# 1NC v. Katherine

## 1

### FW

#### The standard is maximizing expected well-being, or hedonistic act utilitarianism.

#### 1] Neuroscience- pleasure and pain *are* intrinsic value and disvalue – everything else regresses.

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**Pleasure** is not only one of the three primary reward functions but it also **defines reward.** As homeostasis explains the functions of only a limited number of rewards, the principal reason why particular stimuli, objects, events, situations, and activities are rewarding may be due to pleasure. This applies first of all to sex and to the primary homeostatic rewards of food and liquid and extends to money, taste, beauty, social encounters and nonmaterial, internally set, and intrinsic rewards. Pleasure, as the primary effect of rewards, drives the prime reward functions of learning, approach behavior, and decision making and provides the **basis for hedonic theories** of reward function. We are attracted by most rewards and exert intense efforts to obtain them, just because they are enjoyable [10].

Pleasure is a passive reaction that derives from the experience or prediction of reward and may lead to a long-lasting state of happiness. The word happiness is difficult to define. In fact, just obtaining physical pleasure may not be enough. One key to happiness involves a network of good friends. However, it is not obvious how the higher forms of satisfaction and pleasure are related to an ice cream cone, or to your team winning a sporting event. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure [14].

Pleasure as a hallmark of reward is sufficient for defining a reward, but it may not be necessary. A reward may generate positive learning and approach behavior simply because it contains substances that are essential for body function. When we are hungry, we may eat bad and unpleasant meals. A monkey who receives hundreds of small drops of water every morning in the laboratory is unlikely to feel a rush of pleasure every time it gets the 0.1 ml. Nevertheless, with these precautions in mind, we may define any stimulus, object, event, activity, or situation that has the potential to produce pleasure as a reward. In the context of reward deficiency or for disorders of addiction, homeostasis pursues pharmacological treatments: drugs to treat drug addiction, obesity, and other compulsive behaviors. The theory of allostasis suggests broader approaches - such as re-expanding the range of possible pleasures and providing opportunities to expend effort in their pursuit. [15]. It is noteworthy, the first animal studies eliciting approach behavior by electrical brain stimulation interpreted their findings as a discovery of the brain’s pleasure centers [16] which were later partly associated with midbrain dopamine neurons [17–19] despite the notorious difficulties of identifying emotions in animals.

Evolutionary theories of pleasure: The love connection BO:D

Charles Darwin and other biological scientists that have examined the biological evolution and its basic principles found various mechanisms that steer behavior and biological development. Besides their theory on natural selection, it was particularly the sexual selection process that gained significance in the latter context over the last century, especially when it comes to the question of what makes us “what we are,” i.e., human. However, the capacity to sexually select and evolve is not at all a human accomplishment alone or a sign of our uniqueness; yet, we humans, as it seems, are ingenious in fooling ourselves and others–when we are in love or desperately search for it.

It is well established that modern biological theory conjectures that **organisms are** the **result of evolutionary competition.** In fact, Richard Dawkins stresses gene survival and propagation as the basic mechanism of life [20]. Only genes that lead to the fittest phenotype will make it. It is noteworthy that the phenotype is selected based on behavior that maximizes gene propagation. To do so, the phenotype must survive and generate offspring, and be better at it than its competitors. Thus, the ultimate, distal function of rewards is to increase evolutionary fitness by ensuring the survival of the organism and reproduction. It is agreed that learning, approach, economic decisions, and positive emotions are the proximal functions through which phenotypes obtain other necessary nutrients for survival, mating, and care for offspring.

Behavioral reward functions have evolved to help individuals to survive and propagate their genes. Apparently, people need to live well and long enough to reproduce. Most would agree that homo-sapiens do so by ingesting the substances that make their bodies function properly. For this reason, foods and drinks are rewards. Additional rewards, including those used for economic exchanges, ensure sufficient palatable food and drink supply. Mating and gene propagation is supported by powerful sexual attraction. Additional properties, like body form, augment the chance to mate and nourish and defend offspring and are therefore also rewards. Care for offspring until they can reproduce themselves helps gene propagation and is rewarding; otherwise, many believe mating is useless. According to David E Comings, as any small edge will ultimately result in evolutionary advantage [21], additional reward mechanisms like novelty seeking and exploration widen the spectrum of available rewards and thus enhance the chance for survival, reproduction, and ultimate gene propagation. These functions may help us to obtain the benefits of distant rewards that are determined by our own interests and not immediately available in the environment. Thus the distal reward function in gene propagation and evolutionary fitness defines the proximal reward functions that we see in everyday behavior. That is why foods, drinks, mates, and offspring are rewarding.

