger, one fallacy has been allowed to stand: the notion that exposure to a pandemic can be avoided if one simply does not come to his or her job as a HCW. Although it is true that working in a hospital during times of influenza outbreak puts one at a greater risk for contracting the illness,10 the more widespread the outbreak, the more people become sick, and the more likely the ‘stayat-home’ HCW will become sick even after having avoided contact in the course of his or her duties. We could reasonably state that, by virtue of staying home during a time of need for his or her service, the HCW improves the odds that he or she will contract this illness outside professional practice as part of the greater number who will be exposed. Another feature of the argument offered to defend dereliction of duty is to suggest that this risk that the HCW takes with his or her own health is a fixed variable, and thus should be considered as an exception to duty. On the contrary, it is a common feature of the infection-control literature that states that doctors and nurses are overwhelmingly neglectful toward their own basic infection-control protocols.11 Therefore, the threat is not a fixed variable, but one that is actually quite within the scope of the control of a HCW. Ethically, one cannot willfully or negligently enhance the exceptions to duty. At the same time, it is an obligation of the management to ensure that diligent HCWs are equipped to do all they can to reduce their risks. During the SARS crisis in Toronto, health-care administrators did not effectively communicate which precautions should be undertaken by HCWs to protect themselves.12 It bears mentioning that once clear direction could be given about the type and execution of masking procedures, the intrahospital transmission of SARS decreased to 0%.13 This fact speaks to the issue of risk, as the non-transmission of SARS correlated with the increased attentions of management and staff to infection-control precautions and the provision and use of proper equipment.14 When we speak in terms of risk and pandemics from the utilitarian perspective discussed herein, we recognize that it is completely nonsensible to sacrifice highly trained HCWs by rushing them ill equipped into dangerous situations. Much as with the example of firefighters and the unsafe burning house, we find it morally unacceptable to treat them as disposable, because of the singularity of their lives and their right to exist as individuals. There is also the detriment we would cause in an event such as a pandemic by losing the people trained to save us to the very threat they were trained to save us from. By that same logic, it could be argued that HCWs should have first access to available and medically accepted vaccinations by virtue of the fact that those HCWs are absolutely essential to our survival. The fear of an Avian Influenza outbreak brought with it much debate about scarce Tamiflu supplies and giving HCWs preferential access.15 However, the added value of a HCW is the fact that he or she will be facing the greater risk by virtue of faithful and responsible execution of his or her duty, and if this is trueFand we have seen from the example of SARS that it is not always the case that HCWs exercise due diligence or face unmanageable risks of infection simply by being ‘on-site’Fthen we should do more to protect them. Nevertheless, if the claim is that they can excuse themselves from duty because of risk, then we excuse ourselves from privileging their protection, through the preferential access to measures such as Tamiflu. The same should be true for access to vaccines or treatments: those who are compelled into service to defend the overall health of a society at tremendous risk should be first in line, as their opportunity for infectionFand to act as a vector for infection both within and outside their health-care facilitiesFmeans that the greater good is served by privileging their access to prophylaxis. A common objection to this comes from the perspective of social justice. The objection would point out that those who are least able to prevent their own infection, such as those from the lower socioeconomic classes, retirees and pensioners, and other vulnerable groups, would be denied access to the protections and treatments that are going to HCWs whoFto varying degreesFenjoy more comfortable socioeconomic positions. Although this question of access is valid in questions of many public health interventions, the preference of HCWs in questions of preferential access to vaccines and treatments is not unjust in these terms. Fundamentally, justice addresses unjustified imbalances in treatment. Aristotle famously mandated that equals should be treated as equals, and unequals as unequals.16 The key point of justice is that there should be a valid justification for differential treatment, and in that light, in this context, we are describing pandemics that pose a unique and credible threat to the public in a manner that could fundamentally undermine our way of life. Preferential treatment of HCWs, in this limited context, is a just and defensible practice. It is this same special status that we afford those who can save us from the most lethal and dangerous illnesses in times of public health emergency that also places greater demands on those same people. The greater the risk to society, the greater the responsibilities on those who can reduce the body count. The relationship between the duty of a HCW and the lethality of a disease is proportional—danger and obligation increase in step with each other, as opposed to other conceptions that suggest a threshold of exception as the risk of illness becomes too great. The fundamental flaw with this suggestion is that a negation of duty in such an outbreak simply allows the outbreak to pose an even greater threat to the populationFincluding that same derelict HCWFrather than confronting the illness in the relatively controlled environment of a hospital. Conclusions Utilitarianism in the form of promoting the good and diminishing the bad is a key moral belief in the realm of public health. It is one view in concert with others, all working to counterbalance each view to achieve a tenable moral equilibrium. In the extreme cases under consideration herein, such equilibrium dictates that the moral force of health promotion and harm minimization increases in relation to the threat posed to the well being of a larger society. In the case of widespread death or disability caused by a pandemic, this paper contended that an increased threat generates a heightened obligation on the part of HCWs, while also creating a reasonable expectation that those same HCWs will have preferential access to vaccines and treatments.

