# 1NC vs Bergen County AK

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### 1NC - OFF

Extra-T

#### 1] Interp – “Right to Strike” solely effects the legality of the act of striking – anything else is extra-Topical.

ILO 1 12-10-2001 "CHAPTER V Substantive provisions of labour legislation: The right to strike" <https://www.ilo.org/legacy/english/dialogue/ifpdial/llg/noframes/ch5.htm> (International Labor Organization)//Elmer

The **right to strike** is **recognized** by the ILO’s supervisory bodies **as** an intrinsic corollary of the **right to organize** protected by Convention No. 87, **deriving from** the **right of** **workers'** **organizations to formulate** their programmes of **activities** **to** further and **defend** the **economic and social interests** of their members. However, the right to strike is not absolute. It may be subject to certain legal conditions or restrictions, and may even be prohibited in exceptional circumstances (Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Article 3; General Survey on Freedom of Association and Collective Bargaining, para. 151).

#### Strike refers to the act of stopping work.

Meriam Webster No Date "Strike" <https://www.merriam-webster.com/dictionary/strike>

15: **to stop work in order to force an employer to comply with demands**

#### Recognize is ruling on the legal authority of a particular action

Meriam Webster No Date "Recognize" <https://www.merriam-webster.com/dictionary/recognize>

3: **to** accept and **approve of** (something) **as having legal** or official **authority**

#### To clarify – the Affirmative can only affect whether of not workers have the right to strike, effecting the conditions or who gets access to it is extra-topical since a strike and right to strike are terms of art – this debate is solely a question of whether or not the recognition of those terms of art are good or not.

#### 2] Violation – they define who an employee is which is outside the scope of a recognition of a right to strike.

**Reilly, 11**, Penn State Law, “Agricultural Laborers: Their Inability to Unionize Under the National Labor Relations Act”, Penn State: Masters of Science, JD Law, URL: <https://pennstatelaw.psu.edu/_file/aglaw/Publications_Library/Agricultural_Laborers.pdf>, 2011 + since most recent citation is from then, KR

**The NLRA gives workers “freedom of association, self-organization, and designation of representatives of their own choosing” in order to equalize the bargaining power** between employers and employees in the hopes of limiting the interruptions to the free flow of commerce.10 **The statute covers a large number of workers based on the broad definition of “employee,”11 but excludes from coverage all agricultural laborers**.12 The NLRA does not define who these agricultural laborers are that are excluded from the right to organize, but rather Congress has instructed the National Labor Relations Boards (NLRB)13 in the annual Appropriations Act that in determining who is an agricultural laborer excluded from the NLRA, to rely on the definition of “agriculture” **found in the Fair Labor Standards Act (FLSA).14 Agriculture in the FLSA is defined as “farming in all its branches ... and any practices ...** performed by a farmer or on a farm as an incident to or in conjunction with such farming operations...”15 The definition also lists specific activities to further define what would specifically be considered agricultural work.16 Therefore, workers whose responsibilities are contained in the FLSA’s definition of “agriculture” are excluded from the right to organize and form unions under the NLRA.

The reasoning behind this exclusion is somewhat vague, especially considering that the bill originally proposed in the Senate did not exclude agricultural laborers from the definition of “employee.”17 There is not much mentioned about the agricultural exclusion because of the statute’s primary focus on addressing problems in the industrial sector. There is, however, a debate from in the House addressing the agricultural laborer exemption,18 where an argument was made that **agricultural laborers should be included because they needed the same protections as industrial** workers. Agricultural labor issues were brought to light in 1935 after governmental investigations into child labor issues and the lack of clean water provided for such workers.19

In response, **two possible reasons were briefly mentioned that may explain why agricultural laborers were excluded: first, in regions like the Midwest, farms are mostly family farms and should not be within the scope of the NLRA,** and second there was a concern that Congress did not have jurisdiction over agricultural workers because it was questionable whether such workers were engaged in interstate commerce.20 Many commentators believe that it was the former argument that led to the exclusion of agricultural workers from protection under the NLRA. Another possible reason for this exclusion as presented by some commentators is that the larger farms lobbied to have their workers excluded from the NLRA.21 While not expressly stated, the most likely explanation is that Congress wanted to protect the family farmer from having to pay higher wages that unions would inevitably demand of the employers.22 Realizing that agriculture was important to the entire nation, Congress wanted to shield this industry from unionization, and wanted to protect the family farmer from having to pay what they could not afford. Congress did not think it necessary to equate the family farmer with big business.

The broad definition of “agriculture” under the FLSA would seem to exclude from the NLRA any worker who is employed by any agricultural entity. This is not the case, however, because **the Supreme Court has adopted a two-part test to determine if an employee is in fact an agricultural laborer excluded from the NLR**A.23 An agricultural employee will be excluded from the right to organize if he or she is engaged in either primary or secondary farming. The Supreme Court has taken the FLSA definition of agriculture and essentially limited its application based on a strict application of the statutory language. Primary farming are those tasks specifically referred to in the statutory definition of “agriculture” such as “cultivation and tillage of the soil [and] dairying.”24 The rest of the definition is considered secondary farming, and therefore a worker is an agricultural laborer if the work performed is of the type that would be performed “by a farmer or on a farm as an incident to or in conjunction with such farming operations.”25

In one of the more recent cases to address the question of who is considered an agricultural employee, the Supreme Court in Holly Farms Corp. v. N.L.R.B. upheld the determination made by the NLRB that workers on live-haul chicken crews do not engage in agricultural labor and therefore are not subject to the agricultural exception from the NLRA.26 The responsibility of the live-haul crew is to enter the farms of independent contractors who raise chickens supplied by Holly Farms; the chickens are then caught and caged by nine chicken catchers, moved by a forklift operator onto a truck to be transported by a truck driver to the processing plant.27 These live-haul crews were not engaged in primary farming because primary farming would have been the actual raising of the poultry, which was the responsibility of the independent contractors, not the live- haul crews.28

The court then focused on whether these live-haul crews were engaged in secondary farming. In doing so, the court immediately found that that the work performed by the live-haul crews were not of the kind “performed by a farmer” because Holly Farms gave up its farmer status as soon as the chicks were delivered to independent contractors for raising.29 As a result of this determination, the truck drivers were not considered agricultural laborers and were therefore not part of the agricultural exception to the NLRA and were able to unionize.30

The court then looked to whether the chicken catchers and forklift operators were engaged in work “on a farm as an incident to or in conjunction with” raising poultry.31 The Supreme Court found that neither the chicken catchers nor the forklift operators “worked on a farm” because the work these employees performed were part of Holly Farms’ poultry processing operations and was not of the type of work contemplated to be included in the statutory definition of “farming.”32 The Supreme Court adopted the reasoning of the NLRB in deciding that the catchers and forklift operators were not performing work “incident to or in conjunction with” the farming operations of the independent contractors.33 In doing so, the Supreme Court decided that it was more important to look at the status of the employer as a farmer rather than where the laborer carried out the responsibilities of the job he or she was hired to perform. Because, as previously determined, Holly Farms was not considered a farmer by the time the live- haul crews went in to catch the chickens, the catchers and the forklift operators were not engaged in secondary farming as defined in the FLSA.34 This meant that all the members of the live-haul crews were not agricultural laborers and therefore all had the right to organize under the NLRA.