There have been theories linking pleasure as a required component of health benefits salutogenesis, (salugenesis). In essence, under these terms, pleasure is described as a state or feeling of happiness and satisfaction resulting from an experience that one enjoys. Regarding pleasure, it is a double-edged sword, on the one hand, it promotes positive feelings (like mindfulness) and even better cognition, possibly through the release of dopamine [22]. But on the other hand, pleasure simultaneously encourages addiction and other negative behaviors, i.e., motivational toxicity. It is a complex neurobiological phenomenon, relying on reward circuitry or limbic activity. It is important to realize that through the “Brain Reward Cascade” (BRC) endorphin and endogenous morphinergic mechanisms may play a role [23]. While natural rewards are essential for survival and appetitive motivation leading to beneficial biological behaviors like eating, sex, and reproduction, crucial social interactions seem to further facilitate the positive effects exerted by pleasurable experiences. Indeed, experimentation with addictive drugs is capable of directly acting on reward pathways and causing deterioration of these systems promoting hypodopaminergia [24]. Most would agree that pleasurable activities can stimulate personal growth and may help to induce healthy behavioral changes, including stress management [25]. The work of Esch and Stefano [26] concerning the link between compassion and love implicate the brain reward system, and pleasure induction suggests that social contact in general, i.e., love, attachment, and compassion, can be highly effective in stress reduction, survival, and overall health.

Understanding the role of neurotransmission and pleasurable states both positive and negative have been adequately studied over many decades [26–37], but comparative anatomical and neurobiological function between animals and homo sapiens appear to be required and seem to be in an infancy stage.

Finding happiness is different between apes and humans

As stated earlier in this expert opinion one key to happiness involves a network of good friends [38]. However, it is not entirely clear exactly how the higher forms of satisfaction and pleasure are related to a sugar rush, winning a sports event or even sky diving, all of which augment dopamine release at the reward brain site. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure.

Remarkably, there are pathways for ordinary liking and pleasure, which are limited in scope as described above in this commentary. However, there are **many brain regions**, often termed hot and cold spots, that significantly **modulate** (increase or decrease) our **pleasure or** even produce **the opposite** of pleasure— that is disgust and fear [39]. One specific region of the nucleus accumbens is organized like a computer keyboard, with particular stimulus triggers in rows— producing an increase and decrease of pleasure and disgust. Moreover, the cortex has unique roles in the cognitive evaluation of our feelings of pleasure [40]. Importantly, the interplay of these multiple triggers and the higher brain centers in the prefrontal cortex are very intricate and are just being uncovered.

Desire and reward centers

It is surprising that many different sources of pleasure activate the same circuits between the mesocorticolimbic regions (Figure 1). Reward and desire are two aspects pleasure induction and have a very widespread, large circuit. Some part of this circuit distinguishes between desire and dread. The so-called pleasure circuitry called “REWARD” involves a well-known dopamine pathway in the mesolimbic system that can influence both pleasure and motivation.

In simplest terms, the well-established mesolimbic system is a dopamine circuit for reward. It starts in the ventral tegmental area (VTA) of the midbrain and travels to the nucleus accumbens (Figure 2). It is the cornerstone target to all addictions. The VTA is encompassed with neurons using glutamate, GABA, and dopamine. The nucleus accumbens (NAc) is located within the ventral striatum and is divided into two sub-regions—the motor and limbic regions associated with its core and shell, respectively. The NAc has spiny neurons that receive dopamine from the VTA and glutamate (a dopamine driver) from the hippocampus, amygdala and medial prefrontal cortex. Subsequently, the NAc projects GABA signals to an area termed the ventral pallidum (VP). The region is a relay station in the limbic loop of the basal ganglia, critical for motivation, behavior, emotions and the “Feel Good” response. This defined system of the brain is involved in all addictions –substance, and non –substance related. In 1995, our laboratory coined the term “Reward Deficiency Syndrome” (RDS) to describe genetic and epigenetic induced hypodopaminergia in the “Brain Reward Cascade” that contribute to addiction and compulsive behaviors [3,6,41].

Furthermore, ordinary “liking” of something, or pure pleasure, is represented by small regions mainly in the limbic system (old reptilian part of the brain). These may be part of larger neural circuits. In Latin, hedus is the term for “sweet”; and in Greek, hodone is the term for “pleasure.” Thus, the word Hedonic is now referring to various subcomponents of pleasure: some associated with purely sensory and others with more complex emotions involving morals, aesthetics, and social interactions. The capacity to have pleasure is part of being healthy and may even extend life, especially if linked to optimism as a dopaminergic response [42].

Psychiatric illness often includes symptoms of an abnormal inability to experience pleasure, referred to as anhedonia. A negative feeling state is called dysphoria, which can consist of many emotions such as pain, depression, anxiety, fear, and disgust. Previously many scientists used animal research to uncover the complex mechanisms of pleasure, liking, motivation and even emotions like panic and fear, as discussed above [43]. However, as a significant amount of related research about the specific brain regions of pleasure/reward circuitry has been derived from invasive studies of animals, these cannot be directly compared with subjective states experienced by humans.

