# 1NC---Kentucky RR---Round 2

## OFF

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#### Cap K.

#### Labor law is a tool of capitalist discipline. Legal protections subsume class struggle into the framework of capital accumulation, precluding class consciousness.

Dr. Maja Breznik 24. Researcher, Peace Institutem; Ph.D. in Sociology, University of Ljubljana; Research fellow, University of Padua; National Correspondent, European Foundation for the Improvement of Living and Working Conditions. “Less or More Labour Law for Social Change?” Industrial Law Journal, Volume 53, Issue 4.

As just discussed, legal form theorists consider labour law to be ‘capitalist law’ in so far as any improvement in labour rights is only possible if it facilitates the accumulation of capital or prevents exit from capitalism.34 Adams sees labour law as a historical answer to the structural contradictions of capitalism.35 Labour law indeed seeks to enable the normal reproduction of labour power and, in turn, to improve working conditions, but for the sole purpose, or at least with the effect of protecting capital overall against the self-destructive competition of individual capitalists. Although capital as class benefits from the social reproduction of labour, competition between individual capitalist firms creates an inexorable pressure for wage reductions. This endangers labour as a production factor and thereby the accumulation of capital generally. Labour law responds to this functional need of capital. Since workers’ rights are framed as part of private law, they depend for their enforcement upon the power of state entities which, however, will ultimately prioritise the interests of capital.

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In an alternative approach, McLoughlin and Hürzeler propose two ‘legal forms’: bourgeois law and labour law. They find support for their stance in Marx, who indeed criticised bourgeois rights for being ‘an illusory account of the exploitative social relations’ yet also supported factory laws because he believed that the legal reduction of working time, for example, could play a key role in the revolutionary project.37 Alain Supiot sets out similar views in Critique du droit du travail, first published in 1993.38 Supiot’s work is an important point of reference since he is one of the few contemporary theorists of labour law to address Pashukanis’s position, prior to the recent re-emergence of the legal form debate. Supiot’s starting point is that labour cannot straightforwardly be a com- modity given that it cannot be separated from the physical ‘person’ of the worker.39 The content of the labour relationship is a paid service arising from the person’s physical and intellectual activity;40 the physical body is the place where contractual obligations are performed. This creates a con- tradiction between the legal form of the labour relationship, that reduces labour to a commodity, and the physical body, which is not part of the exchange since a worker cannot be a commodity. Had it been otherwise, workers would be slaves. The contradiction appears when workers sell their labour power and become subordinated to the employer because at that moment workers lose control over their bodies. The role of labour law is to protect the body and save the skin of workers (all aspects of their biolog- ical existence via regulations on safety and health at work), protect their livelihood (without it, their position would be worse than for slaves), pro- vide for continuity of income also when workers are unable to work (due to illness, unemployment or retirement) and, finally, the continuity of income for the family and all members of the public (through social policies).41 This explains why Supiot (in common with Otto von Gierke, Karl Renner and Hugo Sinzheimer before him)42 considers labour law to be social law and as such antithetical to civil law. The biggest difference between the two lies in the fact that civil law is individual law, whereas social law (and labour law) is collective law according to Supiot. It can also be claimed that labour law is class law,43 in contrast to the general character of civil law. The specific character of collective or class law finds expression in the new type of legal rationality, even a new paradigm, because labour law could not have evolved without the support of the social sciences, which shed light on the working and living conditions of working families. Accordingly, the special feature of labour law is that it combines ‘legal’ and ‘social arguments’. This characteristic brings it into conflict with the civil legal order: while the two co-operate on the level of ‘legal arguments’, they inevitably conflict in the area of ‘social arguments’.44 law) is collective law according to Supiot. It can also be claimed that labour law is class law,43 in contrast to the general character of civil law. The spe- cific character of collective or class law finds expression in the new type of legal rationality, even a new paradigm, because labour law could not have evolved without the support of the social sciences, which shed light on the working and living conditions of working families. Accordingly, the special feature of labour law is that it combines ‘legal’ and ‘social arguments’. This characteristic brings it into conflict with the civil legal order: while the two co-operate on the level of ‘legal arguments’, they inevitably conflict in the area of ‘social arguments’. The above argument highlights contrasting perspectives on labour law: some see it as a capitalist law, others as a social, collective or class law. With this in mind, let us now return to the initial question: How do these theories intervene in social reality and what kind of social change do they imply? Supiot admits, not without irony, that labour law supervises the subordination of workers. He then tries to resolve the contradiction between the formal equality of the contractual parties and workers’ actual subordination to capital. The problem is solved in such a way that the autonomy and freedom of workers, which have been lost through subordination, are supplemented by collective rights such as the right to collective association, strike and collective bargaining.45 In this way, autonomy lost on the individual level is reasserted at the collective level, which in turn means that ‘freedom and subordination became legally compatible’.46 An inevitable consequence is that workers can become free and legally equal persons only when they break away from isolation, become a political class, act as the working class against the capitalist class and begin to change the material conditions of their existence.47 Legal form theory has an answer for Supiot’s argument. In his analysis of workers’ collective organising, Knox emphasises the historical achievement of the labour movement, whereby the post-Second World War legal regime ‘created the conditions for a trade union movement that represented the working class as a whole’.48 From the 1980s onwards, neoliberal reforms radically altered this legal regime (e.g. with restrictions on secondary actions and closed shops in the UK). However, Knox does not see the solution as restoring the legal framework that existed before the neoliberal reforms because, by failing to address the roots of labour exploitation, the post-war trade unions remained within the bounds of capitalism.

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What then is the issue? The problem is that workers’ collective rights are based on a definition of the worker derived from their status — that someone is a worker insofar as they are a member of a working collective and therefore of a company. A worker is defined a priori by belonging to an enterprise or employing organisation, not by belonging to a working class.

According to the legal form critique, while Supiot has resolved the contradiction on paper, his solution is unworkable in practice. The right to collectively organise cannot compensate for workers’ autonomy and freedom lost following their subordination to capital since access to these rights can only be exercised by workers with the status that arises from belonging to an enterprise organised along capitalist lines. As Knox and others observe, this means that collective organising has inevitably been transformed into self-interested, economic/corporate organisations. These organisations reinforce the divisions within the working class and the differences between workers. To take a contemporary example, they are more likely to augment the effects of the current economic restructuring, which has managed to break down the unity of workers through global production chains, cascades of sub-contractors and intermediaries on one hand, and a multitude of new legal forms of work on the other.

#### Capitalism’s unsustainable and causes extinction.

Sangaralingam Ramesh 25. PhD. in Economics, University of London, and Lecturer at University College London, SSEES. “Conclusion: Humanity at a Crossroad.” *The Political Economy of Contemporary Human Civilization: From Quantum Computing and Nuclear Fusion to War and Conflict*, Volume 2.

Technological Innovation: A Double-Edged Sword

Technological innovation has undeniably been a driving force behind human progress, transforming societies and economies across the globe. The historical record is filled with examples of how advances in technology have improved the quality of life for billions of people. For instance, the Industrial Revolution, which began in the late eighteenth century, fundamentally reshaped human productivity and living standards. New machinery and techniques, such as the steam engine and mechanized textile production, vastly increased industrial output and lowered the cost of goods.Footnote23 However, this progress came at a cost. The rapid industrialization that powered economic growth also contributed to environmental degradation, as factories consumed enormous quantities of coal, oil, and other natural resources, leading to widespread deforestation, air pollution, and the emission of greenhouse gases. These environmental impacts have now culminated in the global climate crisis, which poses an existential threat to humanity.

In the realm of medicine, technological advancements have saved countless lives. Vaccines, antibiotics, and medical imaging have revolutionized healthcare, extended life expectancy and dramatically reducing mortality rates from infectious diseases.Footnote25 The eradication of smallpox in 1980, achieved through a global vaccination campaign, remains one of the greatest triumphs of modern medicine.Footnote26 More recently, the rapid development of mRNA vaccines during the COVID-19 pandemic demonstrated how cutting-edge technology can respond to global health emergencies. Yet, as medicine advances, ethical questions arise. For instance, gene-editing technologies like CRISPR offer the potential to cure genetic disorders, but they also raise concerns about “designer babies” and the potential for exacerbating social inequalities if only the wealthy can afford such treatments.Footnote27 These innovations force societies to confront difficult questions about the limits of human intervention in nature and the equitable distribution of life-saving technologies.

In energy, technological progress has both provided solutions and created new challenges. The discovery and harnessing of fossil fuels, particularly coal and oil, were instrumental in powering the Industrial Revolution and driving economic growth in the nineteenth and twentieth centuries. Fossil fuels allowed for unprecedented levels of production and consumption, enabling the development of modern economies and the expansion of global trade.Footnote28 However, this dependence on fossil fuels has also been the primary driver of anthropogenic climate change, as burning these fuels releases large amounts of carbon dioxide (CO2) and other greenhouse gases into the atmosphere. According to the Intergovernmental Panel on Climate Change, CO2 emissions have increased by about 40% since pre-industrial times, significantly contributing to global warming and rising sea levels.Footnote29,Footnote30

Technological innovation has also transformed communication, fostered globalization and connected people across vast distances. The advent of the internet, for example, revolutionized how people communicate, share information, and conduct business. It created new industries and economic opportunities, giving rise to the digital economy, which is now valued in the trillions of dollars.Footnote31 Social media platforms like Facebook, Twitter, and Instagram have given individuals the ability to connect and share ideas instantly, fostering global communities and movements. Yet, these same platforms have been criticized for spreading misinformation, fostering political polarization, and contributing to mental health issues, particularly among younger users.Footnote32 The unprecedented flow of information has also raised concerns about privacy, as tech companies collect vast amounts of personal data, leading to new ethical and regulatory challenges.

Technological advancement has thus proven to be a double-edged sword. On one hand, it offers the tools to tackle some of the most pressing challenges of our time. For example, renewable energy technologies such as solar and wind power offer the potential to mitigate climate change by reducing the world’s reliance on fossil fuels.Footnote33 Advances in agricultural technology, such as genetically modified organisms (GMOs), have the potential to increase food production and alleviate hunger as the global population continues to grow.Footnote34 Similarly, AI-driven innovations in healthcare have the potential to revolutionize diagnostics and treatment, leading to more personalized and effective medical care.Footnote35 However, these same technological advancements also create new ethical dilemmas and security risks. For instance, while AI has the potential to revolutionize industries and increase efficiency, it also raises concerns about job displacement and the widening economic gap between those who benefit from automation and those who are left behind.Footnote36 The deployment of autonomous weapons systems, or “killer robots,” raises profound ethical questions about the nature of warfare and the role of human judgment in life-and-death decisions.Footnote37 Additionally, as technological innovation accelerates, there is a growing risk that advancements will outpace the regulatory frameworks needed to manage them, leading to unintended consequences.

The choices humanity makes in the coming decades regarding the development and deployment of these technologies will have profound implications for future generations. Will we be able to harness the power of technological innovation to create a more equitable and sustainable world? Or will these same innovations deepen existing inequalities, fuel conflicts, and accelerate environmental destruction? The answer will depend on how we balance the opportunities and risks inherent in technological progress. As history has shown, innovation alone is not enough; it must be guided by ethical considerations, social responsibility, and a commitment to the long-term well-being of both people and the planet.

Climate Change: The Existential Threat

Climate change poses an existential threat to human civilization, with its impacts already visible across the globe. The scientific consensus, as reflected in reports by the Intergovernmental Panel on Climate Change (IPCC), underscores the gravity of the situation: if global temperatures rise beyond 2°C above pre-industrial levels, the consequences will be catastrophic for ecosystems, economies, and human health.Footnote38 The projected impacts include not only rising sea levels but also increasingly frequent and severe extreme weather events such as hurricanes, droughts, and floods. In addition, the accelerating loss of biodiversity is destabilizing ecosystems that millions of people rely on for food, water, and livelihood security.Footnote39

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The effects of climate change are particularly severe in the Global South, where low-lying island nations and agricultural economies are disproportionately affected, despite contributing minimally to global carbon emissions.Footnote40 For instance, small island nations such as the Maldives and Tuvalu face the existential threat of submergence due to rising sea levels, while countries like Bangladesh are experiencing increasingly frequent and severe flooding.Footnote41 Many African nations, reliant on rain-fed agriculture, are facing growing food insecurity as climate-induced droughts become more frequent and intense.Footnote42 This geographic disparity highlights a broader issue of climate justice: those least responsible for global warming are often the ones suffering its most immediate consequences. The injustice of this situation has become a focal point of international climate negotiations, with calls for more equitable solutions gaining prominence. Technological innovation is widely seen as a critical component of efforts to mitigate climate change. The shift to renewable energy, improvements in energy storage, and the development of advanced technologies like nuclear fusion are all necessary to reduce greenhouse gas emissions. However, these technologies are not evenly distributed. Wealthier nations, primarily in the Global North, are better positioned to transition to sustainable energy systems due to their access to capital, technology, and infrastructure. For instance, countries like Germany and Denmark have made significant strides in adopting wind and solar power, while developing countries often remain dependent on fossil fuels due to financial and technological constraints.Footnote43 This disparity threatens to exacerbate existing global inequalities. Access to clean energy is becoming a new dimension of geopolitical competition, as nations and corporations vie for control over the resources and technologies that will power the future. For example, the race to secure rare earth elements, which are essential to produce solar panels, wind turbines, and electric vehicle batteries, has intensified in recent years.Footnote44 China currently dominates the supply chain for these critical minerals, giving it a strategic advantage in the global clean energy market. Without concerted international efforts to share technology and support developing nations in their transition to renewable energy, there is a risk of deepening the divide between the “haves” and the “have-nots” in the global energy economy. This could lead to a form of neo-colonialism, where wealthier nations and corporations control the technologies needed to mitigate climate change, leaving poorer nations dependent on outdated and polluting energy systems. The promise of nuclear fusion as a solution to the world’s energy needs illustrates the challenges of technological inequality. Nuclear fusion, which replicates the energy-generating process of the sun, is often hailed as the “holy grail” of clean energy due to its potential to provide near-limitless power with minimal environmental impact. However, despite decades of research and billions of dollars in investment, nuclear fusion remains far from commercial viability. The International Thermonuclear Experimental Reactor (ITER) project, based in France, is the world’s largest fusion experiment and represents a monumental international scientific collaboration. Yet, the project has been plagued by delays and cost overruns, and it is not expected to produce commercially viable fusion energy until the 2050s at the earliest.Footnote45 Even if nuclear fusion becomes commercially viable, ensuring equitable global access to this technology will be a significant challenge. The development of fusion energy is currently concentrated in a handful of technologically advanced countries, including the United States, China, and members of the European Union. These nations have the financial resources, scientific expertise, and infrastructure needed to pursue fusion research, while many developing nations do not.Footnote46 This raises important questions about who will benefit from fusion energy and how it will be distributed globally. Without intentional efforts to share the technology and make it accessible to all nations, nuclear fusion could exacerbate existing global inequalities rather than provide a universal solution to the climate crisis.

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In addition to technological innovations, political will and international cooperation are essential to addressing climate change. The Paris Agreement, signed in 2015, was a landmark achievement in bringing together nearly 200 countries to commit to reducing greenhouse gas emissions and limiting global warming to well below 2°C. However, progress since the agreement has been uneven, with some countries failing to meet their emissions targets and others, like the United States under the Trump administration, temporarily withdrawing from the accord. The transition to a low-carbon future will require sustained global cooperation, not only in terms of setting emissions reduction targets but also in providing financial and technological support to developing countries to help them achieve these goals.Footnote47

The climate crisis is therefore not only a scientific and technological challenge but also a profoundly political one. The unequal impacts of climate change, the uneven distribution of technological solutions, and the need for international cooperation all point to the importance of addressing climate change as a matter of justice. Ensuring that all nations have access to the technologies and resources needed to mitigate and adapt to climate change is crucial for achieving a sustainable and equitable future.

Artificial Intelligence: Transforming Society

AI is perhaps the most transformative technology of the twenty-first century, with its potential to revolutionize industries, governance, and warfare. AI-driven automation promises to increase efficiency and productivity, optimize healthcare, and reduce waste. However, it also raises profound ethical questions about the nature of work, privacy, and security. As AI systems become more integrated into decision-making processes—whether in healthcare, the criminal justice system, or financial markets—the potential for bias, error, and unintended consequences grows. Moreover, the deployment of AI in military contexts, particularly in autonomous weapons systems, raises critical moral questions. The removal of human judgment from life-and-death decisions challenges the foundational principles of warfare and human rights.Footnote48

The societal impact of AI extends beyond the battlefield. As AI-driven automation threatens to displace millions of jobs, particularly in manufacturing, transportation, and low-skill sectors, the risk of exacerbating economic inequality becomes acute. According to estimates by the McKinsey Global Institute, up to 375 million workers may need to transition to new roles by 2030 as automation reshapes labour markets.Footnote49 Governments will need to develop new frameworks for education, re-skilling, and social welfare to mitigate the social fallout of these changes. Failure to address the socio-economic impacts of AI could lead to widespread discontent and political instability, as inequality grows, and traditional economic structures are disrupted.

At a deeper level, the development of AI also raises fundamental questions about the nature of humanity. As AI systems become more sophisticated, the line between human and machine intelligence may blur, leading to new debates about consciousness, autonomy, and the role of humans in an increasingly automated world. Can humanity maintain control over systems that may eventually surpass human cognitive abilities, or will AI systems create new forms of dependency and vulnerability?

Quantum Computing: A New Frontier

Quantum computing is poised to revolutionize numerous fields by solving problems that classical computers cannot efficiently address. By leveraging the principles of quantum mechanics, quantum computers can perform calculations at speeds far beyond the capabilities of today’s most powerful supercomputers. One of the most promising applications lies in climate modelling, where quantum computing could significantly enhance the precision of predictions related to climate change. Current climate models, while robust, are limited by the computational power required to simulate the vast complexities of Earth’s climate systems. Quantum computing, with its ability to process vast amounts of data simultaneously, could improve the accuracy and granularity of these models, leading to better predictions of extreme weather events and more effective strategies for mitigating climate impacts.Footnote50 In addition to climate modelling, quantum computing offers transformative potential in fields such as drug discovery. The pharmaceutical industry has long relied on computational models to simulate molecular interactions in drug development, but the process remains slow and costly. Quantum computers could accelerate this process by simulating quantum mechanical interactions at the molecular level with unprecedented accuracy, potentially leading to breakthroughs in the treatment of diseases such as cancer and Alzheimer’s.Footnote51 The ability to model complex biological systems could also revolutionize agriculture by enabling the development of more resilient crops that are better suited to withstand the challenges of a changing climate. However, alongside these exciting opportunities, quantum computing presents significant risks, particularly in the realm of cybersecurity. The encryption systems that currently underpin global financial transactions, military communications, and personal data protection are based on the computational difficulty of solving complex mathematical problems—tasks that classical computers would take millennia to crack. Quantum computers, however, could solve these problems in a fraction of the time, effectively rendering current encryption methods obsolete.Footnote52 This would have severe implications for global security, as encrypted data could be easily decrypted, leading to widespread breaches of sensitive information. The collapse of encryption protocols would compromise everything from online banking and e-commerce to state secrets and diplomatic communications, leading to potentially catastrophic economic and political consequences.Footnote53 In response to this threat, researchers are racing to develop quantum-resistant encryption algorithms that could withstand attacks from quantum computers. This effort, known as post-quantum cryptography, is becoming increasingly urgent as nations and private companies make rapid advancements in quantum computing. The competition to achieve quantum supremacy—where a quantum computer can perform tasks that are impossible for classical computers—has intensified geopolitical rivalries, particularly between major powers such as the United States and China.Footnote54 Quantum supremacy could confer significant strategic advantages in terms of intelligence gathering, cybersecurity, and military capabilities, creating new global power imbalances. Countries that fall behind in the quantum race risk becoming more vulnerable to cyber-attacks and espionage.

Beyond security concerns, the governance of quantum computing poses another significant challenge. As with other emerging technologies like artificial intelligence (AI) and nuclear fusion, the rapid pace of quantum computing development raises questions about whether humanity can effectively manage its risks. Quantum technologies are advancing at a rate that may outstrip the capacity of current regulatory frameworks to address their potential consequences. International cooperation will be essential to establish norms and protocols for the responsible development and deployment of quantum technologies. Failure to do so could result in a global “quantum divide,” where the benefits of quantum computing are concentrated in the hands of a few technologically advanced nations, further exacerbating global inequalities. Despite these challenges, quantum computing has the potential to contribute to solutions for some of humanity’s most pressing problems, including climate change, healthcare, and food security. However, realizing these benefits will require careful management of the associated risks. The dual-edged nature of quantum computing—offering both unparalleled opportunities and profound risks—mirrors the challenges posed by other transformative technologies. As quantum computing continues to advance, it will be critical for policymakers, technologists, and global leaders to work together to ensure that its development is guided by principles of equity, security, and sustainability.

Biotechnology and Genetic Engineering: Rewriting Life

Biotechnology and genetic engineering are transforming the way we understand and manipulate life. These technologies hold the promise of addressing some of humanity’s most pressing challenges, from eradicating genetic diseases to ensuring global food security. One of the most ground-breaking innovations in this field is CRISPR-Cas9, a gene-editing technology that allows scientists to precisely target and modify specific sequences of DNA. This technology has the potential to correct genetic mutations that cause inherited diseases, such as cystic fibrosis, Huntington’s disease, and sickle cell anaemia.Footnote55 By directly altering the human genome, CRISPR offers the possibility of curing diseases at their root, a feat that has eluded traditional medicine for centuries.