The Supreme Court limited the applicability of the definition of “agriculture” in Holly Farms and in doing so opened up the possibility that more workers employed by large, vertically integrated employers would be able to organize.35 By taking the approach to look at the status of the employer rather than where the work is performed, the Supreme Court broadened the already broad definition of “employee” under the NLRA. More employees working for these vertically integrated employers will be able to experience the protection of the NLRA that has been open to industrial workers since the act was first passed in 1935. The impact of the Holly Farms decision is for courts to engage in an in depth analysis before deciding whether a worker is an agricultural laborer not protected by the NLRA. Switching the focus to the status of the employer rather than where the employees are performing their responsibilities will ensure greater protection for workers and a broader reach of the NLRA.

While the definition of “employee” has expanded to include some employees who are employed by agricultural employers, **there is still the exception for agricultural laborers included in the statute and therefore there are still many workers who are unable to form unions.** These may be the **workers that need the most protection because they are the field workers who are subjected to abuse, poverty and hazardous working conditions.36** Many commentators would like to see **the NLRA extended to include agricultural laborers**. The main advantage to **extending the definition of “employee” to include agricultural laborers under the NLRA is that the statute has been in existence for many years, and most of the challenges that would be brought up with respect to agricultural laborers attempting to unionize have most likely already been resolved in other employment sectors allowing the NLRB and courts to rely on precedent. This will make application of the statue to the agricultural laborers consistent with other employment sectors. Reliance on precedent would lead to predictable outcomes when labor disputes arise.** Agricultural laborers still have a ways to go before they will be able to reap the benefits of the NLRA; but, if this were to happen, **agricultural laborers would be able not only to unionize and have their association protected, but also would have the advantage of being able to rely on others with experience and knowledge of the NLRA and its intricacies**.

#### Limits – their model of debate creates an untenable burden for negatives, they could modify and adjust the meaning of any words in the resolution based on past enactments and laws which forces negatives to prep out unknown workers or laborers and their interaction within the resolution.

#### Ground – By adjusing the meaning of terms in the resolution they aren’t bounded by any resolutional basis which lets them spike out of neg disads by saying the plan wouldn’t send a signal. For example, the Business Confidence DA assumes the plan sets a signal for currently existing workers that deters investment but their aff changes what a worker means which makes it an unpredictable stasis point and cuts out NEG ground

#### Paradigm Issues:

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

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

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

#### 1nc theory first – if the aff was abusive we had to be abusive to compensate.

### 1NC - OFF

Agambnen K

**Human rights inevitably run up against their own limits and authorize exceptional sovereign violence**

**Douzinas 6** —professor of law and Director of the Birkbeck Institute for the Humanities at Birkbeck, University of London (Costas, “Postmodern Just Wars and the New World Order,” Journal of Human Rights Volume 5, 2006 - Issue 3, Pages 355-375)

Despite their apparent difference, morality and power or human rights and sovereignty **have always accompanied each other** (Douzinas 2000: Ch. 6). After World War II, the major powers agreed that human rights could not be used to pierce the shield of national sovereignty. Human rights became a major tool for legitimizing nationally and internationally the postwar order, at a point at which all principles of state and international organization had emerged from the war seriously weakened. Human rights and national sovereignty served **two separate agendas** of the great powers: the need to **legitimize the new order** through its commitment to rights, without exposing the victorious states to **scrutiny** and **criticism** about their own flagrant violations.

Indeed, law-making in the huge business of human rights has been **taken over by government representatives**, **diplomats**, **policy advisers**, **international civil servants**, and **human rights experts**. But priests, princes, and prime ministers are the enemy against whom nature, natural, and human rights were conceived as a defense. The business of government remains to govern, not to follow moral principles. Governmental actions in the international arena are dictated by national interest and political considerations, and morality enters the stage always late, when the principle invoked happens to condemn the actions of a political adversary. And the same applies to international institutions. I was rather bemused by the way in which both right and left insisted that if the Iraq war were authorized by the Security Council, their objections would disappear. This is the Council in which two members, China and Russia, consistently and flagrantly violate the rights of their own citizens. No liberal cosmopolitan would be **seen dead in supporting the treatment of Tibetans** or **Chechens** or the **oppression of dissent** and the **death penalty** so generously meted in China. Yet they are **happy to accept** these “rogue” states as the **final arbiters of international** and **domestic morality** and, indeed, to **accept any government** as the judge of **what human rights**, the practice of resistance to government and dissent from the clichés of public opinion, **requires**. The government-operated international human rights law is the **best illustration** of the **poacher turned gamekeeper**.

Planetary policy was always created by the great powers, the subjects of the world system. Smaller states are its objects following the rules introduced by the powerful. The cosmopolitan character of politics does not derive from their **global subjection to universal rules**. The reverse is true: Those who can exercise world policy **create universal rules** as ideal accompaniments of global phenomena.

We can find certain historical parallels between the new world order and the emergence of early capitalism. The legal system developed first the rules necessary for the regulation of capitalist production, including rules for the protection of property and contract, the development of legal and corporate personality. Only later civic rules emerged, mainly with the creation of civil and political rights, which led to the creation of the modern subject and citizen. These rules gave the man of the classical declarations the legal tools and public recognition necessary to flee his traditional ties and organize his activities according to a calculation of interest borne by the institution of rights. Similarly today, the universalization of morality follows the **gradual unification of world markets**. The values and rules of the new “voluntary imperialism” are supplied by the **various conventions on human rights**, by **moral** and **civic regulations**, and by directives that **prepare the individual of the new order**, a **world citizen**, **highly moralized**, **highly regulated**, but also **highly differentiated materially despite the common human rights** that everyone enjoys from Helsinki to Hanoi and from London to Lahore.