In an attempt to resolve the controversy regarding the causal contributions of mesolimbic dopamine systems to reward, we have previously evaluated the three-main competing explanatory categories: “liking,” “learning,” and “wanting” [3]. That is, dopamine may mediate (a) liking: the hedonic impact of reward, (b) learning: learned predictions about rewarding effects, or (c) wanting: the pursuit of rewards by attributing incentive salience to reward-related stimuli [44]. We have evaluated these hypotheses, especially as they relate to the RDS, and we find that the incentive salience or “wanting” hypothesis of dopaminergic functioning is supported by a majority of the scientific evidence. Various neuroimaging studies have shown that anticipated behaviors such as sex and gaming, delicious foods and drugs of abuse all affect brain regions associated with reward networks, and may not be unidirectional. Drugs of abuse enhance dopamine signaling which sensitizes mesolimbic brain mechanisms that apparently evolved explicitly to attribute incentive salience to various rewards [45].

Addictive substances are voluntarily self-administered, and they enhance (directly or indirectly) dopaminergic synaptic function in the NAc. This activation of the brain reward networks (producing the ecstatic “high” that users seek). Although these circuits were initially thought to encode a set point of hedonic tone, it is now being considered to be far more complicated in function, also encoding attention, reward expectancy, disconfirmation of reward expectancy, and incentive motivation [46]. The argument about addiction as a disease may be confused with a predisposition to substance and nonsubstance rewards relative to the extreme effect of drugs of abuse on brain neurochemistry. The former sets up an individual to be at high risk through both genetic polymorphisms in reward genes as well as harmful epigenetic insult. Some Psychologists, even with all the data, still infer that addiction is not a disease [47]. Elevated stress levels, together with polymorphisms (genetic variations) of various dopaminergic genes and the genes related to other neurotransmitters (and their genetic variants), and may have an additive effect on vulnerability to various addictions [48]. In this regard, Vanyukov, et al. [48] suggested based on review that whereas the gateway hypothesis does not specify mechanistic connections between “stages,” and does not extend to the risks for addictions the concept of common liability to addictions may be more parsimonious. The latter theory is grounded in genetic theory and supported by data identifying common sources of variation in the risk for specific addictions (e.g., RDS). This commonality has identifiable neurobiological substrate and plausible evolutionary explanations.

Over many years the controversy of dopamine involvement in especially “pleasure” has led to confusion concerning separating motivation from actual pleasure (wanting versus liking) [49]. We take the position that animal studies cannot provide real clinical information as described by self-reports in humans. As mentioned earlier and in the abstract, on November 23rd, 2017, evidence for our concerns was discovered [50]

In essence, although nonhuman primate brains are similar to our own, the disparity between other primates and those of human cognitive abilities tells us that surface similarity is not the whole story. Sousa et al. [50] small case found various differentially expressed genes, to associate with pleasure related systems. Furthermore, the dopaminergic interneurons located in the human neocortex were absent from the neocortex of nonhuman African apes. Such differences in neuronal transcriptional programs may underlie a variety of neurodevelopmental disorders.

In simpler terms, the system controls the production of dopamine, a chemical messenger that plays a significant role in pleasure and rewards. The senior author, Dr. Nenad Sestan from Yale, stated: “Humans have evolved a dopamine system that is different than the one in chimpanzees.” This may explain why the behavior of humans is so unique from that of non-human primates, even though our brains are so surprisingly similar, Sestan said: “It might also shed light on why people are vulnerable to mental disorders such as autism (possibly even addiction).” Remarkably, this research finding emerged from an extensive, multicenter collaboration to compare the brains across several species. These researchers examined 247 specimens of neural tissue from six humans, five chimpanzees, and five macaque monkeys. Moreover, these investigators analyzed which genes were turned on or off in 16 regions of the brain. While the differences among species were subtle, **there was** a **remarkable contrast in** the **neocortices**, specifically in an area of the brain that is much more developed in humans than in chimpanzees. In fact, these researchers found that a gene called tyrosine hydroxylase (TH) for the enzyme, responsible for the production of dopamine, was expressed in the neocortex of humans, but not chimpanzees. As discussed earlier, dopamine is best known for its essential role within the brain’s reward system; the very system that responds to everything from sex, to gambling, to food, and to addictive drugs. However, dopamine also assists in regulating emotional responses, memory, and movement. Notably, abnormal dopamine levels have been linked to disorders including Parkinson’s, schizophrenia and spectrum disorders such as autism and addiction or RDS.