#### c. prereq to their offense- it forecloses all future value and causes massive structural violence

#### 4] actor spec-

#### A] no act-omission or intent-foresight distinction- gov’ts must create permissions and prohibitions so inaction is functionally an action and policymakers have to take the global perspective since they are responsible for the public and lack the relevant features of individual agents like autonomy that justify such a distinction

#### B] gov’ts have to aggregate since all collective actions require trade-offs that benefit some and worsen others- side-constraints freeze action and render ethics inoperable- takes-out and turns calc indicts- consequentialism is hard but not impossible, it’s empirically false since we calculate all the time, and the alt is no action which is worse

### Framing

#### Debate’s focus shouldn’t solely be the production of ethical subjectivities. Rather, taking stances on global issues is necessary to develop accountability to global violence.

Chandler 9 David Chandler, 2009. Professor of international relations, University of Westminster. “Questioning Global Political Activism,” in What is Radical Politics Today? ed. Jonathan Pugh. 81-4.

But the most dangerous trends in the discipline today are those frameworks which have taken up Critical Theory and argue that focusing on the world as it exists is conservative problem-solving while the task for critical theorists is to focus on emancipatory alternative forms of living or of thinking about the world. Critical thought then becomes a process of wishful thinking rather than one of engagement, with its advocates arguing that we need to focus on clarifying our own [END PAGE 81] ethical frameworks and biases and positionality, before thinking about or teaching on world affairs. This becomes 'me-search' rather than research. We have moved a long way from Hedley Bull's (1995) perspective that, for academic research to be truly radical, we had to put our values to the side to follow where the question or inquiry might lead. The inward-looking and narcissistic trends in academia, where we are more concerned with our reflectivity- the awareness of our own ethics and values - than with engaging with the world, was brought home to me when I asked my IR students which theoretical frameworks they agreed with most. They mostly replied Critical Theory and Constructivism. This is despite the fact that the students thought that states operated on the basis of power and self-interest in a world of anarchy. Their theoretical preferences were based more on what their choices said about them as ethical individuals, than about how theory might be used to understand and engage with the world. Conclusion I have attempted to argue that there is a lot at stake in the radical understanding of engagement in global politics. Politics has become a religious activity, an activity which is no longer socially mediated; it is less and less an activity based on social engagement and the testing of ideas in public debate or in the academy. Doing politics today, whether in radical activism, government policy-making or in academia, seems to bring people into a one-to-one relationship with global issues in the same way religious people have a one-to-one relationship with their God. Politics is increasingly like religion because when we look for meaning we find it inside ourselves rather than in the external consequences of our 'political' acts. What matters is the conviction or the act in itself: its connection to the global sphere is one that we increasingly tend to provide idealistically. Another way of expressing this limited sense of our subjectivity is in the popularity of globalisation theory - the idea that instrumentality is no longer possible today because the world is such a complex and interconnected place and therefore there is no way of knowing the consequences of our actions. The more we engage in the new politics where there is an unmediated relationship between us as individuals and global issues, the less we engage instrumentally with the outside world, and the less we engage with our peers and colleagues at the level of political or intellectual debate and organisation. [END PAGE 82] You may be thinking that I have gone some way to describing or identifying what the problems might be but I have not mentioned anything about a solution. I won't dodge the issue. One thing that is clear is that the solution is not purely an intellectual or academic one; the demand for global ethics is generated by our social reality and social experiences. Marx spent some time considering a similar crisis of political subjectivity in 1840s Germany and in his writings - The German Ideology, Introduction to the Critique of Hegel's Philosophy of Right, Theses on Feuerbach, and elsewhere - he raged against the idealism of contemporary thought and argued that the criticism of religion needed to be replaced by the criticism of politics - by political activism and social change based on the emerging proletariat (see Marx, 1975, for example). Nearly two centuries later it is more difficult to see an emerging political subject which can fulfil the task of 'changing the world' rather than merely 'reinterpreting it' through philosophy. I have two suggestions. Firstly, that there is a pressing need for an intellectual struggle against the idealism of global ethics. The point needs to be emphasised that our freedom to engage in politics, to choose our identities and political campaigns, as well as governments' freedom to choose their ethical campaigns and wars of choice, reflects a lack of socialties and social engagement. There is no global political struggle between 'Empire' and its 'Radical Discontents'; the Foucauldian temptation to see power and resistance everywhere is a product of wishful or lazy thinking dominated by the social categories of the past. The stakes are not in the global stratosphere but much closer to home. Politics appears to have gone global because there is a breakdown of genuine community and the construction of fantasy communities and fantasy connections in global space. Unless we bring politics back down to earth from heaven, our critical, social and intellectual lives will continue to be diminished ones. Secondly, on the basis that the political freedom of our social atomisation leads us into increasingly idealised approaches to the world we live in, we should take more seriously Hedley Bull's (1995) injunction to pursue the question, or in Alain Badiou's (2004: 237-8) words subordinate ourselves to the 'discipline of the real'. Subordination to the world outside us is a powerful factor that can bind those interested in critical research, whereas the turn away from the world and the focus on our personal values can ultimately only be divisive. To facilitate external engagement and external judgement, I suggest we experiment with ways to build up social bonds with our peers that can limit our freedoms and develop our sense of responsibility and accountability to others.

