# 1

#### Interpretation—the aff may not specify a just government

#### Rules readings are always generalized – specific instances are not consistent. Cohen 01

Ariel Cohen (Ben-Gurion University of the Negev), “On the Generic Use of Indefinite Singulars,” Journal of Semantics 18:3, 2001 https://core.ac.uk/download/pdf/188590876.pdf

In general, as, again, already noted by Aristotle, rules and definitions are not relativized to particular individuals; it is rarely the case that a specific individual¶ forms part of the description of a general rule.¶ Even DPs of the form a certain X or a particular X, which usually receive¶ a wide scope interpretation, cannot, in general, receive such an interpretation in the context of a rule or a definition. This holds of definitions in general, not¶ only of definitions with an IS subject. The following examples from the Cobuild¶ dictionary illustrate this point:¶ (74) a. A fanatic is a person who is very enthusiastic about a particular¶ activity, sport, or way of life.¶ b. Something that is record-breaking is better than the previous¶ record for a particular performance or achievement.¶ c. When a computer outputs something it sorts and produces information as the result of a particular program or operation.¶ d. If something sheers in a particular direction, it suddenly changes¶ direction, for example to avoid hitting something.

#### That outweighs—only our evidence speaks to how indefinite singulars are interpreted in the context of normative statements like the resolution. This means throw out aff counter-interpretations that are purely descriptive

#### Violation—they specified the United States

#### Vote neg:

#### 1] Precision –any deviation justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

#### 2] Limits—specifying a just government offers huge explosion in the topic since they get permutations of hundreds of governments in the world depending on their definition of “just government”.

#### Topicality is a voting issue that should be evaluated through competing interpretations – it tells the negative what they do and do not have to prepare for

#### No RVIs—it’s your burden to be topical.

# 2

#### The National Labor Relations Board should, after soliciting notice and comment, should recognize by rule an unconditional right to strike for incarcerated workers in the United States.

#### Solves and competes - notice and comment rulemaking solves the case and spills over to set a precedent that the courts will uphold

Zeisler 14 [Royce Zeisler, J.D. Candidate 2014, Columbia Law School; B.S., B.A. 2012, University of British Columbia, "CHEVRON DEFERENCE AND THE FTC: HOW AND WHY THE FTC SHOULD USE CHEVRON TO IMPROVE ANTITRUST ENFORCEMENT", Columbia Business Law Review, 2014, HeinOnline]

An instructive use of this style of regulation occurred in 1991 with the National Labor Relations Board's ("NLRB") promulgation of 29 C.F.R. § 103.30. There, the NLRB promulgated its first rule seeking to cease the costly, frequent, and ineffective litigation aimed at determining collective bargaining units in hospitals.1 3 1 Specifically, the regulation created the legal presumption that, absent "extraordinary circumstances," there were only eight possible collective bargaining units in acute care hospitals. 132 In limiting the presumed form of bargaining units, the NLRB specifically intended to overrule conflicting precedent and create a legal presumption for courts to employ. After promulgation, this rule was challenged and a unanimous Supreme Court upheld the regulation partly based on Chevron deference. 33 Notably, this regulation did not turn litigation into a simple application of predetermined values (as the rules in Vermont Yankee did). 3'4 It simply set the presumption for generalist courts to deploy in deciding the existence of bargaining units.

#### Only Congress can amend a statute

Legal Dictionary ND [https://legal-dictionary.thefreedictionary.com/amend]

amend

v. to alter or change by adding, subtracting, or substituting. One can amend a statute, a contract or a written pleading filed in a law suit. The change is usually called an amendment. The legislature will amend a statute, the parties to a contract can amend it, and a party to a lawsuit can amend his or her own pleading. A contract can be amended only by the parties participating in the contract. If the contract is written, it can be amended only in writing (although curiously enough an oral contract can be amended orally or in writing). A pleading can be amended before it is served on the other party, by stipulation or agreement in court between the parties (actually usually between their attorneys), or upon order of the court. (See: amended complaint, statute, stipulation)

#### Key to democracy and court acquiescence---notice and comment engages participants and creates deference.

Harry First and Spencer Weber Waller 13. Harry First, New York University School of Law. Spencer Weber Waller, Loyola University Chicago School of Law. “Antitrust’s Democracy Deficit”. Fordham Law Review, Volume 81 Issue 5 Article 13. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4890&context=flr

Redressing antitrust’s democracy deficit on the procedural side can be done with the tools of administrative law. Administrative law is the body of law that controls the procedures of governmental decision making.151 It allows interested persons to participate in decisions that affect their interests. Normally, it requires appropriate notice, the right to be heard, fair procedures, protection of fundamental rights, and judicial review of the resulting decision. These basic features are present in the administrative laws of most foreign legal systems and are part of a growing international consensus.152 The tradeoff is that the decisions of administrative agencies that properly follow these strictures normally are granted a degree of deference as to the interpretation of the laws they enforce.153 Frequently, but not inevitably, private parties also have the right to proceed with actions for damages against private parties who violate their regulatory obligations and even against the government itself when it acts unlawfully, either substantively or procedurally. These tools of administrative law are available to make antitrust enforcement decisions more transparent and more responsive to the interests that the antitrust laws were meant to serve, thereby promoting both better decision making and greater democratic legitimacy.

CONCLUSION

Free markets and free people cannot be assured by the efforts of technocrats. Ultimately, both come about through the workings of democratic institutions, respectful of the legislature’s goals and constrained from engaging in arbitrary action. Antitrust has moved too far from democratic institutions and toward technocratic control, in service to a laissez-faire approach to antitrust enforcement. We need to move the needle back. Doing so will strengthen the institutions of antitrust, the market economy, and the democratic branches of government themselves.

#### US democratic retreat causes terrorism, great power war, famine, and poverty.

Garry Kasparov 17. Chairman of the Human Rights Foundation, founded the Renew Democracy Initiative. “Democracy and Human Rights: The Case for U.S. Leadership”. Feb 16 2017. U.S. Senate. http://www.foreign.senate.gov/imo/media/doc/021617\_Kasparov\_%20Testimony.pdf

The Soviet Union was an existential threat, and this focused the attention of the world, and the American people. There existential threat today is not found on a map, but it is very real. The forces of the past are making steady progress against the modern world order. Terrorist movements in the Middle East, extremist parties across Europe, a paranoid tyrant in North Korea threatening nuclear blackmail, and, at the center of the web, an aggressive KGB dictator in Russia. They all want to turn the world back to a dark past because their survival is threatened by the values of the free world, epitomized by the United States. And they are thriving as the U.S. has retreated. The global freedom index has declined for ten consecutive years. No one like to talk about the United States as a global policeman, but this is what happens when there is no cop on the beat. American leadership begins at home, right here. America cannot lead the world on democracy and human rights if there is no unity on the meaning and importance of these things. Leadership is required to make that case clearly and powerfully. Right now, Americans are engaged in politics at a level not seen in decades. It is an opportunity for them to rediscover that making America great begins with believing America can be great. The Cold War was won on American values that were shared by both parties and nearly every American. Institutions that were created by a Democrat, Truman, were triumphant forty years later thanks to the courage of a Republican, Reagan. This bipartisan consistency created the decades of strategic stability that is the great strength of democracies. Strong institutions that outlast politicians allow for long-range planning. In contrast, dictators can operate only tactically, not strategically, because they are not constrained by the balance of powers, but cannot afford to think beyond their own survival. This is why a dictator like Putin has an advantage in chaos, the ability to move quickly. This can only be met by strategy, by long-term goals that are based on shared values, not on polls and cable news. The fear of making things worse has paralyzed the United States from trying to make things better. There will always be setbacks, but the United States cannot quit. The spread of democracy is the only proven remedy for nearly every crisis that plagues the world today. War, famine, poverty, terrorism–all are generated and exacerbated by authoritarian regimes. A policy of America First inevitably puts American security last. American leadership is required because there is no one else, and because it is good for America. There is no weapon or wall that is more powerful for security than America being envied, imitated, and admired around the world. Admired not for being perfect, but for having the exceptional courage to always try to be better. Thank you.

# 3

#### Low wages and labor law exemptions are key for pandemic and national disaster response, the AFF makes this impossible – even the NAACP isn’t supporting strike tactics and advocates for “gentle advice”

Kutz 21 (Jessica Kutz – Assistant Editor for High Country News who is interviewing Carlee Purdum who researches incarcerated labor conditions and trends, “The essential — and dangerous — work prisoners do: Incarcerated people respond to pandemics, wildfires, avian flu outbreaks, mudslides and more”, https://www.hcn.org/articles/south-labor-the-essential-and-dangerous-work-prisoners-do, 23 April 2021, EmmieeM)

Last year, when the COVID-19 pandemic swept through nursing homes, exhausted medical supplies and sent the country into lockdown, prison officials gave incarcerated people their marching orders: Manufacture hand sanitizer, sew face masks, transport dead bodies, dig graves.

The workers toiled in crowded factories, overflowing morgues and inside their own prisons, where they often lacked access to essentials like soap and adequate medical care. In the process, they became one of the most vulnerable — and yet essential — parts of the nation’s emergency response.

Seven Western states — Montana, Washington, Idaho, Oregon, Nevada, California and Arizona — specify incarcerated labor as a resource in their state emergency operation plans. Others, like Colorado, passed legislation in 1998 like the Inmate Disaster Relief Program, which allowed the state to use the workforce for wildfires and other emergencies. (Recently, Colorado passed a new law by the same name that requires the state’s fire division to encourage formerly incarcerated firefighters to apply for paid work in the field.) The reason is simple: “(Incarcerated workers) are extremely low-cost,” said Carlee Purdum, an assistant research professor with the Hazard Reduction and Recovery Center at Texas A&M University. According to the Prison Policy Initiative, such workers received anywhere from 14 cents to $1.41 an hour on average in 2017. And because they are technically considered a state resource, said Purdum, the Federal Emergency Management Agency, or FEMA, further subsidizes the cost of their labor when states are overwhelmed by natural disasters.

“I’ve seen and documented the use of incarcerated workers for a lot of different types of hazardous work.”

The workers can be tapped for nearly anything. “I’ve seen and documented the use of incarcerated workers for a lot of different types of hazardous work, from cleaning up oil spills to going through and eliminating infected birds with the avian flu,” said Purdum. “Really, anything that happens in a disaster, if it overwhelms the community, and (state or local officials) feel like they have a need, they will turn to incarcerated workers.”