Nora Volkow, the director of NIDA, pointed out that one alluring possibility is that the neurotransmitter dopamine plays a substantial role in humans’ ability to pursue various rewards that are perhaps months or even years away in the future. This same idea has been suggested by Dr. Robert Sapolsky, a professor of biology and neurology at Stanford University. Dr. Sapolsky cited evidence that dopamine levels rise dramatically in humans when we anticipate potential rewards that are uncertain and even far off in our futures, such as retirement or even the possible alterlife. This may explain what often motivates people to work for things that have no apparent short-term benefit [51]. In similar work, Volkow and Bale [52] proposed a model in which dopamine can favor NOW processes through phasic signaling in reward circuits or LATER processes through tonic signaling in control circuits. Specifically, they suggest that through its modulation of the orbitofrontal cortex, which processes salience attribution, dopamine also enables shilting from NOW to LATER, while its modulation of the insula, which processes interoceptive information, influences the probability of selecting NOW versus LATER actions based on an individual’s physiological state. This hypothesis further supports the concept that disruptions along these circuits contribute to diverse pathologies, including obesity and addiction or RDS.

#### 2] Actor spec—governments must use util because they don’t have intentions and are constantly dealing with tradeoffs—outweighs since different agents have different obligations—takes out calc indicts since they are empirically denied.

#### 3] No intent-foresight distinction for states.

Enoch 07 Enoch, D [The Faculty of Law, The Hebrew Unviersity, Mount Scopus Campus, Jersusalem]. (2007). INTENDING, FORESEEING, AND THE STATE. Legal Theory, 13(02). doi:10.1017/s1352325207070048 https://www.cambridge.org/core/journals/legal-theory/article/intending-foreseeing-and-the-state/76B18896B94D5490ED0512D8E8DC54B2

The general difficulty of the intending-foreseeing distinction here stemmed, you will recall, from the feeling that attempting to pick and choose among the foreseen consequences of one’s actions those one is more and those one is less responsible for looks more like the preparation of a defense than like a genuine attempt to determine what is to be done. Hiding behind the intending-foreseeing distinction seems like an attempt to evade responsibility, and so thinking about the distinction in terms of responsibility serves 39. Anderson & Pildes, supra note 38. I will use this text as my example of an expressive theory here. 40. See id. at 1554, 1564. 41. For a general critique, see Mathew D. Adler, Expressive Theories of Law: A Skeptical Overview, 148 U. PA. L. REV. 1363 (1999–2000). 42. As Adler repeatedly notes, the understanding of expression Anderson & Pildes work with is amazingly broad, so that “To express an attitude through action is to act on the reasons the attitude gives us”; Anderson & Pildes, supra note 38, at 1510. If this is so, it seems that expression drops out of the picture and everything done with it can be done directly in terms of reasons. 43. This may be true of what Anderson and Pildes have in mind when they say that “expressive norms regulate actions by regulating the acceptable justifications for doing them”; id. at 1511. http://journals.cambridge.org Downloaded: 03 Aug 2014 IP address: 134.153.184.170 Intending, Foreseeing, and the State 91 to reduce even further the plausibility of attributing to it intrinsic moral significance. This consideration—however weighty in general—seems to me very weighty when applied to state action and to the decisions of state officials. For perhaps it may be argued that individuals are not required to undertake a global perspective, one that equally takes into account all foreseen consequences of their actions. Perhaps, in other words, individuals are entitled to (roughly) settle for having a good will, and beyond that let chips fall where they may. But this is precisely what stateswomen and statesmen—and certainly states—are not entitled to settle for.44 In making policy decisions, it is precisely the global (or at least statewide, or nationwide, or something of this sort) perspective that must be undertaken. Perhaps, for instance, an individual doctor is entitled to give her patient a scarce drug without thinking about tomorrow’s patients (I say “perhaps” because I am genuinely not sure about this), but surely when a state committee tries to formulate rules for the allocation of scarce medical drugs and treatments, it cannot hide behind the intending-foreseeing distinction, arguing that if it allows45 the doctor to give the drug to today’s patient, the death of tomorrow’s patient is merely foreseen and not intended. When making a policy-decision, this is clearly unacceptable. Or think about it this way (I follow Daryl Levinson here):46 perhaps restrictions on the responsibility of individuals are justified because individuals are autonomous, because much of the value in their lives comes from personal pursuits and relationships that are possible only if their responsibility for what goes on in the (more impersonal) world is restricted. But none of this is true of states and governments. They have no special relationships and pursuits, no personal interests, no autonomous lives to lead in anything like the sense in which these ideas are plausible when applied to individuals persons. So there is no reason to restrict the responsibility of states in anything like the way the responsibility of individuals is arguably restricted.47 States and state officials have much more comprehensive responsibilities than individuals do. Hiding behind the intending-foreseeing distinction thus more clearly constitutes an evasion of responsibility in the case of the former. So the evading-responsibility worry has much more force against the intending-foreseeing distinction when applied to state action than elsewhere.

