## Before the Law

## Workers

## Pre-Empt

### No CP’s---2AC

### Uncondo---2AC

### No 2NC Args---2AC

### A/O---2AC

#### Strike 2: God affirms. Encyclical proves.

Pope Benedict XVI 9 – former Pope Emeritus.

“Encyclical asks unions to protect workers beyond their membership,” Catholic Review, July 8, 2009, https://www.archbalt.org/encyclical-asks-unions-to-protect-workers-beyond-their-membership/.

The pope reached out to labor unions in his third encyclical, “Caritas in Veritate” (“Charity in Truth”), released July 7.

“The protection of these workers, partly achieved through appropriate initiatives aimed at their countries of origin, will enable trade unions to demonstrate the authentic ethical and cultural motivations that made it possible for them, in a different social and labor context, to play a decisive role in development,” he said in the encyclical.

Since the church’s traditional teaching makes a valid distinction between the roles of trade unions and politics, it is correct for unions to identify civil society as the proper setting for their activity of defending and promoting labor, especially among exploited and unrepresented workers often overlooked by the general public, the pope said.

In the current global market, some businesses in rich countries have outsourced jobs to poor countries where the work force wages are low, and in the process have exploited workers in that country while driving down prices in their own nations, the pope said.

“These processes have led to a downsizing of social security systems as the price to be paid for seeking greater competitive advantage in the global market, with consequent grave danger for the rights of workers, for fundamental human rights and for the solidarity associated with the traditional forms of the social state,” he said. “Systems of social security can lose the capacity to carry out their task, both in emerging countries and in those that were among the earliest to develop, as well as in poor countries.”

The pope said unions often face obstacles in trying to represent workers, “partly because governments, for reasons of economic utility, often limit the freedom or the negotiating capacity of labor unions.” He said that, even more today than in the past, there was an urgent need for new forms of cooperation at the international and local levels for the promotion of associations that can defend workers’ rights.

#### That’s a d-rule. The only paradigm that explains intrinsic human worth is the existence of a transcendent, Christian God.

Evans and Baggett 22 – University Professor of Philosophy and Humanities at Baylor with a Ph.D. from Yale University in Philosophy.

C. Stephen Evans, David Baggett, Professor of philosophy at Liberty University, "Moral Arguments for the Existence of God,” Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/entries/moral-arguments-god/#ArgHumDigWor

5. Arguments from Human Dignity or Worth

Many philosophers find Immanuel Kant’s moral philosophy still offers a fruitful approach to ethics. Of the various forms of the “categorical imperative” that Kant offers, the formula that regards human beings as “ends in themselves” is especially attractive: “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end” (Kant 1785 [1964], 96). Many contemporary moral philosophers influenced by Kant, such as Christine Korsgaard (1996), see Kant as offering a “constructivist” metaethical position. Constructivism is supposed to offer a “third way” between moral realism and subjectivist views of morality. Like subjectivists, constructivists want to see morality as a human creation. However, like moral realists constructivists want to see moral questions as having objective answers. Constructivism is an attempt to develop an objective morality that is free of the metaphysical commitments of moral realism.

It is, however, controversial whether Kant himself was a constructivist in this sense. One reason to question whether this is the right way to read Kant follows from the fact that Kant himself did not see morality as free from metaphysical commitments. For example, Kant thought that it would be impossible for someone who believed that mechanistic determinism was the literal truth about himself to believe that he was a moral agent, since morality requires an autonomy that is incompatible with determinism. To see myself as a creature who has the kind of value Kant calls “dignity” I must not see myself merely as a machine-like product of the physical environment. Hence Kant thought that it was crucial for morality that his Critical Philosophy had shown that the deterministic perspective on humans is simply part of the “phenomenal world” that is the object of scientific knowledge, not the “noumenal reality” that it would be if some kind of scientific realism were the true metaphysical view. When we do science we see ourselves as determined, but science tells us only how the world appears, not how it really is. Recognizing this fact suggests that when Kant posits that humans have this intrinsic value he calls dignity, he is not “constructing” the value humans have, but recognizing the value beings of a certain kind must have. Humans can only have this kind of value if they are a particular kind of creature. Whether Kant himself was a moral realist or not, there are certainly elements in his philosophy that push in a realist direction.

If the claim that human persons have a kind of intrinsic dignity or worth is a true objective principle and if it provides a key foundational principle of morality, it is well worth asking what kinds of metaphysical implications the claim might have. This is the question that Mark Linville (2009, 417–446) pursues in the second moral argument he develops. Linville begins by noting that one could hardly hold that “human persons have intrinsic dignity” could be true if human persons do not exist. Clearly, some metaphysical positions do include a denial of the existence of human persons, such as forms of Absolute Monism which hold that only one Absolute Reality exists. However, it also seems to be the case that some forms of Scientific Naturalism are committed to the denial of “persons as substantive selves that essentially possess a first-person point of view” (See Dennett 2006, 107). Daniel Dennett, for example, holds that persons will not be part of the ultimately true scientific account of things. Dennett holds that to think of humans as persons is simply to adopt a certain “stance” toward them that he calls the “intentional stance,” but it is clear that the kind of picture of humans we get when we think of them in this way does not correspond with their intrinsic metaphysical properties. It is not clear how systems towards which we adopt an “intentional stance” could be truly autonomous and thus have the kind of value Kant believes human persons have.

The argument from human dignity could be put into propositional form as follows:

Human persons have a special kind of intrinsic value that we call dignity.

The only (or best) explanation of the fact that humans possess dignity is that they are created by a supremely good God in God’s own image.

Probably there is a supremely good God.

A naturalist may want to challenge premise (2) by finding some other strategy to explain human dignity. Michael Martin (2002), for example, has tried to suggest that moral judgments can be analyzed as the feelings of approval or disapproval of a perfectly impartial and informed observer. Linville (2009) objects that it is not clear how the feelings of such an observer could constitute the intrinsic worth of a person, since one would think that intrinsic properties would be non-relational and mind-independent. In any case, Linville notes that a “Euthyphro” problem lurks for such an ideal observer theory, since one would think that such an observer would judge a person to be intrinsically valuable because the person has intrinsic value.

Another strategy that is pursued by constructivists such as Korsgaard is to link the value ascribed to humans to the capacity for rational reflection. The idea is that insofar as I am committed to rational reflection, I must value myself as having this capacity, and consistently value others who have it as well. A similar strategy is found in Wielenberg’s form of ethical non-naturalism, since Wielenberg argues that it is necessarily true that any being with certain reflective capacities will have moral rights (Wielenberg, 2014, chapter 4). It is far from clear that human rationality provides an adequate ground for moral rights, however. Many people believe that young infants and people suffering from dementia still have this intrinsic dignity, but in both cases there is no capacity for rational reflection.

Some support for this criticism of the attempt to see reason as the basis of the value of humans can be found in Nicholas Wolterstorff’s recent work on justice (2007, especially Ch. 8). Wolterstorff in this work defends the claim that there are natural human rights, and that violating such rights is one way of acting unjustly towards a person. Why do humans have such rights? Wolterstorff says these rights are grounded in the basic worth or dignity that humans possess. When I seek to torture or kill an innocent human I am failing to respect this worth. If one asks why we should think humans possess such worth, Wolterstorff argues that the belief that humans have this quality was not only historically produced by Jewish and Christian conceptions of the human person, but even now cannot be defended apart from such a conception. In particular, he argues that attempts to argue that our worth stems from some excellence we possess such as reason will not explain the worth of infants or those with severe brain injuries or dementia.

Does a theistic worldview fare better in explaining the special value of human dignity? In a theistic universe God is himself seen as the supreme good. Indeed, theistic Platonists usually identify God with the Good. If God is himself a person, then this seems to be a commitment to the idea that personhood itself is something that must be intrinsically good. If human persons are made in God’s image, as both Judaism and Christianity affirm, then it would seem to follow that humans do have a kind of intrinsic value, just by way of being the kind of creatures they are.

