## T

### Interp/Predictability---1NC

#### To “strengthen” means to make stronger that which already exists.

Hou 19 – Policy Analyst, Gov. of Canada. M.A., International Affairs, Graduate Institute of International and Development Studies in Geneva.

Angela Min Yi Hou, Julia Tops, Cindy Xinying Ou, “2018 Charlevoix G7 Final Compliance Report,” University of Toronto Munk School of Global Affairs and Public Policy, 08-23-2019, https://g7.utoronto.ca/evaluations/2018compliance-final/17-2018-G7-final-compliance-energysec.pdf

The first part of the commitment specifies that energy security must be strengthened collectively through ongoing action. “Strengthen” is defined as “to make or become stronger,” which indicates that the G7 members must act to reinforce and enhance existing energy security-related measures. “Collective” reflects that this commitment binds G7 members to strengthen collective energy security through collaboration with other G7 members or international organizations. Examples of actions that count towards compliance for the first portion of the commitment include contributing to improving the global energy security framework, bilateral or multilateral energy security treaties; addressing energy security issues in the Global South; and increasing international energy transparency. Actions taken domestically or independently of other countries or international organizations do not count towards compliance. Moreover, the word “ongoing” reflects that the G7 member must act in a way that demonstrates consistent, continuous action or long-term consideration.

#### Affs can strengthen CBR by changing the level, flexibility, coordination, or enforcement.

Domash 21 – Economic researcher.

Alex Domash, “Returning Power To American Workers And Raising Wages,” Harvard Kennedy School, Written in fulfillment of the requirements for the degree of Master in Public Administration in International Development, John F. Kennedy School of Government, Harvard University, March 2021, https://www.hks.harvard.edu/sites/default/files/centers/cid/files/publications/CID\_Wiener\_Inequality%20Award%20Research/Policy%20Report\_Alex%20Domash%20(1-A).pdf

Features of collective bargaining systems

Collective bargaining systems across OECD countries have four principle components, summarized in the box below (modified from OECD (2019): “Negotiating our way up”):

Four main features of collective bargaining systems

1. Level of bargaining – does collective bargaining take place at the firm, sectoral, or national level?

2. Amount of flexibility – how much room is there for firms to derogate from higher-level agreements or opt-out of bargaining agreements in case of economic hardship?

3. Extent of coordination – is there synchronization between different bargaining units (e.g. do sectors coordinate with each other on wage targets in sectoral systems)?

4. Enforcement capacity – how likely is punishment if a party deviates from the terms set in collective agreements?

While broad-based bargaining agreements are common in nearly all continental European countries, there is significant variation in how, and to what extent, firm-level agreements supplement higher-level agreements. In some countries, such as the Scandinavian countries, sectoral agreements only define broad frameworks, but leave significant scope for bargaining at the firm level. In other countries, such as Germany and Austria, sectoral agreements play an important role, but still allow firms to opt-out of certain agreements and renegotiate at the firmlevel. In a third set of countries, such as Italy and Slovenia, sectoral agreements largely set the rules, and don’t allow firms much flexibility (OECD, 2019).

The majority of OECD countries (not including the United States) use some combination of firm-level and higher-level agreements to extend collective bargaining coverage to workers (Figure 10). Two key components that influence how sectoral and firm-level agreements interact are: 1) the favorability principle, and 2) derogations. The favorability principle, which is common in most continental European countries, states that lower-level agreements can only improve higher-level agreements. The second key component, derogations, allow firms to opt-out of higherlevel conditions, either through general opening clauses, or temporary opt-out clauses in the case of an economic hardship. Germany effectively used temporary opt-out clauses to support firms during the 2008-2009 financial crisis (Dustmann et al, 2014).

[Figure 10 Omitted]

Economic theory suggests that there is an important trade-off between flexibility and coordination among these different types of bargaining systems. In an enterprise bargaining system (e.g. the United States system), there is less wage rigidity at the firm-level, which gives firms more flexibility to respond to firm-specific economic shocks and more autonomy to link worker performance/productivity to wages. In a sectoral or centralized bargaining system, theory suggests that there is a weaker link between productivity and wages, but more macroeconomic resiliency, since wage-setters can recognize broader national interests, and entire sectors can have a coordinated response in the aftermath of an economic downturn.