The implications for public health are profound. In 2020, researchers used CRISPR to successfully treat a patient with sickle cell disease, marking one of the first uses of gene editing in humans to correct a hereditary condition.Footnote56 This success opens the door for further applications in gene therapy, potentially revolutionizing treatments for a wide range of genetic disorders. Beyond therapeutic use, biotechnology also offers the possibility of enhancing human capabilities. Advances in gene editing could allow for the enhancement of traits such as intelligence, physical strength, or disease resistance, raising ethical concerns about the future of human evolution.

The prospect of “designer babies”—genetically modified children with specific traits chosen by their parents—has ignited a global debate about the ethical implications of genetic enhancement. While the eradication of genetic diseases is widely viewed as a positive development, the ability to enhance non-medical traits like intelligence or appearance is more controversial. Critics argue that such enhancements could exacerbate social inequality, creating a divide between those who can afford genetic modifications and those who cannot.Footnote57 This could lead to a new form of inequality, where the genetically enhanced enjoy greater opportunities and advantages in life, while others are left behind. Moreover, the long-term consequences of genetic manipulation are unknown, and the potential risks of unintended genetic mutations or disruptions to the human gene pool are significant.

#### The alternative is an economic commitment to a planned economy. It’s mutually exclusive.

Maxi Nieto 22. Professor & Researcher, Miguel Hernández University. “Market Socialism: The Impossible Socialism.” Science & Society, Volume 86, Issue 1.

4.1. The capitalist mode of production as an “organic system.” Faced with the superficial conceptions of conventional economics and market socialists, which did not address theoretically the constitutive structure of bourgeois society, Marx understood the capitalist mode of production as an “organic system” (Grundrisse) in which the different elements that compose it implicate and presuppose each other, forming a whole that is not simply the sum of its own parts, but an articulated totality with a specific operating logic that establishes the necessary conditions for its continuous self-reproduction and development. The process of exposition followed by Marx — clearly differentiated from the process of research — takes the form of a conceptual development by which categories are derived from one another in a logical sequence, beginning with the simplest and most abstract notions and advancing to the most complex and concrete. From this theoretical-methodological perspective, Marx shows that the market and capital are two organically connected instances that presuppose one another, so that they cannot exist separately. Understood as the universal circulation of commodities, the market is the form of manifestation of an atomized production structure where autonomous business units compete with one another seeking to maximize their profits (which is to say seeking to valorize their investments as capital, the final goal of all production).

Indeed, Marx demonstrates in Capital that the “simple circulation of commodities” (colloquially, “the market”) does not constitute an isolated or autonomous sphere of social reality, and much less does it refer to some form of precapitalist organization, a system of independent producers that never really existed. On the contrary, it represents a certain dimension or particular moment of an organic totality, such as the capitalist mode of production (unity of production, distribution, exchange, and consumption), which has its own operating logic and specific laws of motion. In Marx’s analysis, the sphere of commodity circulation appears as immediately visible on the surface of capitalist society itself, therefore presupposing it to be a structural totality. Only on the basis of fully developed capitalist production does the exchange of products become a truly universal phenomenon (as opposed to the restricted character it experienced in all previous societies). Thus, Marx’s research begins from a specific aspect of bourgeois society — such as exchange relations, but abstracted for methodological reasons from the existence of capital, which appears in a second phase of theoretical construction.

In the chain of logical-theoretical implications that leads to the notion of capital in Marx, there are two fundamental steps that occupy the first two sections of Volume I. First, it is established that the general circulation of commodities requires the category of money as a universally equivalent and autonomous form of value. Then it is shown that money can only become a truly autonomous form of value if it functions as capital (that is, as “self-valorizing value”), increasing throughout its circulation thanks to the generation of surplus value in production.

Marx thus derives the category of “capital” from the simple circulation of commodities, as an ulterior development of the determinations of the category of “money” and the functions recognized in that sphere. He offers this deduction as a transit from the “C–M–C circuit,” representing simple circulation, to the “M–C–M’ circuit,” which describes the circulation of money as capital. In the first circuit, money is only an intermediary in a process whose final goal is beyond mere circulation, in the consumption of commodities and therefore the satisfaction of needs. Money loses its autonomous existence the moment it is transformed into commodities, and its circulation is interrupted. From here it follows that money can only be an autonomous form of value if it never leaves circulation, and this happens only if it becomes the very aim of circulation, as in the M–C–M’ process. This second circuit requires a transit from the sphere of circulation, in which changes are registered in the form of value (between C and M), to that of production, the only terrain where surplus value can arise — a quantitative difference between the initial and final magnitude of value.

Thus, in its most abstract and essential determination (called the “general formula” by Marx), capital is a continuous process or movement: that of the “valorization of value” or “value in process,” and as such it constitutes an end in itself, an automatic process devoid of term or limit, to which individuals and their needs are subjected. It can then be said that the subject of the economic process is not people or social agents but capital itself, which must expand indefinitely, at an ever-increasing scale, leading Marx to speak of the valorization process as an “automatic subject.” Economic life is therefore governed by an abstract, impersonal, and ~~blind~~ power that imposes its need for self-reproduction on the will and needs of people. For Marx, this automatism alien to human consideration is most characteristic of the market process, and an essential reason behind his understanding that the market can never provide a basis for the construction of socialism, which is a project of social emancipation consisting precisely of conscious and democratic control of the economic process by a population seeking the satisfaction of its needs.

Universal exchange of commodities and capital would thus be internally and necessarily connected, presupposing each other within the same structural unit. The cycle of capital — the process of expanding an initial sum of value expressed in money — includes within a general economic interrelation both the phases of circulation (buying and selling) and of production (organization of work and generation of surplus). For this reason, circulation cannot be an autonomous sphere of the economic process but the expression of a particular aspect or moment of itself. Market relations are the necessary form of articulation of an atomized production system in which labors are carried out independently of each other, without submitting to any consideration or overall plan, and whose immanent purpose is expansion of value. In short, circulation (markets) and production (capital) make up two faces or spheres of a single economic structure. It should also be noted that this competitive framework, inherent in the fragmentation of social labor into private units, not only requires profit-seeking as an end in itself but also induces compulsive accumulation, and the need for constant productive reinvestment, which determines the ungovernable and turbulent functioning of the regime of market production.

Note that in this general characterization of capital as “value in process,” “self-valorizing value,” or “automatic subject,” labor-power as a commodity has not made an appearance, and therefore neither does the social relationship between the wage laborer and the owner of the means of production — which is what market socialists consider the essential characteristic of capitalist production. From the point of view of the essential determination that we are examining, the concrete agent in which valorization can be embodied is in fact entirely secondary. Hence, Marx conceived the figure of the capitalist owner as a mere “personification of an economic category,” “capital personified,” not as a true protagonist or subject of the economic process. In this sense, the capitalist will be “merely a cog” (Marx, 1976, 739) who executes the abstract logic of capital.

Although what has historically fueled this valorization process has been, of course, the exploitation of wage labor, this could also be accomplished by different sources: for example, by cooperative workers who must supply more work than its cost of reproduction to a process they do not control, which coercively imposes upon them the blind and external force of competition. Neither the legal status of the companies nor the type of social relations (vertical or horizontal) established within them will alter in any way this market logic or the general economic dynamics that derive from it. As long as the economy continues to be based on markets, production cannot be oriented toward satisfying social needs but must be directed to the valuation of investments.

Thus, at the level of abstraction considered here, the true presupposition of capital is not labor-power (or a free worker) as a commodity, but rather competition, which “subordinates every individual capitalist to the immanent laws of capitalist production, as external and coercive laws” (Marx, 1867, 739). This leads to the tendency to lower costs, to lengthen the working day, and to accumulate or extend markets. It is competition, in short, that forces production units to extract surplus labor from the producers (whether salaried or not) in ever-increasing quantities, in order to continually consign it to the automatic movement of “accumulation for the sake of accumulation, production for the sake of production” (Marx, 1867, 742), a requirement on which survival in the market depends.

In summary: understood as the universal exchange of commodities, the market necessarily expresses an economic structure based on private control of the means of production; and it presupposes the fragmentation of the productive apparatus into autonomous business units that, in order to survive in competition, need to maximize surplus value and continually reinvest it. The fragmentation of social labor requires that investments generate more value than the production costs incurred by them.

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#### T-The

#### ‘The’ before United States federal government requires specification.

Billings ’85 [Rendlon; June 25; Judge on the Supreme Court of Missouri; Case Text, “Shelter Mut. Ins. Co. v. Brooks,” https://casetext.com/case/shelter-mut-ins-co-v-brooks]

We hold the severability of interests clause requires the exclusion to be interpreted narrowly and only applied to exclude bodily injuries of the insured claiming coverage and his resident family. See Sacharko v. Center Equities Limited Partnership, 2 Conn. App. 439, 479 A.2d 1219 (1984); United States Fidelity & Guaranty Co. v. Globe Indemnity Co., 60 Ill.2d 295, 327 N.E.2d 321 (1975). Several considerations support this conclusion. First, it is implied from the severability of interests clause. Bituminous, supra; Commercial Standard Insurance Co. v. American General Insurance Co., 455 S.W.2d 714 (Tex. 1970). Second, there is a grammatical ambiguity in the exclusion itself that suggests an interpretation favoring the insured. In the opinion transferring the case to this Court, Judge Smith analyzed the ambiguity:

It is clear that one insured under a policy is subject to liability for injury to another insured. The exclusionary clause in the preceding cases standardly utilizes the phrase found in the policy before us -- 'the insureds.' The word 'insured' is the usual character of word which can be either singular or plural in meaning. The article 'the' is a word of specificity as contrasted to the articles 'a' and 'an' which are general in description encompassing any of the class. If the article 'the' is combined with the plural 'insured' it clearly would encompass all insured under the policy. If on the other hand it is combined with the singular 'insured' it speaks to a specific insured rather than all members of the class wherein the terms 'an insured' or 'any insured' are more properly utilized.

#### That means the plan must enumerate its actor as executive, legislative, or judicial.

#### The plan doesn’t specify an agent---vote neg:

#### 1. Ground. The actor is the basis of all strategy. Not specifying lets them wait and reclarify after they’ve heard our strategy, an impossible moving target.

#### 2. Education. The core question of rights is institutional choice.

Komesar ‘4 [Neil; Winter 2004; Burris-Bascom Professor of Law at the University of Wisconsin Law School; Law and Social Inquiry, “Reflections on the Essence of Economics, the Character of Courts, the Role of Ideology, and the Reform of Legal Education,” vol. 29]

But it is not my path. In my view, there are not different types of decisions, just different types of decision making. All important societal decisions involve tough and complex choices. The relevant question is which of several imperfect decision-making processes (institutions) should take responsibility for each of these decisions. If institutional choice favors the adjudicative process, then the decisions can be termed legal or process or principle or Ralph. The terms are unimportant. What is important is that institutional choice determines these categories not the other way around.

More subtly, it is essential to realize that no universal comparative advantages adhere to a given institution. The courts may have officials (judges) who have greater independence than the officials of the political process (legislators, executives), but that can cut in several ways, producing advantages in one setting and disadvantages in another. More generally, as we just saw, the same factors that cause increasing problems in one institution often cause parallel problems for the alternative institution. That makes sweeping allocations of decision-making responsibility suspect.

When, in Law's Limits, I conclude that judicial review of land use decisions should be reduced, it is not because, as a general matter, the political process is a great determiner of land use issues - which it certainly is not. Nor is it simply because, as a general matter, the adjudicative process is severely strained by review of these decisions - which it certainly is. I took the position by looking at the particulars of participation in the alternative institutions in the context of land use decisions. The result is a close call. If not for the real potential for serious competition among local zoning jurisdictions for exactions, I might well have preferred the strained courts and called for increased not decreased judicial review. And that would have been a close call.

Once again, as with the economic analysis of law and public policy, the standard approaches to legal analysis seem easier but are useless. Comparative institutional analysis is the only real road, although it promises no easy answers. Ending the reluctance to take the tough road is particularly important for analysts of law and courts. The adjudicative process is inherently limited by the processes and procedures that accompany judicial independence, such as the bottleneck of appeal, and these limitations cannot be easily removed without changing the fundamental nature of the courts. To continue to ignore the impact of these and other limits produces irrelevant analysis and, worse, promotes a drift in the directions of the law.

Increasingly, sophisticated legal commentators are reacting to the limits of the law by denouncing the courts in areas once held sacred (Rosenberg 1991; Tushnet 1999a). Calls for sweeping allocations away from the courts are the predictable reaction to conventional legal analysis where judicial intervention is justified simply by the identification of a laudable goal and perhaps a parade of horribles about the nonjudicial institutional alternative. To most legal analysts, judicial intervention solves all problems. Courts, rights, and the rule of law do not and cannot live up to that billing.

Those who react to the failures of these expectations by wholesale abandonment of the courts are also mistaken. In a world of severely and increasingly imperfect alternatives, the answer is not to jettison an institution like the adjudicative process when we discover its severe and increasing faults. That will only produce cycling, as today's sweeping solution becomes tomorrow's "failure," to be replaced by yesterday's discard dressed in somewhat new garb. The answer is to confront the tough task of institutional choice and comparative institutional analysis.

III. The Reform of Legal Education

What better place to start than legal education. Cole notes that I close Law's Limits by tendering basic reforms to legal education. He kindly does not scoff at what he sees as my call to place comparative institutional analysis at the core of legal education along with the teaching of legal doctrine. But even he does not fathom the depth of my chutzpah. My belief is that comparative institutional analysis is the way to teach doctrine and legal skills as well as providing new lawyers with an analytical framework useful in making a buck or saving the world. It also provides the legal community with a way to replace the standard ideological categories that now define people and positions.

Doctrine is defined by well-known constructs, and the role of courts appears to follow from these doctrinal constructs. Unequal bargaining power triggers judicial scrutiny of private contracts under the unconscionability doctrine, representativeness determines the availability of class actions, the presence or absence of physical invasion dictates whether courts will balance impacts under the nuisance doctrine, suspect classifications and fundamental rights dictate the role of courts in U.S. equal protection law, and the takings of private property triggers judicial review of just compensation. Similar constructs are found throughout the law - both in the United States and elsewhere.

On careful examination, however, a curious pattern appears. These constructs seldom correspond to a straightforward definition based on common meaning. Fundamental rights do not cover all or even most of what is fundamental. The "taking of private property" falls far short of the full conceptual meaning of either taking or property. The term suspect classification omits many suspicious classifications. Physical invasion excludes many physical invasions. All these terms seem distorted and artificially limited.

There is, however, a straightforward way to understand these constucts. Reverse the causality. Although, in theory, these constructs define institutional choices, in reality, they are defined by them. As one examines their application, these constructs are roughly based on considerations of institutional characteristics and the relative merits of judicial versus market or governmental decision making. Thus, although, in theory, constructs like physical invasion, unequal bargaining power, property, and fundamental rights define institutional choice, in reality, they are defined by institutional choice. They do not avoid institutional choice and comparison. They require them. If a doctrinal term seems vague, sophisticated lawyers should look to institutional choice and institutional comparison for guidance.

### 1NC---OFF

#### T-Strengthen.

#### Strengthening a right is distinct from expanding the scope of a right.

Frederick Schauer 82. Cutler Professor of Law at William and Mary College of Law, JD from Harvard University, MBA from Dartmouth College (Frederick Schauer, 1982, *Free Speech: A Philosophical Enquiry*, Cambridge University Press, pp. 134-5, University of Kansas Libraries, Watson) \*Italics in original.

It would seem therefore relatively uncontroversial to assert that freedom of speech is not and cannot be an absolute tight. This broad statement, however, must be tempered by two highly pertinent 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 distinction 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 a 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 some equilibrium between scope and strength. This is easiest but not necessarily best at the extremes. Meilkejohn, for example, defined freedom 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 communication. 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 Principle would argue for including.

#### Violation: the plan creates new worker boards. That’s collective bargaining reform.

Alex 1AC Domash 21, Research Fellow, Mossavar-Rahmani Center for Business & Government, Harvard Kennedy School, “Returning Power to American Workers and Raising Wages: How Collective Bargaining Reform Can Help Restore America’s Middle Class,” 03/2021, 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

When countries reformed their bargaining systems from centralized or sectoral bargaining, to predominantly enterprise-based bargaining, labor’s share of income saw a significant decline. Four countries in our sample underwent significant collective bargaining reforms since 1990 that shifted collective bargaining to the enterprise level: Czech Republic, Greece, Ireland, and the United Kingdom. We exploit these changes to show what happened to the labor share after each country underwent their bargaining reform. Figures 19-22 below plot the average labor income share in each country, and code each year observation according to the type of bargaining system. The dashed red lines show that there is a clear trend break when each of the four countries underwent collective bargaining reform to decentralize their systems. These graphs should not be interpreted causally, as there were likely many other macroeconomic factors that may have also influenced the labor share.

#### Vote neg:

#### 1. Limits. Expanding ‘strengthen’ permits hundreds of minor expansions.

#### 2. Ground. ‘Unions bad’ presupposes existing economic structures.

#### Those outweigh. Err neg to check first and last speech AND moral high ground of ‘workers good’.

### 1NC---OFF

#### Federalism.

#### The AFF puts states in “lockstep” with federal law---that kills state flexibility

Alexander MacDonald 22. Bargaining Rights Gone Wrong: How State Courts Invented a Constitutional Duty to Bargain and How It Harms Individual Workers." Federalist Society Review 23 (2022).

The second downside was more subtle, but also more wide-reaching: a loss of autonomy. By importing federal precedent, state courts sacrificed the independence of state law.339 The genius of the American system is that we have fifty-one different sovereigns.340 Each sovereign is free to experiment in its own sphere and develop its own solutions.341 That flexibility spurs competition and innovation. When states try different things, they sometimes land on good policies. Those policies then get picked up and spread through the marketplace of ideas.342 But states can’t generate new ideas if they interpret their laws in lockstep with federal law.343 If they merely parrot federal principles, they make themselves junior partners in what is supposed to be a system of equals.344 They abdicate their duty to develop state law as an independent source of rights and protections.345

In fact, federal law itself recognizes the value of state independence in this field. When Congress wrote the NLRA, it carved out large swaths of the American workforce.346 It excluded agricultural and domestic workers because it thought federal bargaining standards were too onerous for their employers, who tended to be small enterprises or even individual people. 347 Likewise, it excluded public employees because it didn’t want to interfere with state law, which usually denied employees the right to strike. 348 Those carveouts would have been meaningless if Congress had wanted states to simply copy the federal framework. 349 Yet by importing federal standards, Missouri’s and New Jersey’s courts did just that. They effectively erased the NLRA’s carveouts and nullified Congress’s judgment. 350

#### Key to an effective state legal regime.

Christina Koningisor 25. Associate Professor of Law, U.C. College of the Law, San Francisco. RonNell Anderson Jones & Sonja West, eds., Cambridge University Press, 2025 Forthcoming in The Future of Press Freedom.

Since then, different substantive state constitutional provisions have captured judicial and scholarly attention at different moments. Today, for example, many advocates and scholars have turned to state constitutional privacy provisions as a potential source of reproductive rights protection in the wake of the Supreme Court’s elimination of federal abortion protections in Dobbs.40 And in the face of the growing climate crisis, advocates have looked to state constitutional provisions addressing public health rights or the right to a healthy environment as a promising source of new legal protection.41 As the Supreme Court moves further to the right,42 progressive scholars and advocates will most likely continue to look to state constitutions as an alternative source of rights protection.43

In the decades since Brennan’s article, scholars and judges have also looked to state constitutional speech and press provisions.44 They have asked whether these protections sweep more broadly than the First Amendment Speech and Press Clauses, as well as whether they should.45 State courts have also explored the meaning of state free expression protections when construing state constitutional speech and press provisions.46 But more could be done. Press advocates haven’t always utilized these press and other state constitutional provisions effectively.47 And state courts have often construed state constitutional free expression provisions in lockstep with the First Amendment, despite significant textual and historical distinctions.48

Further, legal scholars have largely overlooked state constitutional protections for the press. Some have compared the development of free expression rights in the state versus federal constitutional contexts for specific states.49 Yet the scholarship examining state constitutional protections for the press is more limited.50 This is true even though these state constitutional press protections offer crucial benefits. State constitutions can provide protection where the U.S. Constitution has failed. Many state constitutional press and speech provisions already sweep more broadly than the First Amendment under current state precedent. And many more could be reasonably construed this way.51 Moreover, state constitutions are more easily amended in response to new or changing threats to the press.52

The lessons of state constitutional law can also be useful for advocates of expanded federal press protections. Many of the policy arguments advanced by the U.S. Supreme Court in the course of rejecting particularized rights for the press can be challenged by the experience of the states. The state constitutional experience offers alternative law and policy choices, distinct from the path the U.S. Supreme Court has chosen under the First Amendment. Mining these state law histories can be helpful for refuting the Court’s policy-oriented claims and for imagining alternative futures for federal constitutional press protections.53

#### Extinction.

Katalin Sulyok 24. Department of International Law, ELTE Eötvös Loránd University“Transforming the Rule of Law in Environmental and Climate Litigation: Prohibiting the Arbitrary Treatment of Future Generations,” Transnational Environmental Law, Forthcoming.