#### Fulfilled prophecies prove.

Williams 15 – Computer Systems at the University of Newcastle citing Peter Stoner, Chairman of the Department of Mathematics and Astronomy at Pasadena City College.

David Williams, Danny Chestnut, “Mathematical Probability that Jesus is the Christ,” 2015, https://www.dannychesnut.com/Bible/Prophecy/Mathematical%20Probability%20that%20Jesus%20is%20the%20Christ.htm

The reason why prophecy is an indication of the divine authorship of the Scriptures, and hence a testimony to the trustworthiness of the Message of the Scriptures, is because of the minute probability of fulfillment. Anyone can make predictions. Having those prophecies fulfilled is vastly different. In fact, the more statements made about the future, and the more the detail, then the less likely the precise fulfillment will be. For example, what's the likelihood of a person predicting today the exact city in which the birth of a future leader would take place, well into the 21st century? This is indeed what the prophet Micah did 700 years before the Messiah. Further, what is the likelihood of predicting the precise manner of death that a new, unknown religious leader would experience, a thousand years from now - a manner of death presently unknown, and to remain unknown for hundreds of years? Yet, this is what David did in 1000 B.C. Again, what is the likelihood of predicting the specific date of the appearance of some great future leader, hundreds of years in advance? This is what Daniel did, 530 years before Christ.

If one were to conceive 50 specific prophecies about a person in the future, whom one would never meet, just what's the likelihood that this person will fulfill all 50 of the predictions? How much less would this likelihood be if 25 of these predictions were about what other people would do to him, and were completely beyond his control?

For example, how does someone "arrange" to be born in a specific family?

How does one "arrange" to be born in a specified city, in which their parents don't actually live? How does one "arrange" their own death - and specifically by crucifixion, with two others, and then "arrange" to have their executioners gamble for His clothing (John 16:19; Psalms 22:18)? How does one "arrange" to be betrayed in advance? How does one "arrange" to have the executioners carry out the regular practice of breaking the legs of the two victims on either side, but not their own? Finally, how does one "arrange" to be God? How does one escape from a grave and appear to people after having been killed?

Indeed, it may be possible for someone to fake one or two of the Messianic prophecies, but it would be impossible for any one person to arrange and fulfill all of these prophecies.

John Ankerberg relates the true story of how governments use prearranged identification signs to identify correct agents:

David Greenglass was a World War II traitor. He gave atomic secrets to the Russians and then fled to Mexico after the war. His conspirators arranged to help him by planning a meeting with the secretary of the Russian ambassador in Mexico City. Proper identification for both parties became vital. Greenglass was to identify himself with six prearranged signs. These instructions had been given to both the secretary and Greenglass so there would be no possibility of making a mistake. They were: (1) once in Mexico City, Greenglass was to write a note to the secretary, signing his name as "I. JACKSON"; (2) after three days he was to go to the Plaza de Colon in Mexico City and (3) stand before the statue of Columbus, (4) with his middle finger placed in a guide book. In addition, (5) when he was approached, he was to say it was a magnificent statue and that he was from Oklahoma. (6) The secretary was to then give him a passport.

These six prearranged signs worked. Why? With six identifying characteristics it was impossible for the secretary not to identify Greenglass as the proper contact (John Ankerberg, John Weldon and Walter Kaiser, "The Case for Jesus The Messiah", Melbourne: Pacific College Study Series, 1994, 17-18).

How true, then, it must be that Jesus of Nazareth is the Messiah, if he had 456 identifying characteristics well in advance, and fulfilled them all! In fact, what does the science of probability make of this?

The science of probability attempts to determine the chance that a given event will occur. The value and accuracy of the science of probability has been well established beyond doubt - for example, insurance rates are fixed according to statistical probabilities.

Professor Emeritus of Science at Westmont College, Peter Stoner, has calculated the probability of one man fulfilling the major prophecies made concerning the Messiah. The estimates were worked out by twelve different classes representing some 600 university students. The students carefully weighed all the factors, discussed each prophecy at length, and examined the various circumstances which might indicate that men had conspired together to fulfill a particular prophecy. They made their estimates conservative enough so that there was finally unanimous agreement even among the most skeptical students. However, Professor Stoner then took their estimates, and made them even more conservative. He also encouraged other skeptics or scientists to make their own estimates to see if his conclusions were more than fair. Finally, he submitted his figures for review to a committee of the American Scientific Affiliation. Upon examination, they verified that his calculations were dependable and accurate in regard to the scientific material presented (Peter Stoner, Science Speaks, Chicago: Moody Press, 1969, 4).

For example, concerning Micah 5:2, where it states the Messiah would be born in Bethlehem Ephrathah, Stoner and his students determined the average population of BETHLEHEM from the time of Micah to the present; then they divided it by the average population of the earth during the same period.

They concluded that the chance of one man being born in Bethlehem was one in 300,000, (or one in 2.8 x 10^5 - rounded),

After examining only eight different prophecies (Idem, 106), they conservatively estimated that the chance of one man fulfilling all eight prophecies was one in 10^17.

To illustrate how large the number 10^17 IS (a figure with 17 zeros), Stoner gave this illustration :

If you mark one of ten tickets, and place all the tickets in a hat, and thoroughly stir them, and then ask a blindfolded man to draw one, his chance of getting the right ticket is one in ten. Suppose that we take 10^17 silver dollars and lay them on the face of Texas. They'll cover all of the state two feet deep. Now mark one of these silver dollars and stir the whole mass thoroughly, all over the state. Blindfold a man and tell him that he can travel as far as he wishes, but he must pick up one silver dollar and say that this is the right one. What chance would he have of getting the right one? Just the same chance that the prophets would've had of writing these eight prophecies and having them all come true in any one man, from their day to the present time, providing they wrote them in their own wisdom (Idem, 106-107).

In financial terms, is there anyone who would not invest in a financial venture if the chance of failure were only one in 10^17? This is the kind of sure investment we're offered by god for faith in His Messiah.

From these figures, Professor Stoner, concludes the fulfillment of these eight prophecies alone proves that God inspired the writing of the prophecies (Idem, 107) - the likelihood of mere chance is only one in 10^17!

Another way of saying this is that any person who minimizes or ignores the significance of the biblical identifying signs concerning the Messiah would be foolish.

But, of course, there are many more than eight prophecies. In another calculation, Stoner used 48 prophecies (Idem, 109) (even though he could have used Edersheim's 456), and arrived at the extremely conservative estimate that the probability of 48 prophecies being fulfilled in one person is the incredible number 10^157. In fact, if anybody can find someone, living or dead, other than Jesus, who can fulfill only half of the predictions concerning the Messiah given in the book "Messiah in Both Testaments" by Fred J. Meldau, the Christian Victory Publishing Company is ready to give a ONE thousand dollar reward! As apologist Josh McDowell says, "There are a lot of men in the universities that could use some extra cash!" (Josh McDowell, Evidence that Demands a Verdict, California: Campus Crusade for Christ, 175).

## Should

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### Settler Colonialism K---2AC

#### Their theory is wrong.

Smithers 22 – Professor of American History and Eminent Scholar in the College of Humanities and Sciences at Virginia Commonwealth University.

Gregory D. Smithers, “Settler Colonialism and Indigenous Americans,” *Oxford Research Encyclopedia*, 18 July 2022, pp. 2-8, https://oxfordre.com/americanhistory/display/10.1093/acrefore/9780199329175.001.0001/acrefore-9780199329175-e-909;jsessionid=BC3B252AD2D665E34C1D8B74156594CE?rskey=cwCpax&result=7.