### Interp/Predictability---2NC

#### There’s a clear legal distinction between the scope and strength of a right.

Schauer 82 – Distinguished Professor of Law, UVA Law, and Stanton Professor of the First Amendment, Kennedy School of Govt. at Harvard

Frederick F. Schauer, David and Mary Harrison Distinguished Professor of Law at the University of Virginia School of Law and Frank Stanton Professor of the First Amendment at Harvard University's Kennedy School of Government, *Free Speech: A Philosophical Enquiry*,(New York: Cambridge UPress), 1982, at pp. 134-136

It would seem therefore relatively uncontroversial to assert that freedom of speech is not and cannot be an absolute right. This broad statement, however, must be tempered by two highly per- tinent qualifications. First, it is important to recognize not only the distinction but also the relationship between the strength of a right and the scope of a right. This terminology is but another way of expressing the distinction between coverage and protection that I discussed earlier, but the terms ‘strength’ and ‘scope’ are particularly illuminating here. The scope of a right is its range, the activities it reaches. Rights may be narrow or broad in scope. Defining the scope of free speech as freedom of self-expression is very broad, defining it as freedom of communication substantially narrower, and defining it as freedom of political communication narrower still. The strength of a right is its ability to overcome opposing interests (or values, or other rights) within its scope. This distinc- tion is nothing new, although it is often ignored in popular dialogue about freedom of speech. The point I wish to make here is that although the scope of a right and the strength of that right are not joined by a strict logical relationship, they most often occur in inverse proportion to each other. The broader the scope of the right, the more likely it is to be weaker, largely because widening the scope increases the likelihood of conflict with other interests, some of which may be equally or more important. Conversely, rights that are narrower in scope are more easily taken to be very strong within that narrow scope. It is much easier, for example, to say that there is a very strong, almost absolute, right to purely verbal political speech than it would be to say that a right to self- expression can be as strong. Any examination of rights must first recognize this interrelationship and then try to preserve someequilibrium between scope and strength. This is easiest but not necessarily best at the extremes. Meiklejohn, for example, definedfreedom of speech as freedom of political speech by those without profit motives. Within this narrow scope it was easier for him to define the right as absolute (which he did) than it would have been had he broadened the scope to include other forms of com- munication. Yet the more narrowly we define a right, the more likely we are to exclude from coverage those acts that may fall within the justification for recognizing the right. Freedom of speech as freedom of political deliberation gains simple absolutism at the cost of excluding much that a deep theory of the Free Speech Prin- ciple would argue for including.

#### There’s consensus for the idea that strengthen requires pre-existence.

Mykkänen 17 – Faculty of Law, Master's Programme in Law Support.

Esa Mykkänen, “EXPULSION TO TORTURE – THE PRINCIPLE OF NON-REFOULEMENT AND INTERNATIONAL HUMAN RIGHTS LAW,” Master’s Thesis, University of Helsinki, Faculty of Law, 2017, https://core.ac.uk/download/pdf/84364852.pdf

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (later referred to as CAT) was adopted by the United Nations on 1984 and came into force on 1987. Currently there are 159 States Parties to CAT.175 According to the preamble of CAT its aim is to strengthen the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world. The term “strengthen” clearly indicates that torture is already outlawed and fought against in international law but not sufficiently176 . CAT consists of three parts and 33 articles, of which articles 1 – 16 contain a definition of torture and obligations for States parties. The second part (articles 17 – 24) concerns rules regarding implementation of the Convention and its supervisory mechanism while the final part (articles 25 – 33) consists of final treaty clauses. Like the Refugee Convention and ECHR, CAT is a human rights treaty that formulates obligations for States parties to it, and those obligations can be seen as the rights of an individual177 . CAT is a universal treaty that is not regionally limited.

#### Plus, contextual intent to distinguish.

NELP 23 – National Employment Law Project

National Employment Law Project, Economic Policy Institute, “2023-2024 State & Local Policy Agenda,” 2023-2024, https://www.nelp.org/app/uploads/2023/11/FINAL-2023-2024-State-and-Local-Policy-Agenda.pdf

In states that ban public-sector bargaining or lack comprehensive collective bargaining laws, policymakers should move swiftly to enact them. Governors and legislatures should also use their powers to restore workers’ rights in states where a decade of extreme anti-union legislation has weakened formerly strong public-sector bargaining laws, resulting in suppressed wages and eroded job quality. Colorado, Maryland, New Mexico, Nevada, and Virginia have taken recent steps to establish, expand, or strengthen collective bargaining rights for some public-sector workers. These trends signal positive momentum in the right direction, though there is still much left to do across the country.

### AT: Plain Meaning---2NC

#### Plus, contextual intent to distinguish.

NELP 23 – National Employment Law Project

National Employment Law Project, Economic Policy Institute, “2023-2024 State & Local Policy Agenda,” 2023-2024, https://www.nelp.org/app/uploads/2023/11/FINAL-2023-2024-State-and-Local-Policy-Agenda.pdf

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### AT: Edwards---2NC

#### Doesn’t speak to the question of whether can apply to new workers and concedes fed workers excluded now

Harry Edwards 85. Circuit Judge for the District of Columbia Circuit. Amalgamated Transit Union Int'l v. Donovan, 1985 U.S. App. 1985. Lexis.