#### Undoing dominant power relations requires analyzing and attacking power structures through political struggle---normative appeals oriented around propagating new discourses are ineffective

Zack 17 Naomi Zack 17. Professor of philosophy at the University of Oregon. 02/2017. “Ideal, Nonideal, and Empirical Theories of Social Justice: The Need for Applicative Justice in Addressing Injustice.” The Oxford Handbook of Philosophy and Race, Oxford University Press.

Ideals of justice may do little toward the correction of injustice in real life. The influence of John Rawls’s A Theory of Justice has led some philosophers of race to focus on “nonideal theory” as a way to bring conditions in unjust societies closer to conditions of justice described by ideal theory. However, a more direct approach to injustice may be needed to address unfair public policy and existing conditions for minorities in racist societies. Applicative justice describes the applications of principles of justice that are now “good enough” for whites to nonwhites (based on prior comparisons of how whites and nonwhites are treated). Social information just dribbles in, bit by bit, and we simply get used to it. A single story about a person really hits home at once, but the grinding injustices of daily life are endured. It is easy to ignore them and we do. Judith Shklar, The Faces of Injustice (Shklar 1990, 110) IDEAL theory about justice extends from Plato’s Republic to John Rawls’s A Theory of Justice, including many careers devoted to analyses and criticism about such texts in political philosophy. Rawls offers a picture of the basic institutional structures of a just society, on the premise that in order to correct injustice, we must first know what justice is. According to Rawls, while “partial compliance theory” studies the principles that govern how we are to deal with injustice, full compliance theory, or ideal theory, studies the institutional principles of justice in a stable society where citizens obey the law. Rawls began A Theory of Justice with the claim: “The reason for beginning with ideal theory is that it provides, I believe, the only basis for the systematic grasp of these more pressing problems” (Rawls 1971, 8). Rawls’s ideal theory is too abstract to correct injustice or provide justice for victims of injustice in reality, because it is based on a thought experiment and the assumption of a “well-ordered” society in which there already is compliance with law (Zack 2016, 1–64). What people care about in reality concerning justice is not what ideal justice is or would be, but how immediate injustice can be corrected. Injustice is always specific in concrete events that are recognizable as certain types, for example, theft, murder, or police racial profiling. Injustice can be corrected by punishing those responsible for it in specific cases and instituting social changes that prevent or reduce future occurrences of the same type. Rawlsian nonideal theories of justice, constructed for societies where people do not comply with just laws, rely on ideal theory as a standard for just institutional structures. The main question driving nonideal theory is how to construct a model or picture of justice that will result in the future correction or avoidance of present injustices. John Simmons quotes John Rawls from Law of Peoples, on this matter. Nonideal theory asks how this long-term goal might be achieved, or worked toward, usually in gradual steps. It looks for courses of action that are morally permissible and politically possible as well as likely to be effective [LOP p. 89]. (Simmons 2010, 7) However, injured or indignant parties may not care about the long-term goal of justice that could lead to balance or compensation for their situations. Not only are what P. F. Strawson (1962) called “reactive attitudes,” such as moral indignation, blame, and a desire for deserved punishment, strong in their focus on injustice, but the best theory of justice in the world does not tell us what to do about the injustices we are faced with in the here and now, especially “the more pressing problems” of race-related injustices. Such questions cannot be answered with reference to ideal theory or some application of ideal or nonideal theory to their concrete situations, because the a priori nature of both of these does not provide a fit with specific contingencies—ideal and nonideal theories do not generate practical bridge principles. As theories, they posit ideal entities, but without the apparatus of scientific theories which provides connections to observable entities or events. (Moulines 1985). The correction of injustice or injustice theory requires a philosophical foundation for itself. Models of justice have often been naïvely utopian throughout the history of philosophy, because they are based on an assumption of automatic total compliance, as though the right words or pictures by themselves have the power to transform reality, or as though agreement with those right words or pictures will automatically result in action that will automatically make the world instantiate those words or pictures. When they are not fantastically and ineffectively utopian in this way, such models have been used to justify the already-existing dominance of some groups over