One historian who has weighed into debate about the utility of settler colonialism in American history is Nancy Shoemaker. In 2015, Shoemaker declared that “settler colonial theory has taken over my field, Native American studies.” Before going on to list twelve forms of colonialism, Shoemaker insisted that “Comparative indigenous histories focused especially on British-descended ‘settler colonies’—Canada, New Zealand, Australia, and the United States—have proliferated. And settler colonial theory is now dogma.”4 Shoemaker’s take on settler colonial studies hints at how a number of leading American historians feel uncomfortable with what they see as the uncritical use of settler colonial theory. This unease stems from a preference for “storytelling” among historians of early colonial America.5 According to Shoemaker and fellow historian Jeffrey Ostler, “history as a field is not theoretically inclined.”6 Moreover, historians of early colonial America question whether a single theoretical model can adequately explain history’s contingencies and messiness. In a separate essay, Ostler writes about the disapproving murmurs that settler colonial frameworks attract among colleagues at conferences and in hallways across the United States. Despite this, Ostler suggests that historians should not casually dismiss settler colonialism, but interrogate it, refine it, and ask questions about it, just as we do with other historical frameworks.7

So, what’s all the fuss about? What is settler colonialism? Settler colonialism is a specific form of colonialism characterized by the “mass transfer” of people to lands they intend to “conquer” and permanently settle.8 Settlement is neither quick nor bloodless; it involves levels of physical violence that can, and do, rise to genocide. If the object of settler colonial violence is to remove the Indigenous people who impede the settler society’s expansion and permanence, then examples of exterminatory violence are not hard to identify in colonial North American history.9 Over time, settlers work to establish “perfect settler sovereignty,” removing any remaining Indigenous challenges to the settler state’s sovereignty and redefining themselves as the “native” inhabitants.10

Admittedly, this is a broad-brushed definition. It nonetheless captures the essence of the metanarrative of settler colonialism. It is a framework that is sometimes reduced to a single phrase: “settlers come to stay.” For historians of the United States, this formulation received its most explicit articulation with the publication of Patrick Wolfe’s 2001 essay, “Land, Labor, and Difference: Elementary Structures of Race.”11 Writing in the American Historical Review, Wolfe, an anthropologist, argued that settler colonialism is “a zero-sum contest over land on which conflicting modes of production could not ultimately coexist.” According to Wolfe, “the primary logic of settler colonialism can be characterized as one of elimination.”12

At the time, Wolfe’s formulation seemed new, neat, and catchy. A generation of scholars, many of them young and still in graduate school when they first read Wolfe’s 2001 essay, latched on to it. But Wolfe had been thinking about settler colonialism for some time. Those labors first came together in his 1999 book Settler Colonialism and the Transformation of Anthropology. In it, Wolfe articulated that now ubiquitous formulation: “settler colonies were (are) premised on the elimination of native societies.”13 Where Wolfe catalyzed the current trajectory of settler colonial studies, Lorenzo Veracini has become one of its most cited theorists. Veracini writes about “transfer” as opposed to Wolfe’s “elimination,” and emphasizes the settler colonial “situation” in contrast to Wolfe’s refences to “structure.”14 But just as Wolfe and Veracini have played leading roles in helping the field of settler colonial studies grow, so too have its critics sharpened their critiques of settler colonialism as an “empirically exhaustive” historical framework.15 Historian Daniel Richter has characterized settler colonialism as a “totalizing” framework that obscures more than it reveals. In the centuries before the American Revolution, Richter sees colonial forms of governance as “incipient,” not hegemonic.16 In the United States, Richter is not alone in suggesting that the diversity of historical experiences in North America since 1492 brings into question the efficacy of settler colonialism as an organizing framework.17

Historicizing North American Colonialism

In his 2019 biography of Walter Ralegh (also spelled Raleigh), historian Alan Gallay reminds us of the historical and theoretical complexity of colonialism in North America. Writing about 16th-and 17th-century English colonialism, Gallay observes the distinction that the English did not talk about settler societies but instead made a distinction between a “plantation” and a “colony.” While both “involved moving groups of people to new lands,” Ralegh and his contemporaries used “plantation” when referring to a settlement that the English Monarch “had a secure claim” to. In contrast, “colonies” existed in places “where sovereignty had yet to be ensured.”18

Gallay’s historical specificity is important. He reminds us of the uncertainties, dynamism, and fluidity that characterized early modern “plantations” and “colonies” in North America— something that distinguishes them from 19th- and 20th-century Anglophone settler colonies. In the 16th and 17th centuries, settlers (a diverse group, often with competing interests) did not automatically look at Indigenous people and think about “eliminating” them. Building on a rich body of thought that went back to the Norman conquest of England, the English in North America might have framed colonization as an opportunity to engage Indigenous communities in a benevolent enterprise, or speak about it as an act of “co-creation” designed to benefit both colonizer and colonized. The English articulated both of these perspectives. The job of the historian is to evaluate the degree to which such rhetoric was genuinely felt or whether it was simply justification for darker motives.19

Positing the need for this type of careful historical analysis is not to say that “eliminationist” forms of physical violence, including genocidal violence, did not occur in early colonial North America.20 It is instead a reminder that the present, much less the future, was anything but certain for English settlers during the 17th century. This is why the written evidence from this formative century in Anglo colonialism includes a seemingly contradictory mix of settler calls for “extermination” and “extirpation” of Indigenous people, missionary efforts to convert Indians to Christianity, intermarriages between English (and after the Act of Union in 1707, British) traders and Indigenous women, and colonial efforts to forge trade and diplomatic alliances with Native polities.21 Violence, disease, diplomacy, and trade could, and did, coexist. The shear diversity of human relations makes the application of a single interpretative framework in early colonial America difficult to sustain.

For instance, consider the complex ways that disease impacted Indigenous people and Anglo-Indian relations. Narratives about “smallpox vials” and disease-infected blankets have punctuated both scholarly and vernacular accounts of settler colonialism from Australia to the United States.22 The historical reality is more nuanced. Historians Alfred Crosby, David Jones, and Paul Kelton, to name just three, have spent decades analyzing disease transfer in early colonial America. A variety of diseases struck down an estimated 70 to 90 percent of the Native North American population—seemingly genocidal levels of death that resulted in cultural and linguistic loss, and in some cases, societal collapse.23 But in assessing such catastrophic figures, historians have reminded us that while colonizers sometimes cheered the loss of Indigenous life—seeing disease-induced mortality as God’s punishment of “savage” people—early modern Europeans did not possess the epidemiological knowledge to engage in germ warfare. In fact, settlers born in the North American colonies were just as likely as Native Americans to sicken and die from European diseases.24 The history of disease in early colonial America is therefore as complex as histories of violence.

Given the variety of competing Indigenous and European interests across North America prior to the American Revolution, historians returning to the subject of violence are advised to do so with care and attention to historical specificity. It’s important to remember that British people came to North America under different circumstances and with an assortment of goals. Some arrived with the Crown’s patronage, others were convicts or indentured servants. Still others sought trading partners and new markets, and growing populations imagined a future in which they stayed. The crosscurrent of colonial origin stories, motivations, and ambitions reveals how the settler societies that emerged during the late 18th and early 19th centuries were not guaranteed. We should therefore avoid the teleology of a previous generation of historians who became trapped in a framework that viewed early colonial America as a means of explaining the emergence of the American Republic.25 There were simply no certainties in early colonial America.