Lawsuits that are challenging states’ environmental or climate policies in the name of, or with reference to, future generations and their long-term interests are becoming a transnational trend. This pattern of litigation, referred to here as ‘future generations lawsuits’, includes climate litigation,1 as well as environmental and biodiversity litigation,2 and transcends continents, legal systems, and legal cultures. At the same time, these proceedings are highly diverse: they are launched under various substantive legal bases, by different kinds of plaintiff, against different respondents, and they seek different types of legal remedy before various national and, increasingly, international fora. Notwithstanding these differences, the lawsuits appear to share some structural similarities, which will be the focus of this article.

The analysis zeroes in on domestic and international lawsuits, in which the interests of future generations are invoked in order to claim and establish new or enhanced obligations for states in relation to posterity in the context of setting their environmental or climate policies. The aim of this cross-jurisdictional comparative analysis is to map the common legal architecture of future generations litigation by sketching the doctrinal ‘frontlines’ of such lawsuits. In other words, the article will focus on the legal doctrines based on which plaintiffs claim, and courts increasingly appear to afford, protection for long-term interests and needs across domestic and certain international jurisdictions. These demands, as I will argue, correspond to a handful of structurally similar legal safeguards that are derived from the imperative of the rule of law.

I use the term ‘rule of law’ in a broad and normative sense, as a guarantee against the state’s arbitrary exercise of power over the individual.3 This article will show that the shared legal anatomy of future generations litigation lies in five more concretely defined requirements of the rule of law: (i) respect for human rights, (ii) certain quality of law requirements, (iii) prohibition of arbitrary exercise of governmental power, (iv) non-discrimination, and (v) access to justice.4 The cross-jurisdictional analysis will examine the ways in which these safeguards play out in the context of future generations litigation, where courts appear to be increasingly willing to reinterpret rule of law obligations in order to protect future generations against arbitrary treatment by present-day decision makers. In such an extremely rapidly proliferating field as future generations litigation it is not feasible to include every relevant decision in this article. The cases under review, therefore, have been selected to provide examples of the argumentative solutions of a wide range of jurisdictions, thereby shedding light on some cross-jurisdictional trends in the adjudicative practice.

The central claim of the article is that states are increasingly held accountable by courts – thus far primarily by domestic fora – when decisions by governments or the legislature undermine the vital environmental interests of posterity in an arbitrary manner. I understand arbitrariness here as the capacity of present-day decision makers to benefit from the inherent intergenerational asymmetry between those whose conduct generate long-term risks for the stability of the climate and the ecosystems and those who bear the devastating consequences of such actions. State policies that inflict harm on future generations in full awareness of the potentially catastrophic long-term impacts revealed by robust scientific insights can be viewed as unreasonable5 and irrational6 – and, even more fundamentally, as ‘arbitrary’.

As a caveat, the scope of this analysis is confined to examining legal claims that seek to protect the ‘environmental’ interests of future generations – namely, a safe and liveable planet and climate for our descendants. Needless to say, posterity has a host of other interests, and their liveable future is not only jeopardized by the climate and ecological crises but also by a range of other threats, including nuclear wars, pandemics, and artificial intelligence. The doctrine of intergenerational equity has also been invoked in contexts outside the ‘environmental’ or ‘climate’ protection discourse – concerning, for instance, the accumulation of sovereign debts7 or the sustainability of pension schemes.8 This article, however, will only examine the ways in which states can be held liable for undermining intergenerational needs when designing their environmental and climate measures.

The rule of law framework adopted in this article serves both analytical and explanatory functions. On the one hand, it provides an anchor for the comparative analysis; this analysis seeks to make sense of the trends in a booming field that may, at first glance, appear to feature divergent legal arguments and even ad hoc judicial developments tied to the specificities of respective jurisdictions. On the other hand, the framework also helps to explain some of the drivers of these lawsuits and explores some wider, more systemic implications that such lawsuits may bring to the current paradigm of environmental and climate governance. The analysis will ultimately appraise whether an intergenerationally sensitive ‘revolutionary’ reinterpretation of normative rule of law guarantees can help to change the short-termist paradigm of the domestic decision-making process that has led to and is dominating the Anthropocene.

The analysis is structured in five main parts. Section 2 identifies three layers of connections between the rule of law and the current planetary crises. The interrelations identified here not only demonstrate how the rule of law could be thrown into disarray if critical thresholds that mark ‘the safe operating space of humanity’ 9 were to be exceeded, but also how the concept has played a critical role in producing such planetary risks and how it could be transformed into a means of abating them. Section 3 identifies the main normative obligations flowing from the rule of law, and explains why these safeguards offer an influential point of intervention for courts in various jurisdictions to impose long-term obligations on states. Section 4 turns to specific rule of law guarantees, and maps cross-jurisdictional patterns of mobilising these intergenerational rights and obligations before different national and international fora. Section 5 concludes by appraising the potentially transformative impact that future generations litigation may have for the short-termist paradigm of environmental and climate governance by developing an intergenerationally conscious reading of states’ obligations under national and international law.

2. The Rule of Law and the Ecological and Climate Crises: Three Layers of Interconnections

The epoch of the Anthropocene10 is marked by humanity’s role as the dominant force of change on Earth.11 Our activities and technologies are now capable of fundamentally altering ecosystems and the geochemical cycles of the planet. The last decades have seen an unprecedented environmental and climate crisis that will fundamentally impair the living conditions of future generations – if it remains unabated within a rapidly closing time window.12 It is now widely accepted that the climate crisis is, essentially, a human rights crisis.13 This article will take a step further and argue that the planetary crises challenge the very concept of the rule of law. The multifaceted connections between the rule of law and the planetary risks of the Anthropocene can be depicted through three distinct layers. The first is the most overt linkage, concerning the interdependence of sustaining the rule of law and a stable climate and thriving ecosystems. The second layer, perhaps less obviously, relates to the pivotal role that the rule of law has played in charting humanity’s course into the Anthropocene. The third layer, however, highlights that rule of law guarantees, via an intergenerationally sensitive reinterpretation, can also be key in steering humanity towards a sustainable future.

Turning to the first layer, several phenomena attest to a mutual interdependence between securing the rule of law and maintaining a liveable planet. Multiple experts have voiced concerns that democracies and the rule of law will not survive this century if our generation fails to take sufficiently stringent and immediate measures to protect the ecosystems and the climate.14 Philip Alston, United Nations (UN) Special Rapporteur on Extreme Poverty and Human Rights, warns that poverty fundamentally threatens the rule of law, as massive inequalities between nations may result in ‘climate apartheid’, 15 and that further deprivation stimulates nationalist, xenophobic, and racist responses within societies.16 Fundamental freedoms will be at risk, even in established democracies.17 Delayed and ineffective climate action in the present will inevitably force future generations to enact immediate and drastic mitigation measures to halt the catastrophic consequences of climate change. Doing so would equate putting a ‘full brake’ on their lifestyle, which inevitably leads to restrictions on individual freedoms.18 These include restrictions on personal modes of travel and on consumption of food, water, and energy.19 Governments may also be forced to declare states of emergency. The German Federal Constitutional Court has also warned that courts may not be able to protect individuals against restrictions of their freedom rights as they would be deemed necessary and proportionate to tackle the climate crises, and therefore lawful under domestic laws.20 This all suggests that, despite their deeply ingrained short-termist horizon, democracies must nevertheless become able to safeguard long-term environmental interests to sustain the rule of law and democracy itself in the long run.

Their interdependence is, emphatically, mutual. Not only do environmental problems frustrate the principles of the rule of law, but a backlash against democracy and the rule of law also virtually always leads to a decline in the normative safeguards that protect ecosystems and the climate. Populist social movements often undermine taking ambitious climate mitigation action and environmental protective measures.21 Populist leaders threaten the international rule of law by challenging multilateralism,22 while, at the national level, they often pursue anti- or deregulatory agendas,23 undermine environmental democracy, including rights related to environmental information and public participation,24 and altogether hinder expertise-based environmental lawmaking.25 Empirical surveys also suggest that greater degrees of commitment to the rule of law raises the stringency of environmental measures,26 provided that this is not met with high degrees of corruptibility, which could offset such effects.27

The second layer of connections between the rule of law and the planetary crisis concerns the genesis of the Anthropocene. As argued in depth by Viñuales, as a social technology the law had a fundamental role in engendering the Anthropocene by regulating and legitimizing the growth-centred economic and industrial system that made it possible for our species to dominate the Earth system.28 The global north has played a pioneering role in mastering both the necessary technological innovations and growth-based capitalism and consumerism that are jointly responsible for the Anthropocene. The right to property, for instance, in its liberal conception as conferring unlimited and exclusionary power on the owner, was a key driver behind developing a growth-based economy, originating from western Europe in the 17th century.29 Property rights have enjoyed strong protection in democratic legal orders committed to the rule of law.

Sustaining the traditional normative content and contours of requirements flowing from the rule of law perpetuates socio-economic processes that undermine the opportunities for future generations. In particular, the rule of law provides for legal certainty, favouring stable and predictable laws. This requirement can also be utilized to hinder regulatory answers to emerging risks and uncertainties surrounding ecological and climate threats.30 In the same vein, the rigidity of the law often works in favour of the holders of economic power by protecting their ‘right to pollute’ and enabling them to impose externalities on communities within the bounds of often relaxed environmental protection standards.31

Moreover, democratic governance is inherently, and systemically, biased against future generations.32 Elected leaders favour immediate economic gains to satisfy their constituencies, whereas minors, and future generations, are disenfranchised. Presentism is thus deeply ingrained in democracy and in our conceptions of the rule of law, which, as argued in this article, has played a vital role in driving humanity into the Anthropocene. Rule of law guarantees, if interpreted as being applicable only between contemporaries, create a system of laws that is inherently inclined to overlook long-term interests and non-human environmental assets. The rule of law is not only anthropocentric,33 but its traditional understanding is also presentist and, thus, tolerates (if not enables) the necessities of life to be looted from our descendants.

Despite all these shortcomings, the third layer of relevant connections, which is the focus of the remainder of this article, suggests that a potential remedy for the ‘regulatory deficits’ of the Anthropocene34 may also lie in the rule of law. Several fora have become responsive to the grave intergenerational asymmetry between the conditions and possibilities of decision makers living in the present and those who will have to bear the resulting impacts in the future. The last decade has seen a boom in successful future generations lawsuits, where courts were willing to limit governmental freedom of action in adopting policies with harmful future effects through developing intergenerational dimensions for certain rule of law guarantees. This will be explored in the coming section.

3. An Intergenerational Reinterpretation of the Rule of Law

Pleading with the interests of future generations appears to be a useful litigation strategy, which creates a material impact on judicial inquiries in climate and environmental lawsuits.35 The plaintiffs in such cases claim normative guarantees under various domestic and international legal doctrines to protect future generations against arbitrary treatment. In other words, they demand the extending of core rule of law guarantees to posterity, too.

The political ideal of the rule of law36 knows several expressions across jurisdictions, such as Rechtsstaat or État de droit, and has been translated into various more precise political and legal requirements in different legal systems.37 The term is sometimes used to stipulate a set of principles for positive laws,38 to designate the separation of powers,39 or it is invoked in a broad sense to denote the legally regulated nature of certain aspects of state conduct,40 the binding nature of relevant international rules,41 or as a sweeping reference to the system of rules governing a given field.42 In this article, by contrast, I rely on the definition used by rule of law scholars proper, which locates the essence of the term in an overarching guarantee against the arbitrary exercise of sovereign powers.43 I will therefore look for judicially enforceable guarantees of the rule of law – that is, safeguards against arbitrariness – in the case law.v

Future generations lawsuits deeply resonate with the core idea of (non-)arbitrariness. In an increasing number of judgments, courts attempt to curtail the almost unrestricted ability of governments to favour immediate economic gains by disregarding, arbitrarily, the basic needs and interests of future generations. Arbitrariness is defined here as the ‘uncontrolled, unpredictable and unrespectful’ exercise of governmental power,44 which denotes a ‘distinctive form of unreasonable[ness]’. 45 Domestic laws in which present-day lawmakers use their discretionary leeway to pursue short-term gains while freely ignoring the harmful future ramifications, of which they are clearly aware based on ample scientific warning, are fundamentally unjust, unreasonable, and, in this sense, ‘arbitrary’ 46 in respect of future generations.

Intergenerationally arbitrary decisions may come in many forms, by way of both an action or an omission of the state. The former is illustrated in cases where courts strike down short-termist climate and environmental policies that sacrifice long-term interests for immediate gains.47 With regard to the latter, when faced with state inaction to protect environmental assets for the sake of posterity, courts often compel governments to enact protective measures.48 In these cases the exact formulation of judicial guarantees of non-arbitrariness is closely tied to national laws and domestic legal cultures and, hence, are varied in nature.

The analytic framework adopted here relies on the rule of law pillars identified by the Council of Europe (CoE) European Commission for Democracy through Law (also known as the Venice Commission), an international independent advisory body dedicated specifically to promoting the rule of law and democracy.49 The Venice Commission has developed extensive doctrinal work regarding the normative content and components of the rule of law. Its relevance is not confined to Europe, as the Commission’s definition squares with that endorsed by the UN at the global level,50 and also resonates with scholarly views coming from a non-Eurocentric perspective.51 The Commission lists five overarching ‘thick’ 52 (meaning substantive) requirements under the rule of law, which are: (i) respect for human rights, (ii) quality of law criteria, (iii) guarantees of non-arbitrariness, (iv) non-discrimination, and (v) access to justice.53

Notwithstanding certain future-looking policies,54 these pillars have largely been enforced under a tacit assumption of contemporaneity, in as much as they pertain to how reigning governments should treat and regulate people living under their rule and power at the given moment. Plaintiffs’ litigation strategies in future generations cases, however, seem to challenge such a presentist conception of the rule of law head-on, and increasingly successfully so. A growing number of courts have been willing to expand the temporal scope of rule of law guarantees into the future, either by enforcing them with regard to the grievances of future rights holders or applying such guarantees to protect current subjects against future risk or harm.

The following section will show how such an intergenerational reinterpretation of rule of law pillars emerges in judicial practice and serves to limit the ability of states to disregard the interests and needs of future generations in an arbitrary manner. In these judicial decisions, rule of law obligations are interpreted in a future-oriented way and thereby impose the following binding obligations on states:

• respect for the human rights of future individuals (currently living or yet to be born),

• the quality of law requirement, demanding that national laws capable of interfering with human rights safeguards must meet certain requirements, such as clarity, foreseeability, and specificity;

• the prohibition of arbitrary use of governmental powers in respect of the long-term interests of posterity;

• non-discrimination vis-à-vis future generations, prohibiting direct and indirect discrimination against children based on age or birth cohorts; and

• access to justice: justiciability of legal challenges against environmental and climate policies of governments and granting standing to plaintiffs acting on behalf of long-term interests.

The above pillars denote, in my view, the common legal architecture of many future generations lawsuits. It may be no coincidence that litigation strategies in diverse jurisdictions and under different legal contexts can all be traced back to specific aspects of the rule of law. Indeed, climate governance studies have observed that ‘overarching rules’ can act as vehicles for change and alter the prevailing system of governing climate change.55 The rule of law concept appears to be one of those ‘overarching rules’.

Developing forward-looking, intergenerational dimensions for actionable rule of law obligations is a significant legal innovation, which can assist in reimagining the legal order to become more responsive to future threats and to the risk of committing posterity to harmful path-dependencies in the present. A recent study warns, however, that successful legal innovations need to be incremental rather than radical, because of law’s preference and need to adhere to past commitments.56 This means, in our context, that the creative, ‘imaginative’, 57 one might even say ‘revolutionary’ interpretation of the scope and content of intergenerational state obligations should also be grounded in well-established norms in order to succeed.

The concept of the rule of law could satisfy such a need for groundedness and continuity. The fundamental role that the ideal of the rule of law plays in every democratic legal system renders its normative components effective and legitimate anchors for courts to develop incremental changes in the understanding of states’ obligations. The combined effects of this reinterpretation may nevertheless be transformative for the enforceability of claims of intergenerational justice. Further, invoking claims based on the rule of law before courts has practical value in protecting the interests of future generations. Many successful landmark judgments attest to the potential of targeting these basic pillars of the rule of law.

Rule of law safeguards thus serve as influential points of intervention. Through novel interpretations, courts can inject a long-term perspective into states’ traditionally short-termist decision making. Applying actionable rule of law guarantees to protect the interests of later generations offers a workable backdoor mechanism to challenge states’ myopic policies, which are otherwise often insulated from judicial review.58 If domestic and international courts were to continue to acknowledge the intertemporal dimensions of basic rule of law guarantees, legislatures would be discouraged from passing myopic environmental and climate measures. As a result, invoking the interests of future generations can also help to close the liability gap for inflicting future harm, which is thought to be a potentially significant legal response to the Anthropocene challenge.59

Finally, to appraise the practical significance of demanding safeguards against arbitrariness towards future people, we should examine the temporal limits of such litigation strategies. While the basic theory of intergenerational equity is not limited in its temporal scope,60 it is important to acknowledge the practical barriers to effective advocacy with regard to interests to be protected in the 22nd or 23rd centuries. The temporal reach of such claims appears to be capped by constraints inherent in the methods with which posterity’s relevant interests can be defined by courts in a robust (and non-arbitrary) way. As I argue in Section 5, these standards lie in scientific knowledge and soft law instruments. The horizon of our scientific and political attention currently revolves around harm that is likely to arise from human-induced warming by 2050 (that is, within the lifetime of the next generation),61 or at the end of the 21st century (affecting the generation that comes after).62 Viewed from this perspective, it may be no coincidence that plaintiffs appear to be most successful in claiming rule of law-based protection for future generations when they frame their complaints around the near future.

Having stated that, with the advent of technologies capable of exerting large-scale systemic influence over the climate system, such as geoengineering, it is not inconceivable to imagine a scenario where actions taken today produce harmful effects over centuries from now. Theoretically speaking, nothing precludes claiming guarantees of non-arbitrariness towards posterity even on such a timescale.

4. Limiting Arbitrariness: Litigation Strategies in Future Generations Lawsuits

The overwhelming majority of claims thus far put forward by plaintiffs in future generations litigation seem to fall into one or more of the above-listed five main categories corresponding to the main rule of law guarantees.

4.1. Respect for Human Rights in the Future

The traditional conception of human rights is somewhat presentist, in that safeguards are thought to be applicable only between contemporaries.63 Major international human rights covenants are silent about future individuals and declare jurisdiction over complaints if the rights holder falls within the jurisdiction of the duty bearer,64 which arguably requires proximity in both space and time. However, expert proposals have long advocated adopting a more future-oriented stance.65 Most recently, the Maastricht Principles on the Human Rights of Future Generations, released in February 2023, set the tone for a new reading of international human rights law, which emphasizes the absence of any ‘temporal limitations’ of the guarantees set forth in major covenants.66 This implies that human rights safeguards should be guaranteed for future individuals in the same manner as for those currently living.

The proliferating field of rights-based climate litigation also attests that courts do offer protection for human rights against future harm and/or for those of future individuals in the context of the climate and ecological crises. There are various conceptualizations of relevant violations of human rights across different temporal scales and with regard to different specific rights, leading to divergent lines of judicial inquiry in such cases.

Initially, courts deduced the obligations that states owe to future generations from select human rights, such as the constitutional right to a balanced and healthful ecology,67 or to a healthy environment.68 The latter has been invoked to advocate the protection of long-term needs and environmental assets in a range of jurisdictions, which include Pakistan,69 Brazil,70 Hungary,71 and a state court in the United States (US).72 The Supreme Court of Hawaii has even declared a ‘right to a life-sustaining climate system’. 73 Other courts are focusing on more general human rights safeguards. Dutch74 and Belgian75 courts, for instance, have found that the over-lenient climate commitments of their governments violated Articles 2 (right to life) and 8 (right to private life) of the CoE European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).76

Other jurisdictions define potential claimants more narrowly, and protect only the rights of certain most vulnerable special rights holders, such as children77 and Indigenous communities.78 Building on its own earlier findings in Sacchi v. Argentina and Others, 79 the UN Committee on the Rights of the Child, in 2023, defined several specific obligations for states in the context of climate change in its General Comment No. 26.80 It remains to be seen whether this document will alter the litigation strategy of child plaintiffs, as an empirical study found that the majority of them did not plead violations of their rights as children but focused on their grievances to be endured later, in their adult lives.81

Moreover, as a doctrinally distinct category from children’s rights,82 explicit recognition for the rights of future generations is also gaining ground in human rights discourse. Besides the Maastricht Principles cited above, a central role was afforded to the environmental rights of ‘unborn generations’ in the inquiry of apex courts in Colombia83 and Pakistan.84 Even in jurisdictions that remain wary of speaking explicitly about the rights of future generations, future interests do shape the obligations that courts impose on states.85 Courts may also conceptualize harmful climate impacts as a violation of the full range of the possible spectrum of rights held by every individual. As famously found by the German Federal Constitutional Court, unambitious greenhouse gas (GHG) reduction measures were unconstitutional because they were leading to a future where ‘practically all forms of freedom’ would be put in jeopardy.86

The above conceptualizations of protected rights are closely interlinked in judicial analysis with different configurations of the temporal dimension of relevant human rights violations. One may distinguish four judicial approaches in this respect. Firstly, courts can address violations of human rights that are already taking place. This approach was chosen in the Torres Strait Islanders’ case, in which the lack of climate adaptation measures was deemed an ongoing breach of human rights.87

The second, somewhat similar approach adopts a back-casting method focused on competing rights in the present to tackle the conflicting interests of different generations. The analysis of the Hungarian Constitutional Court in its Forest decision is a stark example.88 The Court reviewed the constitutionality of an amendment to the Forest Act that would expand the property rights of private forest owners against the general public’s right to a healthy environment. Noting the constitutional importance of intergenerational equity, the Court annulled the amendment and afforded protection for the interests of future generations against the resource extraction of the current generation by balancing the right to environment against the right to property.