But this **new lingua franca** of unified ethics, semiotics, and law **forgets** and **excludes its own founding violence**. According to the 2000 UN Development report, **thirty thousand children** die every day of malnutrition, the combined wealth of the two hundred richest families is eight times as much as the combined wealth of five hundred eighty-two million people in the developing world, and the life expectancy in sub-Saharan Africa is thirty years. The **extreme injustice** of global distribution is **invisible to cosmopolitan law** and is **reduced to the sphere of the private**, **natural**, **inevitable**. Humanitarian intervention that **will not confront the regime of intellectual property** that **condemns millions of people to death by disease**. Despite the rhetoric of international law, only a **tiny part of the world** comes under its purview and only a **few problems of interest** to the great powers are defined as **crises worthy of intervention**.

But although human rights appear to be universal and uninterested in the particularities of each situation, their triumph means that they will soon become tools in political conflict undermining their claim to universality. The common reference to values will not stop their polemical use, as the Milosevic trial clearly indicated. The universalism of rights was invented by the West but will now be used by the South and East to make claims on the distribution of the world product. The recent converts to universal values are led to believe that improvement of domestic human rights will strengthen their claim against world resources. Milosevic was extradited to the Hague for a few hundred million dollars in aid to Serbia, and the Afghani regime is promised a few more million if they police effectively the new order. Aid agreements routinely impose privatization, market economics, and human rights and appear to promise an inexorable process of economic equalization between East, South, and West. The world society under construction offers formal equality to states promoted by international law and its various declarations, but it does not lead to material equality. Indeed, poor states are treated like the Western workers of old: as suffering or valueless partners who must get the chances and facilities that proletarians were offered in earlier times. Material improvement and democratization are supposed to lead to the development of these states, and the world, seen as a global market and/or welfare state, allows the redistribution of resources for the benefit of the losers. The planetary powers hope that in a repetition of the Western history consumption and productivity will increase the cake, and the Global South will not have to take from the rich.

As we know from our Western histories, formal liberties cannot be contained in their formalism for too long. Soon the workers with the vote and the freedom of speech will demand the income and resources to make their newly found freedoms real, and they will ask for the material preconditions of equality. Lecturers in China and farmers in India will demand to earn as much as those in London or France, something that can only be done through a substantial reduction of the Western standard of living. The (implicit) promise that market-led home-based economic growth will **inexorably lead** the South to Western economic standards is **fraudulent**. Historically, the Western ability to turn the protection of formal rights into a limited guarantee of material, economic, and social rights was based on huge transfers from the colonies to the metropolis and extremely favorable demographic conditions. Western policies on development aid and Third World debt and American policies on fuel pricing, gas emissions, and defense spending indicate that reverse flows are not politically feasible. When the **unbridgeablility of the gap** between the missionary statements on equality and dignity and the **bleak reality** of obscene inequality **becomes apparent**, human rights, **rather than eliminating war**, will lead to **new** and **uncontrollable types of tension** and **conflict**. Spanish soldiers met the advancing Napoleonic armies shouting, “Down with Freedom.” It is **not difficult to imagine** people meeting the “peacekeepers” of the New Times with cries of “**Down with human rights**.”

**War has become a permanent state of low-intensity conflicts across the globe justified by the invocation of existential threats to the inevitability of nation-state sovereignty.**

**Ramazani 18** [Department of French and Italian, Tulane University (Vaheed, “Exceptionalism, metaphor and hybrid warfare,” Culture, Theory and Critique.]

