# 1NC

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### 1NC - OFF

Util NC

**The standard is maximizing expected wellbeing:**

1. **Pleasure and pain are intrinsically valuable**

**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] SJDI

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.

1. **Moreover, *only* pleasure and pain are intrinsically valuable. All other values can be explained with reference to pleasure; Occam’s razor requires us to treat these as instrumentally valuable.**

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I think several things should be said in response to Moore’s challenge to hedonists. First, **I do not think the burden of proof lies on hedonists to explain why the additional values are not intrinsic values. If someone claims that X is intrinsically valuable, this is a substantive, positive claim, and it lies on him or her to explain why we should believe that X is in fact intrinsically valuable.** Possibly, this could be done through thought experiments analogous to those employed in the previous section. Second, **there is something peculiar about the list of additional intrinsic values** that counts in hedonism’s favor**: the listed values have a strong tendency to be well explained as things that help promote pleasure and avert pain.** To go through Frankena’s list, life and consciousness are necessary presuppositions for pleasure; activity, health, and strength bring about pleasure; and happiness, beatitude, and contentment are regarded by Frankena himself as “pleasures and satisfactions.” The same is arguably true of beauty, harmony, and “proportion in objects contemplated,” and also of affection, friendship, harmony, and proportion in life, experiences of achievement, adventure and novelty, self-expression, good reputation, honor and esteem. Other things on Frankena’s list, such as understanding, **wisdom, freedom, peace, and security, although they are perhaps not themselves pleasurable, are important means to achieve a happy life, and as such, they are things that hedonists would value highly.** **Morally good dispositions and virtues, cooperation, and just distribution of goods and evils, moreover, are things that, on a collective level, contribute a happy society, and thus the traits that would be promoted and cultivated if this were something sought after.** To a very large extent, the intrinsic values suggested by pluralists tend to be hedonic instrumental values. Indeed, pluralists’ suggested intrinsic values all point toward pleasure, for while the other values are reasonably explainable as a means toward pleasure, pleasure itself is not reasonably explainable as a means toward the other values. Some have noticed this. Moore himself, for example, writes that though his pluralistic theory of intrinsic value is opposed to hedonism, its application would, in practice, look very much like hedonism’s: “Hedonists,” he writes “do, in general, recommend a course of conduct which is very similar to that which I should recommend.”24 Ross writes that “[i]t is quite certain that by promoting virtue and knowledge we shall inevitably produce much more pleasant consciousness. These are, by general agreement, among the surest sources of happiness for their possessors.”25 Roger Crisp observes that “those goods cited by non-hedonists are goods we often, indeed usually, enjoy.”26 What Moore and Ross do not seem to notice is that their observations give rise to two reasons to reject pluralism and endorse hedonism. The first reason is that if **the suggested non-hedonic intrinsic values are potentially explainable by appeal to just pleasure and pain** (which, following my argument in the previous chapter, we should accept as intrinsically valuable and disvaluable), **then—by appeal to Occam’s razor—we have at least a pro tanto reason to resist the introduction of any further intrinsic values and disvalues. It is ontologically more costly to posit a plurality of intrinsic values and disvalues, so in case all values admit of explanation by reference to a single intrinsic value and a single intrinsic disvalue, we have reason to reject more complicated accounts.** **The fact that suggested non-hedonic intrinsic values tend to be hedonistic instrumental values does not, however, count in favor of hedonism solely in virtue of being most elegantly explained by hedonism; it also does so in virtue of creating an explanatory challenge for pluralists.** The challenge can be phrased as the following question: **If the non-hedonic values suggested by pluralists are truly intrinsic values in their own right, then why do they tend to point toward pleasure and away from pain?**27

#### Adopt a Parliamentary model to account for moral uncertainty. This entails minimizing existential risk.

Bostrom 09 [Bostrom, Nick (*Existential*ist of a different sort). “Moral uncertainty – toward a solution?” 1 January 2009. <http://www.overcomingbias.com/2009/01/moral-uncertainty-towards-a-solution.html>]