A similar back-casting logic features in Neubauer, where the partial annulment of Germany’s federal climate law was rooted in the anticipated restrictions on constitutional rights (so-called ‘advance interference-like effect’) that the act would have imposed after 2030.89 This approach is responsive towards violations that will take place in the more distant future. The Dutch Supreme Court, for instance, declared a violation of rights even though the government’s lax mitigation commitments were leading to risks that ‘will only be able to materialize a few decades from now’. 90

A final option lies in protecting the individual’s rights against violations that are inevitable in the short term. The European Court of Human Rights (ECtHR), for instance, protects the right to life and private life against imminent future environmental risks.91

4.2. The Quality of Law Requirement vis-à-vis Domestic Climate Laws

Domestic laws that may interfere with human rights must meet a certain quality to be compatible with the rule of law. Such a requirement was developed in the most nuanced way by the ECtHR92 in requiring that national laws that may interfere with basic rights be ‘sufficiently clear and detailed’ 93 and ‘foreseeable’ 94 as to their effects on the persons concerned. In the context of climate litigation, these requirements could be invoked analogously to demand that national climate laws include detailed and clear mitigation targets that are sufficiently ambitious to avert drastic climate impacts.95 Although such quality of law requirements have not been argued by applicants – though by one intervener96 – in the pending climate cases before the ECtHR, national courts have set similar conditions for the quality of climate mitigation laws under domestic law.

In Neubauer, the German Constitutional Court found that the statutory emissions pathway was unconstitutional because it did not specify long-term reduction targets, and therefore offloaded the mitigation burden onto future generations.97 The same justification was adopted later by the South Korean National Human Rights Institution in its Opinion on the climate crisis.98 Similar specificity requirements were invoked by the Supreme Court of Ireland, which ruled that the government had to ‘give real and sufficient details’ in its National Mitigation Plan,99 and also by the United Kingdom (UK) High Court in litigation surrounding the UK Net Zero Strategy. The Court in the latter case required the Secretary of State to give ‘explanations’ for the bases of the Net Zero Strategy under the statutory obligation to ‘set out’ policies for meeting the carbon budget.100

4.3. Preventing Arbitrary Exercise of Governmental Powers to the Detriment of Future Generations

A distinct pillar of the rule of law embodies safeguards that curtail the state’s ability to exercise its governmental powers arbitrarily over the individual. Such guarantees against arbitrariness in the strict sense find legal expression in various formulations of due diligence obligations. These ensure that the interests of future generations are not neglected or overridden even outside the scope of human rights safeguards and requirements for the quality of climate legislation. Duties of care towards the future are rooted in a range of doctrines that are closely tied to the substantive laws of respective jurisdictions and, hence, span a wide variety. Yet, they all aim at curtailing the freedom of the sovereign decision maker to disregard future needs and interests in exercising its executive powers.

Firstly, under the ECHR system, states have a well-established positive duty to take ‘all reasonable and necessary’ measures to prevent interference with protected rights. This duty of care is frequently invoked in climate change lawsuits.101 National courts have already reviewed the legality of domestic climate measures under the doctrine,102 and concluded that respective governments overstepped the bounds of their discretion under Articles 2 and 8 ECHR in that they failed to demonstrate the required level of care in designing their GHG reduction pathways.103 The District Court of the Hague (The Netherlands), in its Urgenda decision, allowed conducting a cost-benefit analysis in discharging such a duty of care. It stressed, however, that costs should be allocated reasonably between present and future generations and that the state has a ‘serious obligation to combat climate change if taking action in the present is predicted to be cheaper’. 104 The Court of Appeal found that the economic and social costs of delayed action strongly warranted taking action in the present.105

The possible intergenerational aspects of states’ due diligence obligations under international human rights law at the global level and under customary international law so far have been less articulated in either positive law or in international judicial practice.106 An early exception lies in General Comment No. 26, emphasizing that states do have a ‘heightened duty of care’ towards children and thus have an obligation ‘to set and enforce environmental standards that protect children from such disproportionate and long-term effects’. 107 A major international legal avenue for protecting intergenerational interests lies in the due diligence obligation under customary international law.108 This is also well reflected in the questions put before the International Court of Justice (ICJ) in the pending advisory opinion proceedings, which ask the Court to clarify the legal relevance of future generations for the content of due diligence obligations under customary and treaty obligations, and with respect to the legal consequences of any violation thereof.109 Putting future generations more squarely into the due diligence calculus would be an important step with potentially far-reaching implications. Doing so would, for instance, provide further support for states in refusing to grant new fossil fuel projects on account of their expected future emissions.110

Due diligence obligations may also stem from domestic law. In Neubauer, the Court deducted that the German Basic Law imposes on the legislature a special duty of care towards future generations.111 Such a duty may also be rooted in civil codes112 or in common law doctrines requiring consideration of the interests of minors.113 In some jurisdictions there are currently proposals to enshrine a duty of care towards future generations in statutory law.114 States may also be required to exercise care to protect essential ecosystems and natural resources (such as forests or rivers) for the future, under various stewardship115 or guardianship116 obligations.

In some jurisdictions (Ecuador, for example), courts use the Rights of Nature paradigm to safeguard the interests of posterity. Even though the future generations discourse and the Rights of Nature movement may appear, at first, to be distinct and divergent, they share the goal of carving out certain long-term assets from the unfettered discretion and resource exhaustion of states.117 Ecuadorian courts, for instance, prohibited all mining operations in the Los Cedros forest on such a legal basis,118 and opined that any harm that impairs nature is harm inflicted upon several generations.119

Another prominent legal avenue for restricting states’ ability to favour immediate economic gains lies in the public trust doctrine, which appears in the laws of various jurisdictions.120 The doctrine imposes fiduciary duties on states under common law, statutory law or constitutional law, and it deems governments to be sovereign trustees, which ought to preserve the trust’s assets – natural resources – for its beneficiaries, present and future. The scope of relevant assets varies across jurisdictions,121 as do the exact requirements for the trustee.

The public trust doctrine has already been applied successfully in environmental litigation to exclude policy choices that arbitrarily impair the needs and rights of future generations.122 Scholars have also long advocated pursuing the doctrine in climate litigation through arguing for an atmospheric public trust,123 but it is only recently that courts have picked up such a line of reasoning. In March 2023, Judge Wilson argued in his concurrent opinion, in the Hawai’i Electric Light Co. case, for a public trust obligation to reduce the level of atmospheric carbon dioxide (CO2) below 350 parts per million.124 A few months later, a state court in Montana decided in favour of youth plaintiffs based partly on the doctrine in Held v. Montana. 125 A number of further climate public trust cases are still pending, including the Juliana case before a US district court,126 and those before courts in India, Pakistan, and Hungary.127

4.4. Age-Based Discrimination of Minors and Future Generations

In political decision making, future generations are a permanently disenfranchised interest group128 whose diverse interests are harmed by myopic laws and policies. There is ample scientific evidence that children born today will experience much harsher climate conditions in their adulthood than experienced by members of previous generations.129 The staggering results of a scientific study show that children aged below 10 in 2020 will experience a fourfold increase in certain weather extremes.130 In the light of these scientific insights, it becomes obvious that children are already ‘particularly affected’ by climate change.131 What is more, such studies make it possible to frame disparate climate impacts as discriminatory treatment. One may conceptualize the problem as either indirect discrimination against children on account of their age, or as birth-cohort discrimination, whereby certain children alive today (together with later generations) are more adversely affected than previous cohorts.132

Climate impacts are framed as a violation of non-discrimination towards children and future generations in several cases pending before the ECtHR.133 The problem of birth-cohort discrimination features most acutely in the Duarte Agostinho case, initiated by Portuguese children before the ECtHR against 32 states, on the basis of violating the right to life and to private life in conjunction with the prohibition of discrimination.134 They argue that, as a result of the respondents’ failure to adopt stringent mitigation measures, the complainants will experience extreme weather events, which affect their living conditions and health. An essentially similar pleading was put before the Court of Justice of the European Union (CJEU) in the Armando Carvalho case to challenge the European Union (EU) GHG reduction commitments as far too lenient, but failed on procedural grounds because of the claimants’ lack of standing.135 Anti-age discrimination claims are also on file with domestic courts in various states, from Italy and Austria to South Korea and Canada.136 Hearing a complaint based partly on the non-discrimination clause of the Canadian Charter of Rights and Freedoms, the Superior Court of Justice of Ontario has deemed the ‘adverse effects of climate change on younger generations’ as ‘self-evident’. 137

4.5. Access to Justice in Future Generations Litigation

Another central issue in future generations litigation concerns the rights of minors to access justice – that is, whether disputes involving scientifically (and politically) loaded environmental and climate policy choices are deemed justiciable by the courts, and whether certain plaintiffs can claim intergenerational standing. Even though climate change disrupts longstanding judicial doctrines in respect of both questions,138 there are signs that courts are increasingly open to tackling intergenerational cases on the merits.

According to the Venice Commission, ‘the judicial branch appears to be best placed to protect future generations against the decisions of present-day politicians’. 139 Indeed, courts often deem such safeguards justiciable, despite pledges mostly being couched in symbolic language. This trend is backed by an emerging scholarly consensus140 and practitioners’ support141 for judicial intervention aimed at protecting long-term interests when fundamental rights are at stake. The justiciability of conflicting rights and obligations in an intergenerational setting was expressly linked to the rule of law in Urgenda, in which the Dutch Supreme Court stressed that the courts’ mandate to ‘offer legal protection, even against the government, is an essential component of a democratic state under the rule of law’. 142

In European jurisdictions, the separation of powers doctrine does not usually constitute an insurmountable obstacle to adjudicate cases challenging domestic climate targets.143 The approach of courts is far from uniform, though. The first instance court in Klimaatzaak, for instance, found that it was not entitled to set a specific reduction target for the legislature under the separation of powers principle.144 The appellate court disagreed and compelled the respondents to ensure that Belgium meets its target of reducing GHG emissions by 55% by 2030 compared with emissions levels in 1990.145 The reach of the political question argument is strongest in some common law countries, having blocked climate lawsuits on the merits in the US and Canada.146 EU courts have also been hesitant in relaxing strict standing requirements to allow climate claims to proceed.147

Plaintiffs seeking to establish standing on behalf of generations unborn face challenges rooted in the conceptual difficulty of claiming representation for future individuals.148 Transgenerational entities149 such as communities – which include states, tribes and cities, as well as specialized spokesperson institutions150 – have already succeeded in bringing intergenerational claims to courts.151 Children and youth plaintiffs are the other types of actor who typically have standing; they comprise around a quarter of the claimants in rights-based climate change lawsuits.152 Some courts have acknowledged the right of youth plaintiffs to claim intergenerational standing,153 but many jurisdictions have not.154 At the international level, children have been deemed to be victims of adverse climate impacts in the future, and thus were granted standing before the UN Committee of the Rights of the Child in a complaint regarding states’ inaction on climate change.155 The same issue is currently being litigated before the ECtHR with regard to Portuguese children, coupled with the question of whether the children have standing to bring a claim that demands climate action extraterritorially, from 32 foreign states.156

Domestic courts have mostly addressed the exterritoriality question at the standing stage. Some acknowledge a close link between intergenerational and intragenerational equity, as suggested by various scholars.157 In Neubauer, the German Constitutional Court recognized the standing rights of complainants coming from Bangladesh and Nepal, although it stressed that the extent of Germany’s obligations to prevent future adverse climate impacts abroad are fundamentally different from those owed to its own citizens. It thus found the narrower extraterritorial obligations to have been met.158 To this extent, this decision may even be placed among the more restrictive jurisdictions.

Intergenerational claims are also raised in class action lawsuits, which are filed by children in their own name and on behalf of future generations. A Canadian court notably deemed the composition of a class to be arbitrary because it involved only residents under the age of 35 in a particular province and excluded inhabitants of other regions.159 The majority of decisions seems to follow a more restrictive path and bundle the interests of present-day children and future generations only at the local scale – if they all live in the same region or in the same state.160 Such an attitude expands the temporal horizon of state obligations at the price of confining their geographical scope. This approach fails to consider intragenerational (extraterritorial) grievances – past, present, and future – in concretizing intergenerational obligations.

Such decisions could be criticized for being ‘parochial’ 161 and even ‘hypocritical’. 162 Indeed, courts of the global north appear to be weary of holding historically high-emitting states accountable for their historical emissions, and they do not compel governments to adopt stricter emissions reduction obligations on account of the widespread damage that such emissions have been (and will be) causing for the historically low-emitting countries from the global south. In a warming world, future generations of different parts of the world will face very diverse climate and environmental futures. We are yet to see whether domestic and international courts will be willing to reflect on these differences and integrate intragenerational equity into their reasoning in future generations lawsuits.

5. Judicial Standards for Detecting Arbitrariness: Science and Soft Law

In operationalizing the legal doctrines surveyed above, courts need some criteria to anchor their analysis concerning the future interests they deem worthy of protection through judicial intervention. Most importantly, they must ensure that their reasoning is not seen as capricious or biased. The legal doctrines I identified above are vaguely defined, open-textured norms, the application of which to particular facts leaves considerable room for judicial discretion. For instance, the concept of due diligence under international human rights law does not entail specific obligations for states,163 nor do the public trust doctrine or the right to a healthy environment. Courts therefore need to find substantive benchmarks to appraise the compatibility of sovereign conduct with normative requirements. In doing so, they must devise legal (or technical) standards to measure against the ‘arbitrariness’ of laws and policies or, in other words, their capacity to encroach upon the interests of future generations. Two common argumentative solutions emerge. Courts either refer to scientific knowledge or to goals enshrined in soft law documents to review the merits of short-termist legislation.

Science is often seen as a supplier of objective knowledge in the courtroom,164 enabling adjudicators to make robust assessments of the magnitude and imminence of future risks. Taking into account robust scientific knowledge is a core requisite for making ‘reasonable’ 165 decisions. In this vein, to limit the sovereign’s regulatory freedom, domestic courts often rely primarily on scientific reports. In Neubauer, the German Federal Constitutional Court pointed to the results of climate science in finding that the lawmaker exceeded the bounds of its discretion. It stressed that ‘if reliable data suggest that the constitutionally relevant temperature limit might be exceeded, such data must be taken into account’. 166

References to climate science seem to be an almost obligatory accessory of climate litigation judgments. The recommendations contained in the reports of the Intergovernmental Panel on Climate Change have sometimes directly laid the foundation for the reduction targets mandated by courts.167 The findings of expert organizations are also instrumental in defining the breach of stewardship obligations. In the Amazon decision, the Supreme Court of Colombia referred to scientific reports to support its conclusion that governmental measures were ineffective in combating environmental problems in the region.168 Similarly, the first instance court in Klimaatzaak referred to the opinion of the Federal Council for Sustainable Development to justify finding a lack of good climate governance, which was one of the grounds for establishing a breach of the government’s civil law duty of care.169

Another cross-jurisdictional pattern shows that courts often use soft law goals and prior policy commitments of the state as a benchmark for assessing whether governments arbitrarily harm the interests of future generations. Such an inquiry was most explicit in the Hungarian Forest decision, in which the Constitutional Court partially quashed an amendment to the Forest Act for contravening principles set out in the long-term National Forestry Strategy. The Strategy had been adopted by the legislature as a non-binding sectoral policy instrument setting out a long-term vision and principles for national forest management. A few years later, the amendment narrowed the powers of authorities to mandate temporal and spatial restrictions on logging for nature conservation purposes. The Court opined that this ran counter to sustainable forest management, as set out in the Strategy, and therefore repealed the amendment.170

A structurally similar argument was made in Milieudefensie v. Royal Dutch Shell by the first instance court.171 While interpreting the normative content of the unwritten standard of care in civil law, the District Court turned to the UN Guiding Principles on Business and Human Rights (UNGP),172 which is a soft law compilation of principles addressed to states and companies. Although the UNGP do not impose binding obligations on corporations, the court nevertheless argued that ‘the responsibility of business enterprises to respect human rights, as formulated in the UNGP, is a global standard of expected conduct for all business enterprises’. 173 On these premises, the District Court ordered Shell to increase its mitigation efforts in line with its obligations under the UNGP.

These examples also suggest that the dividing line between hard law and soft law obligations often becomes blurred in future generations litigation. Courts appear to turn non-binding standards into judicially enforceable benchmarks to carve out certain policy choices from decision makers’ lawful room for manoeuvre. The soft law standards reflect a political consensus, negotiated irrespective of the particular lawsuit, on the measures that the courts deem necessary to protect posterity’s long-term interests. Similarly, the scientific opinion of competent institutions with recognized prestige and expertise lends persuasive force to judicial findings that limit sovereign choices.

6. Conclusions on Transforming the Rule of Law: Trends and Implications

This snapshot of the frontlines of future generations litigation has shown how legal claims keep challenging the traditional content of states’ rule of law obligations across national, and also some international, jurisdictions. Courts are increasingly willing to interpret and apply traditional rule of law guarantees in a ‘revolutionary’ way: by extending their temporal scope to include both the concerns of future individuals as well as the future needs and rights of present-day subjects. Firstly, many jurisdictions now afford human rights safeguards against future environmental and climate hazards; and some even recognize unborn generations as rights holders. Secondly, national courts have also set various quality of law requirements for national climate laws to establish ambitious mitigation commitments. Thirdly, several jurisdictions have put constraints on the arbitrary exercise of governmental powers that threaten the viability of long-term natural assets, either by declaring such laws invalid or by compelling present decision makers to establish protective measures. Fourthly, while most lawsuits involving claims of age-based discrimination against minors are still pending, some courts have already shown sympathy for the discriminatory impact of adverse climate change on future generations. Finally, access to justice is increasingly granted in intergenerational lawsuits through expanding rules on justiciability and standing.

Courts concretize the meaning of legal standards through heterogeneous strategies, which are closely tailored to the specificities of national laws. Different modalities of rights-based approaches (including creating new rights holders), duty-centred reasoning, and concepts borrowed from Indigenous legal cultures174 all have their rightful place in the judicial ‘toolbox’, depending on the interpretative canons of the applicable legal culture. Such heterogeneity appears to be inevitable. The success of future generations lawsuits depends, at least in part, on whether plaintiffs manage to find the appropriate doctrine to expand the contours of state obligations that is most in line with domestic legal traditions.

In sum, courts appear to delineate the interests of future generations worthy of judicial protection through one of five legal avenues, all of which flow from the rule of law. Accordingly, these rule of law pillars mark the application of the intergenerational equity principle in judicial practice. In many scenarios it would be difficult for courts to select long-term interests that ought to be protected through substantive standards, given that such interests can be vague and subjective, and thus contestable. In similar delicate situations in the past, courts have turned to procedural requirements in their environmental case law.175 For the same reason, using the safeguards stemming from the rule of law are perhaps the most viable judicial tool to operationalize intergenerational equity.

On a higher level of abstraction, plaintiffs demand (with increasing success) that states respond to scientifically substantiated environmental risks and adopt ‘good laws’ with the purpose of diffusing ‘happiness and powers universally and equally’ 176 – in our context, equally across generations. To that extent, successful future generations lawsuits insist on an ambitious justice concept as expressed within various theories of intergenerational justice.177 At the minimum, unfolding judicial practice pushes present decision makers ‘to make wise choices for future generations’. 178

In the ‘laboratory’ of future generations litigation, courts translate the morally rooted requirement of passing good laws and making wise policies into binding obligations on states not to treat future individuals in an arbitrary way. Decisions and policy choices made in the present that are ‘capricious’ and unjustifiable in the light of scientific knowledge and soft law goals are repeatedly struck down by courts. States are no longer free to prioritize ‘at will’ certain short-term gains over long-term risks by wielding ‘uncontrolled power’ (to use colloquial synonyms of ‘arbitrary’) over ‘colonized’ 179 future generations. Even though states do retain discretion in balancing competing interests, their actions are becoming increasingly scrutinized to ‘arriv[e] at a reasonable balance’ 180 between present-day interests and longer-term impacts.

Judicially prohibiting arbitrary disregard for the interests of future generations may not be as revolutionary an idea as it may sound at first. It is in line with the changing contours of sovereignty, where states need to take into account ‘other-regarding considerations’ in designing their policies not only towards ‘foreign stakeholders’, 181 but arguably also towards future stakeholders. Positing binding guarantees against arbitrariness towards future generations also resonates well with the idea that state sovereignty has inherent limits under international law and prohibits unreasonable exercise of sovereignty to the detriment of future people.182

The implications of future generations lawsuits are of constitutional proportions; they call for transforming our conceptions of the meaning of the rule of law183 and, through that, they might recalibrate some of the basic tenets of the current system of environmental and climate governance. More specifically, a transformed understanding of basic rule of law obligations, if spread across jurisdictions and maintained to a sufficient degree to solidify,184 could assist in holding states liable for inflicting harm over longer timescales. By fostering a new, future-focused understanding of the rule of law, courts could level the playing field for later generations and emancipate them from the ‘systematic bias’ 185 of current short-termist decision making.