others. (A prime example is John Locke’s Second Treatise of Government, written decades before 1688 Glorious Revolution, to express the interests of the new rising class of landed gentry, which were eventually fulfilled by a Protestant king on the throne and a strong representative parliament after that revolution [Laslett 1988].) Models of justice have legitimately served to inspire law in modern societies with government constitutions and national and local law. But, sometimes, as in US founding documents, although universal and absolute justice is proclaimed, subsequent events make it clear that this language was intended to legitimize just treatment for members of selected groups only, that is, white male property owners, at first. As a result of just law and its selective application, over time, there comes to be justice for an expanding group, but still not everyone in society. However, what is written, together with descriptions of real justice for some, can be a powerful lever for obtaining justice for at least some of the excluded. To understand how that works, it is necessary to develop an approach to justice that begins with injustice, in real situations where there is already some degree of justice in a larger whole. The extension of existing practices of justice to members of new groups is applicative justice, a concept with substantial historical and intellectual precedent, although not by that name. In what follows, more will be said about the idea of applicative justice and then its history will be considered. Voting rights and housing rights are examples of candidates for applicative justice in our time. Finally, content in the form of narrative may be motivational for social change. The Idea of Applicative Justice Applicative justice is an approach to justice with the goal of making the unjust treatment of some comparable to those who already receive just treatment. Applicative justice takes a comparative approach, for example, comparing how young black males are treated by police officers in contemporary US society, to how young white males are treated (Jones 2013; Zack 2013, 2015). Applicative justice rests on a pragmatic approach to social ills, which includes the premise, based on Arthur Bentley’s 1908 insights in The Process of Government, that government is much more than the apparatus of state and written laws and court decisions. Government is an extended, dynamic process, an ongoing contention among interest groups in society. This full-bodied, empirical and pragmatic view of government process entails, for example, that we consider as parts of the same political mix/phenomenon/raw material all of the foregoing: the Fourth and Fourteenth Amendments, the 1960s Civil Rights Legislation, doctrines of probable cause, the disproportionate incarceration of African Americans, racial profiling, and police homicide with impunity. Thus, Rawls’s insistence that “the rights secured by justice are not subject to political bargaining or to the calculus of social interests” (Rawls 1971, 4), should be understood as “the rights secured by justice should not be subject to political bargaining or to the calculus of social interests.” In reality, “the rights secured by justice” are constantly subject to political bargaining and the living calculus of social interests. One consequence of this empirical perspective is that moral outrage, critiques of white supremacy, or analyses of white privilege, along with other forms of blame, cannot be assumed to have the power to change anything, by themselves. By contrast, changing relationships between police officers and their local communities, or changing the rules of engagement when police stop or attempt to stop suspects, might on this view have some causal power (Ayres and Markovits 2014). It is important to realize that such changes in practice would not be specific applications of a theory of justice, but ways of changing social reality into a different political mix. However, a better theory of justice, even a more racially egalitarian one and even a theory of applicative justice that was widely accepted, would still be no more than a change in what Bentley calls “political content.” Any theory of justice or any set of just laws is compatible with widespread racially unequal and unjust practice. And the converse also holds. Unjust laws or laws with gaps for unjust practice are compatible with just practice. Thus, applicative justice is pragmatic in taking the whole political mix/ phenomenon/raw material as its subject for a specific injustice. Unlike ideal or nonideal justice theory, the applicative justice approach brooks little faith that reality can be changed by a special conceptual space or mode of critical moral discourse that is undertaken apart from reality. Reality cannot be changed by normative pronouncements, by or on behalf of the oppressed, but only by shifts in existing interests of groups of real people. To base hopes for change on normative content alone may ~~paralyze~~ [eliminate] the means for taking action that could result in change, because such content proceeds as though matters of justice were only matters of argument. Those who have opposed social racial justice have understood this well enough, because instead of mainly arguing against new