Unlike the terror bombings of World War II, however, these (and other) departures from jus in bello required only the indirect, passive support of the American public, as measured primarily through opinion-poll ratings (Shaw 2005: 95). As Michael Hardt and Antonio Negri have argued, the early twentieth-century philosophy and practice of total war presupposed a state of exception that was truly exceptional, entailing large, conscript-based armies, mass production and mobilisation, and the quest for clear objectives and decisive victories. But, particularly after September 11, Americans seem to have become accustomed to the idea of dwelling in a state of war with **no definite spatial** or **temporal limits**, the **passive spectators** of an **open-ended series of low-intensity conflicts extending around the globe**. Our wars, as Hardt and Negri point out, are **no longer large-scale conflicts** fought as a last resort to defend our ‘vital interests’, but **asymmetrical police operations** that are intended to **preserve the global status quo**, and that are carried out by small, professional armies, in concert with ‘coalition’ forces, local proxies and private mercenaries. Having understood these overseas ‘police operations’ to be tightly correlated with domestic security concerns, many Americans have **quietly acquiesced in their own subjection** to **mass surveillance** and to the **unrelieved**, **institutionalised threat of coercion at home** as well as **abroad**. Ultimately, the interdependence of foreign and domestic security on the one hand and military and police powers on the other has been **so thoroughly naturalised** by state and media interests that the **distinction between peacetime** and **wartime no longer has pertinence** in everyday life (Hardt and Negri 2004: 3–62; Agamben 2005). The **state of emergency has become routinised**. Our military interventions abroad go on largely in the margins of collective consciousness, an unremarkable backdrop to our seemingly more urgent daily concerns. This kind of public disinterest, disaffection or unawareness arises not only because, in today’s ‘post-military’ society, ‘most people’s lives [are] not directly affected by military institutions and wars’ (Shaw 2005: 7), but also because the **devastating consequences** of our country’s global militarism for foreign populations **rarely is deemed a topic deserving of mention** by the predominantly entertainment-oriented news programmes of our major broadcast networks.17 Big media’s collusion with predatory government and corporate interests before and during the invasion of Iraq is now well known; and the prolonged ‘post-war’ presence of the United States in Afghanistan and Iraq suggests that, despite a slightly greater degree of journalistic scepticism and public war-weariness (or -wariness), the mainstream news and entertainment industry continues to play an active role in normalising and sustaining the seamless synergy between warmaking, peacekeeping and nation building. As the years of wartime/peacetime, war/post-war blur together in a seemingly timeless continuum of resemblant events, the moral inertia of the War on Terror is becoming entrenched, socially and politically. So long as military service is no longer compulsory; so long as the fighting goes on ‘**over there**’ rather than on **our own national soil**; so long as American casualties are **kept to a minimum** and **mostly out of sight**; and so long as military censorship, along with the computer-generated aesthetics of virtual war, conspire to **keep enemy bodies unseen**, **unidentified** and **uncounted**, the general public is likely to take **no more than a passing interest** in our scattered and remote military ventures, much less pause to **reflect seriously on the moral implications** of the means and ends of such conflicts. Yet informational insularity and geographical distance from the war zone do not, by themselves, offer an adequate explanation for the apparent willingness of large numbers of US citizens to continue, many years after the initial trauma of 9/11, to assent to the chief executive’s self-ordained authority to suspend the rule of law in the name of national security. What is particularly troublesome about the Bush/Cheney years is that most Americans **did not just comply**, **passively** or **reluctantly**, with the **state’s abrogation of their civil liberties**, or with its **conspicuous violation of** the **human rights** of those it suspected of being its enemies; instead, the majority of Americans **enthusiastically endorsed their government’s lawless exercise of power**. Rather than feel threatened by the revocation of their constitutionally guaranteed liberties of speech and assembly, their rights to privacy and due process, many Americans became willing participants in the state’s apparatus of surveillance. And rather than feel outrage over the media spectacle of indefinite detention, rendition and torture, many seem to have imagined themselves as **co-enforcers of regulative practices** constructing certain persons as ‘**bare life**’ (Agamben 1998, 2000), deprived of the legal protections normally afforded to citizens and prisoners of war.18 The public’s broad and voluntary complicity in implementing the state of exception can, I think, be explained not only by its media-abetted dissociation from the grisly realities of war – realities of which it cannot be completely unaware – but also by that **patriotic paranoia** that lies **just beneath the thin skin of exceptionalist pride**, and that can, as we have seen, be readily provoked, whether cynically or in earnest, by politicians, pundits and policymakers. I would therefore qualify Hardt and Negri’s notion of passive mobilisation by noting that, a good deal of public apathy notwithstanding, the population’s **effective ratification of the state of emergency** has always included an **active**, or **reactive**, **identification with the violence of power**. This voluntary complicity with oppressive practises at home and abroad may I think be understood as an aggressive attempt to rescue a **deeply inculcated fantasy of national** and **cultural homogeneity** from the normally repressed and latently anxiogenic recognition of the illusion’s inherent fragility. ‘Modern citizens’, says Lauren Berlant, ‘are **born in nations** and are taught to **perceive the nation** as an **intimate quality of identity**, as **intimate** and **inevitable** as **biologically-rooted affiliations** through gender or the family’. Since, however, this ‘pseudo-genetic’ fantasy of national integration **cannot eliminate the many complexities** and **ambiguities** that are found in the civil, political and private spheres of life, the content of this collective fantasy is **not fixed** and **unchanging** but ‘a matter of **cultural debate** and **historical transformation**’ (1991: 20, 22). The desire for national belonging, the belief in a unique American character or destiny, is **divided**, then, between a **fiction of timeless self-identity** and the **reality of contingent experience** and **memory**. In this light, the United States’ **predilection for going to war** in **continual affirmation of its exceptionalist prerogatives** might be seen as **symptomatic of** a compulsive yet culturally normalised reaction-formation – a **permanent defence** against the **threat of** (or the **desire for**) **indistinction**, **otherness** or **abjection**.19 What **incites** and **sustains** this defence mechanism is, as I said earlier, the belief that our country’s ‘**vital interests**’, indeed, its **very existence**, **may be at stake** – a belief that has been carried over from the tradition of total war to the asymmetrical, low-intensity wars of our day. And yet, with the possible exception of the Cuban missile crisis, none of the United States’ military confrontations since World War II has risked consequences so dire as mass civilian casualties or the loss of dearly held rights and freedoms. In the post-Cold War period, certainly, what has been at stake is **not the existence** of the United States, the relative safety of its citizens, or the sanctity of its founding principles, but its capacity to **expand** and **consolidate its global hegemony**. So, again, if **global policing**, **covert military engagements** and **outright war** are now **regular features of US foreign policy**, it is because politicians and policy-makers (with the unflagging assistance of the mainstream media) have successfully convinced the general public that the **worldwide projection of US economic** and **geostrategic power** is the **minimum requirement for maintaining domestic** and **international stability**. Particularly after the attacks of September 11, even marginal or primarily symbolic forms of foreign resistance to US imperialism have been portrayed as grave challenges to global freedom and democracy, with the result that the goal of **solidifying the United States’ role** as the **world’s sole hyperpower** has taken on **fresh urgency** in the national imaginary. Paradoxically, then, our new methods of warmaking have sought legitimacy by borrowing both from the language of just war doctrine and from the degenerate ‘playbook’ of World War II; and this strategy has resulted in opportunistic subversions of precisely those international conventions whose refinement we owe to that same world war’s most evident excesses. Paradigmatically during the Bush/Cheney years but under the Obama presidency as well, an **exaggerated fear** of ‘**existential**’ threats and an aggrandised sense of national pride led the United States to **turn its back on many of the same laws**, **rights** and **standards of justice** on which it normally bases its claim to **occupy the moral** and **political high-ground** among the world’s nations. Taking the measure of this transformation in terms borrowed from Michael Walzer’s classic analysis of the wartime applicability of those legal and moral standards, we might say that our **ongoing state of exception** institutionalises, in effect, the ‘supreme emergency exemption’, that ethical escape clause that Walzer infers, however reluctantly, from the legacy (once again) of World War II, and that in his view conceivably justifies a single, if brief, phase in Britain’s terror-bombing of Nazi Germany. The American public’s general response to its government’s far-flung and promiscuously defined War on Terror apparently starts from the assumption that we as a nation are in a similar kind of **zero-sum state of siege**, a **back-to-the-wall situation** in which **life**, **liberty**, even **civilisation itself** are **gravely at risk**. The **fantasy of always imminent existential catastrophe** – the possible ‘enslavement or extermination’ of the homeland – ostensibly authorises us to ‘**strike out at innocent people**’ in the name of **self-preservation** – not only once in extremis, as Walzer had hoped (1977: 253–54), but **day** after **day**, as the **exception becomes the norm**.

#### The alternative is to de-activate the law and engage in messianic study of the guardians who act in its name --- only that reveals a real state of exception in which new beginnings bubble to the surface. Thus, the role of the judge is to study the law.

### 1NC - OFF

Worker Rights CP

#### CP Text: The United States federal government should:

#### - affirm in statutory language that labor law’s purpose is to encourage organization and collective bargaining

#### - expand ability to discuss unionization at the workplace

#### - allow workers to determine bargaining unit and structure

#### - protect the right to refuse hazardous work and ensure benefits for workers who do so

#### - raise the federal minimum wage in line with the Raise the Wage Act

#### The first 4 planks solve union power.

McNicholas et. al. 20 [Celine McNicholas is EPI’s director of government affairs and labor counsel. Lynn Rhinehart is a senior fellow at EPI, where she works on labor and employment policy, with a focus on collective bargaining. Margaret Poydock joined EPI in 2016. As the policy analyst, she assists the policy team in managing EPI’s legislative and policy initiatives to build a more just economy. Heidi Shierholz leads EPI’s policy team, which monitors wage and employment policies coming out of Congress and the administration and advances a worker-first policy agenda. Daniel Perez is a research assistant at the Economic Policy Institute. “Why unions are good for workers—especially in a crisis like COVID-19.” August 25, 2020. https://www.epi.org/publication/why-unions-are-good-for-workers-especially-in-a-crisis-like-covid-19-12-policies-that-would-boost-worker-rights-safety-and-wages/]