But it is true that prerevolutionary North America was punctuated with intense bursts of prejudice—“savages,” “vermine,” “errors of nature”—and violence that ranged from local skirmishes to genocide.26 The examples are strewn across the historical landscape: the AngloPowhatan Wars in Virginia and the massacre of Native men, women, and children between the 1620s and 1640s; the Mystic Massacre of six hundred to seven hundred Pequot Indians in 1637; the Dutch-inspired attack against Tankitekes (or Siwanoy) and Wappinger people at Pound Ridge in New York in 1644 that saw between to five hundred and seven hundred Indians killed; the massacres of Indigenous people that occurred during Metacom’s War of 1675–1676, also known as King Philip’s War.27 The list of genocidal outbursts goes on and on; they appear to fit the narrative of elimination outlined by settler colonial theorists. However, in the context of early colonial America, we also need to keep in mind that intense violence could coexist with robust treaty negotiations between English colonial officials and Indigenous leaders. In such contexts, historical analysis can reveal the strength of Native diplomats and the strategic weakness of colonial officials as they struggled to cobble together effective governing structures for their respective colonies.28 In such instances, should we interpret settler violence as evidence of anxiety and weakness, not strength? Can we call Anglo-Indian diplomacy an example of settler colonialism? Should we assume that treaty making aimed simply to dispossess and “eliminate” Native Americans? And where does Indigenous agency fit into this history?29

This latter question is one that historians should not lose sight of. Historian Charles Prior has addressed questions of Indigenous agency in the diplomatic history of early colonial North America. Focusing on the Iroquois, Prior identifies “overlapping and contested ‘zones’ of sovereignty” in which no form of colonialism exercised hegemony in North America. Indeed, “Indigenous power” meant that colonizers found themselves bending to the demands of Native kinship structures and economic objectives. This proved true across North America, with frontiers and borderlands, contested zones, “Native grounds,” and “middle grounds,” punctuating the Anglo-Indian political landscape alongside preexisting rivalries among Native polities.30

The diverse geohistorical experiences of Indigenous people and colonizers make the application of a single interpretive model fraught with potential inadequacies. For example, one of the central arguments in Wolfe’s “eliminationist” theory of settler colonialism is the contention that Indigenous labor was superfluous to settlers. This argument almost universally ignores Native American traditions of captivity and kinship and underestimates the entanglements of Indigenous people with enslavement during the 18th and 19th centuries. Indigenous labor, both enslaved and nonenslaved, is a complex part of North America’s colonial history.31 Studies by historians such as James Brooks and Paul Conrad reveal the changing significance of Indigenous captivity and slavery to both Native and colonizer populations throughout the American West between the 17th and 19th centuries. This work sheds light on how enslavement and the coerced transportation of Indian captives caused social dislocation and fractured kinship networks among the Apaches and other Indigenous communities.32 Alternatively, historians Fay Yarbrough and Barbara Krauthamer have taken the lead in studying the racialization of Native slavery in the Southeast and its entanglements with colonial economies.33 Collectively, scholarship that illuminates the intersecting histories of Indigenous-African American people contextualizes the legacies of these fraught histories and their connections to Indigenous sovereignty, land rights, and citizenship in the 21st century. 34

While Veracini builds on Marx and Engels to point to the voracious appetite of settler societies for expanding markets during the 19th century, more work is needed to better understand the relationship between racial slavery and settler colonialism.35 In recognizing changes in global trade during the 19th and 20th centuries, it is also important not to lose sight of how Indigenous people adapted to these changing markets. Indeed, economic histories of settler societies during these latter centuries brings us back to questions of labor and the wide-ranging attitudes that Native Americans displayed toward wage and contract labor, and wealth generation in the centuries after the American Revolution.36

The US Republic and Settler Colonialism

What of the impact of the American Revolution on settler colonialism in North America? In the decades after the American Revolution, the United States exhibited many of the features that theorists associate with settler societies. The unrelenting drive for land, the forced removal of Indigenous polities, and the elimination through warfare and violence of Indigenous communities across the American West during the latter half of the 19th century. 37 These features of United States history seem to conform to what historian Edward Cavanagh describes as settler colonialism’s tendency to remain “relentlessly active in the present.”38 In the context of an expanding United States since the late 18th century, we have to remain open to the possibility that relentlessness may well have been a product of weakness, not power. It is important to remind our students and readers of our work of the persistence of Indigenous political and military power, the strength of Native connections to place, and the innovative traditions of communities throughout Indian Country meant that US common law traditions, political and economic structures, and cultural beliefs continued bending to the arc of Indigenous diplomatic skill and influence well into the 19th century. 39

The risk here is that historians uncritically apply an inverted Turnerarian model of frontier history to their teaching and research. In 1893, historian Frederick Jackson Turner lamented the closing of the frontier in American history. Turner’s “frontier thesis” celebrated the character of American settlers in the context of territorial expansion and conquest.40 Settler colonial studies flips the “frontier thesis” on its head, seeing the qualities that Turner celebrated as evidence of the “eliminationist logic” driving settlers and the societies they built. Used uncritically, both models have the potential to silence Indigenous people—positing them as members of communities who do not make history but are people for whom history acts on. That said, there is room for the judicious application of theory in historical analysis. This can involve the decolonization of settler colonial theory to more clearly hear Native voices, understand Indigenous survivance and sovereignty, or reconsider the limits of liberal and neoliberal forms of settler colonialism.41

Historians can avoid the inverted Turnerarian trap by recognizing adaptive forms of Indigenous kinship and changes in Native political structures. This work will also expose the fits of willed ignorance, historical amnesia, and political imaginings that settler Americans engaged in (and continue engaging in) to justify the sovereignty of the republic and rationalize its expansion. Enlightenment ideas might have convinced the educated few that schemes in “human management” could “assimilate” Native people to the American economy and body politic or persuade the political classes of the humanity of relocating Indians to distant reservations, but the reality was more complex.42 The sovereignty of the United States was far from complete, and by no means “perfect,” in the century after the Revolution. The persistence of Native forms of land ownership and renewed articulations of tribal sovereignty challenged both the violence and the legal foundation for the republic’s existence, in addition to its expansion.43 To quote Prior, “the reality of Indian power should lead us to rethink the ways in which Indigenous polities confronted colonialism.”44

Recognizing the panoply of Indigenous experiences with, and responses to, different forms of colonialism, does not mean that historians should ignore what colonizers thought and did. Nor does it mean that historians should discard settler colonial theory. Jeffrey Ostler makes this point when he observes that the best evidence for understanding the United States as a settler state exists in the centuries after the American Revolution.45

Another area of study that has attracted considerable historical attention is the question of whether the United States became a settler empire during the 19th and 20th centuries. Historians have examined American imperialism and empire building across the Americas from the Monroe Doctrine, in 1823, to the 21st century, producing a rich historiography that is well-suited to college classrooms.46 Historian Norbert Finzsch sets out a framework for understanding the United States in terms of “settler imperialism.” Finzsch defines settler imperialism as the “expansion of settler colonies and settler states, directed against ‘exterior’ indigenous populations, achieved in the context of a democratic and egalitarian society of white, predominantly Protestant Anglo-Saxon settlers organized in farms and family households.”47

Finzsch reapplies the old theory of herrenvolk democracy, a concept popularized in American history by George Fredrickson.48 Like Fredrickson, Finzsch is looking for a historical model that helps explain the development of white supremacy in the United States during the 19th century and beyond. Unlike Fredrickson, Finzsch is specifically interested in exposing the tools of Indigenous “elimination,” be they the erection of fences and Anglo systems of agriculture, or genocidal violence. According to Finzsch, “the long-lasting processes” of settler imperialism may include practices and structures that become less visible (or naturalized) but are “just as deadly as large-scale massacres and genocides.”49 These practices, detailed by historians such as Anne Hyde, were multifaceted and ranged from squatting on Indian lands to using settler laws and economic practices to push Native communities from lands and waterways that formed the basis of their kinship networks.50

The settler imperialism model has interpretive merits in helping historians understand different phases of empire building in American history. However, like settler colonial theory, settler imperialism runs the risk of being applied as a blunt instrument in understanding the complexities of US history. Consider, for example, this line from Chickasaw scholar Jodi Byrd, who argues that Indigenous peoples “serve primarily as signposts and grave markers along the roads of empire.”51 This is a powerful theoretical and political statement, but it is not history. As historical analysis, arguments like this ignore contingency and change over time, and they do a disservice to the diversity of Indigenous experiences in both the past and present. It is also a macabre reapplication of the “dying Indian” and “doomed race thesis” of previous centuries.