just law over the twentieth century, they have taken action to block progress. Race and Justice Consideration of race and injustice together, within political philosophy, focuses on the need for specific groups to not be treated unjustly. For a group to be treated justly, a large number of its members need to be treated justly. But for a group to be treated unjustly, it is sufficient if a smaller number or lower proportion than required to meet the standard of just treatment be treated unjustly. One reason for this asymmetry is that just treatment is easily normalized within communities, whereas unjust treatment of only a few is disruptive and considered abnormal among other members of the group to which victims belong (although not necessarily by members of groups who are generally treated justly). The unjust treatment of a small number ripples from their friends and relations to other members of the same group, who realize that they are subject to similar unjust treatment from their membership in that group alone. More broadly, if the group treated justly and the group treated unjustly belong to the same larger collective, such as whites and blacks in the United States, then the unjust treatment of even a very small number of that total collective of residents or citizens should be disruptive to the whole collective, given promulgated principles of “justice for all.” But that does not always happen, at least not in ways that result in real change. Apathy and self-absorption of those not treated unjustly is part of the reason, although another significant part is that the group treated justly already knows that the national collective rhetoric of justice is intended to apply primarily to them. It is that kind of disparate treatment, which does not disrupt everyone, even though it should, which calls for a theory of applicative justice, on the abstract level where people call for justice. But applicative justice is not only an abstract theory. Applicative justice requires comparisons of group treatment. If minorities are treated unjustly, a description of that injustice does not require an ideal or nonideal theory or model of justice, but simply a comparison with how the majority is treated. (The term “minorities” refers to those disadvantaged or oppressed, because sometimes minorities are greater in number than “majorities,” e.g., blacks under apartheid in South Africa, American slaves in some Southern states, or black Americans in some twenty-first-century cities.) The principles and mechanics of justice that work well enough for most white Americans need to be applied to nonwhite Americans. For rhetorical purposes, it might be evocative to talk about black lives or black rights, but strictly speaking the subject is a racial framework that is color-blind in an important part of law—constitutional amendments and federal legislation—but not in reality. This gap between written law and social reality can be viewed as hypocrisy, racial bias, or white supremacy, only if one assumes that written law is an accurate description of, or blueprint for, social reality. But a perspective that takes in the whole process of government reveals that the gap and what is permissible within it, are parts of the same whole process. The contrast between blueprints and maps is important to consider. Political philosophers often proceed as though their writings about justice are blueprints, when they should instead begin by constructing maps. Present politics or a political party in power may present obstacles and challenges to applicative justice in any specific case. Those who aim for applicative justice must struggle against such obstacles and challenges, as well as the ignorance, prejudice, and ill will of large parts of voting publics under democratic government, and in addition, media misrepresentations, business interests in a status quo, and lack of understanding of oppression by those who are treated unjustly. For example, the injustice in the disproportionately large number of African Americans in the US criminal justice system has been supported by law-and-order politics, the War on Drugs, belief in racial gender myths (e.g., the larger-than-life black rapist), explicit racism, media sensationalism of crime committed by black men, profits made by for-profit prison corporations, and embrace of self-destructive subcultures by some black men who become incarcerated. At the same time, as an efficient cause or precipitating factor, ongoing racial profiling by police helps feed the system with new suspects, about 90 percent of whom plead guilty in preference to the risks and costs of a trial (Kerby 2013; Rakoff et al. 2014). Intergenerational poverty, unemployment, and undereducation contain people within this system, and the high rates of nonwhites in the prison population are used as official justification for racial profiling (Zack 2015, chap 2). Thus, the complexity of causes and background factors associated with the disproportionate number of African American male prison inmates can be understood through a number of approaches. The normative approach of applicative justice would be to address those causes or factors, distinctly and individually, through specific changes in concrete practice, as well as changes in law, as relevant.