But incarcerated people aren’t just vulnerable owing to the hazardous nature of the work they do; they lack the power to keep themselves safe and are forced to rely on prison officials for their well-being in dangerous situations. High Country News spoke with Purdum, who has spent her career researching the unique problems faced by incarcerated people during disasters, along with lesser-known aspects of prisoners’ labor. This interview has been edited for length and clarity.

High Country News: Much of your work focuses on the vulnerability of incarcerated people when a disaster hits. What are some of the less obvious ways prison populations are impacted by an extreme weather event or natural disaster?

Carlee Purdum: The location of prisons contributes to that vulnerability because there is a priority for cheap land, and that is often in rural areas. When prisons are impacted, it’s difficult to get resources to them. And then the characteristics of a prison itself create a lot of vulnerability: Incarcerated persons have to rely on the state and the staff at their individual unit to protect them, and that is often a very challenging thing. There are also the characteristics of incarcerated persons themselves. They are a stigmatized population, so they’re often on the lowest priority in terms of disaster resources.

Incarcerated persons have very limited rights, so if they are told that they are going to go out and do a certain type of work, they don't have the right to refuse. If they do refuse, they can be written up with disciplinary infractions, they can be put in solitary confinement; it can have real-world impacts on them and their chances of being released. One man, Neil Ambrose, was doing debris cleanup, and there was a downed power line after a storm. The power line sparked a small fire, and the guard ordered the incarcerated persons to stomp the fire out — and when Neil did that, he was electrocuted and died.

Even if they perceive that their health and their safety and even their lives are at risk, they don’t have a right to say, “No, we’re not going to participate in that.”

HCN: In your research, you analyzed state emergency operation plans. How are prison populations addressed in state disaster planning?

CP: I found that incarcerated persons are viewed as a vulnerable population, a hazardous population and as a workforce. States will include some references as to how incarcerated persons need to be protected in disasters. And evacuations of prisons do happen. One example is wildfire in Western states when institutions are threatened.

But, on the other hand, they are also viewed as a hazardous population. (And) in emergency planning, there’s a disproportionate focus on emergencies that are defined as “inmate-precipitated”— which includes hostage situations, riots, things like that. Those are more frequently included in not only in planning documents but also in emergency management within prisons.

There’s this focus on incarcerated persons perceived as being a threat, but less focus on the kinds of emergencies and disasters where incarcerated people are the survivors and need a humanitarian response. That’s been recognized as a problem in prison emergency management for the last two decades.

HCN: What are some lesser-known uses of incarcerated labor in the West that the general public might not think about?

CP:  For any major disaster that happens, there’s typically going to be some kind of role for incarcerated workers, and that's because disaster programs subsidize it.

There is a really compelling example in California, where incarcerated workers were helping with mudslides back in 2005. They pulled out more than 150 incarcerated folks from the prisons to help dig out this debris that had impacted this community. They were working alongside the cadaver dogs and other workers with specialized equipment. They were looking for possible survivors or possible deceased victims. In Nevada, incarcerated persons have been active in flooding events. On the website of (Nevada’s) Department of Corrections, they also say that their work crews were involved with recovery efforts for the space shuttle Columbia disaster.

The impact of hazards and disasters on incarcerated persons is extremely traumatic, and we just have no idea what the true toll is on people, on their health, on their relationships with their families, on their life trajectories.

It’s throughout the lifecycle of disasters, too. You may not think of construction workers at the prison as being involved in disaster work, but if they’re repairing a damaged state facility, if they’re providing some kind of construction work on a damaged school — that is recovery work. In California, they’re helping to do the seismic retrofitting of buildings. That’s hazard mitigation work. They’re really involved throughout the entire lifecycle, and in disasters, that’s mitigation, preparedness, response and recovery.

HCN: Can you talk more about the people themselves and what is at stake for them?

CP: When you look at the public health impact, or even just the emotional trauma and physical harm, there are many examples of incarcerated people suffering in the context of disasters. Whenever (they) are evacuated from a facility, that can be very traumatic for family members who may have no idea where their child is, or where their husband or wife is. When evacuations happen, (prison officials) often keep that information private until the evacuation is really complete.

Then we have these very infamous examples of the trauma that incarcerated people at the Orleans Parish prison suffered after Hurricane Katrina. They were stuck in their cells with chest-high water that was contaminated. These are people having medical emergencies. They had no access to fresh water or food, and then when some people tried to escape this very dangerous situation, they’re viewed as this threat.

The impact of hazards and disasters on incarcerated persons is extremely traumatic, and we just have no idea what the true toll is on people, on their health, on their relationships with their families, on their life trajectories. It’s an unexplored subject. There needs to be further research on how being incarcerated can impact a person’s life if they’re exposed to disasters.

HCN: What are you hoping people will take away from this research?

CP: I have talked to other organizations that are trying to put together materials for communities to be able to hold their local prisons responsible for how they interact with incarcerated persons in disasters. The environmental justice program with the NAACP put together a resource for communities after disasters to make recovery more equitable. It serves as a checklist: First, look in your community and see if incarcerated persons are being used for disaster work. And if they are, ask if that work is voluntary; ask what kind of training is being used; ask what kind of equipment like personal protective equipment incarcerated persons are being given.

I recommend people look into tools like that, look into resources like that, to make the practice more visible and to hold those agencies accountable for how they are treating people.

#### Lack of quick oil spill response (OSR) is an existential threat – innovative clean-up tech has slowed and barriers prevent alternate prevention measures or different actors solving, citing meta analysis of studies and spills from 67’ to now

Little et al 21 (David I. Little (Environmental Consultancy @ Cambridgeshire), Stephen R.J. Sheppard (Collaboration for Advanced Landscape Planning & Department of Forest Resource Management @ Faculty of Foresty @ University of British Columbia), David Hulme (Global Development Institute @ University of Manchester), “A perspective on oil spills: What we should have learned about global warming”, https://www.sciencedirect.com/science/article/pii/S0964569120304166, Ocean & Coastal Management, Volume 202, 1 March 2021, EmmieeM)

Scientific knowledge of marine pollution and oil spill response (OSR) innovation has diffused over half a century. Local community resilience to spills and the equitable application of knowledge worldwide are constrained by several barriers. These range from access, governance, cost minimisation, through austerity and poverty in affected areas, to realpolitik (e.g. vested interests, nationalism, corruption, security breakdown and war). Ongoing incidents show inequalities in spill risk and OSR capability. Advances in knowledge have belatedly brought us to the conclusion that the logical way to reduce adverse impacts of oil in an era of global warming is to accelerate decarbonisation. This would rapidly and simultaneously reduce the frequency, magnitude and consequences of oil spills. Meanwhile, mitigating spills, managing OSR, and restoring local communities and ecosystems at spill sites are fundamental obligations for the oil industry. These obligations should be routinely enforced by all responsible governments, and backed by inter-governmental agencies and conventions. However, we must no longer assume that even the best practices in exploration, production, refining, transport and consumption of hydrocarbons can adequately reduce their leading role in the ongoing destruction of the global environment.

1. Introduction

1.1. Background

Aged fourteen and led by an ex-wildfowler parent, two of the authors had already visited the UK's teeming seabird colonies on Handa Island, Bass Rock, Farne Islands and Skomer Island. Seeing the ‘Torrey Canyon’ oil spill on TV on March 18, 1967 was a terminal shock to childhood. Marine oil pollution suddenly became the environmental hot topic internationally for the public. The background was one of increasing concern over persistent organochlorine pesticides, highlighted in USA by Rachel Carson (1962). Cold war tensions came to a head that year in the Cuban missile crisis. Although Pacific nuclear bomb tests continued into the 1990s, a treaty banning atmospheric testing led to peak fallout in 1963, until the Chernobyl accident (1986). There was socio-political upheaval in the civil rights and peace movements, with growth in multilateral pressure groups.

Public pressure on environmental problems achieves results. Leaded petrol was phased out from 1975 in USA, from 1983 in UK (after Royal Commission on Environmental Pollution), and completed in 1999. Some countries acted on ozone layer depletion in 1978, and (after work by British Antarctic Survey), the 1987 Montreal Protocol phased-out chlorofluorocarbons (CFCs) globally. By 1979 the international dimension of acid rain from SO2 pollution made headlines leading to the United Nations Economic Commission for Europe (UNECE) Convention on Long-range Transboundary Air Pollution (the first global environmental accord). From 1990, SO2 and NOx emissions reduced in USA with the first market cap-and-trade system. Acceptance of the economic case by industry and government was essential to finding alternatives to leaded petrol and CFCs. Growing public expectations of peace, social justice and environmental protection underpinned all these changes, and oil spills inevitably ceded their position as No. 1 environmental issue.

1.2. Anthropogenic climate change

Decades later, the perceptions of ordinary people have renewed intensity. Peak concern passed to greenhouse gas (GHG) emissions causing climate change. Compared to the outrage caused by dramatic oil tanker accidents, this change in perception started slowly but grows relentlessly. The global warming hypothesis is robustly tested and accepted (except by populists and vested interests) as much as major scientific hypotheses such as the Earth's age, plate tectonics and evolution. Unlike these subjects, runaway climate change is a man-made existential crisis. It is neither academic nicety nor liberal conspiracy.

Climate change is also the eponymous crisis of the Anthropocene: over-arching, synchronous, cascading processes affecting the harsh lived experience of hundreds of millions of people with ramifications for millennia. It is the key global stressor of the planet's ecosystems, driving coastal squeeze, desertification, flooding, food security, forest fires, freak weather, human migrations, invasive species and rapid extinctions. It increases the risk of wars and viral pandemics. These stressors are intensified by positive feedback loops that are not the product of mass hysteria from social media, or a vague perception of worsening weather in news reports.

The 2008 and 2009 Conference of Parties (COP)14 and COP15 of the United Nations Framework Convention on Climate Change (UNFCCC) discussed a successor to the Kyoto Protocol that was postponed as the global financial crisis deepened. In 2015 the aim of COP21 to accelerate action and investment in a low-carbon future was enshrined in the Paris Agreement, from which President Trump would have withdrawn USA had he not lost the November 3, 2020 election. In 2019 COP25 was sabotaged by President Bolsonaro of Brazil and moved via Chile to Madrid, losing more precious time. Glasgow's COP26 is postponed until 2021 due to COVID-19.

