## NC

### theory

#### Interpretation: The affirmative debater must specify the type of strike in a delineated text in the 1AC.

Violation – they didn’t

#### Stable advocacy – 1AR clarification delinks neg positions that prove why enforcement in a certain instance is bad by saying it isn’t their method of enforcement – wrecks neg ballot access and kills in depth clash – CX doesn’t check since it kills 1NC construction pre-round. Prep skew – I don’t know what they will be willing to clarify until CX which means I could go 6 minutes planning to read a disad and then get screwed over in CX when they spec a different funding. Fairness and education are voters – debate’s a game that needs rules to evaluate it and education gives us portable skills for life like research and thinking.

#### Drop the debater – a) they have a 7-6 rebuttal advantage and the 2ar to make args I can’t respond to, b) it deters future abuse and sets a positive norm.

#### Use competing interps – a) reasonability invites arbitrary judge intervention since we don’t know your bs meter, b) collapses to competing interps – we justify 2 brightlines under an offense defense paradigm just like 2 interps.

#### No RVIs – a) illogical – you shouldn’t win for being fair – it’s a litmus test for engaging in substance, b) norming – I can’t concede the counterinterp if I realize I’m wrong which forces me to argue for bad norms, c) chilling effect – incentivizes you to read an abuse AC and go for the RVI, d) topic ed – prevents 1AR blipstorm scripts and allows us to get back to substance after resolving theory

#### Evaluate theory about the aff advocacy first – a) norms – we only have a couple months to set topic norms but can set 1AR theory norms anytime, b) magnitude – the aff advocacy affects a larger portion of the debate since it determines every speech after it and pre round neg prep

### DA

#### Supreme Court is restoring authority over strikes to states – expansion of Garmon precedent proves.

Cornell Law School ND, Cornell Law School, No Date, “Federal versus State Labor Laws,” <https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws> | MU

First, as to conduct arguably prohibited by NLRA, the Court seemingly expanded the Garmon exception recognizing state court jurisdiction for conduct that touches interests “deeply rooted in local feeling”[**1272**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1272art1) in holding that where there exists “a significant state interest in protecting the citizens from the challenged conduct” and there exists “little risk of interference with the regulatory jurisdiction” of the NLRB, state law is not preempted. Here, there was obviously a significant state interest in protecting the company from trespass; the second, “critical inquiry” was whether the controversy presented to the state court was identical to or different from that which could have been presented to the Board. The Court concluded that the controversy was different. The Board would have been presented with determining the motivation of the picketing and the location of the picketing would have been irrelevant; the motivation was irrelevant to the state court and the situs of the picketing was the sole inquiry. Thus, there was deemed to be no realistic risk of state interference with Board jurisdiction.[**1273**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1273art1)

Second, in determining whether the picketing was protected, the Board would have been concerned with the situs of the picketing, since under federal labor laws the employer has no absolute right to prohibit union activity on his property. Preemption of state court jurisdiction was denied, nonetheless, in this case on two joined bases. One, preemption is not required in those cases in which the party who could have presented the protection issue to the Board has not done so and the other party to the dispute has no acceptable means of doing so. In this case, the union could have filed with the Board when the company demanded removal of the pickets, but did not, and the company could not file with the Board at all. Two, even if the matter is not presented to the Board, preemption is called for if there is a risk of erroneous state court adjudication of the protection issue that is unacceptable, so that one must look to the strength of the argument that the activity is protected. While the state court had to make an initial determination that the trespass was not protected under federal law, the same determination the Board would have made, in the instance of trespassory conduct, the risk of erroneous determination is small, because experience shows that a trespass is far more likely to be unprotected than protected.[**1274**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1274art1)

Introduction of these two balancing tests into the Garmon rationale substantially complicates determining when state courts do not have jurisdiction, and will no doubt occasion much more litigation in state courts than has previously existed.