#### 4] TJFs- Util is key to debates about strikes because they inevitably devolve into consequential impacts.

Munyaradzi 10 [Mawere; Universidade Pedagogica, Faculty of Social Sciences, Department of Humanities, CP49, Xai-xai, Mozambique; “Are physicians’ strikes ever morally justifiable? A call for a return to tradition,” PAMC; 8/21/10; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3063499/>] Justin

Utilitarianism is a doctrine which states that the rightness or wrongn"ess of an action is determined by the goodness or badness of its consequences [19]. This means that utilitarianism is a consequentialist theory in so far as it calls for the assessment of actions in terms of their ends and consequences, their contribution to happiness and prevention of suffering. In fact, according to utilitarianism, an action is good or right when it achieves the greatest happiness for the greatest number, otherwise it is bad. Kantian ethics, based on the concept of duty, holds that an action is good if it is based on good intention. For utilitarians, an action in itself has no moral worth and takes moral value only when it is considered in conjunction with its effects. To the contrary, Kantians argue that what makes an action right is not its consequence(s) but the fact that it conforms to the moral law [20]. Thus unlike deontological theories which look at the action itself, utilitarianism assess the rightness or wrongness of an individual or group’s action directly by its consequences and nothing else. De George offers some clarification of consequentialist and deontological ethics:

“One approach argues on the basis of consequences (consequentialist); it states that whether an action is right or wrong depends on the consequences of that action. The second basic approach is called the deontological approach. It states that duty is the basic moral category, and that duty is independent of consequences. An action is right if it has certain characteristics or is of a certain kind, and wrong if it has other characteristics or is of a certain kind” [21].

Utilitarianism and Kantian ethics are examples of consequentialist and deontological ethics, respectively. For Kant (the representative of Kantian ethics) the moral law or the highest principle of morality is based on human reason.

This work does not seek to undertake a comprehensive discussion of consequentialist and deontological ethics, but to demonstrate the usefulness and plausibility of utilitarianism in criticizing physicians strike. However, any ethical theory that begins from some external demands and consequences faces the challenge of legitimacy. The challenge is that what ought to be done remains foreign to who ought to do it. Such an approach to ethics largely ignores the personality of the individual that guarantees the actions. Transposing the utilitarianism to physicians’ strike, it is undoubtedly true that strike by physicians result in unbearable suffering of not only the patients in hospitals, but also of the public in general and the nation at large. During physicians’ strike, unnecessary and premature deaths-deaths that could have been prevented are inevitable. According to IRINnews [22], during a 2008 strike by Zimbabwean physicians, Jestina Moyo of Bulawayo, expressed disappointment on arriving at Mpilo central hospital in Bulawayo, with her seriously ill son only to be told that doctors were on strike. She laments:

“This is painful to watch my son waste away like this. The hospital says the doctors are on strike, demanding high salaries, and there is nothing I can do for my son, as I have no money to take him to a private doctor. As it is, my son will die a painful death unless I find money to take him to a private doctor”.

According to the same source, since the strike started several death were registered which doctors could have dealt with if they were not on strike. The same consequences have been felt in other countries the world-over. In Malawi, for example, Kelita Kamoto, director of the Queen Elizabeth Central Hospital in Malawi’s largest city Blantyre reported that between 15 and 20 deaths are recorded daily......deaths were registered as the strike entered its third week [23]. In another report by Ecumenical News International (ENI), Nigeria:

“Constant strikes by Nigerian doctors this year are said to have claimed the lives of more than 20000 patients and have placed a massive burden on Christian hospitals across the country which have been overwhelmed with patients. And other 6000 accident victims died from lack of medical attention as a result of the doctors’ strike” [24].

In Zambia, The Post Newspaper reported that:

“Last month, nurses and doctors went on a month-long strike, forcing one Zambian mother to give birth on the sidewalk outside the University Teaching Hospital, the country’s biggest. Her traumatized family took a picture of the ill-fated childbirth, showing the infant’s legs stretching out of the mother, struggling for life -the hospital and potential medical help tantalizingly nearby but completely out of reach. She gave birth without aid from doctors and the newborn died” [25].

Apart from Zimbabwe, Malawi, Nigeria and Zambia, in the past 20 years there has been strikes by medical doctors in Australia, Belgium, Canada, Chile, Finland, France, Germany, Ghana, India, Ireland, Israel, Italy, Korea, Malta, New Zealand, Peru, Serbia, Spain, Sri Lanka, Romania, USA and UK to name but a few. Many of these strikes have caused lasting damage from which health systems have struggled to get over; have been very costly (both in the short and long term); and have not achieved what the management appear to have wanted.