By now we should have been well on our way to mitigating catastrophic climate change. Instead, we focused on bailing out the financial system that caused the economic crisis, and on restoring the very economy that massively discounts future impacts of climate change. A decade later we continue relying on the carbon industries, despite climate change and inequality being seen as the world's most pressing problems (Hulme, 2016). Foreign aid should encourage sustainable development, not fossil fuel projects such as $1.2 billion (B) from UK Export Finance for a Mozambique liquefied natural gas project. To avoid the calamity resulting from a mean temperature increase of 1.5 °C we have only a decade to cut CO2 emissions by 45% from a 2010 baseline (UNFCCC, 2019).

It will take ‘cold turkey’ to stop a fossil fuel addiction that provides warm or air-conditioned homes, air travel, and ever-growing numbers of cars. In a poll of 26 000 people in 26 countries under lockdown in July/August 2020, the following percentages said they would use their car more afterwards: >60% in Brazil and S. Africa; >40% in Australia, India and USA; >30% in China and Italy; and >20% in Japan, Germany and UK (Watts, 2020).

Looking at three scenarios after COVID-19 (‘good, bad and ugly’), the ‘bad’ scenario (business as usual) is identified as the most likely outcome (Hulme and Horner, 2020). With currently hollowed-out state sectors, there will be disastrous consequences if we return to the excessive consumption of business as usual, driven by poorly-regulated markets, out-of-control outsourcing, private equity, shell companies, offshore tax havens, money laundering and organised crime. Among the legal beneficiaries of the ‘bad’ scenario are opaque think-tanks, arms salesmen and the fomenters of fake news and climate change denial. What some powerful elites prefer, the rest of us as consumers apathetically seem to covet. The ‘ugly’ scenario (socio-environmental breakdown and war) would spread ever more widely. As to whether it will, our life and times are already framed by culture wars with each side seeing an enemy in plain view. In place of such populism, we must learn behaviours to manage the crises of politics, economics and environment.

Whereas a rapid shift to a low-carbon economy is extremely challenging, there is hope for a ‘good’ scenario if city and rural dwellers in developed and emerging regions are not divided and ruled by fossil fuel lobbyists, political donors and their protégés. We must ‘build back greener’ and not retreat into carbon-heavy lifestyles. An example is set by Vancouver, whose leadership in 2009 aspired to be the world's greenest city by 2020. It now leads North America in reducing carbon pollution, receiving requests for advice from 2000 cities worldwide. Standing alongside First Nations communities, Vancouver opposes bitumen export pipelines to the British Columbia coast from the Athabasca tar sands in land-locked Alberta (Mauro, 2018).

In hindsight, the 1967 ‘Torrey Canyon’ and subsequent oil spills are landmarks clearly pointing to the climate crisis becoming the ultimate emergency. The OSRs we have conducted recognize the importance of prevention (mitigation), clean-up and restoration (adaptation). Our visceral reaction to TV footage of spill impacts on seabirds in 1967 was triggered visually. Consequences of climate change can be brought home to people using landscape visualisation (Sheppard, 2005). Although CO2 is invisible, the mitigation and adaptation lessons must be applied globally, rapidly and visibly to avert climate catastrophe (Sheppard, 2012).

1.3. Research objectives

In a 2013 interview J.G. Speth articulated a serious practical dilemma: “I used to think that the top global environmental problems were biodiversity loss, ecosystem collapse, and climate change. I thought that thirty years of good science could address these problems. I was wrong. The top environmental problems are selfishness, greed and apathy, and to deal with these we need a cultural and spiritual transformation. And we scientists don't know how to do that” (quoted by Berry, 2018).

With the aim of addressing this dilemma, the following research questions were examined from the perspective of cumulative experience of oil spills:

1) What are the valuable lessons from the history of oil spills in terms of changes in public perception, responses to present and future threats and specifically to anthropogenic climate change?

2) What are the effects (on spills and climate change) of variations in public and private sector governance, ranging from moral, legal and multilateral actions to the opposite extreme of neo-colonialism and corruption among businesses and governments?

3) How can the attention of more people be stimulated to peaceful action on the urgency of global environmental protection, so that industry, governments and public cooperate on decarbonisation (i.e. GHG phase-out)?

2. Methods

With an emphasis on key oil spill incidents from 1967 to-date, the study approach was chronological but grouped into phases defined by growth in knowledge and the changing public reactions to spills. Concerns ranged from scientific to socio-economic, political and global development issues. Oil spill cases and responses were reviewed and interpreted. Climate change and oil spill perceptions were considered in cultural as well as scientific terms, illustrated by references to art, literature, music and video.

Questions for assessment of an oil spill contingency plan (OSCP) were used to invite comparison with the primary response to COVID-19. Sources included news media, technical reports, OSR handbooks and scientific articles. The lead author's knowledge since 1975 in the oil port of Milford Haven (UK) came from over 20 oil spills worldwide, spanning multiple years in four cases (‘Exxon Valdez’, ‘Sea Empress’, Gulf War, Niger Delta). Two of these assignments were as principal investigator and/or expert witness, and three as steering committee member/independent reviewer. If all spills were the same and all their OSR lessons were applied effectively and equitably, a ‘career in spills’ would have been unnecessary.

3. Results: oil spill impacts and response

3.1. The ‘new normal’ of spills

Oil has seeped into the ocean for hundreds of millions of years; thankfully, otherwise the microbial communities capable of breaking down hydrocarbons at sea would not have evolved. During WW2 fuel oil was spilled faster, in larger quantities and amid horrific loss of life. The only upside was that over-fishing was impossible in strategic waters during the conflict, and so marine fishery stocks recovered despite the oil. Oil spills affect seawater quality and ocean ecology on relatively limited temporal and spatial scales. Natural mitigating processes include: oil evaporation, spreading and dilution; water turbulence and mixing; flocculation, biodegradation, biopackaging and sedimentation of suspended oil droplets; rapid recovery or replacement as a result of plankton communities’ patch dynamics; toxin depuration physiology of fish; and wildlife mobility or avoidance behaviours.

However, in sheltered areas of coastal seas, estuaries, deltas, and particularly in fine-grained sediments and wetlands, stranded oil is often persistent and toxic. Depending on the efficacy of response and clean-up, lingering oil can cause significant adverse impacts on receptors and natural resources, affecting biodiversity, ecological succession, and bioaccumulation (primarily in shellfish). The socio-economic activities affected include tourism amenities, desalination and cooling water intakes, wild fishery market closures, and oiling of seafood aquaculture facilities. In addition to any crew fatalities and injuries, human health is affected in some receiving environments. Impacts of some spills are well-documented, and we do not cover them here in detail. This section examines lessons from case studies of spilled oil fate, behaviour and effects, how they are assessed, and how they drive evolving clean-up options.

Summary data are given in Table 1 for 24 larger tanker spills worldwide, showing key references in a range of locations, 50% European. Although smaller, the last three are included by the International Tanker Owners Pollution Federation (ITOPF). In 33% of these spills, all outside Europe, no opportunity for study arose or impacts were not assessed (N/A).  
Table 2 shows the approximate costs of the oil spills in this study (footnote [b](https://www.sciencedirect.com/science/article/pii/S0964569120304166" \l "tbl1fnb) in Table 1). In addition to the cause, size and oil type, the costs depend on weather conditions at the time, geographic location, access, security, geopolitics, governance, legal circumstances, and affluence in the affected region. The limit of insurance liability also drives/minimises costs. If, despite the ‘polluter pays’ principle, no spiller OSR is forthcoming, then government, United Nations (UN), European Commission (EC), ITOPF or non-governmental organisations (NGOs) may assist.

Over the two decades following ‘Torrey Canyon’ there were two further landmark spills: March 16, 1978 ‘Amoco Cadiz’; and March 24, 1989 ‘Exxon Valdez’. All three incidents catalysed international efforts to prevent spills, improve response and examine ecological impacts. Responders did not get it right every time, but by getting it wrong in new and imaginative ways they gradually made fewer mistakes. ‘Torrey Canyon’ was bombed by the RAF using high explosives and napalm. The first-generation dispersants sprayed and poured onto shorelines were industrial cleaning products (mostly aromatic hydrocarbons) that did more damage than Kuwait crude oil alone. After the ‘Amoco Cadiz’ spill (Iranian light and Arabian crudes), shoreline clean-up involved the French army removing an oiled saltmarsh. ‘Exxon Valdez’ (Alaska North Slope) crude oil was cleaned from rocky shores using hot seawater and pressure washing that was controversial: effective if the perception was that all oil had to be removed, but not necessarily using net environmental benefit analysis (NEBA).

In a spirit of cooperation, experts from industry, government, civil society and multilateral agencies lobbied, funded and conducted R&D. The Environmental Sensitivity Index (ESI) was developed to prepare for oil spills including in remote areas (Gundlach and Hayes, 1978). Entering into force in 1983, the IMO International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) was instrumental in preventing tank washing at sea and improving ports' waste reception facilities. Spill compensation schemes were refined (summarized in ITOPF, 2020b). Spill trajectory modelling, aerial surveillance and clean-up technologies improved the oil encounter rate at sea and the effectiveness of oil recovery equipment (pumps, booms, skimmers). Lower-toxicity chemical dispersants and aerial spraying capability came together. The reluctance to use dispersants after ‘Torrey Canyon’ was overcome for some spills where resource managers agreed that NEBA might result in less impact than oil alone. Training improved in deployment and monitoring the effectiveness and effects of countermeasures. As part of the OSCP, stockpiles of OSR equipment were created, and ‘spill drills’ simultaneously became world-class and routine. To improve OSR, clean-up cooperatives were established from 1985. Lessons learned were documented and fed back into the revised plans and clean-up manuals.

For positive outcomes to spills, a strategy and a well-rehearsed, tactical OSCP are both needed. These enable responders to apply the technical data and scientific knowledge that are codified in regulations, procedures, guidelines and advice. The uneven COVID-19 response worldwide has shown the critical importance of international coordination and rigorous testing of contingency plans. The UK central government and others failed to ask, let alone answer the right questions, as can be seen by substituting the COVID-19 equivalent in the following OSCP questions (Table 3; see section 4.1).

Experiments conducted in the field, in the laboratory and at the meso-scale (e.g. tank tests and enclosed ecosystems), refined and confirmed many of the observations from oil spill case studies. Seminal work was conducted by scientists from the Field Studies Council (FSC) Oil Pollution Research Unit in Wales, who among others were also engaged in environmental monitoring of coastal refinery discharges and the proliferating oil and gas fields in the North Sea and elsewhere. Despite the inevitable blind alleys in oil spill R&D, learning from the mistakes and moving quickly on were hallmarks of the progress that was needed. The experimental, adaptive management approach facilitated controlled comparisons between clean-up options, leading to development of practical OSR guidelines that in turn informed contingency plans. The FSC and other natural history NGOs have wider historical, ecological and cultural importance, including tracking the evolution of perception and ethics in environmental learning (Berry and Crothers, 1987).