It seems people are overconfident about their moral beliefs. But **how should one** reason and **act if one** acknowledges that one **is uncertain about morality** – not just applied ethics but fundamental moral issues? if you don’t know which moral theory is correct? It doesn’t seem **you can[’t] simply plug your uncertainty into expected utility** decision theory and crank the wheel; **because many** moral **theories** state that you **should not** always **maximize** expected **utility.** Even if we limit consideration to consequentialist theories, it still is hard to see how to combine them in the standard decision theoretic framework. For example, suppose you give X% probability to total utilitarianism and (100-X)% to average utilitarianism. Now an action might add 5 utils to total happiness and decrease average happiness by 2 utils. (This could happen, e.g. if you create a new happy person that is less happy than the people who already existed.) Now what do you do, for different values of X? The problem gets even more complicated if we consider not only consequentialist theories but also deontological theories, contractarian theories, virtue ethics, etc. We might even throw various meta-ethical theories into the stew: error theory, relativism, etc. I’m working on a paper on this together with my colleague Toby Ord. We have some arguments against a few possible “solutions” that we think don’t work. On the positive side we have some tricks that work for a few special cases. But beyond that, the best **we have managed** so far is **a** kind of **metaphor, which** we don’t think is literally and exactly correct, and it is a bit under-determined, but it **seems to get things roughly right** and it might point in the right direction: **The Parliamentary Model.** Suppose that you have a set of mutually exclusive moral theories, and that you assign each of these some probability. Now imagine that **each** of these **theorie**s **gets to send** some number of **delegates to The Parliament**. The number of delegates each theory gets to send is **proportional to the probability of the theory.** Then the delegates bargain with one another for support on various issues; and the Parliament reaches a decision by the delegates voting. What you should do is act according to the decisions of this imaginary Parliament. (Actually, we use an extra trick here: we imagine that the delegates act as if the Parliament’s decision were a stochastic variable such that the probability of the Parliament taking action A is proportional to the fraction of votes for A. This has the effect of eliminating the artificial 50% threshold that otherwise gives a majority bloc absolute power. Yet – unbeknownst to the delegates – the Parliament always takes whatever action got the most votes: this way we avoid paying the cost of the randomization!) The idea here is that moral theories get more influence the more probable they are; yet **even a** relatively **weak theory can still get its way on some issues** that the theory think are extremely important **by sacrificing** its influence **on other** i**s**sues that other theories deem more important. For example, **suppose you assign 10% probability to** total **util**itarianism and 90% to moral egoism (just to illustrate the principle). Then **the Parliament** would mostly take actions that maximize egoistic satisfaction; however it **would make some concessions to util**itarianism **on** issues that utilitarianism thinks is especially important. In this example, the person might donate some portion of their income to **existential risks** research and otherwise live completely selfishly. I think there might be wisdom in **this model**. It **avoids the** dangerous and **unstable extremism** that would result **from letting one’s current favorite moral theory completely dictate action**, while still allowing the aggressive pursuit of some non-commonsensical high-leverage strategies so long as they don’t infringe too much on what other major moral theories deem centrally important

#### Revisionary intuitionism is true and proves util

Yudkowsky 08 [Eliezer Yudkowsky (research fellow of the Machine Intelligence Research Institute; he also writes Harry Potter fan fiction). “The ‘Intuitions’ Behind ‘Utilitarianism.’” 28 January 2008. LessWrong. http://lesswrong.com/lw/n9/the\_intuitions\_behind\_utilitarianism/]