3. Reaffirm in statutory language that the purpose of labor law is to promote and encourage organizing and collective bargaining Reaffirm in statutory language that the purpose of labor law is to promote and encourage organizing and collective bargaining and that the NLRB’s actions must further this goal. Promoting and encouraging organizing and collective bargaining was the purpose and goal of the original Wagner Act (the NLRA). However, after the passage of the Taft-Hartley Act, employers have argued that the law is not pro-union but is neutral. The statutory language must be strengthened to provide that NLRB actions that do not meet the statutory standard of promoting organizing and collective bargaining could be invalidated by a reviewing court as contrary to the governing law under the Administrative Procedures Act. This approach is similar to that taken under the Occupational Safety and Health Act, which states that health standards must provide the maximum level of protection to workers that is technologically feasible, and standards that fall short of this level of protection can be invalidated by the courts.21 4. Amend the NLRA to expand access for workers and union organizers to discuss unionization at the workplace Workers need a fair chance to hear from union representatives about the benefits of unionization, including the ways in which unions help strengthen health and safety protections at the workplace. Currently, employers are able to deliver their anti-union messages at the workplace and on work time, because the employer controls the workplace and directs how work time is spent. Employers use this advantage to bombard workers with anti-union messages in their paychecks, in one-on-one meetings with their supervisors, and in employer anti-union “captive-audience” meetings that workers are required to attend or face discipline or discharge. Nine out of 10 employers require workers to attend captive-audience meetings during organizing campaigns (Bronfenbrenner 2009). Workers have only a limited ability to hear from union supporters at the workplace, and their access has been further curtailed by the Trump NLRB, which has restricted the ability of workers and organizers to organize at their workplace (McNicholas et al. 2019; Fawaz 2020). This imbalance undermines the ability of workers to organize together. The law should be amended to require employers to grant reasonable access to union organizers, off-duty employees, and off-duty contractor employees to nonworking areas to talk with workers on their nonworking time. The law should also make clear that workers may use their employer’s internal e-mail system for union-related messages. In addition, workers who have not yet organized a union should be able to designate a union representative as their representative during an OSHA inspection and related proceedings. The COVID-19 crisis shows that workers with union representation have fared better than nonunion workers in terms of advocating for safety equipment and protocols. Workers should not have to go through the formal NLRB election process to gain the benefit of union advocacy and expertise when it comes to their health and safety on the job. 6. Amend the NLRA to let workers determine the bargaining unit and bargaining structure When workers organize, they determine the group of workers—called the “bargaining unit”—that will be the group covered by the organizing and collective bargaining agreement, and they describe the bargaining unit in their petition to the NLRB. Employers try to gerrymander the bargaining unit by adding workers they think will vote against the union or removing those who support representation. Here again, it should be workers’ choice, and not up to the employer, to determine the group that is organizing and bargaining. As EPI has previously recommended, the law should make clear that the petitioning union’s description of the bargaining unit is determinative, unless the employer can make a compelling case as to why the proposed unit is unworkable (Rhinehart and McNicholas 2020). Similarly, workers should be able to designate a multi-employer bargaining arrangement, and their proposed arrangement should be certified unless the employer can make a compelling case as to why its participation in a multi-employer bargaining unit is unworkable (Rhinehart and McNicholas 2020). 7. Enact federal and state measures that strengthen the right to refuse hazardous work and continue eligibility for UI benefits for workers refusing unsafe work At the beginning of the COVID-19 pandemic, essential workers in health care, food service, warehouses, grocery stores, meatpacking plants, and other settings raised concerns about the risk of workplace exposure to COVID-19 and the lack of personal protective equipment and other safety protections. Too often, these workers were fired or faced other retaliation for raising these concerns (Hiltzik 2020; Kruzel 2020; Davenport, Bhattarai, and McGregor 2020). In other places, workers were called back to work at workplaces that did not have sufficient health and safety protections and were faced with the prospect of working at an unsafe job and risking contracting a deadly disease, or refusing to work and risking losing their unemployment benefits. Workers should not be faced with choosing between their health and their livelihood. The law must be strengthened to explicitly protect workers who refuse to perform hazardous work from being fired or retaliated against. These protections exist to some extent now under the Occupational Safety and Health Act and the NLRA, but the protections are weak and the enforcement is up to the government agency. Also, workers who refuse to work because of unsafe working conditions that the employer fails to address should not be disqualified from receiving unemployment benefits: States should be required to consider the refusal to perform unsafe work as “good cause” to not work, so that unemployment benefits continue (Berkowitz and Sonn 2020). And because strikes have shown themselves to be effective and often necessary to force action on safety and health, states should be required to provide unemployment insurance for strikers (Block and Sachs 2020).22

#### The last one solves wages and productivity.

EPI 1-26 [Economic Policy Institute. “Why the U.S. needs a $15 minimum wage.” Jnauary 26, 2021. https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/]

The federal minimum hourly wage is just $7.25 and Congress has not increased it since 2009. Low wages hurt all workers and are particularly harmful to Black workers and other workers of color, especially women of color, who make up a disproportionate share of workers who are severely underpaid. This is the result of structural racism and sexism, with an economic system rooted in chattel slavery in which workers of color—and especially women of color—have been and continue to be shunted into the most underpaid jobs.[1](https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/#_note1) The Raise the Wage Act of 2021 would gradually raise the federal minimum wage to $15 an hour by 2025 and narrow racial and gender pay gaps. Here is what the Act would do: Raise the federal minimum wage to $9.50 this year and increase it in steps until it reaches $15 an hour in 2025.[2](https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/#_note2) After 2025, adjust the minimum wage each year to keep pace with growth in the median wage, a measure of wages for typical workers. Phase out the egregious subminimum wage for tipped workers, which has been frozen at a meager $2.13 since 1991.[3](https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/#_note3) Sunset unacceptable subminimum wages for workers with disabilities employed in sheltered workshops and for workers under age 20. The benefits of gradually phasing in a $15 minimum wage by 2025 would be far-reaching, lifting pay for tens of millions of workers and helping reverse decades of growing pay inequality. The Raise the Wage Act would have the following benefits:[4](https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/#_note4) Gradually raising the federal minimum wage to $15 by 2025 would lift pay for 32 million workers—21% of the U.S. workforce. Affected workers who work year round would earn an extra $3,300 a year—enough to make a tremendous difference in the life of a cashier, home health aide, or fast-food worker who today struggles to get by on less than $25,000 a year. A majority (59%) of workers whose total family income is below the poverty line would receive a pay increase if the minimum wage were raised to $15 by 2025. A $15 minimum wage would begin to reverse decades of growing pay inequality between the most underpaid workers and workers receiving close to the median wage, particularly along gender and racial lines. For example, minimum wage increases in the late 1960s explained 20% of the decrease in the Black–white earnings gap in the years that followed, whereas failures to adequately increase the minimum wage after 1979 account for almost half of the increase in inequality between women at the middle and bottom of the wage distribution.[5](https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/#_note5) A $15 minimum wage by 2025 would generate $107 billion in higher wages for workers and would also benefit communities across the country. Because underpaid workers spend much of their extra earnings, this injection of wages will help stimulate the economy and spur greater business activity and job growth.