It seemed that the coincidental 11-year intervals between the three landmark spills were enough to make real progress. And yet it was too long because funding as well as public and professional vigilance dwindled before the next large spill. ‘Amoco Cadiz’ and ‘Exxon Valdez’ were cases that were heard or settled in US courts. Not content with the international compensation schemes that limit the spiller's liability (mainly relating to tankers), after ‘Exxon Valdez’ the USA quickly ratified the Oil Pollution Act 1990 (OPA 90). This created a comprehensive prevention, response, liability and compensation regime for oil pollution in US navigable waters (fresh and marine) and from all vessels and other facilities including offshore platforms. The Americans developed a formal process for Natural Resource Damage Assessment (NRDA), alongside compelling musical (Zappa, 1993) and artistic perceptions (Troll, 1989, Fig. 1).

Apart from NRDA, oil spill impact assessment was not standardised, and remained an evolving, patchy process. Many spills had no impact assessment and even those for ‘Torrey Canyon’, ‘Amoco Cadiz’ and ‘Exxon Valdez’ came from separate sources (Table 1). Tracking recovery from multiple inputs against fluctuating baselines can take decades (Hawkins et al., 2017). In addition to official assessments, essential knowledge was gained from experience, case studies and expert reviews during ‘peacetime’ between spills. In place of anecdotal data there was better understanding of the physics, chemistry and biology of oil spill behaviour and effects.

Some complained about the high cost and litigious nature of the ‘Exxon Valdez’ response, but the thorough science undoubtedly improved reliability of impact assessments. ‘Exxon Valdez’ technical innovations were deployed later in other spills (e.g. ‘Deepwater Horizon’ blowout in 2010, section 3.2.4). The multi-agency Shoreline Clean-up Assessment Technique (SCAT) included ground and aerial survey methods that, with early Geographic Information Systems (GIS), were pioneered in the ‘Exxon Valdez’ response. The Global Positioning System (GPS) and field computers later helped long-term impact surveys and NRDA. Fine sediment particle interaction with oil was shown to influence oil behaviour, and prolonged deep (>1m) oil penetration into coarse sediments was studied in unprecedented detail (Fig. 2).

The advanced chemistry forensics, oil source fingerprinting, bioremediation trials, and wildlife and cultural resource programmes benefitted all sides in the ‘Exxon Valdez’ case. These innovations are still widely applied. Cultural resource studies used First Nations anthropology expertise from Alaska and British Columbia. The involvement of local communities continued after the spill (e.g. Alaskan Regional Citizens' Advisory Councils). In contrast, in some recent spills and geographies a science-led response seems impractical, cursory, and not always reliable or inclusive of local and indigenous communities (section 3.3).

3.2. Growing recognition of oil's global impact

3.2.1. Changing circumstances

At the end of Soviet communism (1991) and South African apartheid (1994), the years 1991–2002 saw growing democratic values, a sense of optimism, improving technology, and increasingly sustainable development. From 1991 to 2000 IPIECA produced 10 habitat-specific guidelines on oil pollution impacts, OSR and NEBA. Three key UN conventions on biodiversity, climate change and desertification followed the Rio Earth Summit (1992). In that year, tanker spill compensation liability limits were expanded to $280 million (M). In a temporarily ‘unipolar’ world where ascendant USA was committed to multilateralism, a UN agency with oil spill remediation and reconstruction responsibilities was created to assist recovery from the 1991 Gulf War (section 3.3.1).

The average numbers/decade of medium and large oil spills from tankers halved between the 1970s and 1990s. The reduction since the 1970s is now more than an order of magnitude, thanks to public pressure and better environmental management (e.g. effective regulation, standards, certification, audit, prevention, surveillance and reporting; Fig. 3).

Estimated oil inputs into World Oceans from shipping and other (including unknown) sources were 4 million t/year during the 1990s (Fig. 4).

The inverse, but not causal, relationship between rising emissions/concentrations of CO2 and falling oil spill frequency is shown in Fig. 5. The juxtaposition and common inflection points in the early 1970s are striking. After the OPEC oil embargo in 1973, the reduction in spills' frequency (if not always their size) was sustained in spite of tanker trade increasing from c. 60 to 100 million t/year between the 1970s and 2000s. There is a huge difference between c. 4 million t/year of oil inputs to the oceans from all sources and c. 30 billion tons of CO2/year emitted to the atmosphere. Oil spills are a low but highly visible hazard generating historically high levels of public outrage. In total contrast, anthropogenic climate change is an extreme hazard that until recently has produced little outrage, considering the acceleration in CO2 inputs 50 years ago, when a ‘red flag’ should have been raised (Fig. 5).

Being unaware of climate change was the norm in 1970 but to deny it after the early 2000s is indefensible, given that the challenge of necessary adaptation far outweighs that presented by spills. Dismantling UN agreements is not the way forward. Instead, climate emergency planning is essential with UNFCCC taking the lead. Mitigating and adapting to the increased frequencies of extreme events also demands active transformation across society, industry and government.

3.2.2. Winter(s) of discontent (Shakespeare, 1597)

Despite the general downward trend in number of tanker spills (Fig. 3), there was a spate of large spills from 1991 to 2002, mostly during northeast Atlantic winters (footnote [b](https://www.sciencedirect.com/science/article/pii/S0964569120304166#tbl1fnb) in Table 1). The adverse impacts of these spills did not change the whole direction and pace of oil spill response R&D as did the three landmark spills. This does not mean that the 1991–2002 spill record was acceptable; the large spills of the 1990s were a wake-up call to re-establish the positive trend. Innovative approaches to clean-up were developed on cliff coastlines using climbers, and R&D was commissioned into responses to spills of heavy oils.

The ‘Haven’ (Iranian heavy crude) and ‘Aegean Sea’ (Brent crude) spills burned and caused severe impacts and fishery closures. The latter vessel was a modern double-hulled tanker, as mandated by OPA 1990 for US trade, and yet she broke up and burned on the waterfront in the evacuated centre of La Coruña. Burning oil slicks floated >5 km across the bay setting fire to maritime cliff vegetation near Breixo. This failure of prevention shows that improvements in tanker design and also in countermeasures are not a panacea, due to variations in oil spill behaviour, weather and human factors.

The ‘Braer’ and ‘Sea Empress’ both grounded in protected conservation areas, although each spill had rather less adverse impact than originally feared. The ‘Braer’ lost 85 000 t of Gullfaks oil as she broke up near the shore, but storm-force winds meant hardly any of the light crude oil stranded. Most oil evaporated or carried as aerosol overland. Remaining oil formed dilute oil-in-water suspensions in the water column. The ‘Braer’ cargo and bunkers were a total loss, with one-third eventually settling out with fine particles that had been suspended by the storm. The ‘Sea Empress’ losses of 72 000 t of Forties blend crude oil were mainly dispersed by February gales and effective use of chemical dispersants on the ebb tide before she was brought into the shelter of Milford Haven. Some bunker oil persists along with historic inputs sequestered in fine-grained sediments of the estuary. Nevertheless, it seems large oil tankers can suffer grounding or destruction on or near the shoreline without long-term ecological impact. It would have been a very different outcome if ‘Braer’ or ‘Sea Empress’ had foundered two months later, in the seabird breeding season.

In contrast, the persistence at sea of a relatively small spill of 20 000 t heavy fuel oil (HFO) lost in midwinter from ‘Erika’ led to probably the worst seabird kill in Europe, and heavy shoreline impacts. The ‘Erika’ and ‘Prestige’ HFO spills prompted improvements of spill response for this problematic oil type, better international cooperation in the European Union (EU), and HFO spill compensation under the 2001 Bunkers Convention. The formation of a viscous water-in-oil emulsion (‘mousse’) from HFO or crude oil under wave action creates a much higher volume of plumage-clogging, persistent pollutant that is also difficult to skim and pump. Galicians cried “Never Again” as they manually retrieved oil from ‘Prestige’ (Fig. 6).

One exception to these NE Atlantic incidents was the ‘Katina P’ spill of 66 700 t HFO in Mozambique, severely oiling 3 km of mangroves in Maputo Bay and less severely 1450 km in total (550 km in South Africa). The ship's ‘innocent passage’ was nothing to do with Mozambique, but Table 2 shows that the government did not receive much of their damage claim. This was harsh considering that 15 years of post-colonial civil war still had four months to run, with small arms fire heard during clean-up (Little, 2018).

Another problem with HFO is that there is low demand due to the welcome move away from its use in power generation, to protect air quality. Consequently it is surplus and cheap, leading to a perverse incentive for ocean-going ships to burn highly-polluting HFO with c. 1 billion t/year GHG emissions still not adequately controlled by IMO. In each of the above spills a substantial proportion of the HFO was burned or spilled along with the cargo. They all involved environmental and economic impacts including fishery closures. Each had novel features and was traumatic for local communities, and all became media events.

Despite, or maybe because of colourful and immediate media coverage of the 1990s incidents, public perceptions of these spills were increasingly subject to spill fatigue. In the long-run the 1990s incidents will not be regarded as R&D landmarks of the magnitude of ‘Torrey Canyon’, ‘Amoco Cadiz’ and ‘Exxon Valdez’. These were landmarks not because of their size; after all, ‘Exxon Valdez’ lost ‘only’ 37 000 t. Rather, it was because they led to step changes in spill prevention, OSR capability, and lasting improvement in environmental understanding, all of which had been demanded by public opinion. Some of the innovations diffused very slowly. After ‘Exxon Valdez’ the UK scientific approach was improved, although not until 2007–9 were SCAT and advanced chemistry methods from Alaska fully codified in practical guidelines in UK scientific contingency plans (PREMIAM, 2009; 2018).

3.2.3. Concern shifts from spills to climate change

Although GHG impacts did not feature significantly in environmental impact assessment (EIA) until the new millennium, NGOs and the public were beginning to focus less on individual oil spills than on other concerns, including global warming. This focus was sharpened in 2005 by Hurricane Katrina and Vice-President Gore's ‘An Inconvenient Truth’ (Sheppard, 2012). By 2013, climate change and biodiversity were integrated into EIA more prominently in European Union guidance (EU, 2013).