It can also be argued on the basis of utilitarianism that physicians strike like that of the army, police and prison officers has far reaching consequences to the country in question; may result in violation of human rights and looting of public ‘goods’. One can imagine what may happen if the army, police officers and the prison officers go on strike? If prison officers, for example, go on strike criminals, some with recorded history of mass killing will be free and obviously disturb the harmony of the innocent people. I believe physicians strike causes the same blow to the country involved. It is therefore the contention of this work that just like soldiers, prison officers and police officers who in many countries are not allowed to go on strike, physicians should likewise take no part in any form of strike action.

In view of cases of unnecessary deaths and sufferings of both the patients and the public spelled out in this work, it is undeniable on the basis of utilitarianism that physicians strike has far reaching consequences not only to the patients, but to the public and the national government in question (to the majority). It has been exhibited that the happiness that physician strike brings is clearly overwhelmed by the suffering and sadness it causes to the majority (the patients, public and the government in question). From this understanding the paper contends that physicians strike can never be morally justifiable. Strike fails to achieve a greater happiness to the greatest number of people affected by it.

#### Outweighs – A. Most articles about strikes are written through util – means other frameworks can never engage with core questions of the lit and decks predictability. B. TJFs first – substance begs the question of a framework being good for debate – fairness is a gateway issue to deciding the better debater and education is the reason schools fund debate

#### 5] Epistemic Modesty—key to contention level debates—o/w on portability.

#### Impact calc –

#### 1] Extinction outweighs: A] Reversibility- it forecloses the alternative because we can’t improve society if we are all dead B] Structural violence- death causes suffering because people can’t get access to resources and basic necessities C] Objectivity- body count is the most objective way to calculate impacts because comparing suffering is unethical D] Uncertainty- if we’re unsure about which interpretation of the world is true, we should preserve the world to keep debating about it

#### 2] Calc indicts fail: A] Ethics- it would indict everything since they use events to understand how their ethics have worked B] Reciprocity- they are NIBs that create a 2:1 skew where I have to answer them to access offense while they only have to win one C] Internalism- asking why we value pain and pleasure is nonsensical cuz the answer is intrinsic since we just do, which means we still prefer hedonism despite shortcomings.

## 2

### CP

#### CP Text: CP Text: The US ought to recognize the unconditional right of workers to strike using a campaign of judicial advocacy. All other relevant just governments ought to recognize the unconditional right of workers to strike.

Brudney 21 [James; Joseph Crowley Chair in Labor and Employment Law, Fordham Law School; “The Right to Strike as Customary International Law,” THE YALE JOURNAL OF INTERNATIONAL LAW; January 2021; <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1710&context=yjil>] 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.

#### Independently is offense under alienation—

#### Democratic backsliding causes extinction.

Kendall-Taylor 16 [Andrea; Deputy national intelligence officer for Russia and Eurasia at the National Intelligence Council, Senior associate in the Human Rights Initiative at the Center for Strategic and International Studies in Washington; “How Democracy’s Decline Would Undermine the International Order,” CSIS; 7/15/16; <https://www.csis.org/analysis/how-democracy%E2%80%99s-decline-would-undermine-international-order>/] Justin

It is rare that policymakers, analysts, and academics agree. But there is an emerging consensus in the world of foreign policy: threats to the stability of the current international order are rising. The norms, values, laws, and institutions that have undergirded the international system and governed relationships between nations are being gradually dismantled. The most discussed sources of this pressure are [the ascent of China](http://nationalinterest.org/feature/how-china-sees-world-order-15846) and other non-Western countries, Russia’s assertive foreign policy, and the diffusion of power from traditional nation-states to nonstate actors, such as nongovernmental organizations, multinational corporations, and technology-empowered individuals. Largely missing from these discussions, however, is the [specter of widespread democratic decline](http://www.journalofdemocracy.org/article/facing-democratic-recession). Rising challenges to democratic governance across the globe are a major strain on the international system, but they receive [far less attention](http://www.iiss.org/en/publications/survival/sections/2016-5e13/survival--global-politics-and-strategy-april-may-2016-eb2d/58-2-03-boyle-6dbd) in discussions of the shifting world order.

In the 70 years since the end of World War II, the United States has fostered a global order dominated by states that are liberal, capitalist, and democratic. The United States has promoted the spread of democracy to strengthen global norms and rules that constitute the foundation of our current international system. However, despite the steady rise of democracy since the end of the Cold War, over the last 10 years we have seen dramatic reversals in respect for democratic principles across the globe. [A 2015 Freedom House report](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf) stated that the “acceptance of democracy as the world’s dominant form of government—and of an international system built on democratic ideals—is under greater threat than at any point in the last 25 years.”

Although the number of democracies in the world is at an all-time high, there are a number of [key trends](file:///C:\Users\PMeylan\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\5V2CJVRN\160715_KendallTaylor_DemocracysDecline_Commentary.docx#http://www.journalofdemocracy.org/article/democracy-decline) that are working to undermine democracy. The rollback of democracy in a few influential states or even in a number of less consequential ones would almost certainly accelerate meaningful changes in today’s global order.