[\*950] In sum, Congress struck a delicate balance in section 13(c). The statute provides that state law should govern the labor relations of public transit authorities and their employees, but it conditions federal transit aid, in part, on the continuation of collective bargaining rights. In setting out those rights, Congress chose not to incorporate the entire structure and requirements of the NLRA into section 13(c), for to do so would force states to choose between federal transit aid and their exclusion from the coverage of the NLRA. On the other hand, Congress made it clear that federal labor policy would dictate the substantive meaning of collective bargaining for purposes of section 13(c). "Good faith" bargaining, to a point of impasse if necessary, over wages, hours and other terms and conditions of employment has always been the essence of federally-defined collective bargaining rights; indeed, excluding the federal sector, it is the almost universally recognized definition of collective bargaining in the United States.

### AT: Kitagawa---2NC

#### Predictability. ‘Strengthen collective bargaining’ can mean to create.

Kota Kitagawa & Arata Uemura 13. M.A. Candidate at Kyoto University. J.D. Candidate at Kyoto University. “General statutory minimum wage debate in Germany: Degrees of political intervention in collective bargaining autonomy.” *The Kyoto Economic Review*, Vol. 82, No. 1/2, pp. 59-91. https://www.jstor.org/stable/24898512

Moreover, outside the focus of this article—namely, the process of con flict and compromise, until the 2013 coalitional agreement—the legislative bill containing general minimum-wage law was considered an act that would "strengthen the collective bargaining autonomy." Concrete definitions of the term "strengthen" mainly connote the creation of a framework of collective bargaining that would set the general minimum wage and abolish the requirement of "50%" of AVE in TVG.15 In this act that would strengthen collective bargaining autonomy, the state should not be seen as a "decision-making entity" that would prejudice autonomy (Yamamoto, 2014, p. 37),36 but rather a "capacitating framework" that would enable employers and employees to revamp a loose-bottomed system of industrial relations. Therefore, we consider the act a revamped legal foundation with respect to autonomy.

### Limits---Exemptions---2NC

#### There are tons of categories of workers exempted from the NLRA now.

CLJE 24 – Harvard Law School’s hub for labor policy research and innovation. Executive Director, Sharon Block, is a professor at Harvard Law School with a J.D. from Georgetown.

CLJE:Lab, “Building Worker Power in Cities & States: Workers Excluded from the NLRA,” Center for Labor and a Just Economy, Harvard Law School, 09/01/2024, https://clje.law.harvard.edu/publication/building-worker-power-in-cities-states/workers-excluded-from-the-nlra/

The NLRA has been criticized for excluding large categories of workers, some of whom are those most in need of labor law protections. The statute explicitly excludes public employees,1 supervisors, agricultural workers, domestic workers, independent contractors, employees covered by the Railway Labor Act, and “any individual employed by his parent or spouse.”2 Numerous other workers are partially or completely excluded from the Act’s coverage, including rehabilitation workers, incarcerated workers, and certain student workers. And while immigration status by itself does not preclude coverage under the Act, undocumented workers are not entitled to all of its remedies.

#### Literally any person who’s not an employee is currently exempted. They make each of those affs.

Legal Information Institute, Cornell Law.

“29 CFR § 471.4 - What employers are not covered under this part?” Legal Information Institute, Cornell Law School, no date, https://www.law.cornell.edu/cfr/text/29/471.4

§ 471.4 What employers are not covered under this part?

(a) The following employers are excluded from the definition of “employer” in the National Labor Relations Act (NLRA), and are not covered by the requirements of this part:

(1) The United States or any wholly owned Government corporation;

(2) Any Federal Reserve Bank;

(3) Any State or political subdivision thereof;

(4) Any person subject to the Railway Labor Act;

(5) Any labor organization (other than when acting as an employer); or

(6) Anyone acting in the capacity of officer or agent of such labor organization.

(b) Additionally, employers exclusively employing workers who are excluded from the definition of “employee” under the NLRA are not covered by the requirements of this part. Those excluded employees are employed:

(1) As agricultural laborers;

(2) In the domestic service of any family or person at his home;

(3) By his or her parent or spouse;

(4) As an independent contractor;

(5) As a supervisor as defined under the NLRA;

(6) By an employer subject to the Railway Labor Act; or

(7) By any other person who is not an employer as defined in the NLRA

### Limits---Subjects---2NC

#### Here are just some of those subjects.

NECA 24 – National Electrical Contractors Association.