I haven’t said much about metaethics – the nature of morality – because that has a forward dependency on a discussion of the Mind Projection Fallacy that I haven’t gotten to yet. I used to be very confused about metaethics. After my confusion finally cleared up, I did a postmortem on my previous thoughts. I found that my object-level moral reasoning had been valuable and my **meta-level moral reasoning had been** worse than **useless**. And this appears to be a general syndrome – **people do much better when discussing whether torture is** good or **bad than**when they discuss **the meaning of “good” and “bad”. Thus, I deem it prudent to keep moral discussions on the object level** wherever I possibly can. Occasionally people object to any discussion of morality on the grounds that morality doesn’t exist, and in lieu of jumping over the forward dependency to explain that “exist” is not the right term to use here, I generally say, “But what do you do anyway?” and take the discussion back down to the object level. Paul Gowder, though, has pointed out that both the idea of choosing a googolplex dust specks in a googolplex eyes over 50 years of torture for one person, and the idea of “utilitarianism”, depend on “intuition”. He says I’ve argued that the two are not compatible, but charges me with failing to argue for the utilitarian intuitions that I appeal to. Now “intuition” is not how I would describe the computations that underlie human morality and distinguish us, as moralists, from an ideal philosopher of perfect emptiness and/or a rock. But I am okay with using the word “intuition” as a term of art, bearing in mind that “intuition” in this sense is not to be contrasted to reason, but is, rather, the cognitive building block out of which both long verbal arguments and fast perceptual arguments are constructed. **I see** the project of **morality as a project of renormalizing intuition.** We have intuitions about things that seem desirable or undesirable, intuitions about actions that are right or wrong, intuitions about how to resolve conflicting intuitions, intuitions about how to systematize specific intuitions into general principles. **Delete all** the **intuitions, and** you aren’t left with an ideal philosopher of perfect emptiness, **you’re left with a rock. Keep all your** specific **intuitions and** refuse to build upon the reflective ones, and you aren’t left with an ideal philosopher of perfect spontaneity and genuineness, **you’re left with a** grunting **caveperson** running in circles, due to cyclical preferences and similar inconsistencies. “Intuition”, as a term of art, is not a curse word when it comes to morality – there is nothing else to argue from. **Even modus ponens is an “intuition”** in this sense – **it**‘s **just** that modus ponens **still seems like a good idea after being** formalized, **reflected on**, extrapolated out to see if it has sensible consequences, etcetera. So that is “intuition”. However, Gowder did not say what he meant by “utilitarianism”. Does utilitarianism say… That right actions are strictly determined by good consequences? That praiseworthy actions depend on justifiable expectations of good consequences? That probabilities of consequences should normatively be discounted by their probability, so that a 50% probability of something bad should weigh exactly half as much in our tradeoffs? That virtuous actions always correspond to maximizing expected utility under some utility function? That two harmful events are worse than one? That two independent occurrences of a harm (not to the same person, not interacting with each other) are exactly twice as bad as one? That for any two harms A and B, with A much worse than B, there exists some tiny probability such that gambling on this probability of A is preferable to a certainty of B? If you say that I advocate something, or that my argument depends on something, and that it is wrong, do please specify what this thingy is… anyway, I accept 3, 5, 6, and 7, but not 4; I am not sure about the phrasing of 1; and 2 is true, I guess, but phrased in a rather solipsistic and selfish fashion: you should not worry about being praiseworthy. Now, what are the “intuitions” upon which my “utilitarianism” depends? This is a deepish sort of topic, but I’ll take a quick stab at it. First of all, it’s not just that someone presented me with a list of statements like those above, and I decided which ones sounded “intuitive”. Among other things, **if you try to violate** “**util**itarianism”, **you run into paradoxes, contradictions**, circular preferences, **and other** things that aren’t **symptoms of** moral wrongness so much as **moral incoherence**. After you think about moral problems for a while, and also find new truths about the world, and even discover disturbing facts about how you yourself work, you often end up with different moral opinions than when you started out. This does not quite define moral progress, but it is how we experience moral progress. As part of my experienced moral progress, I’ve drawn a conceptual separation between questions of type Where should we go? and questions of type How should we get there? (Could that be what Gowder means by saying I’m “utilitarian”?) The question of where a road goes – where it leads – you can answer by traveling the road and finding out. If you have a false belief about where the road leads, this falsity can be destroyed by the truth in a very direct and straightforward manner. When it comes to wanting to go to a particular place, this want is not entirely immune from the destructive powers of truth. You could go there and find that you regret it afterward (which does not define moral error, but is how we experience moral error). But, even so, wanting to be in a particular place seems worth distinguishing from wanting to take a particular road to a particular place. Our intuitions about where to go are arguable enough, but our intuitions about how to get there are frankly messed up. **After** the two hundred and eighty-seventh **research** study **showing that people will chop their own feet off if you frame the problem the wrong way, you start to distrust first impressions. When you’ve read** enough **research on scope insensitivity** – people will pay only 28% more to protect all 57 wilderness areas in Ontario than one area, **people will pay the same amount to save 50,000 lives as 5,000** lives… that sort of thing… Well, the worst case of scope insensitivity I’ve ever heard of was described here by Slovic: Other recent research shows similar results. Two Israeli psychologists asked people to contribute to a costly life-saving treatment. They could offer that contribution to a group of eight sick children, or to an individual child selected from the group. The target amount needed to save the child (or children) was the same in both cases. Contributions to individual group members far outweighed the contributions to the entire group. There’s other research along similar lines, but I’m just presenting one example, ’cause, y’know, eight examples would probably have less impact. If you know the general experimental paradigm, then the reason for the above behavior is pretty obvious – focusing your attention on a single child creates more emotional arousal than trying to distribute attention around eight children simultaneously. So people are willing to pay more to help one child than to help eight. Now, **you could** look at this intuition, and **think it was** revealing **some** kind of incredibly **deep moral truth** which shows that one child’s good fortune is somehow devalued by the other children’s good fortune. But what about the billions of other children in the world? Why isn’t it a bad idea to help this one child, when that causes the value of all the other children to go down? How can it be significantly better to have 1,329,342,410 happy children than 1,329,342,409, but then somewhat worse to have seven more at 1,329,342,417? **Or you could** look at that and **say: “The intuition is wrong: the brain can’t** successfully **multiply** by eight and get a larger quantity than it started with. **But it ought to**, normatively speaking.” And once you realize that the brain can’t multiply by eight, then the other cases of scope neglect stop seeming to reveal some fundamental truth about 50,000 lives being worth just the same effort as 5,000 lives, or whatever. You don’t get the impression you’re looking at the revelation of a deep moral truth about nonagglomerative utilities. It’s just that the brain doesn’t goddamn multiply. Quantities get thrown out the window. If you have $100 to spend, and you spend $20 each on each of 5 efforts to save 5,000 lives, you will do worse than if you spend $100 on a single effort to save 50,000 lives. Likewise if such choices are made by 10 different people, rather than the same person. As soon as you start believing that it is better to save 50,000 lives than 25,000 lives, that simple preference of final destinations has implications for the choice of paths, when you consider five different events that save 5,000 lives. (It is a general principle that Bayesians see no difference between the long-run answer and the short-run answer; you never get two different answers from computing the same question two different ways. But the long run is a helpful intuition pump, so I am talking about it anyway.) The aggregative valuation strategy of “shut up and multiply” arises from the simple preference to have more of something – to save as many lives as possible – when you have to describe general principles for choosing more than once, acting more than once, planning at more than one time. Aggregation also arises from claiming that the local choice to save one life doesn’t depend on how many lives already exist, far away on the other side of the planet, or far away on the other side of the universe. Three lives are one and one and one. No matter how many billions are doing better, or doing worse. 3 = 1 + 1 + 1, no matter what other quantities you add to both sides of the equation. And if you add another life you get 4 = 1 + 1 + 1 + 1. That’s aggregation. **When you’ve read** enough heuristics and **biases research, and**enough **coherence** and uniqueness **proofs for** Bayesian probabilities and **expected utility**, and you’ve seen the “Dutch book” and “money pump” effects that penalize trying to handle uncertain outcomes any other way, then **you don’t see** the **preference reversals** in the Allais Paradox **as** revealing some incredibly **deep moral truth** about the intrinsic value of certainty. **It** just **goes to show that the brain doesn’t** goddamn **multiply.** The primitive, perceptual intuitions that make a choice “feel good” don’t handle probabilistic pathways through time very skillfully, especially when the probabilities have been expressed symbolically rather than experienced as a frequency. So you reflect, devise more trustworthy logics, and think it through in words. When you see people insisting that no amount of money whatsoever is worth a single human life, and then driving an extra mile to save $10; or when you see people insisting that no amount of money is worth a decrement of health, and then choosing the cheapest health insurance available; then you don’t think that their protestations reveal some deep truth about incommensurable utilities. Part of it, clearly, is that **primitive intuitions don’t**successfully **diminish the emotional impact of** symbols standing for **small quantities** – anything you talk about seems like “an amount worth considering”. And part of it has to do with preferring unconditional social rules to conditional social rules. Conditional rules seem weaker, seem more subject to manipulation. If there’s any loophole that lets the government legally commit torture, then the government will drive a truck through that loophole. So it seems like there should be an unconditional social injunction against preferring money to life, and no “but” following it. Not even “but a thousand dollars isn’t worth a 0.0000000001% probability of saving a life”. Though the latter choice, of course, is revealed every time we sneeze without calling a doctor. The rhetoric of sacredness gets bonus points for seeming to express an unlimited commitment, an unconditional refusal that signals trustworthiness and refusal to compromise. So you conclude that moral rhetoric espouses qualitative distinctions, because espousing a quantitative tradeoff would sound like you were plotting to defect. On such occasions, people vigorously want to throw quantities out the window, and they get upset if you try to bring quantities back in, because quantities sound like conditions that would weaken the rule. But you don’t conclude that there are actually two tiers of utility with lexical ordering. You don’t conclude that there is actually an infinitely sharp moral gradient, some atom that moves a Planck distance (in our continuous physical universe) and sends a utility from 0 to infinity. You don’t conclude that utilities must be expressed using hyper-real numbers. Because the lower tier would simply vanish in any equation. It would never be worth the tiniest effort to recalculate for it. All decisions would be determined by the upper tier, and all thought spent thinking about the upper tier only, if the upper tier genuinely had lexical priority. As Peter Norvig once pointed out, if Asimov’s robots had strict priority for the First Law of Robotics (“A robot shall not harm a human being, nor through inaction allow a human being to come to harm”) then no robot’s behavior would ever show any sign of the other two Laws; there would always be some tiny First Law factor that would be sufficient to determine the decision. Whatever value is worth thinking about at all, must be worth trading off against all other values worth thinking about, because thought itself is a limited resource that must be traded off. When you reveal a value, you reveal a utility. I don’t say that morality should always be simple. I’ve already said that the meaning of music is more than happiness alone, more than just a pleasure center lighting up. I would rather see music composed by people than by nonsentient machine learning algorithms, so that someone should have the joy of composition; I care about the journey, as well as the destination. And I am ready to hear if you tell me that the value of music is deeper, and involves more complications, than I realize – that the valuation of this one event is more complex than I know. But that’s for one event. When it comes to multiplying by quantities and probabilities, complication is to be avoided – at least if you care more about the destination than the journey. **When you’ve reflected** on enough intuitions, **and corrected enough absurdities, you** start to **see a common denominator**, a meta-principle at work, **which one might phrase as “Shut up and multiply.”** Where music is concerned, I care about the journey. When lives are at stake, I shut up and multiply. It is more important that lives be saved, than that we conform to any particular ritual in saving them. And the optimal path to that destination is governed by laws that are simple, because they are math. **And that’s why I’m a utilitarian** – at least when I am doing something that is overwhelmingly more important than my own feelings about it – which is most of the time, because there are not many utilitarians, and many things left undone.