### 1NC---OFF

#### Midterms

#### Dems win now.

Emily Singer 9/19. Staff writer for the Daily Kos. “This poll should give Democrats hope for the 2026 midterms.” https://www.dailykos.com/stories/2025/9/19/2344419/-This-poll-should-give-Democrats-hope-for-the-2026-midterms.

If a new Washington Post/Ipsos poll released on Friday bears out, a blue wave may wash over next year’s midterm elections. The survey found that registered voters prefer that Democrats control the next Congress, by a 9-percentage-point margin. Such a large spread would likely be enough for Democrats to overcome the GOP’s corrupt redistricting efforts across the country. Fifty-three percent of voters want Democrats to be in control, to serve as a check on President Donald Trump, according to the poll. And 44% want Republicans to be in control, to support Trump's agenda. Those numbers are somewhat reminiscent of what The Washington Post/Ipsos found in October 2018, right before Democrats rode a blue wave to retaking the House. That year, 55% of voters wanted Democrats to control Congress to be a check on Trump, while 39% wanted Republicans to hold a majority to back Trump’s agenda. In 2018, Democrats went on to win the national House popular vote by over 8 points, taking 235 seats in the House. Democrats need to flip just a handful seats to win control of the House in 2026. For a while now, political handicappers have said Democrats are favorites to win that chamber. But their path to retaking the Senate next year is much steeper, though not impossible in a massive wave election.

#### Delivering on Pro-Labor policies locks in working-class support for Republicans

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But even those who question Hawley’s motives don’t doubt his ambition, particularly as jockeying for 2028 begins. One thing he appears to recognize is that siding with unions has become popular even on the right. In March, American Compass, a conservative think tank, and YouGov conducted a survey that illustrated this fact. Among Republican respondents, the poll found that labor unions had a net favorability of eight percentage points. Among young Republicans, defined as those born after 1980, the margin was thirty-eight points. Young Republicans also overwhelmingly backed several provisions of the PRO Act that the survey tested, such as expediting the collective-bargaining process, posting information about labor rights in workplaces, and penalizing companies that violate the law.

Daniel Kishi, a policy adviser at American Compass and a former aide to Hawley, told me that the generational divide captured by the survey is mirrored among Republican elected officials, with those who entered office after the 2008 financial crisis—such as Hawley and Vance—more likely to view unfettered markets skeptically and to see rank-and-file union members as potential supporters. These officials understand that, while voters in union households still tend to back Democrats, the gap has narrowed, a dynamic that has enabled Trump to win states like Michigan and Pennsylvania. Some Republicans are even beginning to see the labor movement’s leaders as allies, rather than as Democratic operatives who will turn out the vote for their opponents—in particular Sean O’Brien, the general president of the International Brotherhood of Teamsters, who spoke at the Republican National Convention this past summer. Kishi believes that enacting some of the pro-union reforms that drew support from young Republicans in the American Compass survey could solidify the political realignment that has occurred in recent years, leading more and more blue-collar workers to view the Republican Party as their home.

Thus far, of course, what the Trump Administration has prioritized is not passing such reforms but selling influence to wealthy patrons and granting unchecked power to billionaires including Elon Musk, whose Department of Government Efficiency fired thousands of federal employees who are union members. On March 27th, Trump issued an executive order that cancelled the union contracts of nearly a million federal workers. The order is “by far the largest single action of union-busting in American history,” the labor historian Joseph McCartin recently told the Center for American Progress, which has estimated that it ended collective-bargaining rights for one of every fifteen workers currently protected by a union contract. Trump’s tax-and-spending bill contains a few measures designed to appeal to low-income workers, such as eliminating taxes on tips and overtime pay. But assessments by the Congressional Budget Office and other nonpartisan sources show that the benefits will go mainly to the wealthiest households, while the poorest ten per cent of Americans will see their income decline.

#### Dem house restrains Trump, solving a slew of existential threats.

Mitch Jackson 25. J.D., Western State College of Law, California Lawyer Attorneys of the Year (CLAY) Award, Attorney at Maneuver Mediation law firm. “The 2026 Midterms Could Save America — If We Show Up.” Uncensored Objection. 5/29/2025. https://mitchthelawyer.substack.com/p/the-2026-midterms-could-save-america

This is an urgent and unflinching call to action that argues the 2026 midterms may be our last, best chance to stop Donald Trump’s dangerous grip on power, restore constitutional checks and balances, and protect the future of American democracy. With Congress currently enabling the White House, the piece lays out in plain, forceful terms how a Democratic majority in the House and Senate could block further damage, reverse harmful executive actions, hold corrupt officials accountable, and defend fundamental freedoms under siege.

It connects the dots across the economy, environment, global alliances, civil rights, and the rule of law, showing how much is at stake and how much power voters still hold. For anyone who thinks their vote won’t matter, this article makes one thing clear: it absolutely does.

How Do You Feel Right Now?

I’m going to be honest: like many of you, I’ve felt a knot of worry in my stomach when I think about our country lately. Over the past several months, I’ve heard friends and neighbors say they’re discouraged, that they feel our democracy is slipping away. I understand that fear deeply, because I feel it too. But I’m not writing today to dwell on despair. I’m here to share a path forward.

We are not powerless. We, the everyday Americans, have the ability to change the course of history in the 2026 midterms. By voting for Democrats to take back the majority in both the House and Senate, we can restore the checks and balances that safeguard our democracy and begin to repair the damage being done right now. This isn’t just a political preference; it’s a democratic necessity. It’s how we save our democracy from a real and present danger.

Democracy at the Brink

President Donald Trump’s return to the White House in 2025 has brought our nation to a crisis point. In just a short time, his actions and rhetoric have inflicted serious harm on the pillars of American democracy.

We’ve watched as he casts aside constitutional norms and treats the presidency like a personal fiefdom. He’s openly undermining the rule of law, pardoning those who committed violence in his name and urging his Justice Department to target political rivals. He’s using words like “vermin” to describe his opponents and calling the free press the “enemy of the people,” language that shocks me as an American. This is not normal disagreement or routine politics; it’s an assault on the values that hold us together.

Our economy, too, is caught in the crossfire of chaos. Instead of working to lower costs for working families, Trump and his allies in Congress have focused on tax breaks for billionaires and gutting programs that everyday people rely on. They tried to slash health care for millions by cutting Medicaid, and they even moved to shrink food assistance for struggling families. While costs of groceries and gas went up for us, the only “plan” from this leadership has been more breaks for the wealthy and leaving the rest of us to fend for ourselves. It feels like the powerful are playing a different game entirely, one that leaves regular folks behind.

Socially, the fabric of our nation is being pulled apart. Rather than seek common ground, this administration doubles down on dividing us, by race, by religion, by who we love or where we come from. Hate crimes and violent extremism have been emboldened by wink-and-nod encouragement from our nation’s highest office.

Instead of firmly denouncing white supremacists and conspiracy theorists, Trump often echoes their slogans or welcomes their support. It’s no wonder so many Americans feel a sense of dread and disunity. We are all tired of the constant outrage cycle and the feeling that we’re at each other’s throats. This is not the America we know and love, where despite our differences we used to believe we were on the same team.

Internationally, the United States’ standing has plummeted. Longtime allies are questioning whether they can rely on us, as President Trump cozies up to dictators and strongmen around the world. He has hinted at abandoning NATO and other alliances that have kept us safe for generations.

He pulled back on global agreements, like those on climate and human rights, leaving America isolated on the world stage. I can’t tell you how heartbreaking it is to see the country that once championed democracy and freedom now shaking the confidence of our friends and giving comfort to our adversaries. When America doesn’t lead with its values, the world becomes a more dangerous and unstable place.

All of this sounds dire, and it is. We have to face that truth head on: our democracy is at the brink. The Constitution, the economy, our unity as a people, and our global reputation are all under assault by a president who will stop at nothing to aggrandize his own power. It’s easy to feel hopeless hearing that.

But here’s the thing I want you to remember: this story isn’t over. We are not helpless spectators. America’s strength has always been the ability of its people to course-correct, to come together and insist on change when it’s needed most. And right now, what’s needed is a restoration of checks and balances. We need a Congress that will stand up and say no to this march toward authoritarianism and division. We need a Congress that works for us, the people, not for the president’s whims.

Checks and Balances: Why Congress Matters So Much

When the founders of our nation wrote the Constitution, they were deeply worried about any one person having too much power. That’s why they built a system of checks and balances, so no president could act like a king.

The legislative branch, Congress, was given the duty to be the people’s voice and a check on the executive branch. In plain terms, it’s Congress’s job to rein in a president who goes off the rails. For most of our history, this system has (more or less) worked. No matter which party a president came from, Congress was there to question, to oversee, and sometimes to say “hold on, that’s not right.” Checks and balances are the brakes on the car when the driver is speeding toward a cliff.

Right now, those brakes aren’t working. With Trump in the Oval Office and his party holding slim majorities in the House and Senate, the usual safeguards are failing. Instead of putting country over party, too many current congressional leaders have chosen to be rubber stamps. They’re either too afraid or too complicit to stand up to the President’s worst instincts.

We’ve seen congressional committees that should be investigating genuine problems instead wasting time targeting the President’s perceived enemies or spreading his preferred narratives. We’ve seen silence or shrugs in response to blatant abuses of power. This lack of pushback is exactly what enables the dangerous trajectory we’re on. When one party controls all levers of government and refuses to police its own leader, the checks and balances are effectively gone.

But here’s the hopeful part: we can fix this by changing who’s in Congress. In our democracy, the people are the ultimate check. If our representatives won’t do their job, we can fire them at the ballot box.

By electing a Democratic majority to the House and Senate, we will restore the balance that our system needs. I’m not talking about giving one party power just for the sake of it. I’m talking about ensuring that someone in power is finally willing to stand up to the president and say, “Enough.” We need lawmakers who will actually perform oversight, who will act as a co-equal branch of government instead of a subordinate.

Throughout history, there have been moments when Americans chose a new Congress to correct the course of a runaway presidency, and it worked. I think of 1974 after Watergate, or the 2018 midterms after Trump’s first two years, when voters elected a House that could hold the administration accountable. Those were turning points that pulled our country back from the brink. We have that same kind of moment before us in 2026. By voting for Democrats, we aren’t handing power to a party so much as we are reclaiming power for the people, via a Congress that will actually do its job.

The Powers Congress Can Use to Stop the Damage

How exactly can Congress constrain a president gone rogue? It’s important to understand that the legislative branch has real, tangible powers, tools that, in the right hands, can halt abuse and even begin to undo it.

If we flip the House and Senate, a Democratic-controlled Congress can deploy these powers on our behalf. Here are the major ways Congress can act as a safeguard:

Oversight and Investigations: Congress has the authority to oversee the executive branch. This means they can hold hearings and launch investigations into misconduct, corruption, or unconstitutional actions by the President or his administration. With a Democratic majority, those committees investigating would no longer turn a blind eye.

They can shine a bright light on what’s been happening behind closed doors. Think about the power of truth, when wrongdoing is exposed in the public eye, it becomes a lot harder for it to continue. Hearings can reveal, for example, if officials are abusing power, if taxpayer money is being misused, or if rights are being violated.

We saw this work in the past: it was congressional investigations that uncovered the Watergate scandal long ago, and more recently, a Democratic-led House in 2019 was able to investigate and impeach Trump over abuse of power. Oversight is a way of saying, “We’re watching, and you will be held accountable.”

Subpoena Power: As part of oversight, Congress can issue subpoenas to compel witnesses to testify and produce documents. This might sound technical, but it’s basically the power to force the truth out into the open.

Right now, a lot of truth is being hidden from the American people, whether it’s details about backroom deals, communication with foreign powers, or internal decisions that affect all of us. A Congress willing to use subpoena power can drag those facts into the sunlight.

For instance, if there are allegations that the administration is using government agencies to persecute political opponents or that officials are violating ethics laws, subpoenas can bring those officials before Congress to answer under oath. It puts a real check on abuse because lying under oath is a crime, and refusing a lawful subpoena can lead to contempt charges. In short, subpoenas are how Congress says, “You must tell the truth, whether the president likes it or not.”

The Power of the Purse: This is one of Congress’s most critical powers. Only Congress can appropriate money for government operations. In practice, this means if the President wants to fund a controversial project or enforce a harmful policy, a determined Congress can say, “Not with taxpayer dollars, you won’t.” A Democratic majority could block funding for any number of Trump’s harmful initiatives.

For example, if Trump issues an executive order that hurts the environment or sets up some kind of overreaching task force to target his critics, Congress can pass a budget that explicitly prohibits spending money on that. On the positive side, Congress can direct funding toward the things that help people, education, healthcare, disaster relief, infrastructure, and away from things that do harm. It’s an immense leverage point. Even the most powerful president cannot spend money that Congress refuses to provide. By controlling the purse strings, a Democratic House and Senate can effectively stop many of the damaging policies in their tracks.

Legislative Authority (Passing and Blocking Laws): Congress is the only branch that can make federal laws. With a majority, Democrats could block any new laws Trump’s allies try to push that would hurt our democracy or rights.

Think about proposals that may be on the table: a national abortion ban, cuts to Social Security or Medicare, laws undermining voting rights, or extremist cultural laws that attack LGBTQ citizens or other groups. Right now, those kinds of bills might have a chance. With a Democratic majority, they would never see the light of day.

Blocking bad legislation is vital, it prevents further damage. But it’s not just about defense. A new majority can go on offense by passing bills that protect our democracy and our people. Now, it’s true that Trump as president could veto bills he doesn’t like, but passing them still matters. It forces a public conversation and pressures even members of his party to take stands. In some cases, if enough Republicans feel the heat, Congress could even override a veto.

For instance, a law to safeguard elections or to help veterans shouldn’t be something a president vetoes without paying a political price. A Democratic Congress can put good legislation on his desk and dare him to reject it. And in any must-pass bills (like funding the government), they can include provisions that rein in abuses, knowing the President has to sign or face a shutdown that he’d be blamed for. In these ways, writing and shaping laws gives Congress immense power to direct the country’s course.

Advice and Consent (Senate’s Confirmation Power): The Senate has a unique role in confirming or rejecting the President’s appointments for key positions, from Cabinet secretaries to federal judges, including Supreme Court justices. If Democrats have the majority in the Senate, they can ensure that unqualified or extreme nominees don’t get rubber-stamped into lifetime judgeships or critical agency roles.

#### Democratic win constrains nuclear testing.

Sulgiye Park 25. Senior scientist with the Global Security Program at the Union of Concerned Scientists. Park holds a PhD in Geological Sciences; with Jennifer Knox, research and policy analyst with the Global Security Program at UCS; and Dylan Spaulding, senior Scientist. "Why it would be a bad idea for the Trump administration to conduct a "rapid" nuclear test." Bulletin of the Atomic Scientists. 2-18-2025. <https://thebulletin.org/2025/02/why-it-would-be-a-bad-idea-for-the-trump-administration-to-conduct-a-rapid-nuclear-test/>

If Trump initiated this two-to-three-year process at the beginning of his term, he would be lucky to see that process concluded without Congress intervening to stop it. Right now, Republicans hold a majority in the House and the Senate, but the margins are razor-thin. While most Republicans are likely to support the president’s agenda, others may be wary of public backlash. Nuclear testing is especially unpopular in Nevada, a swing state that Trump narrowly won in 2024. Recent polling in Nevada shows that a majority of Democrat, Republican, and unaffiliated voters oppose a resumption of testing.[1]

Even if Trump manages to keep his party in line, he has two years before the midterm elections, in which the president’s party historically loses seats. This would give Democrats the opportunity to disrupt testing preparations, such as when they introduced an amendment to the 2021 National Defense Authorization Act to block funding for any explosive nuclear testing.

#### Extinction.

UCS 23. Union of Concerned Scientists. 7-11-2023."What is Nuclear Testing?". https://www.ucsusa.org/resources/what-nuclear-testing

A resumption of nuclear testing would increase the risk of nuclear war.

Nuclear testing raises the perceived importance of nuclear weapons to security, increases the risk of conflict between countries with nuclear weapons, and allows countries to develop new types of nuclear weapons. Nuclear testing would also damage already fragile international nuclear arms control efforts, including the Comprehensive Test Ban Treaty and Nuclear Nonproliferation Treaty. If these international agreements fail, more countries might seek nuclear weapons for themselves.

Renewed nuclear testing would also be a moral injustice to frontline communities that are still fighting to clean contaminated land and get compensation for the ongoing health consequences of radiation exposure. People are still dying because of nuclear tests conducted decades ago.

Future nuclear tests would almost certainly be conducted at underground test sites, which present less risk of public exposure because they are designed to contain radioactive material rather than release it freely into the atmosphere. However, underground tests can and have resulted in contamination of land and underground water. Occasionally, underground tests have also resulted in local and even widespread contamination through the accidental leakage of radionuclides into the air from the surrounding rock.

### 1NC---OFF

#### Cities DA

#### Union growth collapses cities---empirics prove.

James **Hohman 24**. Director of Fiscal Policy at the Mackinac Center. “Unions are bad for cities.” 08-15-2024. https://www.mackinac.org/blog/2024/unions-are-bad-for-cities.

Is the union comeback finally here? Unions have been touting their supposed resurgence for decades, though actual union membership continues to decline. The union comeback remains unlikely, because unionization sows the seeds of failure in its own communities.

Labor leaders typically speak as if they’re trying to bring about a land of progressive bliss: higher wages for the working man, less money for the rich. "The gains won by Autoworkers and Steelworkers and Teamsters benefited the entire working class. The wealth we created was shared, not hoarded,” United Autoworkers President Shawn Fain boasts.

But unions don’t practice what they preach, nor do they promote shared prosperity. They are on the side of their senior members first, their newer members second, and no one else after that — except maybe the politicians they help get elected.

The truth is that unionization doesn’t even increase wages for all union members. Single-salary schedules ensure that senior members earn the most and new members the least, regardless of value or merit. While union leaders may brag about the union member premium — the ostensibly higher wages that unionized workers earn — it only exists for older members, where it exists at all.

What’s more, unions’ seniority layoff system protects longer-serving union members before anyone else. The most junior employees are the first to be let go and the last to be rehired. Last-in-first-out layoffs do nothing to improve productivity, but they do a lot to protect senior members.

All told, union ideology stymies job opportunities in order to favor senior members. Unions don’t give up even one cent of senior members’ compensation, even if that might help grow the workforce. Protecting those members’ interests comes at the expense of a business’s competitiveness, which is essential to building flourishing communities full of opportunity.

Organized labor also has an adversarial relationship with management. Unions convince workers that management is out to get them and will use any tool at its disposal to punish union members. Under this mindset, there’s no such thing as coaching, guidance or personal goals. The worksite is a place of grievance and bureaucracy, which is no way to be competitive and ensure that customers get what they want.

The damage to communities is clear in the cities that are most associated with labor unions. Take Flint, Michigan, the birthplace of the United Auto Workers. It should be a progressive utopia, where a thriving middle class protected by a strong union enjoys widespread prosperity.

But that’s not Flint. A full third of the city’s population lives under the poverty line, well more than double the 12.8% national average. The city’s population is less than half of what it was in 1960. Sure, the UAW members who work at a dwindling number of auto parts plants in the city are doing okay. But they often don’t live in the city where they work, while the people who do live there are stuck with a decaying private sector, thanks to union ideology.

It’s not just Flint. The old industrial union towns of the United States are struggling, from Gary, Indiana, to Lordstown, Ohio. The better future has not arrived. And it won’t. Unions protect their members at the cost of other workers, the cities they operate in and the states that bend to their will. Again, it’s senior members first, junior members second, and no one else after that — including the communities in which unions operate.

This is bad business. Union policy creates hostility, ensures stagnation for the factories that employ union members and makes industries uncompetitive. The lack of growth harms the whole town. That sense of a slow decline can even be felt by people passing through, and it resonates deeply among those left to live in once-vibrant communities.

It doesn’t have to be this way. Unions could stand for their members — all of them — and implement policies based on voluntary association and mutually beneficial negotiation with management. If they embrace this 21st century unionization, maybe next time the claims that unions are back will be true.

#### City sustainability is key to address a litany of existential threats.

Carol **Goodstein 25**. Professor at Yale Law School. “Creating Climate-Smart Cities.” 2025. https://environment.yale.edu/canopy/2025/cover-story/creating-climate-smart-cities.

If current land use trends continue, urban energy use could increase more than threefold by 2050 from 2005 levels, Seto warns. Currently, urban areas consume between 60% and 80% of global energy resources, and three-fourths of the infrastructure that will exist by 2050 is yet to be built. Recognizing the need to reduce emissions as urban areas grow, 800 cities have made commitments to become net-zero carbon cities.

The path, however, has not been easy. The transition to decarbonization requires systems change on both macro- and micro-levels, including electrifying city and school bus fleets; building out infrastructure for EVs; encouraging public transportation; constructing energy-efficient buildings and housing units; retrofitting current units with green energy technology such as heat pumps; utilizing district energy networks that heat and cool multiple buildings through underground pipes; and harvesting industrial waste that can also heat and cool residential buildings in cities (known as urban industrial symbiosis).