Although public concern over spills remains a leading driver of opposition to coastal pipelines and tankers in places such as British Columbia, the oil that is not spilled is in fact the real problem. For example, spilled oil sedimenting out in an accretional environment is carbon that in effect is sequestered. The universal burning of fossil fuel is the main culprit in man-made global warming. Hydrocarbon combustion and agriculture are the main global stressors where the public (by exercising consumer choice) can play an urgent part in mitigating. A comparatively small contribution to global warming comes from oil spills, and this is mostly from the evaporation of volatile organic compounds (VOCs) from oil spilled at sea (and also welcomed by responders because it reduces shoreline impacts). Contributing to global warming from the upstream industry during leaks and upset conditions are potent GHGs such as methane, in particular from the industrial northern hemisphere. Downstream processing and retail sites have successfully improved VOCs capture and recovery.

Safety and high utilization (e.g. waste and emissions minimisation) are paramount for as long as we continue to use hydrocarbons. However, the pace of replacement of fossil fuels by renewables must now rapidly accelerate. Renewables technologies including hydroelectric projects are improving all the time, and some costs are coming down. There are concerns that lithium, palladium and rare earth elements (REE) used in batteries, fuel cells and other renewables processes lead to adverse impacts of mining (onshore, in the deep sea, and potentially off-planet). Conflicts might arise over access to REE resources due to their geopolitical scarcity. Nuclear power will remain a primary energy source beyond fossil fuels, partly because safe storage of radioactive wastes demands sustained expertise and vigilance.

3.2.4. When life looks like easy street there's danger at your door (Hunter and Garcia, 1970)

After about 2002, the oil industry must have seemed under control to the wider public, as headlines were not dominated by major oil spills. To secure their licence to operate, steady improvements had been made in the regulation and reduction of spills and drilling mud emissions from offshore oil and gas fields on continental shelves and in ever-deeper or colder waters. Whether the spills occur from tanker accidents, in E&P operations, from land-based sources, or down the drains of our industrial or housing estates, the cumulative knowledge gained can be effectively applied. It is possible to get through the emergency phase and manage OSR as a project like any other, preferably with transparent cooperation among industry, government, scientists, NGOs, media and public.

A lower visibility of pollution should not mean complacency. During 2002 there were other serious and ongoing distractions: the burst of the ‘Dotcom Bubble’; Severe Acute Respiratory Syndrome (SARS) spreading human-to-human from Guangdong, China; and the aftermath of the 9/11 attacks in USA leading to the ‘War on Terror’ and the 2003 invasion of Iraq. Before it can be regarded a success, any response to oil spills (or chemical accidents, or viral pandemics) must protect lives and minimise health and safety impacts. At the same time, responders must trade-off economic/cultural resource impacts against adverse ecological impacts. As we see in COVID-19, getting these trade-offs right, documenting, validating and communicating them in a truthful, balanced way in the glare of the media, is the difficult part.

Step forward Tony Hayward CEO of BP, after the explosion and blowout of the ‘Deepwater Horizon’ drilling rig on April 20, 2010 in the Macondo prospect, Gulf of Mexico. With massive oil releases of 700 000 t from the seabed wellhead showing live on subsea video over four months, BP could not be shielded by their hierarchy of contractors. Outsourcing by BP had already been intensified by the previous CEO John Browne, but some deep water technological challenges were new. Serious doubts about blowout preventers were raised, prompting rapid and business-interrupting risk reassessments in the E&P industry around the world. Media and other stakeholders including President Obama sensed a BP cost minimisation back-story. Public perception darkened dramatically as Mr Hayward, while sympathising with the affected communities, declared: “We're sorry for the massive disruption it's caused their lives. There's no one who wants this over more than I do. I would like my life back”.

3.3. Problem spills during conflicts

3.3.1. Desertshore (Nico, 1970)

3.3.1.1. Gulf War spills

Away from TV cameras there were glimpses of other lives not being ‘back’, especially in war zones. These were spills that can make all the above seem ephemeral and colourful despite their impact. Even larger than the ‘Deepwater Horizon’ spill, the 1991 Gulf War spills (1 000 000 t) and fires in Kuwait were caused by sabotage by retreating Iraqi forces under Saddam Hussein. The spills were the first to be branded as eco-terrorism. The slicks contaminated 800 km of coastline including bays choked with oil in Saudi Arabia almost to Qatar. Much of the sediment infaunal community died when their burrows filled with oil, and algae bloomed in the absence of invertebrate grazing. Channels blocked by layers of algae and fine sediment led to feedback loops that changed the drainage hydrology and ecology of the tidal flats.

An inter-disciplinary impact assessment was made in 1991–1993, representing a high point in international cooperation in oil spill science. A special issue of Marine Pollution Bulletin (MPB, 1993) described the scientific response including the 100-day ‘Mt Mitchell’ marine survey in 1992. The survey produced scientific data, fostered environmental awareness and cooperation among 140 scientists from 15 nations, and was organised by: International Oceanographic Commission (IOC); UNEP; Regional Organisation for the Protection of the Marine Environment (ROPME); US National Oceanic and Atmospheric Administration (NOAA); and Marine Spill Response Corporation (MSRC). Because oiling conditions and impacts were likely to have changed in the decade since these international surveys just after the Gulf War, intensive shoreline monitoring and rapid ecological assessment surveys in Saudi Arabia were undertaken in 2002–3. The degree of change 1993–2003 was assessed by building on SCAT, modified for vegetated, burrowed, carbonate sediments. More than 3100 transects were surveyed, almost 26 200 total petroleum hydrocarbon (TPH) samples and 2660 fingerprinting samples were analysed.

Chemistry analyses were carried out in a state-of-the-art analytical chemistry laboratory established by Battelle close to the affected areas. The trained analysts produced top-notch data that was used later to calibrate SCAT field observations on oil character, to assess oil weathering, and to predict toxicity and ecological effects. The spills left TPH concentrations in visibly oiled sediment from 3200 mg/kg to 41 000 mg/kg. This oil persistence occurred despite the emergency response and initial clean-up. Using estimates of the volume of oiled sediment, this approximates to the total amount of oil lost by either the ‘Braer’ or ‘Sea Empress’. Less than ten years after these latter spills in high-energy areas, traces of remaining oil in sediment had been practically undetectable. In contrast, free-phase brown oil was visible after 20 years trapped in low-energy shorelines of the Arabian Gulf (Fig. 7).

3.3.1.2. UN Compensation Commission (UNCC)

All oil spills caused by armed hostilities are hard to respond to, and unfortunately they are not covered by insurance and compensation funds. And so a new agency, the UNCC, was created after the first Gulf War. The necessary funds were raised from the sale of otherwise sanctioned Iraqi oil exports that were also used, amid some controversy, to fund emergency food and medical aid. From 1991, 2.6 million individual claims totalling $352B for wartime losses and compensation were processed by UNCC. Of these, after scrutiny by UNCC, about 70 claims were awarded for all losses ($52.4B). Of these, in 2005 the Follow-up Programme for Environmental Awards (F4) under Decision 258 awarded a total of $4.3B to Kuwait, Iran, Jordan and Saudi Arabia (Table 2).

Added to the initial response this was the most expensive spill between ‘Exxon Valdez’ in 1989 and BP's 2010 blowout. The $4.3B included $0.51B for contracts in Saudi Arabia covering coastal remediation and restoration projects, and concentrating on the worst-hit locations at the time (2003 data). In addition, $6.17M was awarded for the creation and management of several marine protected areas (MPAs) elsewhere in Saudi Arabia. In the decade since the design of a visitor and educational centre, it is not known if lack of progress in MPA designation is due to poor disclosure or graft.

During 2007, teams of independent reviewers (IRs) for the F4 programme were organised by UNCC under contract to recipient states. Baseline IRs surveys took place in 2007–8 with the respective national focal point (NFP). In the hiatus after the 2002-3 surveys, the UNCC noticed in 2009 that there were two parallel NFPs in Saudi Arabia. One of these had already awarded a design contract for salt marsh remediation, initially costing more than the entire 'Haven' or 'Braer' response (Table 2), and which UNCC adjusted downwards.

After further scoping by the NFP, IRs and UNCC during 2009, tidal flats were added to marshes in the planned contracts. The coastal F4 contracts in Saudi Arabia were for clean-up and restoration of 1800 ha of heavily-oiled saltmarsh and intertidal flats, covering the worst areas of lingering oil. The projects to refresh the blocked channels, excavate new channels, transplant mangroves, till sediment flats, and monitor all operations were designed and supervised by a team of experienced environmental scientists (Pandion Technology-RPI, 2003). The team included some who took part in the shoreline surveys in both 1991–93 and 2002–3. Progress was at last being made, due to leadership continuity and an approach using field experiments and adaptive management. The low-profile remediation included sign-off by quantity surveyors. Saudi Arabian restoration is still ongoing 30 years after the Gulf War.

The Saudi Arabia NFP was supported by advice from the regional offices of three of the ‘big four’ accountants (EY, KPMG, and PwC). One of these firms designed an accrual-based project accounting system because at the outset only cash-based accounting was in place. The first and smallest contract awarded was almost $10M for chemistry laboratory services. However, during the period of most intense remedial design and fieldwork, very few samples were analysed reliably, mostly overseas, despite the IRs' questions in their visits and six biannual reports (January 2010 to October 2012). In reply, there was no mention of the fit for purpose chemistry laboratory created in 2001 to compare sediment contaminants data to those from 1991 to 1993. Decadal sampling to compare sediment contamination could by now have been in its fourth collection phase, continuing the high standards set in 1992 (MPB, 1993) and by Pandion Technology-RPI (2003).

Including quantity surveyor and chemistry contracts, seven terrestrial and 13 marine remediation contracts covered most of the Saudi Arabia F4 programme. Information on bidders was scant. Few had demonstrable qualifications (e.g. website), which made it hard to check their remediation experience and identify possible collusion among firms. Improbably for competitive tendering, the winner and runner-up bids in each of the 20 contracts were separated by as little as 0.05% of the price. Across all contracts, there was low statistical probability (p < 0.005) that the significant separation of the two front-runners from the remaining bids occurred by chance. The IRs asked how this had occurred, but got no answer.

With all major contracts awarded and most payments disbursed to recipient nations, the UNCC wrote its final report on the F4 awards in 2012–2013 (UNCC, 2016). The Saudi Arabia IRs disagreed when in Decision 269 UNCC declared its mandate fulfilled by the systems and assurances for recipients to continue without independent review. At the disengagement of the UNCC, the unresolved issues included stakeholder engagement, oily waste management, provision of hydrocarbon data, creation of seed banks for desert re-vegetation, site protection and designation of MPAs. Apart from RPI's technical publications (e.g. Minter et al., 2014), there was little transparency since the departure of the Saudi Arabia IRs team and UNCC in 2012–2013.