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Court Politics DA

#### SCOTUS’s decision on *Roe v. Wade* hinges on Roberts’ political capital.

Robinson ’21 (Kimberly; reporter for Bloomberg Law; 6-18-2021; “Barrett Channels Roberts’ ‘Go-Slow’ Approach in Landmark Cases”; Bloomberg Law; https://news.bloomberglaw.com/us-law-week/barrett-channels-roberts-go-slow-approach-in-landmark-cases; Accessed: 10-1-2021; AU)

The U.S. Supreme **Court’s** newest justice is showing signs that she’s more **aligned with** John **Roberts** and Brett Kavanaugh **in the center** than she is with her other conservative colleagues, **refusing to support** broad **rulings that** could **shake** the **court’s credibility**. Amy Coney Barrett is “starting to show her stripes” as a moderate who prefers small movements in the law, not huge shifts, South Texas College of Law Houston professor Josh Blackman said. The justices handed down victories to both liberals and conservatives on Thursday saving the Affordable Care Act again but siding with a religious group in the latest battle over LGBT protections. **Roberts**, the chief justice, is viewed as an **institutionalist** **who wants to conserve** the public’s **confidence** in the court. So far, he **favors incremental shifts** in the law. “That’s been one of the Chief’s primary goals all along,” said Case Western Reserve law professor Jonathan Adler. He recently gained an **ally in Kavanaugh** in this pursuit, **and** it appears **Barrett** may join their ranks. The court as a whole has has largely agreed in cases this year. The unanimous decision in the LGBT case was the 25th time the justices were unanimous in 41 rulings so far this term. There are 15 to go in coming days. But the **big test** for Barrett **will be** next term starting in October when the justices will tackle hot-button issues like guns, **abortion**, and possibly affirmative action. “It is a very conservative Court, even if we will only get glimpses of it this year,” said UC Berkeley law school Dean Erwin Chemerinsky. Kicking the Can Both the **A**ffordable **C**are **A**ct **and LGBT** rulings **were** “very, very **narrow**,” Georgia State law professor EricSegall said. In the Obamacare case, California v. Texas, the 7-2 majority handed down a procedural ruling to avoid undoing the landmark 2010 law. The justices said red states led by Texas didn’t have a legal basis—or standing—to challenge it. Only Justices Samuel Alito and Neil Gorsuch would have voted to gut the act, long a priority of Republicans. The LGBT ruling, while unanimous in its outcome, was splintered in its reasoning. Hiding under the 9-0 breakdown was a dispute about whether to overturn the court’s divisive ruling in Employment Division v. Smith, which sparked the passage of the bipartisan Religious Freedom Protection Act and mini state versions across the country. The court in Smith refused to require an exception from Oregon’s prohibition on peyote, saying religious objectors don’t get a free pass on “generally applicable” laws. On opposite ends in the court’s LGBT ruling were the liberal justices—Stephen Breyer, Sonia Sotomayor, and Elena Kagan—along with Roberts, who wanted to uphold the court’s precedent in Smith, and the court’s most conservative members—Clarence Thomas, Alito, and Gorsuch—who wanted it overruled once and for all. In **the middle** was Barrett, joined by Kavanaugh, who acknowledged Smith‘s shortcomings but was **concerned with** the **fallout** should the court overrule it. “Yet what should replace Smith?” Barrett asked in a short concurrence. Both cases were a punt, Blackman said, with the issues likely to return to the court at some point in the future. End of the World But the ACA and LGBT cases, along with the extraordinary agreement all term, suggests a **majority** of the justices **don’t think** **it’s** the right **time to make major changes** in the law. “In the throes of everything"—the pandemic, Barrett’s first term, Kavanaugh’s biting confirmation, calls for Breyer to retire, and the caustic 2020 presidential election—"they didn’t want to shock the world this year,” Segall said. “**Preserving** the **court’s** own political **capital** **is** incredibly **important** to the justices because they know their only capital is the confidence of the American people,” he added. **Adler said the court has developed a sort of 3-3-3 split**—that is, three liberals, three conservative justices willing to chuck precedents they don’t agree with, and three conservative justices hesitant to overturn cases they may disagree with. **Roberts, Kavanaugh, and now, apparently, Barrett make up that last group.** Adler said that split will create some interesting pressures for the three justices in the middle next term, when—as Segall said—"the world will end.” **The end of the world was a reference—in part—to the court’s abortion case, which could call into question the landmark ruling in Roe v. Wade and later cases**.

#### The court’s center is skeptical of overturning precedent in Roe, but the path’s narrow.

Feldman ‘9/2 (Noah; Bloomberg Opinion columnist and host of the podcast “Deep Background.” He is a professor of law at Harvard University and was a clerk to U.S. Supreme Court Justice David Souter.; “Is the Supreme Court Ready to Overturn Roe? We Don’t Know”; 9/2/21; Bloomberg; https://www.bloomberg.com/opinion/articles/2021-09-02/supreme-court-ruling-on-texas-abortion-law-isn-t-death-knell-for-roe; Accessed 9/17/21]