Cities may not be able to achieve all this at once, but they are moving toward low-carbon solutions.

“Hundreds of experiments are happening at the local level all around the world to mitigate and adapt to climate change,” Seto says.

In Copenhagen, Denmark, and in Framingham, Massachusetts, district energy networks are heating and cooling homes with pipes that circulate water through a system of boreholes that extend deep into the earth. In San Francisco, a Hixon Center case study found that the city’s parking cap, which limited parking to one space for every two to four residential units in neighborhoods with public transit, has dramatically increased the use of public transportation there.

The world is adding a new city of 1 million people every 10 days, which Seto says provides an opportunity to address climate challenges through design.

Using satellite data, Seto and a research team conducted a global analysis of urban development. They found that in the Global South urban growth tends to sprawl outward rather than climb upward (which can lead to more carbon-intense issues). The study, published in PNAS, also found that per capita, the built-up infrastructure in some countries in the Global North is more than 30 times higher than infrastructure in the Global South.

One of the most cost-effective ways to reduce emissions is to have higher densities of housing closer to higher densities of amenities and needs, such as jobs, says Seto, who was coordinating lead author for the IPCC 5th and 6th U.N. climate assessment reports and the chapters on cities. Seto, along with Arianna Salazar-Miranda, assistant professor of urban planning and data science, have studied the benefits of colocation, including the “15-minute city,” which is based on an old urban planning concept prioritizing city design around people, proximity, and walkability.

“When offices, schools, parks, and shops are located within a 15-minute walk or bike ride from people’s homes, there’s less driving, lower emissions, more green space, and more community coherence,” Seto says.

Pioneered in Paris, the 15-minute city is a characteristic of many European and East Asian urban areas, including Tokyo, Taipei, and Prague. Adapting this model to the car-centric U.S., where people typically travel long distances even to pick up a quart of milk, poses unique challenges. In a study published in Nature Human Behavior, Salazar-Miranda analyzed GPS data from 40 million mobile devices and found that only 14% of daily consumption trips in the U.S. are made locally.

“Americans have grown used to a world where even routine errands become epic road trips,” Salazar-Miranda says.

Yet, there’s a fix. Cities can incentivize walking by design. In her “Desirable Streets” study, published in the journal Computers, Environment, and Urban Systems, Salazar-Miranda constructed a desirability index for Boston based on the analysis of thousands of pedestrian trajectories. The study demonstrated that not only will people walk, but they’ll opt for even longer pedestrian alternatives if there are parks, sidewalks, and outdoor seating en route.

However, adopting the 15-minute model in the U.S. is hindered not only by a car-centric culture but also by zoning. She analyzed the zoning codes of 3,000 municipalities across the U.S. and found that they separate residential, commercial, and industrial areas, encouraging sprawl. Form-based codes, which regulate the design of buildings and their relationship to streets and public areas, improve walkability, reduce car dependency, and promote social interaction. They are being used in cities across the U.S., including Denver, Miami, and Beaufort, South Carolina.

“This is a promising avenue for city planners to explore because it shows that even in the U.S., we can reshape cities to be less car dependent and more sustainable,” she says.

Changing the way buildings are designed and constructed so they absorb less heat will also help reduce emissions, Seto notes. This requires strengthening building codes to require more climate-friendly materials, such as cross-laminated mass timber, which store carbon and have a lower carbon footprint.

In a study published in Renewable and Sustainable Energy Reviews, Rao found that in the Global South, changing the building envelope — the physical barrier that separates the inside of a building from the outside — along with painting rooftops white can reduce indoor temperatures and heat stress exposure by 98%.

“All of these passive forms of urban design can obviate the need for air conditioning and allow cites to grow efficiently in a way that enhances people’s well-being,” Rao says.

In Bogotá, Colombia, Felipe Ramírez decarbonized the bus fleet — the largest initiative outside of China — while he was serving as secretary of mobility for the city. During a Hixon Center convening of urban leaders on sustainable urban mobility in 2024, Ramírez, who is now urban mobility director at the World Resources Institute, recounted his efforts to decarbonize the city’s transit and energy sectors. His talk is part of the Hixon Center’s toolbox of case studies that it makes available to professionals, policymakers, and the public.

“Cities are still building infrastructure for cars rather than for where we all move in a massive way, which is, again, walking, biking, or in public transport systems,” Ramírez says.

Bogotá updated its fleet with 1,485 electric buses, reducing CO2 emissions by 155,000 tons per year. It established a day without cars; built out 6,000 kilometers of exclusive bike lanes with a goal of adding more; established 50,000 spots for bicycle parking; developed greenways; and initiated a plan to build five new metro train lines by 2035. Bogotá’s plan also includes developing a train system and connecting bike and pedestrian lanes.

“What we need in our cities,” says Ramírez, “is networks of multimodal and sustainable mobility at differing scales. You should not just plan for the next five years. You should plan for the future.”

In his research, Kenneth Gillingham, professor of environmental and energy economics, found that access to public transit and walkable amenities plays an important role in how much households drive. In a study of commuters in Denmark published in the Journal of Urban Economics, Gillingham compared areas with excellent public transit to regions with poor public transit. Access to public transit greatly influences the decisions by commuters about whether to switch to mass transit when fuel prices rise, he says.

If cities are looking to incentivize more electric vehicle ownership, the most cost-effective approach would be to install more public charging stations for private vehicles, he adds. Many cities, including London, have lower-cost Level 2 charging stations available in street parking, which makes owning an electric vehicle more feasible for those living in apartments, Gillingham notes.

Replacing fossil fuel-powered transit with electrification may not be the answer in every city. Globally, only 37% of people even have access to public transit. A World Resources Institute (WRI) study advised two criteria for moving forward with investments in electric power: 90% of residents must have access to electricity, and electrifying should not produce more emissions. If a grid is powered largely by fossil fuels such as coal and natural gas, greater use will only increase CO2 emissions, the study notes. Based on those criteria, WRI advised that electrification is a good strategy for Latin America, but not for sub-Saharan Africa. WRI identified 256 cities with populations over 1 million in 38 countries where electrification may not make sense.

Three Cairns Fellow Jack Omondi, a participant in YSE’s Urban Climate Leadership Certificate Program, who coordinated a study on decarbonizing transportation for the Network of African Science Academies, says that many cities in Africa lack mass transit systems.

“We found we need African leaders to take a holistic and inclusive development approach to transportation that includes pedestrian walkways and cycling lanes,” he says. “While we don’t have many cars in Africa, most government planning is developed for car owners.”

From urban forests to vertical gardens to urban parks and tree cover, green spaces are critical to reducing emissions in cities. Trees and foliage combat the heat island effect and sequester carbon in urban areas.

“Trees are one of the most undervalued solutions to urban challenges,” says Mark Ashton, the Morris K. Jesup Professor of Silviculture and Forest Ecology and senior associate dean of The Forest School.

In lower-income communities with less access to air conditioning, the lack of tree canopy has exacerbated the impact of the heat island effect. A study of 10 cities in Connecticut conducted by YSE researchers and recently published in npj Urban Sustainability found that underserved communities experienced higher overall temperatures, more sweltering days, and more significant increases in heat exposure over a 30-year period.

“We see a strong correlation between redlining and neighborhoods in cities where there are fewer trees,” says Dorceta Taylor, the Wangari Maathai Professor of Environmental Sociology. “They tend to be predominately Black and Latinx neighborhoods.”

## Advantage 1

### Solvency---1NC

#### 1. Employers circumvent AND standards get manipulated---the biggest group of unions agrees.

F. Vincent Vernuccio 21. Senior fellow at the Mackinac Center for Public Policy in Midland, Mich., and president of the Institute for the American Worker. "Sectoral bargaining is bad for workers and the American economy." Hill. 4/17/2021. https://thehill.com/opinion/finance/548054-sectoral-bargaining-is-bad-for-workers-and-the-american-economy/

Heard about the labor law “reform” so harmful that both the U.S. Chamber of Commerce and the AFL-CIO are skeptical? It’s called “sectoral bargaining.” Last month, the nation’s largest labor federation stopped a bill that would have implemented this scheme for gig workers in Connecticut, and the Chamber released a report harshly critical of the concept.

Sectoral bargaining is a new and largely undefined concept in the United States, but it is familiar to European employers. In Germany, for example, sectoral agreements between unions and employer associations set industry-wide terms for wages and working conditions. In a twist that would leave American unions unhappy, most German employers have the freedom to opt out of these agreements — which they are doing in droves, according to a 2017 report from the Institute for the Study of Labor.

Determined to ignore lessons from Europe, the Service Employees International Union (SEIU) is leading the charge to import sectoral bargaining. (The SEIU is not a member of the AFL-CIO.) President Biden endorsed a commission to explore the idea, and a report issued by the Democratic-controlled House Education and Labor Committee urged sectoral bargaining on a national level as a way to expand unionization, particularly in the gig economy.

A careful read of domestic supporters’ sectoral bargaining plans shows they prefer a system that gives in to union demands and makes unionization easier, rather than responds to what workers want.

New York’s system of wage boards is often cited as a model by proponents of sectoral bargaining. These committees empower the governor to set wage standards for entire industries through a board that he appoints. According to Vox, wage boards typically “have the authority to mandate pay scales and benefits for whole industries, after consultation with businesses and unions.” In New York, the labor commissioner imposes a final determination based on the state board’s recommendations.

The extent of the “consultation” in New York is left to the discretion of the governor. In 2015 Gov. Andrew Cuomo announced he would use the wage board to raise the minimum wage of fast-food workers to $15 an hour. As expected, the governor’s appointed wage board recommended an increase to $15 per hour — the exact amount the SEIU’s “Fight for $15” campaign was demanding.

The Connecticut bill, meanwhile, followed another path toward one-size-fits-all bargaining for entire industries. It would have allowed unions to represent independent gig workers with several companies by creating entities known as “industry councils.” The bill was endorsed by the Connecticut AFL-CIO, but according to Bloomberg’s coverage of the bill, the national AFL-CIO “raised concerns about how [this] legislation could impact its efforts to protect workers across the county.”

#### 2. The Fifth Circuit decision nullifies the plan.

Harold Meyerson 8-25. Editor at large of The American Prospect. “A Federal Appellate Court Finds the NLRB to Be Unconstitutional.” https://prospect.org/justice/2025-08-25-federal-appellate-court-finds-nlrb-unconstitutional/

Today, the NLRA hovers somewhere between de facto and de jure nullification. It’s been slowly eroding for at least half a century, as employer resistance to it has heightened, and as the penalties to employers for violating its terms have weakened. Currently, the fact that the five-member National Labor Relations Board is down to just two members — not enough to constitute a quorum — means the Board can make no rulings. This enables employers who’ve been found to have violated workers’ rights by lower NLRB administrative courts to appeal those findings and penalties to the Board, which cannot rule on anything — essentially, giving those employers leeway to keep on doing what they’re doing, however illegal it may be.

The Board is only down to two members because President Trump fired Biden-appointed and congressionally confirmed Board chair Gwynne Wilcox in the middle of her term, which, as for all Board members, was set by the NLRA to run for five years. Under the law, presidents had the power to remove members before their terms expire only in the event of “neglect of duty or malfeasance in office,” which Trump didn’t even allege when he fired Wilcox.

In May, the Republican majority on the Supreme Court upheld Trump’s power to fire Board members at will, under the still-novel theory of the unitary executive, which holds that the federal agencies that Congress established and presidents signed into law to be independent of presidential power, save only the power to appoint their leaders, are now in violation of the newly discovered right of presidents to completely control these agencies. The Republican justices are expected to soon reverse the Court’s 1935 ruling in a case called Humphrey’s Executor, which limited the president’s power over independent regulatory agencies. By upholding Trump’s firing of Wilcox and other heads of regulatory agencies, those justices have positioned themselves to rule that such limitations violate the Constitution’s vesting of executive power in the president.

Last week, the Fifth Circuit circumscribed the NLRB’s power even more. Before the court was a suit that Elon Musk’s SpaceX had filed against the Board, concerning a pending investigation from one of the Board’s regional attorneys into claims that SpaceX had violated its workers’ rights by firing eight of them for going online to opine that Musk’s online verbal outbursts and abuses actually hurt the company’s standing. SpaceX had sought an immediate injunction overturning the Board’s right to investigate those charges, saying that it inflicted “irreparable harm” on the company, even though it was the fired workers who suffered harm and even though the only entity inflicting irreparable harm on Musk’s companies has been Musk himself, through the very outbursts and bigoted behavior that his employees had warned against. (See, e.g., Musk’s effect on Tesla sales.)

In seeking SpaceX’s injunction to stop any investigation the Board might order, its attorneys, from the union-busting firm of Morgan Lewis, based their claim on the argument that the Board itself was unconstitutional, since it had been established, and had been operating for the past 90 years, as an agency that the president couldn’t completely control. The two Trump-appointed judges and the one George H.W. Bush-appointed judge who heard the case found for SpaceX, in a ruling that will now extend to any and every case brought against the NLRB or against employers or unions that the NLRB would adjudicate in the Fifth Circuit, which encompasses Louisiana, Mississippi, and Texas. And in this era of judge shopping, mega-companies that may have one part-time employee or a single post office box in one of those states “may now flood the Fifth Circuit” to avoid any enforcement of decisions upholding workers’ rights, former NLRB general counsel Jennifer Abruzzo told me in the wake of the court’s ruling.

The neutering or repeal of the NLRA has been in the works for several years. Both Musk and his fellow world’s-richest-human competitor, Jeff Bezos, had initiated suits last year claiming that the act — the only act that gives workers the power to bargain with their employers and seek remedies when those employers violate labor laws — was unconstitutional. Even before then, Musk had publicly proclaimed that he was “opposed to the idea of unions.” And just as Musk’s SpaceX had contested an NLRB finding by seeking an injunction against it premised on the act’s unconstitutionality, so Bezos’s Amazon had filed a similar suit seeking a similar injunction on similar grounds. In the Amazon case, the company was opposed not only by the NLRB but by the union of the affected workers, the Teamsters. (That case is still in the works.) The SpaceX workers neither had a union affiliation nor were seeking one, so the only parties to the case were the company and the agency.

But the agency is now inert at the top, and has an acting general counsel put there by Trump. Trump’s nominee for permanent general counsel, Crystal Carey — a former partner at Morgan Lewis, the firm representing SpaceX in this case — was asked by Bernie Sanders in her Senate confirmation hearing last month whether she believed the NLRB was constitutional. That, she answered, was up to the courts, declining to say whether she herself believed it was, and raising the possibility, verging on probability, that she wouldn’t have the agency oppose the argument that SpaceX was making. As of now, Carey remains unconfirmed, as her over-the-top support for employer rule over workers alienated at least one Republican member of the Senate committee.

The Fifth Circuit could have ruled that it was the act’s language forbidding presidents to make at-will firings that was unconstitutional. But by going beyond that to flatly declare that the Board itself was unconstitutional, it completely blocked workers from any attempts to have the act’s protection of their rights upheld by, or even heard by, federal courts in those three states. By granting that immediate injunction, it nullified Board attorneys’ power to simply investigate allegations. (In a concurring opinion, one of the three justices said he’d tried and failed to find any of the irreparable harm to SpaceX presumably posed by an NLRB attorney’s investigation, but he let the ruling stand nonetheless. In the Trump judiciary’s war on workers, empirical concerns appear only as the faintest of whispers.)

### 1NC---Turn

#### 3. Wages argument is NEG---strikes and union strength result in “rest unemployment”. Labor productivity shocks are good for ensuring labor mobility.

Fernando Alvarez 24. University of Chicago. Robert Shimer, University of Chicago. and Fabrice Tourre. Baruch College. "Unions: Wage floors, seniority rules, and unemployment duration." Journal of Economic Dynamics and Control 169 (2024): 104965.

This paper examines the impact of unions on unemployment and wages. We model a unionized labor market as one that imposes a minimum wage on employers and a seniority rule to allocate jobs among members. In particular, if the minimum wage binds, the union rations jobs to ensure that its most senior members are employed. Our focus is on the implications of such a policy on workers' decision to enter and exit unionized labor markets, on the duration of unemployment spells, on the unemployment rate and on wage compression. In our set-up, we abstract from any of the potentially beneficial roles of unions, and hence the allocation in a unionized labor market is inefficient.1 We find that for the same union wage premium, the use of seniority to allocate jobs relative to using the commonly assumed random rule reduces unemployment and increases efficiency. We prove that, in the presence of search frictions, a laid-off union member will never immediately exit her labor market to search elsewhere for a job. Instead, she will endure a spell of “rest” unemployment, meaning that she will remain idle waiting for conditions to improve in her labor market and for more junior workers to exit. Thus, the hazard rate of reentering employment generally declines during an unemployment spell, so unionized workers will experience both frequent short spells and infrequent long spells of unemployment.

Our modeling strategy follows Alvarez and Shimer (2011), who build on Lucas and Prescott (1974). The economy consists of a large number of labor markets that produce imperfect substitutes. There are many workers and firms in each labor market, so in the absence of unions, wages and output prices are determined competitively within each labor market. Productivity shocks induce workers to move between labor markets. We begin by assuming that workers can move at no cost between labor markets.

Consider first the text-book model of unions. In the competitive sector, workers earn a wage ⁎ . In the unionized sector, they earn a higher wage if employed, and zero otherwise; if there is excess demand for jobs, these jobs are randomly allocated to workers. In equilibrium, risk-neutral workers' indifference between competitive and unionized labor markets determines the unemployment rate u in the unionized sector: ⁎ , increasing in the wage in the unionized sector relative to that in the competitive sector.

Consider then a unionized labor market with a seniority rule, according to which, when there is excess demand of unionized jobs, employment is allocated to the senior-most workers. We argue that this rule reduces unemployment in the unionized labor market. When unions use seniority to allocate jobs, not all workers are equally likely to be unemployed. The marginal worker — the worker with the lowest seniority — faces the worst employment prospects. Infra-marginal workers, i.e. those with higher seniority, are better off, either (i) ahead in the queue to get a job, or (ii) already employed. With discounting, since the marginal worker's payoff is back-loaded (relative to that of the worker in a labor market governed by a random allocation rule), her indifference between locating in a unionized or competitive labor markets must reduce the equilibrium unemployment rate, relative to the static textbook random assignment of jobs.

Our frictionless model is too stylized to address wage compression and properly distinguish between workers who enter or exit a unionized labor market. We thus turn to an extension of our model that includes search frictions. Similar to Alvarez and Shimer (2011), we distinguish between rest and search unemployment. While in rest unemployment, individuals do not work, enjoying a value of leisure higher than that of working but lower than being outside the labor force. Moreover, the rest unemployed retain the possibility of returning instantly and at no cost to the labor market where they last worked. Search unemployment enables a worker to locate in any labor market.

We show that if a union has any effect, it generates rest unemployment. Whenever the minimum wage binds, workers with low seniority who are rationed out of a job decide to stay in the labor market, waiting for conditions to improve so that they can return to work at the minimum wage. If conditions improve immediately after a worker has been rationed out of a job, such worker re-enters employment quickly. When labor market conditions are bad enough, workers with the lowest seniority and out of a job will leave the unionized labor market and begin searching for work in more attractive markets. Thus, our model delivers both many short but also few long spells of unemployment; in general, the hazard rate of exiting unemployment is downward sloping.

The prospects of a labor market are limited by the fact that as conditions improve, new workers will arrive via search. These newcomers will have the lowest seniority, and hence will be most vulnerable to bad shocks, but they will only arrive in a labor market when it is booming. The situation of newcomers depends on how high the minimum wage is. If it is not too high, so that it binds only for bad shocks, they will immediately start working. If the minimum wage is sufficiently high, it always binds. In that case, newcomers arrive when prospects are very good, but are forced to queue until enough good shocks have arrived before they can start work. In such a labor market, there is always a queue of workers waiting either to start or resume employment. Thus, depending on the level of the union-mandated minimum wage, unionized labor markets can exhibit either no wage dispersion — and hence maximum wage compression — for very high minimum wage, or almost the same wage dispersion as competitive labor markets, if the minimum wage is set low enough to rarely bind.

### AT: Slow Growth---1NC

#### 4. US productivity is high across the board due to AI integration, business formation, and a young workforce. Aff evidence underestimates software and intangible capital.

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The resurgence of productivity growth in 2023, together with the strong performance of the stock market and the emergence of generative AI, has led some observers to suggest that the United States has entered a sustained phase of rapid technological advancement similar to that of the late 1990s. In addition to the potential of generative AI to boost productivity growth, others have pointed to productivity gains from working remotely. In addition, there is evidence of increased new business formation and worker reallocation, a reversal of a decline that has been cited as a factor in the productivity slowdown since 2005. Stronger productivity growth has occurred in conjunction with the recovery of prime-age labor force participation and growth in the labor force from immigration. Increased labor supply would normally slow wage and productivity growth, a circumstance that makes the strong productivity numbers over the past 18 months even more impressive.