Democratic decline would weaken U.S. partnerships and erode an important foundation for U.S. cooperation abroad. [Research demonstrates](file:///C:\Users\PMeylan\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\5V2CJVRN\160715_KendallTaylor_DemocracysDecline_Commentary.docx#http://cmp.sagepub.com/content/18/1/49.abstract) that domestic politics are a key determinant of the international behavior of states. In particular, democracies are more likely to form alliances and cooperate more fully with other democracies than with autocracies. Similarly, authoritarian countries have established mechanisms for cooperation and sharing of “worst practices.” An increase in authoritarian countries, then, would provide a broader platform for coordination that could enable these countries to overcome their divergent histories, values, and interests—factors that are frequently cited as obstacles to the formation of a cohesive challenge to the U.S.-led international system.

Recent examples support the empirical data. Democratic backsliding in Hungary and the hardening of Egypt’s autocracy under Abdel Fattah el-Sisi have led to enhanced relations between these countries and Russia. Likewise, democratic decline in Bangladesh has led Sheikh Hasina Wazed and her ruling Awami League to seek closer relations with China and Russia, in part to mitigate Western pressure and bolster the regime’s domestic standing.

Although none of these burgeoning relationships has developed into a highly unified partnership, democratic backsliding in these countries has provided a basis for cooperation where it did not previously exist. And while the United States certainly finds common cause with authoritarian partners on specific issues, the depth and reliability of such cooperation is limited. Consequently, further democratic decline could seriously compromise the United States’ ability to form the kinds of deep partnerships that will be required to confront today’s increasingly complex challenges. Global issues such as climate change, migration, and violent extremism demand the coordination and cooperation that democratic backsliding would put in peril. Put simply, the United States is a less effective and influential actor if it loses its ability to rely on its partnerships with other democratic nations.

A slide toward authoritarianism could also challenge the current global order by diluting U.S. influence in critical international institutions, including the [United Nations](https://www.washingtonpost.com/opinions/christopher-walker-authoritarian-regimes-are-changing-how-the-world-defines-democracy/2014/06/12/d1328e3a-f0ee-11e3-bf76-447a5df6411f_story.html) , the World Bank, and the International Monetary Fund (IMF). Democratic decline would weaken Western efforts within these institutions to advance issues such as Internet freedom and the responsibility to protect. In the case of Internet governance, for example, Western democracies support an open, largely private, global Internet. Autocracies, in contrast, promote state control over the Internet, including laws and other mechanisms that facilitate their ability to censor and persecute dissidents. Already many autocracies, including Belarus, China, Iran, and Zimbabwe, have coalesced in the “Likeminded Group of Developing Countries” within the United Nations to advocate their interests.

Within the IMF and World Bank, autocracies—along with other developing nations—seek to water down conditionality or the reforms that lenders require in exchange for financial support. If successful, diminished conditionality would enfeeble an important incentive for governance reforms. In a more extreme scenario, the rising influence of autocracies could enable these countries to bypass the IMF and World Bank all together. For example, the Chinese-created Asian Infrastructure and Investment Bank and the BRICS Bank—which includes Russia, China, and an increasingly authoritarian South Africa—provide countries with the potential to bypass existing global financial institutions when it suits their interests. Authoritarian-led alternatives pose the risk that global economic governance will become [fragmented and less effective](http://www.tandfonline.com/doi/abs/10.1080/00396338.2016.1161899?journalCode=tsur20#.V2H3MRbXgdI).

Violence and instability would also likely increase if more democracies give way to autocracy. [International relations literature](https://www.foreignaffairs.com/articles/china/1995-05-01/democratization-and-war) tells us that democracies are less likely to fight wars against other democracies, suggesting that interstate wars would rise as the number of democracies declines. Moreover, within countries that are already autocratic, additional movement away from democracy, or an “authoritarian hardening,” would increase global instability. Highly repressive autocracies are the most likely to experience state failure, as was the case in the Central African Republic, Libya, Somalia, Syria, and Yemen. In this way, democratic decline would significantly strain the international order because rising levels of instability would exceed the West’s ability to respond to the tremendous costs of peacekeeping, humanitarian assistance, and refugee flows.

Finally, widespread democratic decline would contribute to rising anti-U.S. sentiment that could fuel a global order that is increasingly antagonistic to the United States and its values. Most autocracies are highly suspicious of U.S. intentions and view the creation of an external enemy as an effective means for boosting their own public support. Russian president Vladimir Putin, Venezuelan president Nicolas Maduro, and Bolivian president Evo Morales regularly accuse the United States of fomenting instability and supporting regime change. This vilification of the United States is a convenient way of distracting their publics from regime shortcomings and fostering public support for strongman tactics.