“Navigating Mandatory, Permissive & Illegal Subjects of Bargaining,” Labor Relations Bulletin, National Electrical Contractors Association, 02-23-2024, https://www.necanet.org/docs/default-source/labor-relations-conference/labor-relations-bulletins/lrbulletin-navigatingmandatory-permissive-illegalsubjects-ofbargaining.pdf?sfvrsn=db27f3a2\_3

Permissive: The Two-Way Street

• Optional topics that parties may choose to include in negotiations. Offering flexibility, the topics of discussion can be things like training programs, work rules, and other items.

• It’s a two-way street – if one party isn’t interested, the other can’t force the issue. The focus here should be on mutual benefit.

• Either party may choose to keep it on the table, but they cannot force such an issue to impasse.

• A strike or lockout over a permissive subject would be an unprotected activity, and unilateral implementation would be illegal.

• Examples of permissive subjects include:

• Negotiating ground rules

• Supervisor’s conditions of employment

• Interest arbitration

• Settlement of a ULP charge

• Pensions for retired members

• Use of the Union label/flag

• Internal union matters (steward appointment, union dues, officer structure, bylaws)

• Recognition clause defining the bargaining unit

• Either party’s bargaining committee composition

• Composition of the employer’s Board of Directors or Trustees

• Demanding that a union settle arbitrable grievances filed under the previous contract.

#### Here are more. This is non-exhaustive!

FCA 25 – Finishing Contractors International; represents the largest community of finishing contractors in North America.

FCA, “Understanding and Operationalizing Mandatory, Permissive and Illegal Subjects of Bargaining,” Finishing Contractors International, 03-28-2025, https://finishingcontractors.org/do-we-have-to-negotiate-that-understanding-and-operationalizing-mandatory-permissive-and-illegal-subjects-of-bargaining/

Mandatory Subjects

Mandatory subjects of bargaining include:

Rates of pay and wages (e.g., shift differentials, bonuses, pensions, health and welfare plans, meals and discounts, profit sharing, etc.)

Hours of work (e.g., daily overtime, weekly overtime, etc.)

Other terms and conditions of employment (e.g., seniority, plant rules, work assignments, health testing, drug testing, union security, no strike/no lockout language, non-discrimination, etc.).

Again, parties have a statutory obligation to bargain over mandatory subjects of bargaining. The NLRA does not require agreement, of course, but the contractor must engage in bargaining over mandatory subjects of bargaining.

Permissive Subjects

Permissive subjects are matters that the parties are free to bargain over, but have no obligation to do so. Permissive subjects of bargaining include the following:

Definition of the bargaining unit

Union recognition clauses converting a Section 8(f) relationship to a Section 9(a) relationship

The inclusion of supervisors in the bargaining unit

Internal union affairs

Legal liability clauses (e.g., a provision fixing liability for violation of a no-strike clause)

Industry promotion funds

Interest arbitration (such as Article X, Section 8)

Settlement of unfair labor practice charges

Deductions for political action leagues

Union label clauses

Clauses prohibiting the arbitration of a dispute in the event the union has filed charges over the same issue with any state or federal agency

Illegal Subjects

Illegal bargaining subjects include:

Provisions for a closed shop

A provision for a hiring hall giving preference to union members

“Hot cargo” clauses in violation of Section 8(e) of the NLRA, such as subcontracting restrictions concerning non-jobsite work that require the subcontractor to be signatory to a labor agreement.

### AT: Func Limits---States CP---2NC

#### And, preemption.

USCCEPD 21 – Regularly interacts with Congressional staff, numerous Federal agencies and many national coalitions to shape national labor policy.

United States Chamber of Commerce Employment Policy Division, “Bait and Switch: The False Promise of New “Representation” Models,” US Chamber Documents, March 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=5136825

Machinists preemption applies where the NLRA neither protects nor prohibits the activity in question, but national labor policy requires that the activity should be wholly unregulated and left to the free play of economic forces.120 By excluding independent contractors in NLRA, Congress made a deliberate choice to exclude them from the field of collective bargaining and treat independent contractors as businesses governed by market forces, rather than as employees able to collectively bargain. Any bargaining statute that provides a right for independent contractors to organize, thus, is likely Machinists preempted

#### And, antitrust.

USCCEPD 21 – Regularly interacts with Congressional staff, numerous Federal agencies and many national coalitions to shape national labor policy.

United States Chamber of Commerce Employment Policy Division, “Bait and Switch: The False Promise of New “Representation” Models,” US Chamber Documents, March 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=5136825