#### Actor-specificity: side constraints freeze action because government policies always require trade-offs since they have finite resources—the only justifiable way to resolve those conflicts is by benefiting everyone. Actor-specificity first -- different agents have different ethical obligations.

#### No intent-foresight distinction – if we foresee a consequence, then it is intrinsic to our action since we intend it to happen

#### Lexical pre-requisite: Threats to life preclude the ability for moral actors to effectively utilize and act upon other moral theories

#### Reject calc indicts: Empirically denied—both individuals and policymakers carry out effective cost-benefit analysis which means even if decisions aren’t always perfect it’s still better than not acting at all

#### Permissibility and presumption negate:

#### We presume statements false absent an active reason to think otherwise – proven by conspiracy theories

#### Statements are more often false than true because any part can be false – this means you negate in the absence of offense

### 1NC - OFF

Tech Innovation DA

#### Unionization and improved bargaining power destroys tech innovation

Their studies don’t assume new findings about the importance of blue collar workers

**Bradley et al. 15** (Daniel\* Incheol Kim\*\*, Xuan Tian\*\*\*, last revisited August 24th 2015,, \*professor of the Muma College of Business Finance Department and holds the Lykes Chair in Finance and Sustainability at the University of South Florida, \*\*University of Texas - Rio Grande Valley - College of Business and Entrepreneurship, \*\*\*Tsinghua University - PBC School of Finance, “Do Unions Affect Innovation?,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2232351)//RTF

In this paper, we examine the effect of unionization on the innovation activities of firms. We find patent counts and citations decline significantly after firms elect to unionize. Economically, passing a union election leads to an 8.7% decline in patent counts and a 12.5% decline in the number of citations per patent three years after the election. We provide a battery of diagnostic and robustness tests and find our conclusions are unchanged. Next, we show that the results are statistically insignificant in states with right-to-work legislation where unions have less bargaining power to expropriate rents. A reduction in R&D expenditures, reduced productivity of existing and newly hired inventors, and the departure of innovative individuals appear plausible underlying mechanisms through which unionization impedes innovation. Finally, in response to unionization, we find that firms move their innovation activities away from states where union elections win.