Historians J. M. Bacon and Matthew Norton offer a solution to the ahistoricism that is now popular in literary theory and critical studies.52 Their 2019 analysis of US policy takes issue with the absence of Native people in studies of American empire. Bacon and Norton offer a careful critique of US legal and political maneuvers to render Indigenous sovereigns “impaired” and “subordinate.” The United States routinely tries to exert its legal power by setting limits to the sovereign powers of Indigenous nations. The Supreme Court established the precedents for this legal dynamic in the early 19th century, making Native sovereignty a question of federal law. Over time, federal courts divested Indigenous nations of their inherent rights, and in 1903 the US Congress assumed plenary power over Native communities. Indigenous leaders did not let these legal and political developments go unchallenged, any more than they ignore threats to tribal sovereignty in the 21st century. Increasingly, 20th-century Native leaders redeployed treaties— often seen in both popular and professional historical narratives as colonial tools of dispossession—to reassert their sovereignty and pressure the federal government to live up to its trust obligations. As Bacon and Norton make clear, the United States may rely on a number of dubious legal doctrines (such as the Doctrine of Discovery), but the legal skills of Indigenous lawyers and the savvy of their political leaders means the indirect rule that the federal government exercises over Native nations is never as total (or “eliminationist”) as settler colonial studies may make it seem.53

## Race War K

### Fw

Perm

Conceded they shouldn’t have read multiple advocacies if true.

Totalizing, bad for other Asians.

## Remand

### AT: Remand CP---2AC

#### 2. The Court is arrogant and will do whatever it wants. They won’t care what the district court says.

Levenson 24 – William M. Rains Fellow, the David W. Burcham Chair in Ethical Advocacy, and Director of the Center for Legal Advocacy at Loyola Law School of Loyola Marymount University.

Laurie L. Levenson, “The Word is "Humility": Why the Supreme Court Needed to Adopt a Code of Judicial Ethics,” Pepperdine Law Review, Vol. 51, No. 3, 4/1/24, https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=2664&context=plr

Indeed, books are now being written about whether the Court’s root prob- lem is overconfidence.127 In his recent publication, Supreme Hubris: How Overconfidence Is Destroying the Court and How We Can Fix It, scholar Aa- ron Tang128 asks whether the Justices appreciate how their lack of humility affects the substance of their rulings.129 Their creation and adoption of grand legal theories creates a seductive belief that they must be right and other Jus- tices on the Court before them (and currently beside them) are wrong.130 Tang gives as a prime example Justice Samuel Alito’s decision in Dobbs v. Jackson Women’s Health Organization, 131 which overturned Roe v. Wade.132 In aban- doning the fifty-year precedent, the 5–4 majority referred to Roe and its prog- eny as “exceptionally weak” and “egregiously wrong.”133 Such rhetoric re- flects not just a firm belief in the merits of the reversal, but a self-assurance devoid of humility. And why does that matter? Because the more arrogant the Court appears in its decisions, the more it will alienate Americans who feel that the Court is disregarding their interests. That, in itself, undermines the credibility of the Court and the likelihood that its decisions will be broadly accepted.134 Interestingly, as Tang notes, there have been other controversial decisions by the Court, such as its decision in 2000 in Bush v. Gore.135 Yet, the Court’s reputation did not plummet after that decision.136 There is some- thing about how the current Court is writing its opinions and messaging its decisions to the public that is clearly having a dramatic impact.

If the goal is to create broad acceptance for the Court’s decisions, those decisions must deliver a message of respect and mutual toleration for advo- cates on all sides of an issue. This is not just about increasing the popularity of the Court. Rather, it is about safeguarding the guardrails of democracy.137 The Court’s rhetoric, both in its opinions and in speeches by some of its mem- bers,138 has fueled the public’s growing mistrust of the Court.139 The public persona of some Court members is a far cry from leaders of the past, whether it be the humble Abraham Lincoln, or Justice John Paul Stevens, who was lauded as a “modest and humble man.”140

Arrogance and overconfidence can be harmful to any person or institution. They dull the ability to be alert to important facts and chal- lenges.141 This type of attitude contributed to the sinking of the Titanic and the loss of 1,500 lives.142 There needs to be a fair balance between confidence and humility. Think about it this way: If you were being led into battle, would you want a leader (call him “Custer”) who thinks he is invulnerable, or one who is confident but is constantly assessing any additional problems that might arise?

#### 3. CP kills certainty---the case is ongoing and the district courts have already ruled. The CP restarts the case. That crushes union organizing because only clear and straight-forward policymaking mobilizes union members.

O’Brien 25 – Reporter covering campaign finance and money in U.S. elections for The New York Times.

Rebecca Davis O’Brien, “Inside a Union’s Fight Against Trump’s Federal Job Cuts,” New York Times, 04/20/25, https://www.nytimes.com/2025/04/20/business/economy/government-union-trump-musk.html

“I can’t compare this to any other time in my career,” the union’s national president, Everett Kelley, said in an interview. “We’ve seen some tough fights, but never have we seen any president” try to “put the federal government into mission failure.”

Mr. Kelley said he saw the administration’s effort as a prelude to privatizing vast swaths of the federal work force.

“At the same time, I think not only are federal workers realizing the urgency of our mission, I think the American people are realizing it,” he said.

The battle is perhaps most acute on the local level, where union leaders like Mr. Trammel — who also have day jobs in the federal government like cleaning toxic spills, scheduling surgery in veterans’ hospitals and teaching in prisons — are trying to keep their small bargaining units afloat and boost their colleagues’ morale.

“Everybody is scared to death,” Mr. Trammel said. “I am sick at my stomach over this. Everything I worked for my whole life, basically — there’s nothing I can do about it.”

‘A Morale Killer’

The government employees union has for decades drawn its authority from the Civil Service Reform Act of 1978, which established the right to collective bargaining for federal employees. The union is racially diverse — 47 percent of members are white, 28 percent Black, 12 percent Hispanic and 3 percent Asian — and more than half its members are women.

Still, the union’s power is limited. Federal employees cannot strike, eliminating a potential point of leverage. Federal unions cannot negotiate salaries, which are set by the Office of Personnel Management along with the president and Congress. Membership is voluntary — the union is an “open shop,” and workers who do not pay union dues still benefit from many of the union’s efforts.

Even before Mr. Trump’s return to the White House, just over 300,000 of the union’s 800,000 members paid dues. Engagement in locals was varied. (That number grew to around 334,000 in the weeks after Mr. Trump’s inauguration, although the union is now shedding dues-paying members as some government agencies, like the Bureau of Prisons, stop allowing dues to be collected from paychecks.)

Despite the limits on federal collective bargaining, the union’s benefits are still tangible, leaders said. It negotiated for better working conditions and safety, remote work, and procedures for disciplinary action. Empowerment and security appeal to workers, regardless of their politics.

“At its most basic, a union is just a group of workers deciding to join together and pool their individual talents and resources to try to improve their workplace,” said Andrew Huddleston, a spokesman for the American Federation of Government Employees. “That basic pitch has probably never been more potent than right at this moment.”

While some of the union’s leaders expected a second Trump administration to be hostile to some groups of federal workers, many said the prevailing attitude among members, particularly those in jobs related to public safety, was: He won’t come for us.

But as soon as Mr. Trump was sworn in, he put the civil service in the cross hairs in the name of “efficiency” and cost savings. The administration mandated a return to office for federal workers, fired thousands of probationary employees and moved to eliminate entire departments and agencies. And he has taken aim at the unions.

One effect was a surge of support for the union. But behind the rush was an acute sense of menace, compounded by uncertainty. The changes were unpredictable, and often fitful because of court challenges.