Another series of cases involves not a Court-created exception to the Garmon rule but the applicability and interpretation of § 301 of the Taft-Hartley Act,[**1275**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1275art1) which authorizes suits in federal, and state,[**1276**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1276art1) courts to enforce collective bargaining agreements. The Court has held that in enacting § 301, Congress authorized actions based on conduct arguably subject to the NLRA, so that the Garmon pre-emption doctrine does not preclude judicial enforcement of duties and obligations which would otherwise be within the exclusive jurisdiction of the NLRB so long as those duties and obligations are embodied in a collective-bargaining agreement, perhaps as interpreted in an arbitration proceeding.[**1277**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1277art1)

Here, too, the permissible role of state tort actions has been in great dispute. Generally, a state tort action as an alternative to a § 301 arbitration or enforcement action is preempted if it is substantially dependent upon analysis of the terms of a collective-bargaining agreement.[**1278**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1278art1) Thus, a state damage action for the bad-faith handling of an insurance claim under a disability plan that was part of a collective-bargaining agreement was preempted because it involved interpretation of that agreement and because state enforcement would frustrate the policies of § 301 favoring uniform federal-law interpretation of collective-bargaining agreements and favoring arbitration as a predicate to adjudication.[**1279**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1279art1)

Finally, the Court has indicated that, with regard to some situations, Congress has intended to leave the parties to a labor dispute free to engage in “self-help,” so that conduct not subject to federal law is nonetheless withdrawn from state control.[**1280**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1280art1) However, the NLRA is concerned primarily “with establishing an equitable process for determining terms and conditions of employment, and not with particular substantive terms of the bargain that is struck when the parties are negotiating from relatively equal positions,” so states are free to impose minimum labor standards.[**1281**](https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-3/federal-versus-state-labor-laws#fn1281art1)

#### However, broad federal mandates reverse that progress and spillover to crush federalism—The plan enables boarder bullying in other areas.

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The decision, written by Judge Ilana Rovner, also emphasizes the broader stakes for constitutional federalism. If the executive can get away with using vaguely worded statutes (in this case, a requirement that grant recipients obey "applicable federal law") to impose its own new conditions on state and local governments, it would enable the president to bully them on a wide range of issues: Interpreting that language as potentially incorporating any federal law would vest the Attorney General with the power to deprive state or local governments of a wide variety of grants, based on those entities' failure to comply with whatever federal law the Attorney General deems critical. Yet there is nothing in those statutes that even hints that Congress intended to make those grants dependent on the Attorney General's whim as to which laws to apply, cabined only by the requirement that the laws apply generally to states or localities.

#### U.S. Federalism is modeled globally

Calabresi 95

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At the same time, U.S.-style constitutional federalism has become the order of the day in an extraordinarily large number of [\*760] very important countries, some of which once might have been thought of as pure nation-states. Thus, the Federal Republic of Germany, the Republic of Austria, the Russian Federation, Spain, India, and Nigeria all have decentralized power by adopting constitutions that are significantly more federalist than the ones they replaced. Many other nations that had been influenced long ago by American federalism have chosen to retain and formalize their federal structures. Thus, the federalist constitutions of Australia, Canada, Brazil, Argentina, and Mexico, for example, all are basically alive and well today. As one surveys the world in 1995, American-style federalism of some kind or another is everywhere triumphant, while the forces of nationalism, although still dangerous, seem to be contained or in retreat. The few remaining highly centralized democratic nation-states like Great Britain, France, and Italy all face serious secessionist or devolutionary crises. Other highly centralized nation-states, like China, also seem ripe for a federalist, as well as a democratic, change. Even many existing federal and confederal entities seem to face serious pressure to devolve power further than they have done so far: thus, Russia, Spain, Canada, and Belgium all have very serious devolutionary or secessionist movements of some kind. Indeed, secessionist pressure has been so great that some federal structures recently have collapsed under its weight, as has happened in Czechoslovakia, Yugoslavia, and the former Soviet Union.