While we show a negative effect of unions on innovation using the regression discontinuity approach, one needs to use caution when interpreting and generalizing our results because of some limitations of the RDD. First, while RDD has strong local validity, it has weak external validity. Therefore, the negative effect of unions on innovation may only apply to firms that fall in a narrow band of vote shares around the cutoff. For firms in which unions overwhelmingly win or lose the elections, we cannot establish the effect of unionization on innovation. Second, there might be a selection issue for firms that choose to hold or not hold union elections. Because our focus is on the firms that hold union elections and explore how barely passing or failing the election affects firm innovation, our setting is not subject to this selection problem. However, our findings cannot answer the question of whether holding a union election would affect innovation. Third, the political science literature (e.g., Snyder, 2005; Caughey and Sekhon, 2011) has shown that substantial imbalance near the threshold that distinguishes winners from losers may create “strategic sorting” around the election threshold and bias the results. In other words, some firm observable attributes appear to be significantly correlated with victory even in very close elections. While we have shown that this is not the case in our setting because ex-ante characteristics of publicly-traded firms that barely pass and fail the union elections are comparable, we cannot completely rule out the possibility that our results are driven by strategic sorting because we do not observe attributes of privately-held firms falling in the small margin around the cutoff due to data limitations.

Our study has important implications for policy makers when they alter union regulations or labor laws to encourage innovation, which is perhaps the most important driver of economic growth. Our paper also highlights the importance of blue collar workers in the innovation process, which has been generally ignored by the previous literature but has received more interest and attention as of late.

Finally, while a fast growing literature has provided empirical evidence supporting the implications of Manso (2011) that tolerance for failure is necessary for motivating innovation (e.g., Bernstein, 2015; Ederer and Manso, 2013; Tian and Wang, 2014), our paper shows that one cannot ignore the importance of the other side of the story, namely, that agents need to be rewarded for success in the long run. Labor unions are a good example of contract arrangements that tolerate failure in the short term but do not reward success in the long run, and hence impede innovation. Our research calls for future studies that explore contract designs that combine both short-term failure tolerance and long-term reward for success and best nurture firm innovation.

#### Those are key to the defense industrial complex – we need to supply our military to deter war

**O’Hanlon et al 12** (Mackenzie Eaglen, American Enterprise Institute Rebecca Grant, IRIS Research Robert P. Haffa, Haffa Defense Consulting Michael O'Hanlon, The Brookings Institution Peter W. Singer, The Brookings Institution Martin Sullivan, Commonwealth Consulting Barry Watts, Center for Strategic and Budgetary Assessments “The Arsenal of Democracy and How to Preserve It: Key Issues in Defense Industrial Policy January 2012,” <http://www.brookings.edu/~/media/research/files/papers/2012/1/26%20defense%20industrial%20base/0126_defense_industrial_base_ohanlon>)

The current wave of defense cuts is also different than past defense budget reductions in their likely industrial impact, as the U.S. defense industrial base is in a much different place than it was in the past. Defense industrial issues are too often viewed through the lens of jobs and pet projects to protect in congressional districts. **But the overall health of the firms that supply the technologies our armed forces utilize does have national security resonance**. Qualitative superiority in weaponry and other key military technology has become an essential element of American military power in the modern era—**not only for winning wars but for deterring them**. **That requires world-class scientific and manufacturing capabilities—**which in turn can also generate civilian and military export opportunities for the United States in a globalized marketplace.

**That’s key to deterring a litany of existential threats --- extinction.**

**Helprin 15** Mark Helprin, senior fellow of the Claremont Institute, 6/22/15,”Indefensible Defense”, <http://www.nationalreview.com/article/419604/indefensible-defense-mark-helprin> - BS

\*edited for language – in brackets

Continual **warfare in the Middle East**, **a nuclear Iran**, **e**lectro**m**agnetic-**p**ulse **weapons**, **emerging pathogens**, **and terrorism** involving weapons of mass destruction variously **threaten the United States**, some with catastrophe on a scale we have not experienced since the Civil War. Nevertheless, these are phenomena that bloom and fade, and that, with redirection and augmentation of resources we possess, we are **equipped to face**, given the wit and will to do so. But underlying the surface chaos that dominates the news cycle are the currents that **lead to world war**. In governance by tweet, these are insufficiently addressed for being insufficiently immediate. And yet, more than anything else, how we approach the strength of the American military, the nuclear calculus, **China, and Russia will determine the security**, prosperity, honor, and at long range even the sovereignty and existence of this country. **THE AMERICAN WAY OF WAR** Upon our will to **provide for defense**, **all else rests**. Without it, even the most brilliant innovations and trenchant strategies will not suffice. In one form or another, the American way of war and of **the deterrence of war** has always been **reliance on surplus**. Even as we barely survived the winter of Valley Forge, we enjoyed immense and forgiving strategic depth, the 3,000-mile barrier of the Atlantic, and the great forests that would later give birth to the Navy. In the Civil War, the North’s burgeoning industrial and demographic powers meshed with the infancy of America’s technological **ascendance** to **presage superiority in mass industrial** — and then scientific — **20th-century warfare**. The way we fight is that we do not stint. Subtract the monumental preparations, ~~cripple~~ [**harm**] **the defense industrial base**, and **we will fail** to **deter wars** that we will then go on to lose.