“The immediate impact, it’s terror,” said Ruark Hotopp, a national vice president for the union whose district covers North Dakota, South Dakota, Nebraska, Minnesota and Iowa. “People are terrified that they won’t have their job in 10 minutes.” He called it “a morale killer.”

The abiding message from the White House, union leaders said, is one of contempt for the federal work force. (The White House did not respond to a request for comment.) The administration has also lamented union protections for workers facing disciplinary proceedings.

“It is insulting to say that we are low-productivity public workers, that we are corrupt, that we are the Deep State, that we are lazy,” said Brian Kelly, vice president of a local in Michigan that represents employees of the Environmental Protection Agency.

Membership in his local has grown substantially, Mr. Kelly said, as has engagement. “A lot of people have now woken up,” he said.

At first, he spent a lot of time doing “Basic Union 101” in Signal chats for new members. Recently, he has been pushing for the local to talk to Michigan lawmakers.

Adding to many workers’ pain, they said, is the apparent lack of familiarity among the Trump administration leadership with what the federal work force does.

“People have no clue how government operates,” said Philip Glover, a national vice president for the union, covering Pennsylvania and Delaware. “They have no experience with it,” he added, referring to the people working at Elon Musk’s Department of Government Efficiency.

#### 4. Perm do the plan through the counterplan’s process.

#### 6. Perm do both. Does the aff in congress and remands in the courts.

#### 7. Perm do the counterplan. District Courts do the plan.

#### 8. Other Issues Perm: do the plan and part of CP.

## CBR PIC

### CBR PIC---2AC

#### 1. Human Capital: CBAs provide firing protections and safeguard working conditions, which prevents mass layoffs, saves recruitment and retention. That’s Handler.

<<Inserted for reference>>

Handler 24 — Thomas C. Grey Fellow and Lecturer in Law, Stanford Law School. Associate Professor of Law. Texas A&M. J.D. Yale Law School Burton H. Brody Prize for Best Essay on Constitutional Privacy. Yale Law and Policy Review (Executive Editor).

Nicholas Handler, “Separation of Powers By Contract: How Collective Bargaining Reshapes Presidential Power,” 99 NYU-L. Rev. 45, https://nyulawreview.org/wp-content/uploads/2024/04/99-NYU-L-Rev-45.pdf

Through contractual provisions, the President and the civil service can agree to modify any number of key management tools, from employee discipline to performance evaluation metrics to merit pay. For the purpose of analyzing their impact on presidential power, contractual rights can be sorted into three categories. First are rights that act as a check on structural deregulation, or the use of abusive working conditions to demoralize or sideline bureaucrats in order to undermine an agency's substantive policy mission. Second, labor rights can act as indirect constraints on policy by shaping management tools, such as performance reviews and productivity requirements, that are well known to nudge civil servants' decisionmaking in certain ways. Finally, in certain circumstances labor can act as a direct constraint on policy by seriously limiting the types of enforcement directives management can issue to employees.

1. Check on Structural Deregulation

A major method of undermining regulatory effectiveness is to defund agencies, undermine the morale of agency personnel, and obstruct agency operations. Jody Freeman and Sharon Jacobs have identified many of the strategies that the President may use to cripple agencies while evading civil service protections, including imposing burdensome working conditions, reassigning staff to undesirable roles, [\*69] "demoralizing" staff through denigration and abuse, and cutting funding, resources, and pay.106 These are not direct attacks on an agency's legal authority, but a "structural" attack on an agency's ability to function.107 President Trump's unusually aggressive posture towards administrative agencies has put structural deregulation back in public focus, but it has long been a feature of presidential management, as the controversy surrounding the Malek memo in the 1970s illustrates.108

Here, many of the seemingly prosaic aspects of federal labor law are important. The terms and conditions of employment that govern the quotidian existence of civil servants are precisely the sorts of areas that structural deregulation targets. Changes to remote work policies, scheduling, and other routine workplace concerns can be used to demoralize or undermine an agency's staff.109 Unions routinely leverage contract rights to prevent deterioration in working conditions, litigating issues such as increases in workloads,110 compensation for travel and other overtime expenses,111 backpay for wrongful personnel actions,112 and how and when to award bonuses or special compensation required by contract or statute.113 Agencies can also be required to bargain over reductions in staffing levels or reorganization of duties.114

#### 2. Resources and Expertise: Unions make enforcement of violations successful AND cause upstream deterrence. That’s Handler.

Handler 24 — Thomas C. Grey Fellow and Lecturer in Law, Stanford Law School. Associate Professor of Law. Texas A&M. J.D. Yale Law School Burton H. Brody Prize for Best Essay on Constitutional Privacy. Yale Law and Policy Review (Executive Editor).

Nicholas Handler, “Separation of Powers By Contract: How Collective Bargaining Reshapes Presidential Power,” 99 NYU-L. Rev. 45, https://nyulawreview.org/wp-content/uploads/2024/04/99-NYU-L-Rev-45.pdf

1. The Value of Unions

The civil service's move toward unionization reflects a broader recognition of the value of organized groups in protecting rights and pursuing key political objectives.160 Unions accumulate resources and expertise, allowing civil servants to mount sophisticated and well-financed defenses in labor disputes and to lobby effectively on key issues.161 Unions, for instance, are more effective at litigating employment disputes, a key tool in resisting the disciplinary efforts of management. 162 They achieve higher win rates than unrepresented employees before arbitrators, a key strategic consideration for unionside counsel, as well as a key source of criticism from opponents of unionization rights.163 Unions also bolster the ability of civil servants to successfully litigate employment disputes against agencies in other ways. Through FLRA litigation, unions have secured civil servants Weingarten rights: the right to have a union representative present during a disciplinary investigation. 164 Unions have likewise fought, with mixed success, to bargain for specific substantive rights for civil servants during interviews by agency inspectors general.1 65 Unions also provide extensive financial and logistical support to individual employees. The National Border Patrol Council, for instance, has established legal defense funds for CBP officers who are under investigation for their involvement in "critical incidents," such as the use of force.166

Even when unions do not litigate labor disputes directly, the threat of litigation-the possibility of losing, the need to delay policy implementation, the drain on budgets, and the attendant uncertainty-incentivizes agencies to cooperate with unions, and to take their preferences into account when staffing political positions and formulating policy. For instance, powerful unions, including those representing ICE and the EPA, can and do express their opposition to certain agency heads, dissuading the President from appointing them for fear of souring labor relations and inciting costly litigation battles.167

#### 3. Binding Agencies: Existing CBAs kick back in, which is key to scientific integrity. That’s Handler.

<<Inserted for reference>>

Handler 25 – Professor of Law at Texas A&M School of Law, former Lecturer at Stanford Law School, J.D. from Yale Law School, MPhil from the University of Cambridge.

Nicholas Handler, “Unpacking Trump’s Attack on Federal Sector Unions,” Lawfare, 04-29-2025, https://www.lawfaremedia.org/article/unpacking-trump-s-attack-on-federal-sector-unions

Civil servants’ labor rights can serve as an important check on the president’s power to manage the executive branch and influence the operation of key agencies. Labor rights can limit agency management’s tools for controlling how civil servants make decisions (for example, by negotiating how performance evaluations and disciplinary proceedings work). They can constrain policy choices—for example, the EPA’s union recently negotiated a contract that includes protections for “scientific integrity”—limiting the president’s ability to interfere in scientific judgments. They can dictate rights around working conditions, affecting whether President Trump can make good on his threats to call remote workers back to the office or relocate whole agencies. Perhaps most important, unions pool money and expertise, allowing federal workers to push back against presidential attacks through litigation, mass communication strategies, and legislative outreach.

#### 4. Whistleblowers: Only CBR provides protections that empower workers. That’s Glass.

Glass 25 – Policy Analyst at the Center for American Progress, M.A. in International Economics from Johns Hopkins University.