3.3.2. Multiple activities of UN agencies

The UNCC had only one mission, albeit a huge one. As a consequence, UNCC was not available to assist in 2007 when requested by UN Development Programme (UNDP) following another deliberate Middle East oil spill in July 2006, this time in Lebanon. In retaliation to rocket attacks on Israel by Hezbollah, a fuel oil spill of 15 000 t (and fire c. 55 000 t) was caused by the Israeli Defence Force bombing El-Jiyeh power station in southern Lebanon (UN, 2007).

Spill assistance was by the EC, ITOPF, International Union for the Conservation of Nature (IUCN), and the following UN agencies: IMO Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC); Food and Agriculture Organisation (FAO); UNDP; UNEP; UN Educational, Scientific, and Cultural Organisation (UNESCO, focusing on Byblos World Heritage Site); World Bank; and World Health Organisation (WHO). UN estimated spill costs at $203M (1% of 2006 Lebanon GDP, and 28% of total war damage). Funding was by UNDP and OPEC, but only $15M of the estimate was paid by 2007 (Table 2).

Despite UNCC experience with planning environmental restoration after the Gulf War spills and various agencies’ work in Lebanon, the UN system had difficulty coordinating these responses amid rising tensions in the region. This was not helped by the lack of success in gaining compensation from Israel, despite repeated UN Resolutions over 13 years to “direct Israel to respond with prompt and adequate compensation” (UN, 2019).

Briefly and without success, UNEP was considered from 2013 as a possible successor to UNCC to track progress in the ongoing Gulf War spills restoration (section 3.3.1). This did not happen, perhaps because UNEP was getting involved in assessment of the environmental effects of the Syrian civil war, including the use of chemical weapons by President Assad on his own people. As far as is known, there are no plans to revive UNCC despite the impacts of ramifying conflicts in the oil-rich region, for example the civil war in Libya or the aftermath of Daesh warfare across the fertile crescent of Iraq and Syria.

Oil spills are highly probable in Yemen due to ongoing civil war. A ballast tank was breached on the tanker ‘Syra’ after striking a mine in the Gulf of Aden on October 2, 2020. Another tanker ‘Safer’ was used as a floating storage and offloading (FSO) terminal until 2015, but now is held hostage with 155 000 t of Marib crude oil that threatens conservation sites in the Red Sea and Gulf of Aden (e.g. Farasan Islands, Socotra). The UN has been prevented from inspecting the FSO since 2019 (BBC, 2020a).

3.3.3. Ogoniland conflict: foreign companies dey Africa carry all our money go (Fela, 1981)

3.3.3.1. UNEP in ogoniland

By early 2007 after the Lebanon spill, UNEP was invited by the federal government to assist in a post-conflict response in Ogoniland in SE Nigeria. Ogoniland is part of what was called Biafra in the Nigerian civil war (1967–1970). The problems of gross oil pollution over decades had overwhelmed the capacity of industry and government to respond. However, in this case the local population density is high and most people are extremely poor. Despite the much smaller size of the individual Niger Delta spills compared to all the above examples, the environmental and social impacts are severe and tensions very high. So much so, that no oil production has been possible in Ogoniland for almost three decades. The deadlock came about because of civil and NGO protests that were met with a violent federal government response, leading to the trial and execution on November 10, 1995 (BBC, 2020b) of nine Ogoni leaders and writers including ‘Ken’ Saro-Wiwa (2013).

Neonatal mortalities are twice as high within 10 km of Niger Delta oil spills. Comparing pairs of siblings born to the same mother but conceived respectively before and after a documented nearby oil spill, there is a significant increase in neonatal mortality of 38.3 excess deaths/1000 live births (n = 23 000) according to Bruederle and Hodler (2018). Their paired sample design controlled for other factors than nearby oil spills, and found that oil spills occurring before conception are killing in their first month of life as many as 16 000 infants per year in the Niger Delta. Public health, housing, food and cooking fuel, sanitation, waterways, recreation, cultural life and livelihoods in Bodo are heavily dependent on local natural resources in the mangrove-dominated coastal zone. This contrasts with the sparse population and greater per capita wealth of Saudi Arabia, where the affected marshes are almost devoid of human activity.

Unlike all the major tanker spills described above, the poor in local communities affected in the Niger Delta are cast in a frankly colonial mentality as being part of the problem rather than for the most part as victims of criminally inadequate environmental practices. By stereotyping the local people as oil thieves, the western oil companies betray the majority of people of the Niger Delta while continuing to sell the oil. International oil companies have operated profitably in the Niger Delta since 1956 (Shell) and 1962 (ENI and Total). Potentially complicit parties include Nigerian National Petroleum Corporation (NNPC), Nigerian federal and local governments, judiciary, security forces, shareholders and pension funds (including those of the Church of England). To solve this, all that must be done is to uphold the rule of law (Fig. 8, Fig. 9).

Environmental surveys have previously been completed (1980 Funiwa #5 20 000 t offshore well blowout; 1983 onshore production areas; 1995 delta-wide; and 1997 Niger Delta Environmental Survey). Each of these involved evermore strategic environmental and socio-economic scope. However, few were able to engage fully with the local affected people by seeking the free, prior, informed consent that inter-governmental agencies and NGOs agree are needed. A breakthrough looked promising in 2007 when the federal government invited UNEP to carry out a baseline survey of Ogoniland to assess the scale of remediation required.

The UNEP project was a detailed multi-discipline survey of air, water, sediment, soil, biota, and a preliminary study of human health, all of which showed that many local people are indeed 'living in oil' (UNEP, 2011). By overcoming logistical challenges and the legacy of mistrust, UNEP succeeded in providing a faltering start in planning the clean-up. A restoration fund of $1B was recommended, including a centre of excellence in remediation technology (Table 2). And so the federal government formed a new agency (Hydrocarbon Pollution Restoration Project; HYPREP). After some confusion between existing agencies charged with regulating oil pollution, if successful in Ogoniland, HYPREP could begin the huge task of clean-up across the entire Niger Delta. The Bayelsa State Oil and Environmental Commission are also now examining regional remediation precedents. But first the endemic oil theft must be stopped, or else any clean-up is futile. Meanwhile, according to the Extractive Industries Transparency Initiative, oil theft is costing Nigeria over $4B/year. This was almost 1% of GDP in 2019, after Nigeria displaced South Africa as the largest African economy. The failure to prevent criminal activity is an ongoing fatal flaw in all restoration plans because repeated inputs of fresh crude oil will inevitably stress or kill vegetation.

A status report on the clean-up published in June 2020 involved revisiting some original UNEP sites (FoE, 2020). The report concluded that a new start is needed across the entire delta. The emergency measures recommended by UNEP over a decade ago to protect human health have not been provided (e.g. replacing drinking water wells contaminated by benzene). No health impacts have been or are being monitored. Most contractors are not qualified; 11 of 16 companies contracted for oil clean-up are reportedly without expertise in remediation. Only 11% of the sites recommended by UNEP for clean-up and remediation are completed. HYPREP has been compromised by conflicts of interest and procurement irregularities, with $31m spent since 2018 not properly accounted for. HYPREP has now recruited new personnel with UNEP and Bodo project experience.

3.3.3.2. Bodo community

Bodo is a Niger Delta fishing village in Ogoniland. Pipeline maintenance failures led to two spills in late 2008 (totalling 580 t Bonny light crude oil). In this area, Shell Petroleum Development Company (SPDC) is the E&P operator on behalf of a joint venture with the NNPC, Total Exploration and Production Nigeria Limited and Nigerian Agip Oil Company Limited (part of ENI). Liability was admitted by SPDC for probably the largest mangrove kill in history, but partly due to endemic security problems it was unable to fix the pipeline, recover the oil, remediate the former mangrove sediment habitats, or restore their high biodiversity and subsistence values.

Despite SPDC experience in numerous smaller delta spills over decades and the back-up of Shell, Total and ENI international experts, a cumulative 1000 ha mangrove forest was killed in Bodo after the two pipeline spills in 2008. Shell, Total and ENI are shareholders in the industry-owned emergency response organisation (Oil Spill Response Limited; OSRL) whose website promises: “Wherever your oil spill risks lie in the supply chain, we are ready to respond with our expertise and resources anytime, anywhere”. It is unclear whether OSRL was asked to deliver on this in 2008 by Shell or the SPDC joint venture. Implementation of the findings of the UNEP (2011) report is now described by subsidiary SPDC rather than Shell Nigeria, whose website link to 'UNEP implementation' appears defunct (Shell Nigeria, 2016). The parent company may be distancing itself from liability for its subsidiary's impacts in Ogoniland, but ultimate responsibility lies with Shell (Shell Nigeria, 2016).

Average TPH concentrations of 40 000 mg/kg were found in the former mangrove sediments seven years after the spills (Little et al., 2018). This is exacerbated by organised criminals who tap the export pipeline crossing Ogoniland to the Bonny Island terminal (Gundlach, 2018). The stolen oil is processed in improvised ‘refineries’ for sale locally and regionally. Fifty-three spills from over 200 illegal refineries occurred 2008–2019, totalling 1165 t of oil. Cooking up oil in leaky oil drums over open fires adds carcinogenic combustion products to the spills of crude oil (Fig. 8).

The Bodo Mediation Initiative (BMI) from 2013 and a successful court case prosecuted by the Bodo community in London in 2014 were both essential to breaking the deadlock with SPDC and getting clean-up underway to international standards, at least in part of the delta. In 2015 Shell settled the compensation claims against the company for $73M (Table 2). The cash was distributed to the individual victims of the Bodo community via newly opened bank accounts. The Bodo community separately agreed that their claim for clean-up would remain in place so that they could return to court in London in future if the BMI clean-up did not meet international standards. Shell tried to strike this out in June 2017, but the community's right was upheld in London in May 2018 (Leigh Day, 2018, Leigh Day, 2020).

Practical fieldwork could only begin in May 2015 after signing of a memorandum of understanding between SPDC and the Bodo community. Crucially, from May through August 2015 SCAT teams started to provide a strong participative framework for the essential scientific and technical aspects. Good agreement between SCAT descriptors and sediment TPH concentrations was established from the 2015 samples (n = 32; Little et al., 2018), and confirmed at-scale in 2017 samples (n = 624; Bonte et al., 2020). The reliance on chemistry sampling for monitoring against target levels is reduced by reaching field consensus on fine-tuning the clean-up methods for the vegetated and burrowed fine-grained sediments of Bodo.