#### Federalism prevents civil conflicts from escalating to global war

Lawoti 3/18/09

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Cross-national studies covering over 100 countries have shown that federalism minimizes violent conflicts whereas unitary structures are more apt to exacerbate ethnic conflicts. Frank S. Cohen (1997) analyzed ethnic conflicts and inter-governmental organizations over nine 5-year –periods (1945-1948 and 1985-1989) among 223 ethnic groups in 100 countries. He found that federalism generates increases in the incidence of protests (low-level ethnic conflicts) but stifles the development of rebellions (high-level conflicts). Increased access to institutional power provided by federalism leads to more low-level conflicts because local groups mobilize at the regional level to make demands on the regional governments. The perceptions that conflicts occur in federal structure is not entirely incorrect. But the conflicts are low-level and manageable ones. Often, these are desirable conflicts because they are expressions of disadvantaged groups and people for equality and justice, and part of a process that consolidates democracy. In addition, they also let off steam so that the protests do not turn into rebellions. As the demands at the regional levels are addressed, frustrations do not build up. It checks abrupt and severe outburst. That is why high levels of conflicts are found less in federal countries. On the other hand, Cohen found high levels of conflicts in unitary structures and centralized politics. According to Cohen (1997:624): Federalism moderates politics by expanding the opportunity for victory. The increase in opportunities for political gain comes from the fragmentation/dispersion of policy-making power… the compartmentalizing character of federalism also assures cultural distinctiveness by offering dissatisfied ethnic minorities proximity to public affairs. Such close contact provides a feeling of both control and security that an ethnic group gains regarding its own affairs. In general, such institutional proximity expands the opportunities for political participation, socialization, and consequently, democratic consolidation. Saidmeman, Lanoue, Campenini, and Stanton’s (2002: 118) findings also support Cohen’s analysis that federalism influences peace and violent dissent differently. They used Minority at Risk Phase III dataset and investigated 1264 ethnic groups. According to Saideman et al. (2002:118-120): Federalism reduces the level of ethnic violence. In a federal structure, groups at the local level can influence many of the issues that matter dearly to them- education, law enforcement, and the like. Moreover, federal arrangements reduce the chances that any group will realize its greatest nightmare: having its culture, political and educational institutions destroyed by a hostile national majority. These broad empirical studies support the earlier claims of Lijphart, Gurr, and Horowitz that power sharing and autonomy granting institutions can foster peaceful accommodation and prevent violent conflicts among different groups in culturally plural societies. Lijphart (1977:88), in his award winning book Democracy in Plural Societies, argues that "Clear boundaries between the segments of a plural society have the advantage of limiting mutual contacts and consequently of limiting the chances of ever-present potential antagonisms to erupt into actual hostility". This is not to argue for isolated or closed polities, which is almost impossible in a progressively globalizing world. The case is that when quite distinct and self-differentiating cultures come into contact, antagonism between them may increase. Compared to federal structure, unitary structure may bring distinct cultural groups into intense contact more rapidly because more group members may stay within their regions of traditional settlements under federal arrangements whereas unitary structure may foster population movement. Federalism reduces conflicts because it provides autonomy to groups. Disputants within federal structures or any mechanisms that provide autonomy are better able to work out agreements on more specific issues that surface repeatedly in the programs of communal movement (Gurr 1993:298-299). Autonomy agreements have helped dampen rebellions by Basques in Spain, the Moros in the Philippines, the Miskitos in Nicaragua, the people of Bangladesh’s Chittagong Hill Tracts and the affairs of Ethiopia, among others (Gurr 1993:3190) The Indian experiences are also illustrative. Ghosh (1998) argues that India state manged many its violent ethnic conflicts by creating new states (Such as Andhra Pradesh, Gujurat, Punjab, Harayana, Arunachal Pradesh, Goa, Himachal Pradesh, Meghalaya, Mizoram and Nagaland) and autonomous councils (Such as Darjeeling Gorkha Hill Council, Bodoland Autonomous Council, and Jharkhand Area autonomous Council, Leh Autonomous Hill Development Council). The basic idea, according to Ghosh (1998:61), was to devolve powers to make the ethnic/linguistic groups feel that their identity was being respected by the state. By providing autonomy, federalism also undermines militant appeals. Because effective autonomy provides resources and institutions through which groups can make significant progress toward their objectives, many ethnic activities and supporters of ethnic movements are engaged through such arrangements. Thus it builds long-term support for peaceful solutions and undermines appeals to militant action (Gurr 1993:303). Policies of regional devolution in France, Spain and Italy, on the other hand, demonstrate that establishing self-managing autonomous regions can be politically and economically less burdensome for central states than keeping resistant peoples in line by force: autonomy arrangements have transformed destructive conflicts in these societies into positive interregional competition".

## Case