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Courts Activism CP

#### CP Text: A just government ought to recognize the unconditional right of workers to strike. Specifically, the United States ought to recognize the unconditional right of workers to strike through the Supreme Court.

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>] Justin

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.

#### The Courts are key --- reaffirming judicial supremacy is necessary to check back on majoritarian power and preserve a system of checks and balances --- that prevents the collapse of democracy

Redish and Heins 16 [Martin Redish, Louis and Harriet Ancel Professor of Law and Public Policy, Northwestern University School of Law. Matthew Heins, B.A. 2009, University of Southern California; J.D. 2015, Northwestern University School of Law. “Premodern Constitutionalism.” April 15, 2016. https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3651&context=wmlr]

The argument Kramer and others advance is not only normatively unpersuasive, it is also logically untenable in light of the structural Constitution and the basic premises of American constitutionalism. As we explained in Part I, the traditionalist view understands the value of countermajoritarian checking as a political mechanism for enshrining skeptical optimism, which can be readily deduced from the Constitutions structural design. Our constitutionalism is thus principally concerned with facilitating democracy while promoting rule of law values and protecting minorities.296 The reality is that any argument that temporary majorities or the governmental bodies that are directly accountable to those majorities are either more capable or more suitable arbiters of constitutional meaning ignores the careful framework for promoting these values that was etched into our supreme law at the constitutional convention. Our proclaimed unflagging commitment to due process of law, the existence of a supreme document ratified by supermajoritarian movement and subject to formal alteration only through a supermajoritarian process, and our provision of a politically insulated judiciary are all brightly flashing signals that our system understands the importance of speed bumps to slow majorities down. Popular constitutionalism seems to forget or intentionally ignore all of this. 297 Mark Tushnets case against judicial supremacy directly takes on Larry Alexanders and Frederick Schauers defense of judicial review.298 Alexander and Schauer assert that without judicial supremacy we would have a system of interpretive anarchy on our hands.299 The role of the Supreme Court, say Alexander and Schauer, is to provide a single authoritative interpreter to which others must defer, to serve the settlement function of the law. 300 Tushnet responds that when it declares that Congress has overstepped its bounds, the Court justifies its behavior using the selfinterestedness of the Congress: Congress is self-interested when it defines the scope of its own power. Members of Congress have an interest in maximizing their own power by expanding their sphere of power and responsibilities. Any decision [Congress] make[s], no matter how fully deliberated, will be shaped, and perhaps distorted, by this self-interest. 301 But this is an objection equally available to those who would question the Courts version of judicial supremacy, because the judiciary is just as apt to act self-interestedly and expand its own power.302 This position runs directly contrary to the basic principles underlying the structural Constitution. Tushnets argument essentially ignores the fact that the judiciary was built to be (1) limited in active power, and (2) countermajoritarian, staffed by insulated judges with salary and tenure protections. With the exception of issues surrounding its own powers, the judiciary is uniquely positioned to serve as the neutral adjudicator that can settle disputes as to the boundaries between executive and legislative, as well as federal and state branches. More importantly, if the judiciary were not tasked with settling the boundaries of majoritarian power, there would be no countermajoritarian check at all, and the Constitution would essentially be meaningless. And even as to its own power, the Courts authorityunlike that of Congress or the Presidentis confined to a passive role, awaiting cases to adjudicate.303 It therefore makes sense to give the Court final say as to its own constitutional power in order to protect its countermajoritarian role.304 Under a regime of judicial supremacy, the judiciary is no more capable of aggrandizement than is Congress. Professor Tushnet looks to City of Boerne v. Flores to show how the Court gives deference to Congress and assumes laws are constitutional because Congress has a duty to support the Constitution, but the Court does not give deference to congressional redefinitions of its own power because Congress is self-interested.305 But, he argues, the Court is no less self-interested because every institution with both power and the ability to aggrandize it will seek to expand or enhance that power.306 Both of Professor Tushnets proof points are flawed. The Court is no more empowered to engage in self-aggrandizement than is Congress, considering that Congress is arguably capable of simply stripping the federal courts of jurisdiction (within constitutional limits) whenever it chooses.307 Why would it be, under Tushnets theory, that the Framers would devise a constitutional system in which the Congress could be trusted to determine the scope of its own power, disregarding judicial pronouncements of the limits of that power, and then could strip the courts of jurisdiction to hear any challenges to such self-aggrandizement? Tushnet has effectively written Article III out of the Constitution. And although he focuses his attention on the fact that the Court is no more a single authoritative interpreterthan is Congressor maybe even less singular, because each individual voice is so much more meaningful on the Court308Tushnet forgets that Congress represents hundreds of millions of people and is, at some level, subject to their momentary preferences. What makes the Court uniquely capable of serving as the final voice of constitutional interpretationthe single authoritative interpreter that Alexander and Schauer describe and that the Framers envisioned is that it is insulated from such political pressure.309 Arguing that judicial supremacy distorts legislation, Professor Tushnet suggests that without it, Congress would act more responsibly in interpreting and abiding by the Constitution.310 For example, in the context of flag burning, he contends that judicial supremacy problematically prevented Congress from doing what its members and the people wantednamely, passing an effective law against the burning of the American flag.311 But that is exactly the point. Presumably by the exact same reasoning, it could have been argued that during the McCarthy era, the judiciary should not have been allowed to prevent the majority from doing what it wanted to do namely, suppress left-wing dissenters. The entire purpose of our structural Constitution is to embed Founding-era American skeptical optimism and force the majority, if it wishes to circumvent those fundamental truths, to garner enough supermajoritarian support to change them. If the American people are so concerned with flag burning, it is a good thing to require them to amend the Constitution formally, by means of the prescribed supermajoritarian process312to render constitutional those state or federal laws that ban it. If burning the flag is a method of expression, and laws forbidding it are contrary to the First Amendment because of their communicative impact, the people may amend the Constitution to declare thatflag-burning laws are an exception to the Amendments general coverage.313 Tushnet believes that lawmakers may apply their own conception of the Constitution if they are conscientious and if their interpretation is reasonable, 314 but this begs the question: Who is to decide whether a lawmaker has conscientiously considered and reasonably interpreted the Constitution? The lawmaker himself? Our constitutional democracy cannot survive such constant, momentary, self-interested reinterpretation. Tushnet says it is wrong to assume that members of Congress are inherently incapable of interpreting the Constitution.315 But the traditionalist view of American constitutionalism in no way stands for the position that Congress is incapable of properly exercising interpretive authority. To the contrary, we both hope and assume that Congress is doing just that in deciding whether to enact legislation. The Constitution does not in any way prohibit the majoritarian branches from ever exercising interpretive authority; in fact, as Professor Paulsen discusses with great alacrity, each and every politically accountable member of the federal government takes an oath to support the Constitution.316 Congress might be undereducated about the Constitution, and it might be that Congress would improve without the judiciary as a backstop, especially if given the same kind of institutional support that the executive receives in its endeavors of constitutional interpretation, such as the Solicitor Generals Office and the Department of Justices Office of Legal Counsel. 317 But this misses the point entirely. The problem is not that Congress is bad at constitutional interpretationit is that because of its inherently majoritarian nature, Congress is structurally incapable of effectively policing majoritarian threats to the values and dictates embodied in the countermajoritarian Constitution. This is especially true when Congress itself creates those threats. Thus, our structural Constitution does not envision Congress as the final interpreter, and for good reason. The peoples elected representatives exist to advance the current and future interests of their constituents; the courts exist to ensure that those current and future legislative and policy choices adhere to foundational principles embodied in the nations countermajoritarian supreme law.