Since 9/11, and particularly in the wake of the Arab Spring, Western enthusiasm for democracy support has waned. Rising levels of instability, including in Ukraine and the Middle East, fragile governance in Afghanistan and Iraq, and sustained threats from terrorist groups such as ISIL have increased Western focus on security and stability. U.S. preoccupation with intelligence sharing, basing and overflight rights, along with the perception that autocracy equates with stability, are trumping democracy and human rights considerations.

While rising levels of global instability explain part of Washington’s shift from an historical commitment to democracy, the nature of the policy process itself is a less appreciated factor. Policy discussions tend to occur on a country-by-country basis—leading to choices that weigh the costs and benefits of democracy support within the confines of a single country. From this perspective, the benefits of counterterrorism cooperation or access to natural resources are regularly judged to outweigh the perceived costs of supporting human rights. A serious problem arises, however, when this process is replicated across countries. The bilateral focus rarely incorporates the risks to the U.S.-led global order that arise from widespread democratic decline across multiple countries.

Many of the threats to the current global order, such as China’s rise or the diffusion of power, are driven by factors that the United States and West more generally have little leverage to influence or control. Democracy, however, is an area where Western actions can affect outcomes. Factoring in the risks that arise from a global democratic decline into policy discussions is a vital step to building a comprehensive approach to democracy support. Bringing this perspective to the table may not lead to dramatic shifts in foreign policy, but it would ensure that we are having the right conversation.

# Case

## FW

### 1NC – Overview

#### Overview: New 2n arguments to 1nc blips because they can be interpreted and extrapolated in multiple ways – if you don’t understand every part of the 1ac after the 1ac then allow them.

#### 1] Motivation collapses – the only way to determine desires is from pain and pleasures so their offense needs my framework

#### 2] Alienation is wrong – it assumes a constant identity and perspective but subjectivity constantly changing means only pain and pleasure can guide morality in all circumstances

## Adv

### 1NC – Offense

#### Strikes alienate the worker by homogenizing interests and sparking countermobilization.

Grant and Wallace 91 [Don Sherman Grant; Ohio State University; Michael Wallace; Indiana University; “Why Do Strikes Turn Violent?” University of Chicago Press; March 1991; <https://www.jstor.org/stable/pdf/2781338.pdf?refreqid=excelsior%3Aca3144a9ae9e4ac65e285f2c67451ffb>] Justin

\*\*RM = Resource-Mobilization, or Strikes

3. Violent tactics.-Violent tactics are viewed by RM theorists exclu- sively as purposeful strategies by challengers for inciting social change with little recognition of how countermobilization strategies of elites also create violence. The role of elite counterstrategies has been virtually ig- nored in research on collective violence. Of course, history is replete with examples of elites' inflicting violence on challenging groups with the full sanction of the state. Typically, elite-sponsored violence occurs when the power resources and legal apparatus are so one-sidedly in the elites' favor that the outcome is never in doubt. In conflicts with weak insiders, elites may not act so openly unless weak insiders flaunt the law. Typically, elite strategies do not overtly promote violence but rather provoke violence by the other side in hopes of eliciting public condemnation or more vigorous state repression of challenger initiatives. This is a critical dynamic in struggles involving weak insiders such as unions. In these cases, worker violence, even when it appears justified, erodes public support for the workers' cause and damages the union's insider status.

4. Homogeneity and similarity.-Many RM theorists incorrectly as- sume that members of aggrieved groups are homogeneous in their inter- ests and share similar positions in the social structure. This (assumed) homogeneity of interests is rare for members of outsider groups and even more suspect for members of weak-insider groups. Indeed, groups are rarely uniform and often include relatively advantaged persons who have other, more peaceful channels in which to pursue their goals. Internal stratification processes mean that different persons have varying invest- ments in current structural arrangements, in addition to their collective interest in affecting social change. Again, these forces are especially prev- alent for weak insiders: even the group's lowest-status members are likely to have a marginal stake in the system; high-status members are likely to have a larger stake and, therefore, less commitment to dramatic change in the status quo.

Internal differences may lead to fragmentation of interests and lack of consensus about tactics, especially tactics suggesting violent confronta- tion. While group members share common grievances, individual mem- bers may be differentially aggrieved by the current state of affairs or differentially exposed to elite repression. White's (1989) research on the violent tactics of the Irish Republican Army shows that working-class members and student activists, when compared with middle-class partici- pants, are more vulnerable to state-sponsored repression, more likely to be available for protest activities, and reap more benefits from political violence. When we apply them to our study of strike violence, we find that differences in skill levels are known to coincide with major intraclass 1120 Strikes divisions in material interests (Form 1985) and are likely to coincide with the tendency for violent action. For instance, skilled-craft workers, who are more socially and politically conservative than unskilled workers, are less likely to view relations with employers as inherently antagonistic and are prone to separate themselves from unskilled workers, factors that should decrease their participation in violence.