The challenge is to use NEBA for in situ remediation, recognising that clean-up guidelines typically recommend ‘leave-alone’ in such habitats (after the oiled Île Grande marsh was destroyed during ‘Amoco Cadiz’ clean-up; section [3.1](https://www.sciencedirect.com/science/article/pii/S0964569120304166" \l "sec3.1)). Trial work is needed on how much nursery soil is transplanted with the seedlings to insulate them from lingering oil. Such adaptive management would track performance of the young trees as their root ball breaks out of nursery soil, compared to the effect of fresh oil spills on leaves or pneumatophores. Transplanted mangroves can grow successfully in cohesive oily sediments, in contrast with sediments that are flushed for long periods. Such intrusive treatment may produce cleaner sediments, but if they become liquefied then adverse impacts due to water-logging, loss of structure and erosion will delay recovery. In addition to mangrove seedling transplants, success depends on natural spread of healthy propagules. Phytoremediation improves longer-term sediment quality and biodiversity, even if in the short-term oil concentrations are high or temporarily increase (Bonte et al., 2020).

The project stopped for almost two years after violence erupted in October 2015 due to dissatisfaction with the procurement process (Bruyne, 2020). A phase of surficial oil removal between September 2017 and August 2018 was followed by sediment remediation from November 2019, now interrupted by COVID-19. The SCAT process has helped operator and community to embrace new ideas in clean-up. Only by building mutual trust will the inevitable concerns be addressed and tensions defused. The success of BMI and SPDC also depends on reducing the huge inequalities by supporting alternative employment opportunities to take people out of illegal refining.

3.3.4. Mauritius spill

On July 25, 2020 the bulk carrier ‘Wakashio’ grounded on a coral reef in SE Mauritius spilling >1000 t HFO and iron ore cargo. In addition to corals bleached by acidification from climate change, at risk are mangroves, seagrasses, coastal and pelagic birds, fishing communities and tourism. Under pandemic quarantine the vessel was 17% below required manning levels. Her Panamanian flag allowed contract extension such that two crew members had been onboard >1 year, risking crew fatigue. Panama's inspection blamed the incident on the change of course to look for internet signals, an allegation denied by the Japanese owner (PE, 2020). Regional investment in OSR and training has been patchy in East Africa and Indian Ocean, despite the efforts of foreign and UN aid programmes (e.g. Mauritius' coastal oil spill ESI atlas dates from 1989, before many states; Gundlach and Murday, 1989). Mauritius being a major tax haven, funds for OSR contingency planning and pollution control should be in place. In contrast, for the locals only partial sewage treatment is available. Tax avoidance is colonialism by other means, when accountability is as vulnerable as in authoritarian or hollowed-out state sectors (Little, 2018).

4. Discussion

4.1. Songs of innocence and experience (Blake, 1826)

In his poetry in 1789-1794, William Blake does not assume a unidirectional progression from ignorance to awareness, but the duality of human values and belief in the wisdom of young people. In order to overcome our climate crisis ‘learning disability’, we need to challenge authoritarian and paternalistic assumptions about learning. As when we were children, we can see now that many ‘emperors’ of business and government have no clothes (Andersen, 1837).

During COVID-19, economies and world trade struggle, mariners quarantine in their vessels, and layers of uncertainty halt investment. Record-breaking recession and unemployment are inevitable. In democracies, the pandemic response runs a gamut of kind and effective (New Zealand, South Korea) to dangerously incompetent (Brazil, UK, USA). Pandemic had already been identified as a primary threat, and incredibly in retrospect, the UK was rated highly for global pandemic preparedness. In October 2016, ‘Exercise Cygnus’ tested the UK response to an influenza pandemic, and the UK press reported overwhelmed health services, duplication of responsibilities, confusion, lack of preparedness and lack of clarity (PHE, 2017; redacted). Planning lessons got lost in the real emergency of 2020, replaced by confused messaging based on wishful thinking, cronyism in political elites, and expensive, wasteful and opaque procurements. According to the National Audit Office and legal challenges, lessons were neither documented nor revised in COVID-19 arrangements.

Multilateralism represented by agencies of the EU and UN is under assault by resurgent nationalism. Some leaders are emboldened to ignore UN agencies (e.g. WHO in COVID-19 response) and international law, to the extent of undermining multilateral arms-controls. Crisis managers, management consultants and public relations purport to ‘manage complexity’ amid raging political, economic, health and environmental crises. The first two of these preoccupied the Enlightenment economist and statistician Thomas Malthus, FRS. He thought geometric population growth would be limited only by arithmetic growth in food production (Malthus, 1798). This is controversial because rather than wealthy consumers (high-carbon footprint), he ‘blamed’ the demographic problem on the high birth rates of the poor (low-carbon footprint); unsurprising from Professor of Political Economy at the East India Company. Although he did not anticipate the agricultural revolution feeding more people, Malthus' pessimism may yet be vindicated by current stressors on humanity (e.g. cumulative environmental impacts of fossil fuels and modern agriculture).

The pandemic is re-shaping society's interest in science and understanding of the biodiversity/climate crises. The window of opportunity to meet these overlapping challenges places better leadership and governance front and centre of decarbonisation investments. The net-zero technologies are already here, with costs at-scale falling (e.g. hydrogen for fuel cells; lithium and REE batteries; electric multi-modal transport; wind, wave, tidal, solar and hydro-electricity; air- and ground-source heat pumps; carbon capture and storage for heavy industry). In his December 23, 2020 Reith Lecture, Mark Carney said “ask not what the climate is doing to your country, but what your country can do for the climate”.

Without altering the ever-increasing GHG concentrations, the dramatic reduction of noise and toxic emissions during COVID-19 lockdowns gave a glimpse of nature's restorative capacity. Achievement of this vision as we mitigate and adapt to climate change was discussed by Sodha (2020), who argued that ‘cathedral thinking’ is needed to emulate the long-term projects that were not completed during the medieval builders' lifetimes. This perception would help us all to connect with our descendants properly, unlike the rich and powerful continuing to rely on inherited wealth. Young people will bear the brunt of the present crises. Solidarity with their values is our bridge to sustainability. In forging this emotional connection there is a vital role for arts and culture, and no place for culture wars. If we fail to connect, then a shocking metaphor for the ‘ugly’ scenario is visible in Goya's painting ‘Saturno devorando a su hijo’ (Goya, 1820).

4.2. The ‘relationship’ between oil spills and climate change

In the Russian Arctic on 29 May and July 12, 2020, two spills occurred at the giant Norilsk Nickel smelter. They were caused by melting permafrost, subsidence, and failure of a fuel storage tank and pipeline (respectively 21 000 t diesel and 45 t aviation fuels). North towards the Pyasina delta (Arctic Ocean) tundra and lake habitats are important for wildfowl. Environmental agencies requested $2B, referred to variously as compensation, fine, and clean-up estimate. Accusing the operator of negligence, President Putin declared a state of emergency, but a transparent impact assessment is unlikely. The spills were labelled by media “the Arctic's worst-ever environmental catastrophe”, but the melting permafrost and release of methane and CO2 from thawing and burning peat are part of a world catastrophe. Melting ice and permafrost was avoidable until recently, but the Norilsk spills are among the direct effects of anthropogenic climate change reaching ‘tipping point’. Authorities are now checking other hazardous sites built on permafrost (BBC, 2020c).

Norilsk is also the site of a major study of conifer tree rings linking reduced growth rates since the 1960s to degraded air quality from point-source pollution (Kirdyanov et al., 2020). The thinning of tree rings is also due to Arctic air mass circulation and long-range transport of particulates reducing incident sunlight, photosynthesis and growth rates. As temperatures rise the optimism that boreal forests would sequester more carbon is diminished. Instead, both tundra and taiga join tropical rainforests in their vulnerability to global warming, with cascading impacts in drainage basins and downstream coastal zones from Tropics to Arctic.

Hardly ever an exact science, at least OSR is conducted in good faith. Thanks to effective knowledge creation and diffusion, oil spills can be managed provided access, equipment and expertise are made available and tested by contingency planning. Unfortunately, the continuity of such efforts depends on the price of oil. Success is possible in spite of the inequitable distributions around the world of spill risk, OSR capability, and community resilience. It is impossible to predict where and when spills will occur, and those during armed conflicts prevent immediate response. The impacts of deep sea tanker losses and many unreported spills in remote and war-torn countries go undocumented. In hindsight, oil spills were not an environmental hot topic, only a door to our slowly-awakening perception. Although locally to regionally damaging, the ecological effects of spills rarely deserve the ‘disaster’ or ‘catastrophe’ label. The bigger problem is climate change and long-term socio-environmental catastrophe, to which the young are especially vulnerable ([Fig. 10](https://www.sciencedirect.com/science/article/pii/S0964569120304166" \l "fig10)).

We can no longer ignore the global scale of fossil fuel impacts. The processes and responses we describe are rooted in carbon: oil exploration, production, transport, refining, and consumption cause pollution throughout the life cycle of fuels and petrochemicals. The oil ‘spilled’ by everyone into the air by combustion is the gravest problem, driving global warming and melting sea ice, ice caps and permafrost. Slumping tundra peat causes further damage and spills, releasing more GHGs to drive runaway climate change. These feedback loops are irreversible, as are the impacts on wetlands, shorelines, cities and livelihoods that are lost to sea level rise, wildfires, and refugee camps full of migrating people. While temporarily in the background of COVID-19, the global climate emergency intensifies. The pandemic has itself been facilitated by a feedback loop of the biodiversity/climate crisis: ►habitat loss imposing ecological stress on wild animals ►capture and sale of live animals infected by viruses ►viral infection spreading to humans ►rapid viral spread via high-carbon international air travel ►‘refueling’ the climate crisis.

In the global north we have wasted precious time (‘easy street’) that might have speeded our transition to low-carbon. Considering the massive costs to everyone of burning oil, the current low price could be used to leave hydrocarbon assets stranded in the ground. Skilled oilfield engineers could be re-employed to shut in the wells and retrain in renewables (Bloomberg, 2020). Coal was largely closed down in the 1980s with little thought for the UK communities left behind. Despite some evidence of societal learning, there are actually deep learning disabilities manifested in denial and procrastination. To overcome such disinformation we need good information literacy and critical thinking. Just doing good OSR anywhere in the world is no longer enough. Oil spills in this sense have even been a distraction. We can and should restore damaged wetlands, shorelines, communities and ecosystems because they support local people and wildlife, provide coastal protection, and sequester carbon. Beyond this, we cannot avoid the conclusion that industry, governments and people must now rapidly decarbonise.