Every nonlawyer on the planet — and no doubt a few lawyers, too — is likely to read this outcome as prefiguring a 5-to-4 vote to overturn Roe v. Wade, the 1973 precedent that made abortion a constitutional right. Later this year, **the court will address** a Mississippi anti-**abortion law** that lacks the cleverly diabolical enforcement mechanism of the Texas law but is equally unconstitutional. Indeed, the day after the law went into effect and before the Supreme Court ruled, many non-lawyers who were so unfamiliar with court procedures that they didn’t know it would eventually issue a ruling on the Texas law had already concluded that they knew how the upcoming Mississippi case would come out. That’s a possible interpretation of the latest opinion, to be sure. But the **opinion** for the five conservatives **explicitly denied** it. “We stress,” said the justices, “that we do not purport **to resolve** definitively any jurisdictional or **substantive claim** in the applicants’ lawsuit.” That’s lawyer-speak for **saying** both that the **law could** still **be unconstitutional** and that there might still be some procedural way to block its operation. For good measure, the opinion said the challengers “have raised serious questions regarding the constitutionality of the Texas law.” These **formulations indicate** that at least **some** of the five **conservatives** who joined it wanted to take pains **not to** **send** the **message** **that Roe** v. Wade **is sure to be overturned**. What is less clear is whether anyone on the political battlefield wants to hear that message. The pro-choice camp will doubtless spend the months until the court term ends in June whipping up public sentiment, either in the hopes of changing the outcome or turning any decision overturning Roe into the impetus for packing the court or producing a heavy Democratic turnout in the 2022 midterm elections. The pro-life camp has an equal interest in making the overturning of Roe seem inevitable. Consequently, neither side cares much for dispassionate analysis. But the fact remains that the majority in the Texas ruling did not address the underlying issues, so it would be premature to predict the outcome in the Mississippi case based on it. Taken strictly on its own terms, the **opinion** made a point that **is incorrect** in my view, **but** that is **legally plausible**. That is that there’s no clear precedent for courts to block in advance the operation of a law that creates a civil penalty — not a criminal violation — to be applied by the courts after private lawsuits by private parties. Ordinarily, when a criminal law is obviously unconstitutional, the courts issue an order to the state attorney general not to enforce it. Such an order would not have any effect in this case, since the Texas attorney general isn’t empowered to enforce the law.

#### Expanding rights protection is perceived as judicial activism – it strays from the Constitution and forces Roberts to expend court capital.

Tribe et al. ‘10 [Laurence; January 2010; Carl M. Loeb University Professor at Harvard Law School, et al.; "TOO HOT FOR COURTS TO HANDLE: FUEL TEMPERATURES, GLOBAL WARMING, AND THE POLITICAL QUESTION DOCTRINE," https://s3.us-east-2.amazonaws.com/washlegal-uploads/upload/legalstudies/workingpaper/012910Tribe\_WP.pdf/]

We can stipulate that the **Constitution’s** framers were **not driven by** the **relationships** among chemistry, temperature, combustion engines, and global climate when they **assigned** **to** the **judicial process** the task of **interpreting** and applying **rules of law**, and to the political process the mission of making the basic policy choices underlying those rules. Yet the framework established by the Constitution they promulgated, refined over time but admirably constant in this fundamental respect, wisely embodied the recognition that enacting the ground rules for the conduct of commerce in all of its manifestations—including designing incentives for innovation and creative production (through regimes of intellectual property), establishing the metrics and units for commercial transactions (through regimes of weights and measures), and coping with the cross-boundary effects of economic activity (through the regulation of interstate and foreign commerce)—was a task quintessentially political rather than judicial in character. Yet the litigious **character of** American **society**, observed early in the republic’s history by deTocqueville, has ineluctably **drawn** American **courts**, federal as well as state, into problems within these spheres more properly and productively addressed by the legislative and executive branches. This has occurred in part because **political solutions** to complex problems of policy choice inevitably **leave some** citizens and consumers **dissatisfied** and inclined to seek judicial redress for their woes, real or imagined. And it has occurred in part because the toughest **political problems** appear on the horizon long before solutions can be identified, much less agreed upon, **leaving courts** to **fill the vacuum** that social forces abhor no less than nature itself. One can believe strongly in access to courts for the protection of judicially enforceable rights and the preservation of legal boundaries—as the authors of this WORKING PAPER do— while still deploring the perversion of the judicial process to meddle in matters of policy formation far removed from those judicially manageable realms. Indeed, the two concerns are mutually reinforcing rather than contradictory, for **courts squander** the **social and cultural capital** they need **in order to do** what may be **politically unpopular in preserving rights and protecting boundaries** when they yield to the temptation to treat lawsuits as ubiquitously useful devices for making the world a better place.

#### RTS is treated as an issue of corporate free speech - Robert’s legacy is built on its rejection - ensures sustained backlash.

Thomson-DeVeaux 18 (, A., 2018. Chief Justice Roberts Is Reshaping The First Amendment. [online] FiveThirtyEight. Available at: <https://fivethirtyeight.com/features/chief-justice-roberts-is-reshaping-the-first-amendment/> [Accessed 5 November 2021] Amelia Thomson-DeVeaux is a senior writer at FiveThirtyEight. Before joining FiveThirtyEight’s staff, she was a regular contributor to the site and a freelance writer and editor with a wide portfolio of work. Her writing has been published in a variety of outlets, including CNN, Cosmopolitan, National Journal, and New York Magazine. She is a graduate of Princeton University and holds a master's degree in religious studies from The University of Chicago. Between degrees, she was on the staff of The American Prospect and worked as a writer and editor for PRRI, a public opinion research organization in Washington, DC.)-rahulpenu

It’s been a big year for free speech at the Supreme Court. Two of the most high-profile cases argued before the court so far have revolved around free speech rights, four other cases on the docket this term involve free speech questions, and yet another case where the issue is paramount greets the court on Tuesday.

The court today is hearing arguments on whether the state of California is trampling on the free speech rights of crisis pregnancy centers — nonprofit organizations that do not perform abortions and encourage women to seek alternatives to the procedure — by requiring them to post notices explaining patients’ ability to access abortion and other medical services. In December, attorneys for a baker at Masterpiece Cakeshop in Colorado argued that a state anti-discrimination law violates his free speech rights as a self-described cake artist by requiring him to make a wedding cake for a gay couple. Last month, the justices heard oral arguments in a case about whether state laws allowing unions to require nonmembers to pay fees violate those employees’ right to free speech.

Whichever way the rulings come down this spring and summer, it’s almost certain that the winning side will include Chief Justice John Roberts, who has spent his 12-plus years at the helm of the high court quietly carving out a space as a prolific and decisive arbiter of free speech law. Supporters and critics both agree that during his tenure, the court has dramatically expanded the reach of the First Amendment by striking down a wide range of statutes for encroaching on free speech rights. And **Roberts** has **authored** more **majority** **opinions** **on** **free** **speech** than any other justice during his tenure, signaling that this is an area where he **wants** **to** **create** a **legacy**.

But just what that legacy will be is **highly** **contested**. Roberts’s admirers argue that his commitment to the First Amendment transcends ideological boundaries. But others contend that his decisions don’t protect speech across the board. Instead, they say that **Roberts** is more than willing to **allow** the government to restrict speech when it’s speech he disagrees with — meaning **free** **speech** is becoming **a** legal **tool** **that** **favors** **corporations** **over** **individuals**.

The chief justice gets to decide who writes the majority opinion in any case where he’s on the winning side, which means that Roberts is able to stake a claim over a particular area of law if he so chooses. And that seems to be what’s happening with free speech: As of the end of the 2016 term, Roberts had written 34 percent of the free speech decisions the court has handed down since he joined its ranks, and 14 percent of his majority opinions were devoted to the topic.1 Even when he’s not writing for the majority, Roberts is rarely on the losing side: Out of the 38 free speech cases we counted,2 he voted with the minority only once.