Aurelia Glass, “The Trump Administration Ended Collective Bargaining for 1 Million Federal Workers,” Center for American Progress, 05-22-2025, https://www.americanprogress.org/article/the-trump-administration-ended-collective-bargaining-for-1-million-federal-workers/

Collective bargaining enables workers to come together to protect themselves for speaking up on the job and to negotiate for improved working conditions, including better overtime, paid leave, and health and safety standards. Without the hopes of being able to negotiate future contracts for the duration of the Trump administration, federal workers lose not only their ability to negotiate for better working conditions but also some of the protections that enable them to blow the whistle when they see something at work that is dangerous to the public.

Many of the affected workers do not have a national security role

President Trump cited national security concerns as his reason for eliminating collective bargaining for the vast majority of unionized federal workers—even though the government has long recognized the right of workers at agencies such as the Department of Defense to bargain under the law, which permits collective bargaining for workers at agencies with national security roles as long as workers’ bargaining is not incompatible with national security needs. This includes the workers who inspect food to prevent outbreaks of disease, conduct research on respiratory hazards faced by mine workers, and keep nuclear power plants safe for the public.

Figure 2 shows the number of workers who lost their collective bargaining rights by agency. The Department of Defense has the most workers represented by unions with nearly 400,000, but hundreds of thousands of workers with no meaningful national security role also lost their rights—for example, 82,000 workers at the U.S. Department of the Treasury, including workers at the Bureau of the Fiscal Service, which runs the government payment system; 39,000 at the U.S. Department of Transportation, including workers who offer safety and maintenance flight inspections at the Federal Aviation Administration; and 8,000 at the U.S. Department of Agriculture (USDA), which includes workers who keep the public safe by inspecting food for safety.

Ending collective bargaining for federal workers harms both workers and the public

A closer look at the U.S. Department of Veterans Affairs (VA) workers affected by this order shows how it harms workers and the public. By ending collective bargaining at the VA, 377,000 workers lost their collective bargaining rights, including nurses at VA hospitals and medical centers across the country, marriage and family therapists, and blue collar workers at cemeteries where veterans are buried. These workers negotiated contracts that protect not only workers but also the veterans they serve: Collective bargaining agreements protect VA whistleblowers who have uncovered problems at the agency such as the mismanagement of veterans’ private information or the illegal restraint of a patient at a VA medical center.

Unions are challenging the legality of the executive order in court. The largest unions that represent federal workers—including the American Federation of Government Employees; the American Federation of State, County and Municipal Employees; the Service Employees International Union; and the AFL-CIO—have all joined together in a lawsuit against the Trump administration, alleging the administration not only violated federal labor law but also retaliated against unions for trying to protect their members from losing their jobs. The National Treasury Employees Union, another union representing federal workers, filed a lawsuit of its own. However, the order has also disrupted union members’ ability to pay dues, which in turn makes it harder for workers to support the negotiations and lawsuits they need to protect their rights. On April 1, 2025, representatives in the House introduced a bill to overturn the executive order, co-sponsored by a majority of members .

#### 5. Arbitration. It’s the only way to bind employers and far more effective in unions.

McNicholas 19 – Director of Policy and Government Affairs at the Economic Policy Institute.

Celine McNicholas, “‘Forced’ is never fair: What labor arbitration teaches us about arbitration done right—and wrong,” Economic Policy Institute, March 11, 2019, https://www.epi.org/blog/forced-is-never-fair-what-labor-arbitration-teaches-us-about-arbitration-done-right-and-wrong/.

Moreover, in labor arbitration both the union representative and management representative participating in the arbitration tend to be familiar with the process. It is rarely the first rodeo for either party. This balance of experience substantially levels the playing field and increases the chances of success for the represented employee. By contrast, when each employee must arbitrate separately against the same employer, the employer has all the benefits of being a repeat player in the forum—access to more information, knowledge of the rules, sometimes even past practice before the same arbitrator—while the worker is trying to navigate the system for the first time. And these advantages have a measurable impact: workers fare decidedly worse in arbitrations against repeat player employers than they do when the two sides are more evenly matched in terms of experience.

In short, the union experience shows that arbitration can be a fair process for resolving disputes—when it is actually agreed to, and engaged in, by two parties with relatively equal bargaining power. But when the only choice an employee is given is to agree to arbitrate on the employer’s terms (with no ability to join forces with other affected workers) or find another job, for most workers that is the equivalent of no choice at all.

### Flex---DA

### AT: Bureacracy Turn---2AC

#### No turn. Unions increase government efficiency.

Hsu 25 – Labor Correspondent at NPR, M.A. from Stanford University.

Andrea Hsu, “Federal employee unions fight for survival as Trump tries to eviscerate them,” NPR, 05-11-2025, https://www.npr.org/2025/05/11/nx-s1-5381156/trump-federal-workers-labor-union-collective-bargaining

One of Trump's repeated complaints is that unions make it too hard to get rid of poor performers. Many union contracts spell out lengthy processes for doing so.

But others contend unions help make the government run more smoothly.

"Our collective bargaining agreement is a huge efficiency boost for the government," says Armando Rosario-Lebron, a vice president of the National Association of Agriculture Employees, which represents employees of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service.

His bargaining unit includes people who are tasked with keeping invasive pests and plants out of the country, work that requires a lot of overtime. Rosario-Lebron says the union largely manages that.

"You have some employees who want as much overtime as possible to earn as much income as they can. You have other employees who don't want to be overworked to death, so to speak," he says.

Figuring out how to assign overtime and being the liaison between management and employees probably represent the union's biggest savings to the government, says Rosario-Lebron.

"I know that a lot of managers love that," he says.

Rosario-Lebron says he tries to resolve most disputes outside the formal grievance process. He says there are plenty of times he's advised employees against pursuing complaints he sees as frivolous.

"I don't recommend you go down that path because it's not going to end well for you," he says he's told them.

Employees are more likely to listen to the union on such matters, he says.

He has a warning for the Trump administration: Get rid of the union and management will be on its own.

### Unions Good---2AC

#### Federal unions are vital to productivity and engagement.

Casey Keppler 24, United States Air Force Major, litigation attorney at Joint Base Andrews, 2024, "The Propriety of Restraint: Assessing the Viability and Wisdom of Executive and Legislative Branch Action to Eliminate Collective Bargaining Rights in the Department of Defense," Hofstra Labor & Employment Law Journal, Vol. 41, No. 2, Spring 2024, pp. 297-362

The Supreme Court has acknowledged the important role that collective bargaining serves in providing an opportunity for employees to communicate information and suggestions that may be helpful to management.527 Unions can effectively gather information from their membership, bring concerns to management's attention, and provide clarification to their membership regarding rules or policies being proposed or implemented by management. 528 There is significant evidence, in fact, that collective bargaining serves as an effective mechanism for employees and employers to work together, thereby giving employees a voice and boosting their performance and morale. 529 Studies have shown that employee engagement with management is more productive when employee communications are channeled through an independent representative such as a labor union. 530 Given the adversarial approach that naturally results due to the parties' commonly conflicting interests, the statutory requirement to bargain in good faith serves an invaluable purpose of securing a channel of communication. 53 1 Removing that requirement increases the likelihood that open communication will cease and workplace disputes will linger without resolution.

Giving employees a voice in the conduct of operations reaps benefits beyond information sharing; it also positively impacts morale and productivity.532 Direct engagement that results in even small concessions from management can generate a sense of employee empowerment that has outsized effects on morale. 533 According to a report published by the World Bank, countries with higher unionization rates tend to exhibit higher productivity, and a sizable population of labor union members tends to have a stabilizing and beneficial effect on the national economy. 534 Empirical evidence also shows a positive correlation between participation in collective bargaining and participation in societal democratic processes. 535 Collective bargaining's positive impact on communication, morale, and productivity demonstrate that its importance extends beyond the tangible gains yielded by negotiation and litigation.