An important additional argument favoring stronger productivity growth is that technological progress creates measurement problems because of the introduction of new products and the inherent difficulty of measuring quality change in these products. As noted by Hornstein and Krusell (1996), this problem is likely to be especially severe in IT-intensive service industries such as banking and finance. Brynjolfsson et al. (2021) argue that productivity gains from IT have been substantially underestimated since the 1990s because of an understatement of software and complementary intangible capital. Their data run through only 2017, so it is likely this undercounting of gains could be even larger in recent years. According to this view, some of the lackluster productivity growth of this era may be attributable to these factors, as actual efficiency gains are missed because quality improvements and intangible capital are underestimated. This would imply that the lack of evidence of a productivity resurgence—and indeed, much of the apparent slowdown of the last 20 years— could simply be that the official output measures are too low.

#### 5. No heg impact.

Charlie Bradbury 24. Venture Strategist at Monitor Deloitte, lieutenant in the British army, guest lecturer at the Lancaster University Security Institute. "Measuring What Matters: Why GDP Is Not Geopolitical Destiny." Wavell Room. 5/1/2024. wavellroom.com/2024/05/01/measuring-what-matters-why-gdp-is-not-geopolitical-destiny/

Net vs. Gross Metrics

While Chinese real GDP is a source of power, it is counteracted by a number of significant economic costs. Beckley argues that power is a function of net resources, this lies in contrast to most scholars who measure power in gross terms. Using net resources mitigates some effects of nonmaterial influences by discounting costs (such as increased transfer payments to provide welfare for an ageing population). Utilising a net approach would account for the significant economic costs that China faces which counteract its large GDP, for example; an increasingly ageing population (contributing to a significantly declining working population); male-dominated demographics; overexploitation damaging much of its arable land; industrialisation and pollution causing substantial water scarcity and negative health externalities; huge welfare and internal security burdens; and increasing infrastructure and education costs.

Moreover, GDP counts production costs as output; therefore, spending money will always increase GDP even if money is wasted, as seen with China’s ineffective infrastructure investments. GDP also counts security spending as economic output, so investment in productivity-enhancing research can equate to the same value as expenditure on methods of domestic political persecution. GDP therefore fails to fully account for the economic costs of domestic instability and international conflict, as illustrated by how GDP usually rises when a country mobilises for war. Throughout most of human history, “production, welfare and security” have consumed “nearly all” of every country’s resources and limited power projection abroad. For example, when measured in net terms, actors with greater resources have won “70% of disputes and nearly 80% of wars” over the last 200 years.

Commonly used economic metrics, such as real GDP (a gross indicator), are not the sole determinants of relative national power. Understanding whether a country is more powerful or influential than another is complex, consisting of large amounts of data and intangible factors such as unconscious perceptions. Individual gross economic metrics cannot fully illustrate the power resources of an actor, and economic size is only one of several dimensions of national power, generally conceptualised as Diplomatic, Informational, Military and Economic (DIME) levers. Thus, while one metric is insufficient, the grouping of gross metrics can show how powerful actors are in relation to each other.

Power Conversion Problems

Further to this, and reinforcing the case for a more holistic understanding of national power resources, GDP cannot all be leveraged as power, with some expenditure giving no increase in capability or revenue to the state through taxation. This presents challenges in assessing a state’s power resources using a single metric, even before we consider how they can convert resources into power or influence. For example, since 2015 UK real GDP has included sex work, despite brothels being illegal and the industry returning no tax revenue. Although estimates of its GDP are based on significant assumptions from limited data, the industry is calculated to add £5 billion annually to UK GDP. As such, real GDP does not effectively measure relative power resources because it is usually calculated simply by adding up all government, business, and citizen expenditures in a given period.

Real GDP also assumes that the state can efficiently use all these economic resources. China’s attempts to grow ‘value-added services’ over traditional manufactured goods for export have been challenging due to state policies constraining innovation. This reform agenda has stalled the further liberalisation required for a more innovative knowledge-based economy which would threaten the interests of entrenched elites, despite the recent pandemic demonstrating the vulnerability of manufactured goods to disruption. Additional investment in upskilling the population and improving the mobility of skilled labour will increase productivity. However, most of China’s policies to increase competitiveness have been externally focused due to the reduced political risk associated with these policies. These include decreasing tariffs through diplomatic and economic coercion or increasing foreign investment. Therefore, although the Chinese economy is very large, the state is not able to harness it as effectively due to constraints on innovation and the associated political risks.

Even if real GDP were to accurately calculate a state’s power resources, further power conversion problems arise. Some actors are better at converting their resources into influence, so power conversion is the capacity to convert potential power (measured by resources) into realised power (measured by outcomes or the changed behaviour of others. Money is essential and some key capabilities are not visible from conventional metrics. For example, China’s high real GDP does not directly correlate to its technological research or innovation capacity – these rely on cultivated systems of skills, processes, networks, funding and testing and cannot be bought off the shelf. Money is essential and the most fungible resource to convert into power and influence, but the process is not a simple transaction. Implementation and development time is essential to procure and develop a state’s military capabilities. A state military ‘bought’ or hired overnight would be brittle and lacking the organisational systems, culture and training needed to deliver the desired strategic effect. Furthermore, some key power resources in the information age are not directly visible from conventional metrics. For example, China’s high real GDP does not directly correlate to its technological research or innovation capacity. The Chinese paradigm has relied heavily upon adapting existing intellectual property to develop its economy at pace in the past. Therefore, to predict outcomes accurately, rigorous analysis must consider how skilled an actor is at power conversion as well as account for its power resources.

**6. No cyber impact.** Thiscard has so many warrants ☺

Emily **Harding 24**. Director at the Intelligence, National Security, and Technology Program at the Center for Strategic and International Studies, former CIA analyst. "The United States Needs a New Way to Think About Cyber." Lawfare. 1/28/2024. lawfaremedia.org/article/the-united-states-needs-a-new-way-to-think-about-cyber

The U.S. government’s main public response to these two incidents was education—CISA warned potentially affected entities and, once again, encouraged them to patch and implement basic defenses. This is the **normal** pattern: An attack happens in the cyber domain, and the response is technical fixes and asking affected entities to defend themselves. Cyberattacks are treated as more akin to **slow-moving** natural disasters than armed conflict. The default setting is that a cyberattack will **naturally** deescalate and resolve **without** much fuss.

Recent scholarly work argues that escalation in the cyber domain is **inherently self-limiting**. For **structural** reasons, cyber operations are inherently **low level** and deescalatory. First, cyber conflict has been **slow** because finding a vulnerability in a system, crafting an exploit for that vulnerability, and waiting for the opportune moment to deploy it all take time. Attributing an attack to a specific party—particularly a state actor looking to conceal its tracks via a proxy—can also be time consuming, if it happens at all. By the time most states have confidently identified and attributed an attack, and then crafted response options, the outrage and urgency have **dissipated**.

In addition, cyberattacks **rarely** kill or maim, and they only **occasionally** cause physical damage. Even destructive attacks tend to damage just **computers**—expensive to replace, but more **annoying** than **injurious**. The goal of much cyber activity has been espionage, which is as old as time, and while the cyber domain is a rich new venue to exploit, the **rules** of the game are fairly **clear**. Espionage **rarely** leads to **conflict**.

**China’s cyber capabilities are lacking, engendering caution.**

Greg **Austin 23**. Adjunct professor at the University of Technology Sydney, member at the Australia-China Relations Institute. "Deterring China isn't all about submarines. Australia's 'cyber offence' mught be its most potent weapon." The Conversation. 5/4/2023. theconversation.com/deterring-china-isnt-all-about-submarines-australias-cyber-offence-might-be-its-most-potent-weapon-204749

China’s cyber security weakness

Of course, success **isn’t** assured with cyber attacks. But causing disruption on a significant scale can be achieved with a highly focused effort across all phases of offensive cyber operations, especially in coordination with our allies.

The most important phase is the first one: ensuring up-to-date intelligence on the other side’s systems. The effort put into cyber intelligence against China’s armed forces is actually the foundation of cyber offensive teams, even if the intelligence people aren’t counted as having an “offensive” role.

China is adept at cyber offence. But contrary to popular belief, cyber security **isn’t** a strong point for China, and this makes it particularly **vulnerable** to attack in wartime. The **I**nternational **I**nstitute for **S**trategic **S**tudies has assessed that China has certain **fundamental weaknesses** that will take many **years** to overcome, including in its cyber security **industry**, **education** and **policy**.

Chinese leaders **believe** they’re **well behind** the US and allies in terms of military cyber capability. This will likely **constrain** their choices about starting any war over Taiwan.

**Ukraine proves Russia is a cyber weakling.**

Mary **Brooks 24**. Wilson Public Policy Scholar, former Cybersecurity and Emerging Threats at the R Street Institute. "What America Learned from Cyber War in Ukraine---Before the First Shots were Fired." Wilson Center. 4/12/2024. wilsoncenter.org/sites/default/files/media/uploads/documents/FINAL%2024-050\_Cyber-Ukraine.pdf

They weren’t alone. In the weeks, months, and even years preceding the invasion, a **loose**ly-coordinated array of American cybersecurity companies, military actors, government agencies, and private individuals stepped in to help Ukraine, long before it was obvious that full-scale war would break out. American partners funded new training environments, worked with the Ukrainian military to centralize controls across its segmented networks, and identified vulnerabilities. They offered technical support and training, shaped government cybersecurity strategies, and tried to kickstart a dynamic private cybersecurity environment in Ukraine—one modeled after Israel’s famously vibrant and strong industry.

These diverse actors pioneered the bulk of early American efforts to provide cybersecurity assistance to a major non-NATO ally. Unsurprisingly, their **learning curve** was at times **steep**. While the muscle memory for delivering food aid or weapons to another country is long-established, cybersecurity aid is a new and deeply technical form of support. It is often treated as a national security issue and thus shrouded in secrecy, and it is heavily reliant on the commercial private sector, as opposed to an established defense industrial base. And so, as Americans and other allies strove to help Ukraine, they ran into new **challenges** and discovered the **limits** of their ability to influence the direction of the cybersecurity environment of a different country.

When full-scale conflict broke out in February 2022, this pre-war effort, with all its strengths and weaknesses, was put to the test by Russian and Russian-affiliated hackers. Wipers— designed to “wipe” data permanently—targeted Ukrainian **government** and **civilian** networks. **Disinfo**rmation **op**eration**s** were launched at domestic and foreign populations alike. **Crit**ical **infra**structure was attacked: most notably the 2022 takedown of the American satellite internet company Viasat—which operated in Ukraine and Europe—and the major telecommunications giant Kyivstar in late 2023.2 Groups of volunteer “patriotic hackers” parried back and forth in digital space. By late 2022 and into 2023, there were reports that NATO territory was facing limited, though destructive, attacks against transportation and logistics infrastructure.

But the most remarkable element of the digital war to date is what has not been seen: cyberattacks do **not** appear to have substantially turned the tide of the conflict.3 Much of Ukraine’s critical communications, transportation, and Internet infrastructure has **remained online**—and when taken offline, has been the consequence of physical (kinetic) attacks. Military **c**ommand a**n**d **c**ontrol has been **retained**. Ukrainian president Volodymir Zelensky, famously, can communicate with the majority of his population as well as the world beyond.

### AT: Inequality---1NC

#### 7. Inequality is declining.

Dr. Daniel Waldenstrom 25. Professor of Economics, Research Institute of Industrial Economics, Stockholm. "The Inequality Myth: Western Societies Are Growing More Equal, Not Less." https://www.foreignaffairs.com/united-states/inequality-myth-western-societies-more-equal-waldenstrom

Spend a few minutes browsing political commentary or scrolling social media and you will discover a seemingly settled truth: inequality in the West is soaring, the middle class is being hollowed out, and democracies stand on the brink of oligarchy. The idea is seductive because it fits everyday anxieties in many Western countries — housing has grown increasingly unaffordable, billionaire wealth mushrooms unfathomably, and the pandemic exposed yawning gaps in social safety nets. Yet the most influential claims about inequality rest on selective readings of history and partial measurements of living standards. When the full balance sheet of modern economies is tallied — including taxes, transfers, pension entitlements, homeownership, and the fact that people move through income brackets across their lives — the story looks markedly different. Western societies are not nearly as unequal as many believe them to be.

This is not a call for complacency. Concentrated economic power can distort markets and politics; pockets of deep poverty persist in rich countries; and in the United States, the top of the distribution has indeed sprinted ahead of the rest. But focusing only on the eye-catching fortunes of tech founders or hedge-fund managers obscures a quieter, broader transformation: households across the income spectrum now own capital on a scale unimaginable to earlier generations, and basic measures of well-being in Western societies — including life expectancy, educational attainment, and consumption possibilities — have improved for nearly everyone.

Getting the facts right matters because bad diagnosis breeds bad prescriptions. If governments assume that capitalism is inexorably recreating the disparities of the Gilded Age, they will reach for wealth confiscations, price controls, or ever-larger public sectors funded by fragile tax bases. If, instead, the evidence shows that free-market economies have enriched middle classes by expanding asset ownership, that entrepreneurs’ fortunes are associated with advances shared with the broader public, and that much of the post-1980 rise in recorded inequality reflects methodological quirks, then a different agenda follows: states should encourage ambition, protect competition, widen access to wealth-building, and ensure that public services complement — not smother — private prosperity. In short, before treating inequality as an existential crisis, it is worth double-checking the thermometer.

THE TALE OF RUNAWAY INEQUALITY

The prevailing narrative about inequality — popularized by the economist Thomas Piketty in his bestselling 2014 book, Capital in the Twenty-First Century — depicts a U-shaped curve. In this view, the extreme concentration of income and wealth among a narrow elite in the early twentieth century was broken only by the world wars and taxes on capital. The turn toward market liberalization around 1980 unleashed a second wave of plutocracy. Charts of top-income shares appear to confirm the story: since 1980, the top one percent’s slice of pretax income has surged, especially in the United States and the United Kingdom. Add the proliferation of celebrity billionaires, the stagnation of median wages, and the eruption of high-profile corporate scandals, and the picture seems complete.

Three kinds of evidence underpin this interpretation. First are tax-return data that track pretax market income: salaries, dividends, and realized capital gains. These show widening gaps because high earners captured disproportionate gains from globalization and digital technology. Second are surveys of household wealth that measure who owns stocks and real estate; when asset prices boom, wealthy portfolios balloon. Third are particular statistics that make headlines — the many CEOs paid hundreds of times more than average workers, or the eight men who together are richer than half the world — and feed public outrage.

But such evidence has limits. Starting the clock in 1980 is rhetorically convenient because inequality was then unusually low, following decades of steep taxation and stringent regulation that had dampened entrepreneurship and curtailed many ambitious career paths. Today’s levels, although higher than those of the late 1970s, are far below those of the pre-World War II era when taxes were much lower than they are today. In addition, most estimates of income inequality have actually plateaued in the last two decades. Likewise, focusing on pretax income ignores the consequences of progressive taxation and, crucially, the vast public spending on health care, education, and pensions that disproportionately benefits lower- and middle-income households. Finally, wealth surveys often exclude mandatory pension assets and undercount owner-occupied housing — the two largest stores of middle-class wealth.

Recent work on U.S. income distribution by the tax economists Gerald Auten and David Splinter shows that correcting for underreported income at the bottom, income shifted into tax-deferred retirement accounts, and welfare transfers flattens the trend dramatically: in the United States, the top one percent’s share of after-tax income is only slightly higher today than it was in 1960, nowhere near the doubling implied by estimates presented by Piketty and his co-authors. Europe’s picture is flatter still, thanks to heavier redistribution and less winner-take-all compensation at the top of the corporate ladder.

A RISING TIDE

The canonical data tell only part of the story, and the least flattering part at that. A growing body of scholarship reassesses the long-run distribution of wealth by adding what earlier studies neglected. Three findings stand out.

First, private wealth has exploded — but so has broad ownership of it. Reconstructed national balance sheets for France, Germany, Spain, Sweden, the United Kingdom, and the United States show real per-adult wealth roughly tripling since 1980 and rising more than sevenfold since 1950. Crucially, an increasing share of that capital sits in the homes and pension funds of ordinary households. In 1900, assets held by the elite — agricultural domains and shares in industrial or financial corporations — dominated; today, residential property and funded retirement accounts represent the majority of private assets. That shift parallels mass homeownership: in most Western countries, 60 to 70 percent of households now own the roof over their heads — an equity stake unavailable to their great-grandparents. Most workers hold pension claims in mutual funds or index funds, granting them the high returns of stock markets at low risk — what amounts to financial democratization.

Second, wealth concentration has fallen — not risen — over the past century. In Europe, the top one percent now owns barely a third of the share it held in 1910, right before the beginning of the transformative era of world wars, democratization, and the growth of governmental capacity, and since the 1970s that share has been essentially flat, even as real wealth — that is, wealth adjusted for inflation — has tripled with rising asset prices. The United States shows a clearer uptick beginning in the 1970s, most visible among the spectacular fortunes of tech and finance titans, whose gains have outpaced even the impressive wealth growth of the middle class. Yet U.S. concentration remains closer to its 1960 level than to its pre-1914 peak. The dominant quantitative fact of the century, therefore, is not a new Gilded Age but a dramatic wealth equalization propelled by mass asset ownership.

Third, the fact that people move through different income brackets over the course of their lives should temper typical measures of inequality. So, too, should the effects of welfare payments. Annual snapshots lump graduate students with retirees living off savings, making income and wealth gaps appear wider than lifetime consumption gaps. When studies in different countries instead follow individuals over time, they typically find that within only a few years, half the households in the bottom income decile have climbed to higher levels. Many top-decile households can drop to lower rungs of the ladder after business or investment setbacks. Government welfare programs further compress differences. In Sweden, when public pension entitlements are capitalized and added to assessments of personal wealth, this alone cuts the measured wealth inequality — known as the Gini coefficient — by almost half. In the United States, the market’s redistributive role is smaller, but when Social Security, Medicare, and employer-provided health insurance are treated as in-kind income, median households fare far better than raw wage data suggest.

These facts undermine the image of an inexorably widening chasm between a plutocratic elite and the rest. Yes, superstar entrepreneurs have amassed fortunes measured in tens of billions. But that outcome signals success, not failure: they furnished goods and services that millions freely bought. Their booming companies also supply jobs, higher wage earnings, and substantial tax revenue — directly through profits and payrolls and indirectly by raising the broader tax base. Over the past four decades, life expectancy in advanced economies (including in the United States despite the much-noted increase in “deaths of despair”) rose roughly six years, high school completion became nearly universal, and personal computers once reserved for elites went mainstream.

Those who typically bemoan the rise of inequality don’t correctly weigh the size and division of the pie. Rising real incomes and higher asset values are preconditions for mass prosperity and for a well-funded public sector. Even advocates of government intervention should champion efficient growth: every percentage point of GDP adds billions to tax revenue. The West’s most durable path to fairness, then, is to scale up the channels through which ordinary households acquire assets — including affordable housing supply, portable retirement accounts, and low-fee index funds — and to keep markets open so new firms can challenge incumbents.

#### 8. Their authors are citing the wrong data.

Gerald Auten & David Splinter 24. \*Office of Tax Analysis at the US Treasury Department, PhD in Economics from the University of Michigan. \*\*Joint Committee on Taxation Senior Economist for the US Congress, PhD in Economics from Rice University. “Income Inequality in the United States: Using Tax Data to Measure Long-Term Trends.” Journal of Political Economy, Vol. 132, No. 7. 6-10-2025. https://www.journals.uchicago.edu/doi/pdf/10.1086/728741

VI. Summary and Conclusions

Using **administrative tax data** in combination with the SCF and other data sources, this paper develops new estimates of the distribution of income in the **U**nited **S**tates since the 1960s. Our analysis examines levels and trends in all parts of the distribution in addition to top income shares. Our estimates for pretax income, based on distributing total national income, show that the top 1% share declined from 11.1% to 9.4% from 1962 to 1979 and then increased to 13.8% by 2019. Viewed over the full period, the **top share increased by only 3** pp. While our pretax income measure includes labor and investment income, it provides an **incomplete picture** of economic resources available to individuals. A **broader measure** that includes Social Security benefits and other transfers **lowers top 1% shares** and results in **a smaller increase**. Our estimates for aftertax income indicate that the top 1% share increased only 1.4 pp since 1979 and **only 0.2 pp since 1962**. These **improved income measures** also have implications for lower-income groups. Instead of real per capita incomes of the bottom half of the distribution appearing unchanged since 1979, we find that **after taxes and transfers** they **increased by two-thirds**. Furthermore, since **1962 average** real per capita aftertax **incomes** more than **tripled** for the bottom, middle, and top income quintiles.

Using only market income on tax returns, Piketty and Saez (2003) argued that the top 1% share of income more than doubled since 1962. However, this analysis **did not include transfers** and **other income sources** not reported on individual income tax returns, **nor did it account for** the effects of **major tax reforms** and changes in marriage rates. Thus, it gave a **distorted view of** income **inequality** levels and trends. Piketty, Saez, and Zucman (2018) reached less extreme conclusions after addressing some of these issues but relied on several problematic allocation assumptions for income not reported on tax returns. Our analysis shows that their **conclusions** are **not robust** to use of more data-driven allocations and correcting for changes in how income is reported in tax data.

The large share of income not reported in tax data and the challenges of accounting for major social and economic changes mean that there is considerable uncertainty associated with estimating income distributions over time. Our analysis highlights the importance of attention to details in using tax data, accounting for tax reforms, and including income not reported on tax returns. By emphasizing the sensitivity of top income share estimates to the assumptions used to allocate income not reported on tax returns, our analysis contributes to a better understanding of the evolution of inequality since the 1960s.