#### Democratic backsliding in the U.S. spills over globally and risks great power conflict.

Dr. Larry Diamond 19. Professor of Political Science and Sociology at Stanford University, Senior Fellow at the Hoover Institution, Senior Fellow at the Freeman Spogli Institute for International Studies, PhD in Sociology from Stanford University, Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition, and American Complacency, p. 199-202

The most obvious response to the ill winds blowing from the world’s autocracies is to help the winds of freedom blowing in the other direction. The democracies of the West cannot save themselves if they do not stand with democrats around the world.

This is truer now than ever, for several reasons. We live in a globalized world, one in which models, trends, and ideas cascade across borders. Any wind of change may gather quickly and blow with gale force. People everywhere form ideas about how to govern—or simply about which forms of government and sources of power may be irresistible—based on what they see happening elsewhere. We are now immersed in a fierce global contest of ideas, information, and norms. In the digital age, that contest is moving at lightning speed, shaping how people think about their political systems and the way the world runs. As doubts about and threats to democracy are mounting in the West, this is not a contest that the democracies can afford to lose.

Globalization, with its flows of trade and information, raises the stakes for us in another way. Authoritarian and badly governed regimes increasingly pose a direct threat to popular sovereignty and the rule of law in our own democracies. Covert flows of money and influence are subverting and corrupting our democratic processes and institutions. They will not stop just because Americans and others pretend that we have no stake in the future of freedom in the world. If we want to defend the core principles of self-government, transparency, and accountability in our own democracies, we have no choice but to promote them globally.

It is not enough to say that dictatorship is bad and that democracy, however flawed, is still better. Popular enthusiasm for a lesser evil cannot be sustained indefinitely. People need the inspiration of a positive vision. Democracy must demonstrate that it is a just and fair political system that advances humane values and the common good.

To make our republics more perfect, established democracies must not only adopt reforms to more fully include and empower their own citizens. They must also support people, groups, and institutions struggling to achieve democratic values elsewhere. The best way to counter Russian rage and Chinese ambition is to show that Moscow and Beijing are on the wrong side of history; that people everywhere yearn to be free; and that they can make freedom work to achieve a more just, sustainable, and prosperous society.

In our networked age, both idealism and the harder imperatives of global power and security argue for more democracy, not less. For one thing, if we do not worry about the quality of governance in lower-income countries, we will face more and more troubled and failing states. Famine and genocide are the curse of authoritarian states, not democratic ones. Outright state collapse is the ultimate, bitter fruit of tyranny. When countries like Syria, Libya, and Afghanistan descend into civil war; when poor states in Africa cannot generate jobs and improve their citizens’ lives due to rule by corrupt and callous strongmen; when Central American societies are held hostage by brutal gangs and kleptocratic rulers, people flee—and wash up on the shores of the democracies. Europe and the United States cannot withstand the rising pressures of immigration unless they work to support better, more stable and accountable government in troubled countries. The world has simply grown too small, too flat, and too fast to wall off rotten states and pretend they are on some other planet.