### AT: Energy Dominance

## MQD

### No Link---2AC

#### No link. There’s sufficient statutory basis under the labor-management relations statute.

Super 25 – Carmack Waterhouse Professor of Law and Economics at Georgetown University Law Center.

David A. Super, “Many Trump Administration Personnel Actions Are Unlawful,” Center for Budget and Policy Priorities, 2/14/25, https://www.cbpp.org/research/federal-budget/many-trump-administration-personnel-actions-are-unlawful

Violating Federal Labor-Management Relations Law

Many of the actions the Administration is taking also violate the terms of collective bargaining agreements with public employees’ unions. The statute governing labor-management relations law provides for discussions with unions to include “any grievance or any personnel policy or practices or other general condition of employment.”[46] It requires agencies to negotiate in good faith with its workers’ unions.[47] This duty to negotiate extends to work rules, such as schedules and location of work, except where those rules are supported by a “compelling need.”[48]

Although the Administration presumably will argue that it has “compelling need” for these actions, unions may appeal that determination to the Federal Labor Relations Authority.[49] This claim will be difficult to support where prior administrations — often including the first Trump Administration — negotiated agreements on these very subjects. The Authority must expedite its decision.[50] If it finds that the Administration’s unilateral actions constituted an unfair labor practice, it may order it “to cease and desist from any such unfair labor practice in which the agency … is engaged [and] require[e] the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect.”[51]

Even if some of these policies are exempt from collective bargaining, the Administration was required to consult with federal employees’ unions on “any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment,”[52] which these policies clearly are. Collective bargaining agreements also set out grievance procedures that particular employees may pursue if the Administration takes adverse actions against them, including placing them on involuntary leave and termination.[53] If arbitrators find the actions improper, they may reverse those actions.[54]

Thus, the Administration may be able eventually to take many of these actions, but only after first involving the employees’ unions.

The Administration has tried to avoid some of these issues by unilaterally declaring void all collective bargaining agreements with public employee unions reached or renewed during the final month of the Biden Administration.[55] This action directly violates its duty to negotiate in good faith if it is dissatisfied with some of those agreements’ contents. The Administration asserts that these collective bargaining agreements improperly impinge upon management’s rights, yet the very legal authorities it cites contradict this position.[56]

### AT: MQD Good DA---2AC

#### **No internal link. The Court’s incredibly pro-MQD, so they won’t overturn it but issue a narrow carveout instead. Require specific link evidence that connects it to an impact.**

Sweeney 23 – Managing Attorney, The Sweeney Law Firm, PLLC. LLM Environment, Natural Resources, and Energy Law, Lewis & Clark Law School.

Ryan M. Sweeney, “Seizing the Engines of Government Power: The Major Questions Doctrine and Limits of Judicial Review in the Roberts Juristocracy,” Environmental, Natural Resources, and Energy Law Blog, Lewis & Clark Law School, 04-23-2023, https://law.lclark.edu/live/blogs/224-seizing-the-engines-of-government-powerthe-major

“Juristocracy” means rule or government by the judiciary. Although the principle of judicial review gives U.S. courts “the province and duty … to say what the law is,”[4] that power does not give the judiciary the authority to make law or prevent faithful execution of the law by arbitrary fiat. Like other common-law legal systems, U.S. judges must follow the principle of stare decisis, by which the judiciary seeks to establish consistency and predictability in the law, ensuring that similar facts will yield foreseeable outcomes.[5]

Several recent decisions by the Supreme Court indicate its intent to abandon those principles. In its decisions attacking the authority of administrative agencies, the current conservative majority of the Supreme Court has ostensibly sought to rebalance the separation of powers in line with the Constitution[6]—explicitly discussing the allegedly appropriate rebalancing of these powers only between the legislative and executive branches.[7] But the Roberts majority has done so through questionably vague and unpredictable decisions, creating new legal doctrines out of whole cloth and giving short shrift to the bedrock principle of stare decisis. In these decisions, the Roberts majority has failed to mention or address their practical effect: the judiciary’s seizure of legislative and executive power from the other branches.[8]

A. The major questions doctrine

Existing precedent acknowledged the judiciary’s limited role in reviewing agency decisions. In Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., the Court acknowledged that whenever it encountered an agency decision based on a statute that was silent or ambiguous with respect to the specific issue, the judiciary must defer to an agency’s “permissible construction of the statute.”[9] Chevron deference was based on principles of judicial restraint, noting that in encountering a statute that was ambiguous or silent about a specific agency action, “the court does not simply impose its own construction on the statute.”[10]

The major questions doctrine throws judicial restraint out the window. The issue in West Virginia was whether the EPA had authority under Section 111(d) of the Clean Air Act to use generation shifting in setting state limits on carbon dioxide emissions.[11] In holding that the statute did not give EPA the required authority and that its regulatory action was unconstitutional, the majority opinion drafted by Chief Justice Roberts described the major questions doctrine as follows: “Courts expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance.… [I]n certain extraordinary cases … the agency must point to ‘clear congressional authorization’ for the power it claims.”[12] Importantly, Chevron is never mentioned in the decision.[13]

According to Professor David M. Driesen, the major questions doctrine “has nothing to do with preserving self-government and everything to do with increasing the reach of the juristocracy.”[14] The rule is light on particulars, vague and broad in its language, and incapable of being used as a meaningful benchmark. The majority did not clearly define what makes a case “extraordinary” or what makes congressional authorization “clear.”[15] Roberts’s attempts to define or break down this rule into its elemental parts wound up using other similarly vague, conclusory terms—“extravagant power over the national economy,” “radical or fundamental change,” “major policy decision”[16]—creating a Russian nesting doll out of the law. What does it mean for an agency’s assertion of power to be “extravagant,” for a regulatory change to be “radical or fundamental,” or for a policy decision to be “major”?[17] The majority is silent on these apparently minor details.

Because of its lack of clarity, West Virginia created tremendous uncertainty about how the federal government will work moving forward. Considering the significant discretion afforded the judiciary in reviewing agency actions, attorneys around the country could be forgiven for wondering whether the Roberts Juristocracy will simply use its major questions wrecking ball to target agency actions that may offend its conservative ideology (e.g., regulations tangentially connected to fighting climate change, including Treasury Department regulations classifying various materials eligible for EV-tax credits, EPA regulations on vehicle emissions standards, or SEC regulations requiring disclosure of financial risks related to climate), or if it will go further to strike down any agency action that is not explicitly directed by Congress in painstaking detail.

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#### No ocean acidification now

Budin 24 – Journalist at The Cool Down, citing scientists from the University of Gothenburg.

Jeremiah Budin, “Scientists make optimistic discovery while studying mangroves and salt marshes: 'This contribution has previously been overlooked',” The Cool Down, 04-12-2024, https://www.thecooldown.com/outdoors/mangroves-salt-marshes-carbon-storage-ocean-acidification/

Now, scientists have discovered that mangrove and salt marshes store twice the amount of carbon as previously thought, as detailed in a report by the University of Gothenburg posted by SciTechDaily.

Researchers from the university analyzed 45 mangrove swamps and 16 salt marshes around the world and found that they were capturing and neutralizing an incredible amount of planet-overheating carbon by converting it into bicarbonate, a harmless substance that can help to mitigate ocean acidification and is used by crustaceans to build shells, per the report.

"We have uncovered additional stored carbon in mangrove forests and salt marshes. Our new findings show that much of the carbon is exported to the ocean-bound as bicarbonate as the tide recedes and remains dissolved in the ocean for thousands of years. Bicarbonate stabilizes the pH and can reduce ocean acidification," said Gloria Reithmaier, a researcher in marine chemistry at the University of Gothenburg, per SciTechDaily. "This contribution has previously been overlooked."