#### 9. No societal collapse impact.

Dr. Florian Jehn 25. PhD, Senior Researcher, Environmental Science, European Leadership Network. "The People's History of Collapse." Effective Altruism Forum. 8-6-2025. https://forum.effectivealtruism.org/posts/2fsu5c7k5MvbE8Dm6/the-people-s-history-of-collapse

But resilience is a double-edged sword: a system can be resilient even when it’s a bad one. This makes democracy crucial because it not only fosters resilience but also has the best chance of creating a good system that’s worth sustaining. Interestingly, societal collapse often was a path to enable more inclusive government. In many historical examples, collapse led to less dominance hierarchy and more egalitarian societies afterwards. So, in some way societal collapse could be seen as a cultural adaptation to too high inequality and too little inclusivity. Also, as we discussed earlier, debt is an important mechanism to enforce dominance hierarchies, but if your society collapses, this also usually erases all debt and provides the following societies a clean slate on which they can start again.

Modern day collapse

Historically, it looks like societal collapse is less of a problem than you might think. When we look at history, the most brutal and horrible events almost exclusively happened when a new Goliath rises (e.g. the rise of the Mongol Empire or the conquest of the Americas). When groups of humans try to rise to the stop in their own society they often use violence. When they succeed and start conquering their neighbors with their newfound power, it usually gets even more brutal. However, on the other side of the arc of history, in societal collapse we seldom see brutality at that scale. Instead, we see societies that erase their debts, level hierarchies and decentralize, so they can live more egalitarian again.

### AT: Democracy---1NC

#### 10. Unions don’t sustain democracy---they entrench corruption.

Steven K. Ashby 22. Labor Education Program, School of Labor and Employment Relations, University of Illinois at Urbana Champaign. “Union Democracy in Today’s Labor Movement”. Labor Studies Journal 2022, Vol. 47(2) 109–136

Yet American unions are not perfect models of democracy. While all unions have constitutions and by-laws that outline democratic procedures, there is a tremendous range of democracy within the labor movement. The bulk of labor unions are somewhere on a spectrum between completely democratic, member-driven, transparent unions, and bureaucratic, top-down, secretive unions with no member involvement. Democracy is a goal. Democracy is not something a union achieves, congratulates itself, and then forgets about. Democracy, in a country or in a labor union, is not achieved by just passing good laws or rules. No set of rules, no constitution, no by-laws, and no elections guarantee union democracy. Democracy is achieved by the continual struggle to maintain it and to expand it. Democracy is maintained by the people holding elected leaders accountable for their actions.

There is a dark side to being in power, whether as an elected politician or as an elected union officer. Power can be an addiction. It is easy to slowly begin to abuse your power. It is easy to fall into a way of thinking that your old self would have thought unthinkable.

While the United States prides itself on being a democratic country, the political culture in the United States leans far more heavily toward the benefits of holding power than to the ideals of democracy. In both the Republican and Democratic parties, few top leaders have unbending principles. If a leader of the other party does something, it will be vigorously denounced. If a leader of your own party does the same thing, it will be adamantly defended. The primary goal of leaders of both parties is to win power and to keep power. There is little concern about ethics or morality in how they achieve that goal.

Lest readers think this is overwhelmingly a Republican perspective, think about this example. In 2008 during the Democratic presidential primaries, the Democratic Party did not count the Michigan vote, as that state’s leaders had broken party rules when they scheduled the date of their state’s primary election. Candidate Hillary Clinton said the Michigan primary vote did not mean anything because most candidates were not on the ballot. Then later, when the race with Barack Obama for delegate votes was neck-and-neck, she demanded that Michigan’s delegate votes be counted because she had gotten the most votes. A key campaign spokesperson, Senator Chuck Schumer of New York, explained Clinton’s reversal matter-of-factly on NBC’s Meet the Press: “Each candidate, of course, takes the position that benefits them at the moment.”3

That is a disgraceful admission. Schumer was admitting that politicians do not speak the truth or stand for principle. Rather, they change their position when it serves their purposes.

Union leaders are not immune to the realty that we are all immersed in the deep culture of corruption in American politics. Union leaders are not insusceptible to the paradigm in American politics that all that matters is winning and keeping power. Few labor leaders would publicly say what former Teamsters president Dave Beck did: “Unions are big business. Why should truck drivers and bottle washers be allowed to make big decisions affecting union policy? Would any corporation allow it?” 4 Or the equally disturbing, anti-democratic words of Leon Davis, the founding president of SEIU 1199, now called SEIU United Healthcare Workers East: “The membership can only be a sounding board, even the delegates…they can’t make decisions… The idea of wisdom emanating from the bottom is full of shit, not because they are stupid, but because they have a job which is not running the union and knowing all the intricate business about it.” 5

Yet some variant of that idea exists within many unions. That is, the idea that the members are too stupid to run a large organization. Instead, only skilled, experienced leaders can do it.

Another argument offered by some union officials is that workers do not really care about democracy, but just want more money in their wallets. Former Service Employees (SEIU) president Andy Stern wrote: “Workers want…strength and a voice, not some purist, intellectual, historical, mythical, democracy.” 6 The only ones who care about union democracy, according to this argument, are “radicals” like those around the reform group Labor Notes, and university-based labor historians and labor studies professors. But the truth is that union democracy translates into stronger unions, which lead to better contracts, which means more money in workers’ wallets. Management knows the extent of member involvement in a union when it sits down at the bargaining table

#### 11. No impact.

. Dr. William A. Galston 25, PhD, Senior Fellow, Governance Studies, Brookings Institution. Professor, Government, University of Maryland, "Liberalism Without Illusions," Democracy Journal, No. 77, Summer 2025, https://democracyjournal.org/magazine/77/liberalism-without-illusions/.

The current assault on liberal democracy obscures the extent to which this form of government has always struggled against its inherent vulnerabilities.

First: Because liberal democracy restrains majorities and gives even small minorities a say, it slows the achievement of goals that majorities support. This generates public frustration with institutional restraints, and an unacknowledged envy of authoritarian systems that can act quickly and decisively. China can build huge cities in the time that it takes the United States to review the environmental impact of minor highway projects. Liberal democracy requires more patience than many possess.

While this problem can be mitigated (for example, by removing excessive obstacles to building things), it cannot be eliminated. Liberal democratic institutions are constructed with two purposes in view—to help achieve collective goals and to protect against tyranny. But efficacy and security pull in opposite directions. While checks and balances can protect us against dangerous concentrations of power, they can also hamper government’s ability to carry out the will of the people. When core problems remain unsolved for years or even decades, public frustration grows. So does support for leaders who are willing to break the rules to get things done.

Second, liberal democracy requires tolerance for minority views and ways of life to which many citizens are deeply opposed. It is natural to feel that if we consider certain views or ways of life to be odious, we should use public power to suppress them. In many such cases, liberal democracy requires us to restrain this impulse, a psychological burden that some will find unbearable.

This leads directly to the third inherent problem of liberal democracy: the distinction it requires between civic identity and personal or group identity. Although liberals may believe that certain religious views are false and even dangerous, they must accept those who hold these views as their equals for civic purposes. Advocates may freely express these views; they may organize to promote them; they may vote, and their votes are given equal weight. The same goes for race, ethnicity, gender, and all other particularities that distinguish us from one another.

This requirement of liberal democracy often goes against the grain of natural sentiments. We want the public sphere to reflect what we find most valuable about our private commitments. Liberal democracy prevents us from fully translating our personal identities into our public lives as citizens. This is not always easy to bear. The quest for wholeness—for a political community or even a world that reflects our deepest commitments—is a deep yearning to which illiberal leaders can always appeal.

The fourth inherent difficulty of liberal democracy—the necessity of compromise—is no easier for many to accept. If what I want is good and true, why should I agree to incorporate competing views into public decisions? James Madison gives us the answer: In circumstances of liberty, diversity of views is inevitable, and unless those who agree with us form a majority so large as to be irresistible, the alternatives to compromise are either inaction, which is often more damaging, or oppression, which always is.

There are always those who prefer purity to compromise, and sometimes they are right. The Israeli political philosopher Avishai Margalit has distinguished between tolerable compromises and what he calls “rotten” compromises—agreements so deeply flawed that no morally conscientious person should accept them. But applying this distinction in practice is not easy. For example, Margalit regards the compromise with slave states that made the drafting and ratification of the U.S. Constitution in 1787-88 possible as a rotten compromise; better for the free states to have gone their own way, as the abolitionists argued half a century later. Abraham Lincoln disagreed, however, and rightly so.

Some thinkers regard contemporary liberals’ acceptance of diversity as weak-kneed. Rather than maintaining neutrality among different ways of life, they claim, liberals should endorse certain ways of life as superior and use democratic institutions to promote them. Yale professor of history and law Samuel Moyn, for one, argues that liberals should place John Stuart Mill’s belief that “The highest life for human beings is creative experimentation and originality” at the heart of their creed. Mill insisted that lives in which individuals may choose their own “plan of life” are superior to those lived in accordance with custom and tradition, which require only what he termed the “ape-like” capacity for imitation. The refusal of today’s liberals to endorse this affirmative vision of what makes life valuable, Moyn claims, undermines liberalism’s appeal.

Moyn’s position goes deeper. While many citizens of liberal democracies agree with Mill, many others do not. Many Americans believe that lives lived in accordance with tradition and the dictates of religion are superior to those that reject these sources of authority, and no one can prove that they are wrong. They do not believe, as Moyn does, that the “creation of the new” is the best life. And if there is a Creator, the “self-creation” that Moyn endorses is at best questionable.

If America’s liberal democracy gave official preference to Mill’s conception of how best to live and used its institutional power to promote this conception, a substantial portion of the citizenry would conclude that their equal standing in American society had been called into question. Moyn’s proposal—the secular equivalent of establishing a state religion—would yield only endless strife. The alternative—accepting diverse conceptions of the good life—is the only path that allows us to live together despite our differences.

This does not mean that liberalism is morally neutral. Liberals favor peace over war, plenty over penury, freedom over tyranny, and the rule of law over rule by decree. They embrace the moral equality of all human beings and the equal civic standing of all citizens. They believe that individuals enjoy a zone of immunity from state power. And they insist that consent, not coercion, is the basis for legitimate political authority.

Liberalism endorses a conception of social perfection—civic concord based on respect for the right of others to live as they see fit—rather than individual perfection, and democratic institutions are used to safeguard civic space for the enactment of difference. Nothing in this conception prevents citizens from living Millian lives, but nothing requires them to do so either. The alternative to accepting diverse conceptions of the good life is a culture war without end.

Liberal Illusions

I turn now from the inherent problems of liberal democracy to the unforced and avoidable errors of understanding that have weakened the ability of the system’s defenders to resist its adversaries. These illusions fall into three groups—myopia, parochialism, and naivete.

Myopia

Today’s defenders of liberal democracy often suffer from what might be termed myopic materialism: the belief, especially pervasive among elites, that economic issues are the real issues and that cultural issues are diversionary, deliberately heightened by unscrupulous leaders to gain support for their anti-liberal agendas. This quasi-Marxist framework (economics is the base, everything else is the superstructure) wrongly denies the autonomy and power of cultural issues. Today’s populists and autocrats know better. They advance their cause by battling their liberal adversaries on the terrain of culture, invoking traditional gender roles and moving issues such as homosexuality, same-sex marriage, and transgender identity to the front lines of the struggle. They oppose most immigration, not only on economic grounds, but also because immigrants can challenge, and over time change, long-established cultural traditions and norms.

At the heart of culture is religion, whose persistent power liberals often underestimate. For example, as the most recent Turkish presidential election campaign began, many observers believed that the country’s economic downturn and runaway inflation would end President Erdogan’s two-decade grip on power. This view became even more dominant after Erdogan’s halting response to an earthquake that destroyed a generation’s worth of infrastructure development and ended or disrupted the lives of hundreds of thousands of his citizens. The international community was stunned when Erdogan led by 5 percentage points after the first round of balloting and then won reelection with 52 percent of the vote, about the same share as in the previous presidential election five years earlier.

To be sure, Erdogan had done everything to tilt the playing field in his favor, leading many international observers to conclude that the election had been free but not fair. But this was nothing new. Rather, it was Erdogan’s religious rural and small-town base that kept him in power. Pious women were especially fervent in their support. Before Erdogan, they explained, they could not get government jobs if they wore headscarves. Now they could. By ending the Kemalist tradition of strict secularism in public life, Erdogan had made them full citizens for the first time, no longer forced to choose between religious observance and the economic well-being of their families. Until liberals—mostly clustered in large cities and national capitals—make the effort to understand the enduring influence of religion and traditional morality in the hinterlands, they will continue to be surprised by political events.

Parochialism

Many defenders of liberal democracy espouse some form of transnationalism, whether concrete (“citizens of Europe”) or diffuse (the “international community,” or even “citizens of the world”). From this perspective, national boundaries and loyalties are regarded as forms of irrationality. After all, we are all brothers and sisters under the skin, and the moral claims of sub-Saharan refugees ought to be as important to us as those of our fellow citizens.

These views, however sincere, are not widely shared. Transnationalism is the parochialism of elites. Most people in advanced democracies as well as “developing” nations value particular attachments—to local communities and to the nation, to friends and family and compatriots. “Liberal nationalism” is neither oxymoronic nor obsolete, and good liberal democrats are not morally debarred from giving extra weight to the interests and views of their fellow citizens. This does not mean that we can ignore the suffering of refugees, but the responses required of us may be limited—rightly—by our special attachments. Disregarding such attachments, universal utilitarianism is inapplicable to the real world of politics.

So is the view that all human beings want the same things. Yes, there is a universal aversion to the great evils of the human condition—poverty, famine, pestilence, and violence. And if the U.S. Declaration of Independence is correct, every human being is morally equal and possesses inalienable, inviolable rights. It does not follow, however, that everyone prizes these rights or wants to live in a liberal democracy. The need for security often trumps the desire for democracy. Many individuals experience freedom as a burden, not an opportunity, and a sense of superiority, individual or collective, often drives out the awareness of moral equality. Ignoring these realities leads to expensive mistakes, such as believing that liberal democracy will emerge when tyrants are removed.

## Advantage 2

### AT: Warming---1NC

#### 1. The plan can’t solve.

Paul Prescod 24. Jacobin Contributing Editor. “Labor and Climate Must Unite. That’s Easier Said Than Done.” March 1, 2024. https://jacobin.com/2024/03/labor-climate-just-transition-book-review

Any union knows that it can never lose sight of taking care of the basic economic interests of their members. At times, in his stridency against business unionism, Vachon appears to expect that workers in the fossil fuel industry will evade this basic principle despite demonstrating an understanding of the economic dilemmas they are faced with.

“Newer unions,” writes Vachon, “are more likely to support climate protection measures. These unions are more likely to display the characteristics of social movement unionism, including greater diversity, participation in coalition work, and an expanded goal orientation.”

But one must ask: Are these unions able to take these stances because they practice “social movement unionism,” or is it because their members are not directly affected? To use teachers’ unions as an example once more, it would be hard to imagine them supporting the expansion of charter schools with a progressive curriculum when it means the loss of jobs for their members. Here again, while their opposition to privatization is indeed a broader social issue, it primarily stems from the imperative of self-defense.

The activists within manufacturing unions interviewed in Clean Air and Good Jobs display a more nuanced understanding of these dynamics. As one participant from a national level labor-climate organization observed, “Either we’ve got leadership that is overwhelmed by other issues, leadership that is not all that aware of the issue of climate change, and of course, we also have some leadership that is very fearful and is worried that their members are gonna lose jobs.”

The book also tends to give too much space to rhetoric that appeals more to the activist subculture of the climate movement than the working-class majority not currently bought into the project. This rhetoric can paint a confusing and contradictory picture of the coalition that needs to be built.

#### 2. Alt causes like China, India, and ‘drill baby drill’.

#### 3. Warming isn’t existential. Catastrophic pathways are unlikely, and ‘every degree matters’ is incoherent.

James Pethokoukis 25. Senior fellow and the DeWitt Wallace Chair at the American Enterprise Institute. Citing Toby Ord, PhD and Senior Researcher at Oxford University. “My chat (+transcript) with researcher Toby Ord on existential risk.” January 31, 2025. https://fasterplease.substack.com/p/my-chat-transcript-with-researcher

Pethokoukis: Let's just start out by taking a brief tour through the existential landscape and how you see it now versus when you first wrote the book The Precipice, which I've mentioned frequently in my writings. I love that book, love to see a sequel at some point, maybe one's in the works . . . but let's start with the existential risk, which has dominated many people's thinking for the past quarter-century, which is climate change.

My sense is, not just you, but many people are somewhat less worried than they were five years ago, 10 years ago. Perhaps they see at least the most extreme outcomes less likely. How do you see it?

Ord: I would agree with that. I'm not sure that everyone sees it that way, but there were two really big and good pieces of news on climate that were rarely reported in the media. One of them is that there's the question about how many emissions there'll be. We don't know how much carbon humanity will emit into the atmosphere before we get it under control, and there are these different emissions pathways, these RCP 4.5 and things like this you'll have heard of. And often, when people would give a sketch of how bad things could be, they would talk about RCP 8.5, which is the worst of these pathways, and we're very clearly not on that, and we're also, I think pretty clearly now, not on RCP 6, either. So the two worst pathways, we're pretty clearly not on, and so that's pretty good news that we're kind of headed more towards one of the better pathways in terms of the emissions that we'll put out there.

What are we doing right?

Ultimately, some of those pathways were based on business-as-usual ideas that there wouldn't be climate change as one of the biggest issues in the international political sphere over decades. So ultimately, nations have been switching over to renewables and low-carbon forms of power, which is good news. They could be doing it much more of it, but it's still good news. Back when we initially created these things, I think we would've been surprised and happy to find out that we were going to end up among the better two pathways instead of the worst ones.

The other big one is that, as well as how much we'll admit, there's the question of how bad is it to have a certain amount of carbon in the atmosphere? In particular, how much warming does it produce? And this is something of which there's been massive uncertainty. The general idea is that we're trying to predict, if we were to double the amount of carbon in the atmosphere compared to pre-industrial times, how many degrees of warming would there be? The best guess since the year I was born, 1979, has been three degrees of warming, but the uncertainty has been somewhere between one and a half degrees and four and a half.

Is that Celsius or Fahrenheit, by the way?

This is all Celsius. The climate community has kept the same uncertainty from 1979 all the way up to 2020, and it’s a wild level of uncertainty: Four and a half degrees of warming is three times one and a half degrees of warming, so the range is up to triple these levels of degrees of warming based on this amount of carbon. So massive uncertainty that hadn't changed over many decades.

Now they've actually revised that and have actually brought in the range of uncertainty. Now they're pretty sure that it's somewhere between two and a half and four degrees, and this is based on better understanding of climate feedbacks. This is good news if you're concerned about worst-case climate change. It's saying it's closer to the central estimate than we'd previously thought, whereas previously we thought that there was a pretty high chance that it could even be higher than four and a half degrees of warming.

When you hear these targets of one and a half degrees of warming or two degrees of warming, they sound quite precise, but in reality, we were just so uncertain of how much warming would follow from any particular amount of emissions that it was very hard to know. And that could mean that things are better than we'd thought, but it could also mean things could be much worse. And if you are concerned about existential risks from climate change, then those kind of tail events where it's much worse than we would've thought the things would really get, and we're now pretty sure that we're not on one of those extreme emissions pathways and also that we're not in a world where the temperature is extremely sensitive to those emissions.

### AT: Supply Chains---1NC

#### 4. They didn’t read uniqueness evidence for supply chains. No ev says they’re weak now.

#### 5. Can’t solve. If we make supply chains more resilient, then that increases dependencies on China.

#### 6. Supply chains are resilient.

Daniel Drezner 22. International Politics Professor at Tufts University. 1/2022. “Where's My Stuff?” https://reason.com/2021/12/05/wheres-my-stuff/

While demand has been stronger than expected, supply in critical sectors coped better than expected. The predicted pandemic breakdowns in supply chains for food and medical supplies proved to be overstated. Surveys of logistical firms last year revealed that the pandemic had minimal effects on their operational capabilities. Even when it came to medicines and personal protective equipment, there were only minor disruptions after the initial shock in March 2020. Claims that the global supply chain in medical products rendered states vulnerable to weaponized interdependence proved to be wildly exaggerated. The pandemic affected service sectors such as tourism far more severely than any manufacturing sector. Indeed, Slate's Jordan Weissmann pointed out recently that "imports were up 5 percent year-over-year in September, and up 17 percent compared with the same time in 2019." This happened despite the decline in air passenger traffic, which restricted yet another means of shipping goods by air. Supply has increased—it's just that demand has surged even more.

The private sector is responding to market signals by ramping up production and ensuring multiple supply lines. Intel, Samsung, and TSMC are all spending tens of billions of dollars to build new chip foundries in the United States. Skyrocketing shipping prices are incentivizing additional construction of new container ships. The Wall Street Journal reports that in the first five months of 2021, there were nearly twice as many orders for new container ships as there were in all of 2019 and 2020 combined. To ensure holiday inventory, large retailers like Walmart and Home Depot have chartered their own container ships. Container shipping rates have already started to decline from September peaks.