The First Amendment appears to be a topic of deep personal interest for Roberts, and he’s not commanding the majority opinion in these cases simply to reinforce earlier decisions. Roberts has presided over — and participated in — a deliberate and systematic expansion of free speech rights in the realm of campaign finance and commercial speech. The court’s determination that campaign spending limits on corporations violated free speech in the 2010 case Citizens United v. FEC was just one in a series that struck down a range of campaign finance laws on First Amendment grounds and expanded corporations’ right to speech in other venues, like drug advertising and trademark regulations.

According to legal experts, these rulings represent a clear and unprecedented reversal of previous Supreme Court interpretations of the First Amendment, particularly with regard to corporations. Those interpretations began taking shape early in the last century, as the court only began to strike down federal statutes for abridging free speech after World War I. As it did so, it at first explicitly rejected the idea that commercial speech was constitutionally protected. In the 1970s and ’80s, the justices walked this decision back somewhat as it related to certain types of ads, but they continued to maintain that advertising remained categorically different from other kinds of speech, especially when it was presenting inaccurate information.

At the same time, the justices issued groundbreaking rulings that protected the speech of unpopular individuals and groups against government censorship. It was these cases, which involved government attempts to quash union picketing, student protests of the Vietnam war, flag-burning and Nazi protests, that established free speech as an essential protection for people with minority opinions who were in danger of being silenced by the majority.

This is decidedly not the principle that the Roberts court has embraced with its rulings on campaign finance and commercial speech. Starting in the 1970s, campaign finance laws restricting the flow of money into politicians’ coffers aimed to make space for more voices in the political sphere by preventing the wealthy from buying influence. But in the Citizens United case, the court ruled that the government couldn’t restrict the free speech rights of corporations simply because they were corporations — even if citizens with fewer financial resources were less able to command the attention of their elected officials as a result.

Although the Roberts court seems to be interpreting free speech in a new way with these decisions, some historians say that free speech has always been ideologically flexible. According to Laura Weinrib, a historian and professor of law at the University of Chicago, corporate titans like the Ford Motor Company were part of the early push for broader **free** **speech** **protections** precisely because they recognized the power of the First Amendment for **advancing** **their** **own** **causes**, while organizations like the ACLU strategically accepted a “neutral” vision of free speech that **protected** the strong (**companies** like Ford) as well as the weak (union **workers** **seeking** the **right to strike**) in order to secure early victories for **labor** **rights**. Those twin forces helped **pave** the **way** **for** **today’s** understanding of **free** **speech** **under** the **Roberts** court.

It’s that question of what free speech protections should do — and whether it’s acceptable to muzzle stronger voices if they’re drowning out weak or unpopular opponents — that may help explain the Roberts court’s **rightward** **turn** **on** **corporate** **speech**.

Burt Neuborne, a law professor at New York University and a former legal director of the ACLU, said that the liberal justices are willing to tolerate some restrictions on speech because they see them as necessary to build a fair society. “In this view, you can, for example, limit free speech when it threatens our democracy,” Neuborne said. The **conservative** **justices**, on the other hand, tend to **view** **free** **speech** **itself** **as** the **goal**. “They don’t care what happens afterward or who they’re affecting — they just **want** **to** **get** the **gov**ernment **out** **of** the business of **meddling** with speech,” he said.

This explanation is complicated, though, by the fact the Roberts court — and Roberts himself — has painted a muddier picture of other speech limits. Roberts authored opinions striking down a civil judgment holding the Westboro Baptist Church liable for damages resulting from church members picketing outside a soldier’s funeral, and a law prohibiting the distribution of videos showing animal cruelty. Those rulings are clearly in line with previous ones permitting flag-burning and Nazi protests. But Roberts also issued decisions or signed onto rulings that allowed the government to restrict the speech of students, even when they’re off school property, and limit the expression of public employees in a variety of contexts.

There’s disagreement about whether the Roberts court, by upholding these government restrictions on speech, is undermining its reputation as a court dedicated to a broad view of free speech. “It’s very much to Roberts’s credit that his Supreme Court has a genuinely expansive view of free speech that can’t be explained by political favoritism,” said Michael McConnell, a professor at Stanford Law School. He acknowledged that there are a few exceptions but said they aren’t significant or frequent enough to undermine his broader characterization of Roberts’s record.

But Genevieve Lakier, another University of Chicago law professor, disagreed. “The court does make judgments about when the government needs to restrict speech,” she said. “And in contexts like schools, or when the government says there are national security needs, it’s shockingly willing to allow those restrictions.”

Whether or not it’s fair to say that the Roberts court has been broadly protective of free speech, there’s little question that the court is reshaping it in ways that will resonate for years to come. And the cases this term could play a pivotal role in defining and clarifying that legacy — especially Masterpiece Cakeshop.

Neuborne predicted that the wedding cake case would be challenging for Roberts, but that either way, it would further illuminate his stance on free speech. “This case could have serious ramifications for nondiscrimination law,” Neuborne said. “But there is a free speech claim involved, so we’ll see how much of an absolutist Roberts is willing to be.”

#### US reproductive rights solve overpopulation globally---extinction.

De Valk 3 (EJ, Expert on Biodiversity @ Population Connection, "Statement of Policy--Mission Statement," 5/3, http://www.populationconnection.org/About\_Us/policies.html)

Population Connection believes the well-being and even the survival of humanity depend on the attainment of an equilibrium between population and the environment. Just as the earth and its resources of land, air and water are limited, so are the demands that can be placed upon them. Continued population growth is foremost among the factors aggravating deforestation, wildlife extinction, climate change and other critical environmental and social problems. It also erodes democratic government, multiplies urban problems, consumes agricultural land, increases volumes of waste, heightens competition for scarce resources and threatens the aspirations of the poor for a better life. The only acceptable solution to the population problem is through expanding educational, advocacy and service efforts that lower birth rates. Rather than support a larger population at a poorer level, we believe it is preferable to support a smaller population at adequate standards of living. Population Connection recognizes the gravity of global overpopulation and encourages citizens in every nation to work towards slowing population growth. Recognizing the interdependence of the nations of the earth, we support the development and growth of citizen organizations in other countries dedicated to those ends. As a U.S. based organization, Population Connection works primarily to educate and motivate Americans to help meet the global population challenge, and to mobilize this support for the adoption of policies and programs necessary to slow global population growth. Because the United States is the chief consumer of the world's resources, slowing its population growth is disproportionately important for protecting the global environment. Because the United States has a major influence on international political, economic and military affairs, reshaping its policies is important for the success of international efforts to slow population growth.