Hard security interests are at stake. As even the Trump administration’s 2017 National Security Strategy makes clear, the main threats to U.S. national security all stem from authoritarianism, whether in the form of tyrannies from Russia and China to Iran and North Korea or in the guise of antidemocratic terrorist movements such as ISIS.1 By supporting the development of democracy around the world, we can deny these authoritarian adversaries the geopolitical running room they seek. Just as Russia, China, and Iran are trying to undermine democracies to bend other countries to their will, so too can we contain these autocrats’ ambitions by helping other countries build effective, resilient democracies that can withstand the dictators’ malevolence.

Of course, democratically elected governments with open societies will not support the American line on every issue. But no free society wants to mortgage its future to another country. The American national interest would best be secured by a pluralistic world of free countries—one in which autocrats can no longer use corruption and coercion to gobble up resources, alliances, and territory.

If you look back over our history to see who has posed a threat to the United States and our allies, it has always been authoritarian regimes and empires. As political scientists have long noted, no two democracies have ever gone to war with each other—ever. It is not the democracies of the world that are supporting international terrorism, proliferating weapons of mass destruction, or threatening the territory of their neighbors.

#### Congress is normal means --- shifty 1AR delinks are a voter --- skews 2NR strat, destroys clash, and incentivizes sandbagging.

O’Neill 12 [Emily O’Neill, J.D., American University Washington College of Law; B.A. Political Science, 2005 Macalester College. “The Right to Strike: How the United States Reduces it to the Freedom to Strike and How International Framework Agreements can Redeem It.” January 1, 2012. https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1047&context=lelb]

The United States should ratify ILO Conventions 87 and 98 to give full effect to the guarantee of the right to strike. This will create pressure for lawmakers to amend domestic law to bring it into compliance with international standards, under which the right to strike is so fundamental as to prohibit employer interference in the form of hiring strike replacements. However, short of this, IFAs should be strengthened, both in language and implementation to compel U.S. companies to abstain from availing themselves of the Mackay doctrine. A. Congress Should Ratify ILO Conventions 87 and 98 and Reverse the Mackay Permanent Replacement Doctrine to Bring the Right to Strike into Compliance with International Standards that Make it a Fundamental Right Congress should ratify ILO Conventions 87 and 98 as a demonstration of its commitment to fundamental labor rights.188 These Conventions provide analogous, albeit stronger, protections to many of those already afforded under U.S. law, and ratification would not require drastic changes to the law, especially regarding the right to strike.189 However, ratification of Conventions 87 and 98 would pressure U.S. lawmakers to amend the Mackay Doctrine to bring the right to strike into compliance with ILO standards, which condemns the use of permanent strike replacements. Congress should enact legislation that prohibits the hiring of permanent replacements for workers that exercise their right to strike, to give full effect to the right that exists under ILO standards.190 The use of permanent strike replacements bears little difference from the dismissal of workers that strike, which is unlawful and therefore, should also be prohibited. Instead, employers should have to dismiss any temporary replacements it hires once the strike ceases and employees elect to return to their former positions.191 B. IFAs Implementation Should be Enhanced to Provide for Greater Monitoring and Enforcement all Along Supply Chains Through Involvement of National Unions and Stronger Language Global unions should ensure that national unions from countries in which signatory MNCs have operations are included in the negotiation process of IFAs.192As instruments that lack legal enforceability, IFAs depend on local trade unions for effective implementation, which requires widespread awareness about IFAs.193 Comprehensive enforcement requires the participation and communication of all relevant actors at the inception of the process to ensure monitoring at all stages of the supply chain.194 Global unions should provide trainings for national union leaders around the world to gather information about MNC operations in their countries and provide information about IFAs as a tool for organizing.195 To promote enforcement, national unions should inform employees of subsidiaries and suppliers that are bound to IFAs about the existence of IFAs, and provide trainings on identifying and reporting violations of the terms of the IFA. Violations of IFAs must be systematically reported. Reported violations should be publicized and widely disseminated throughout countries where the signatory MNC has operations to pressure it into compelling its supply chain business partners into compliance.196 Additionally, violations that are inconsistent with core ILO labor standards and reveal a member state’s failure to enforce such standards, like the Mackay Doctrine in the U.S., should be submitted as a report to the ILO Committee on Freedom of Association, which can then be used as negative publicity.197 For IFAs to live up to their potential as private agreements that compel MNCs into compliance with international norms in every country in which they operate, global unions must insist on precise, firm language that explicitly makes clear subsidiary and supplier obligations to comply with its provisions, including the right to strike.198 Vague references to measures informing subsidiaries and suppliers of the IFA should be replaced with firm and explicit commitment to require implementation of agreement at the supply chain level, under threat of express sanctions. IFAs should include a clause that provides that whenever a provision is a subject of both national and international regulation, international standards prevail.199 Lastly, IFAs must include provisions of specific plan aimed at implementation the IFA along the supply chain level, for example, providing for a monitoring mechanism, informational programs and trainings of workers, and reporting mechanisms.200