# 4

#### Build Back Better passes now

**Tasolides et al 11-5** [Justin Tasolides, Breanne Deppisch and Spectrum News Staff] “House passes $1 trillion bipartisan infrastructure bill: 'A monumental step forward as a nation'” Spectrum News, [https://spectrumlocalnews.com/nc/coastal/news/2021/11/05/biden-social-climate-bill-congress 11-5-21](https://spectrumlocalnews.com/nc/coastal/news/2021/11/05/biden-social-climate-bill-congress%2011-5-21) RE

Progressives agreed to pass the smaller bill Friday night, while moderates pledged to back the larger $1.85 trillion Build Back Better bill later this month, provided official estimates of the cost via the Congressional Budget Office are in line with expectations.

"We commit to voting for the Build Back Better Act, in its current form other than technical changes, as expeditiously as we receive fiscal information from the Congressional Budget Office – but in no event later than the week of November 15th," the group of five moderates wrote.

Asked Saturday about the future of his Build Back Better legislation, Biden told reporters, "Let me be clear: We will pass this in the House. And we will pass it in the Senate."

Biden declined to say whether moderate Democrats had given him any assurances that they plan to approve the spending package, saying only, "I'm not going to answer that question … but I feel confident we will have enough votes."

The infrastructure bill, which passed the Senate in August with significant bipartisan support, includes $550 billion in new spending, focusing on “hard” infrastructure projects, like roads, bridges, airports, clean water and expanding broadband internet access.

The bipartisan bill will be funded largely by repurposing other money, including unused COVID-19 relief funds, as well as other revenue streams and spending cuts. An analysis from the Congressional Budget Office projected that it could add $256 billion to projected deficits over the next decade.

The House also voted late, along party lines (221-213) on a rule to end debate on the 10 year, allowing for a vote on President Biden's $1.85 trillion Build Back Better act the week of Nov. 15. The bill would boost health and family programs and devote $550 billion to climate initiatives, the largest legislative investment to combat the climate crisis in history.

"I’m also proud that a rule was voted on that will allow for passage of my Build Back Better Act in the House of Representatives the week of November 15th," Biden wrote in his statement.

"The Build Back Better Act will be a once-in-a-generation investment in our people," he continued. "It will lower bills for healthcare, child care, elder care, prescription drugs, and preschool. And middle-class families get a tax cut."

"This bill is also fiscally responsible, fully paid for, and doesn’t raise the deficit. It does so by making sure the wealthiest Americans and biggest corporations begin to pay their fair share and doesn’t raise taxes a single cent on anyone making less than $400,000 per year."

"Generations from now, people will look back and know this is when America won the economic competition for the 21st Century," Biden said.

#### Plan is the worst of both worlds – progressives think it’s not enough and moderates think its too radical

Broadwater and Edmondson 20 [Luke; Catie; political reporters; “Police Groups Wield Strong Influence in Congress, Resisting the Strictest Reforms”; The New York Times; <https://www.nytimes.com/2020/06/25/us/politics/police-reforms-congress.html>]

Edited for offensive language

Indeed, the bill that Mr. Scott introduced the next day fell well short of that, and on Wednesday, it stalled in the Senate, as Democrats called it a woefully inadequate response to the problem of systemic racism in law enforcement. They pushed their own, far more aggressive measure through the House on Thursday, but it too has little chance of survival in the face of Republican opposition.

The resulting stalemate reflects the vast ideological gulf between the two parties and the legislative ~~paralysis~~ [block] that has taken hold in Congress, where striking an election-year deal to overhaul policing was always going to be a challenge. But it is also partly a result of a quiet but successful federal lobbying campaign by law enforcement organizations and their representatives, who have spent decades building relationships in Congress and waging a persistent influence campaign of policy advocacy, political contributions and endorsements.

Staring down a bipartisan swell of momentum in Congress for passing policing legislation in response to throngs of protests against police brutality and racial bias, the groups have swung into action on Capitol Hill in recent weeks to wage a little-publicized campaign against the most sweeping reforms proposed by lawmakers: stripping officers of qualified immunity, ending no-knock warrants and building a national database of complaints against the police.

Just as unions have [fought aggressively across the country](https://www.nytimes.com/2020/06/06/us/police-unions-minneapolis-kroll.html) to fend off changes, they have used their clout in Washington to resist new federal mandates or restrictions. Their power helps explain why Republicans have rejected some of the most aggressive measures to rein in police tactics, and why Democrats — sensing political advantage on the issue — appear to have calculated, at least for now, that their legislation is not even worth debating.

#### Passage allows an unprecedented investment in combatting climate change

Morton 10/28 [Joseph Morton, "Democrats tout climate spending in reconciliation", 10/28/21, https://www.rollcall.com/2021/10/28/framework-includes-clean-energy-tax-credits-omits-methane-fee/]

“At the same time, substantial investments in electric vehicle charging stations and clean heavy-duty vehicles, like school buses, will serve the dual purpose of slashing our carbon emissions while helping American manufacturing stay globally competitive,” Pallone said. Rep. Cindy Axne, D-Iowa, had pushed for funding to support biofuels infrastructure, complaining it was left out of the bipartisan infrastructure bill even as that measure delivered significant funding for electric vehicles. The latest reconciliation package text includes $1 billion over 10 years in funding for the Agriculture Department to provide grants for expanding biofuel pump infrastructure, upgrade existing infrastructure and increase usage of higher blends of ethanol and biodiesel. “Not only does the Build Back Better Act represent the largest investment in clean energy and combating climate change ever — it also confirms that my colleagues have listened to my central argument in our clean energy discussions: biofuels can and should be a part of our fight against climate change,” Axne said in a statement. The White House framework released earlier in the day envisions that $320 billion would be delivered in the form of clean energy tax credits to accelerate the transition from coal and gas-fired power plants to renewable energy sources such as wind turbines and solar panels. That includes incentives for both utilities and residents and support for additional transmission and storage capacity — areas where bottlenecks have hampered the development of renewable energy sources. The framework includes incentives intended to cut the cost for Americans to put rooftop solar panels on their homes and make it easier to purchase electric vehicles. New EV tax credits would lower the cost of a vehicle by $12,500 for a middle-class family, according to the White House. The framework calls for $105 billion for climate resiliency and addressing legacy pollution in communities. For example, a new Clean Energy and Sustainability Accelerator that would invest in climate-related projects around the country would allocate 40 percent of those benefits to disadvantaged communities — part of a pledge the Biden administration has made to deliver climate spending to communities traditionally on the front lines of environmental damage. It also would fund grants to support environmental justice in disadvantaged communities and create a new Civilian Climate Corps with more than 300,000 members working on conservation projects that could help mitigate climate change. The framework includes $110 billion in spending and incentives to boost domestic supply chains supporting solar power and batteries. It also would fund grants, loans and tax credits aimed at moving steel, cement and aluminum industries toward decarbonization. There’s also $20 billion for the government to purchase new technologies such as long-duration storage, small modular reactors and clean construction materials. While the size of the package falls short of initial proposals, some Capitol Hill Democrats declined to say they were disappointed with the climate portion. Sen. Christopher S. Murphy, D-Conn., said he didn’t want to undersell the framework, as it would represent the most significant spending on climate policy since he joined Congress. The fact that climate makes up about one-third of the overall spending shows how much the issue has been elevated within the Democratic Party, he said, and negotiations over bolstering it aren’t finished. “I think there's a number of things that we can still find consensus on that might not be in this agreement. So climate is something you’ve got to work on every single day,” Murphy said. “If we're not passing climate change legislation every year, then we're not doing our job. So this is just one admittedly very big piece of the overall policy puzzle.”

#### It causes extinction.

Dunlop 17. (Ian Dunlop chaired the Australian Coal Association in 1987-88, chaired the Australian Greenhouse Office Experts Group on Emissions Trading from 1998-2000 and was CEO of the Australian Institute of Company Directors from 1997-2001. He has a particular interest in the interaction of corporate governance, corporate responsibility and sustainability. An engineer by qualification, he holds an MA (Mechanical Sciences) degree from the University of Cambridge, he is a Fellow of the Australian Institute of Company Directors, the Australasian Institute of Mining and Metallurgy, and the Energy Institute (UK), and a Member of the Society of Petroleum Engineers of AIME (USA). He also chairs the Australian National Wildlife Collection Foundation. David Spratt is a Research Director for Breakthrough and co-author of Climate Code Red: The case for emergency action (Scribe 2008). His recent reports include Recount: It’s time to “Do the math” again; Climate Reality Check and Antarctic Tipping Points for a Multi-metre Sea-level Rise. A Failure of Imagination on Climate Risks. July 26, 2017. www.resilience.org/stories/2017-07-26/a-failure-of-imagination-on-climate-risks/)

Climate change is an existential risk that could abruptly end human civilisation because of a catastrophic “failure of imagination” by global leaders to understand and act on the science and evidence before them. At the London School of Economics in 2008, Queen Elizabeth questioned: “Why did no one foresee the timing, extent and severity of the Global Financial Crisis?” The British Academy answered a year later: “A psychology of denial gripped the financial and corporate world… [it was] the failure of the collective imagination of many bright people… to understand the risks to the system as a whole”. A “failure of imagination” has also been identified as one of the reasons for the breakdown in US intelligence around the 9/11 attacks in 2001. A similar failure is occurring with climate change today. The problem is widespread at the senior levels of government and global corporations. A 2016 report, Thinking the unthinkable, based on interviews with top leaders around the world, found that: “A proliferation of ‘unthinkable’ events… has revealed a new fragility at the highest levels of corporate and public service leaderships. Their ability to spot, identify and handle unexpected, non-normative events is… perilously inadequate at critical moments… Remarkably, there remains a deep reluctance, or what might be called ‘executive myopia’, to see and contemplate even the possibility that ‘unthinkables’ might happen, let alone how to handle them. Such failures are manifested in two ways in climate policy. At the political, bureaucratic and business level in underplaying the high-end risks and in failing to recognise that the existential risk of climate change is totally different from other risk categories. And at the research level in underestimating the rate of climate change impact and costs, along with an under-emphasis on, and poor communication of, those high-end risks. Existential risk An existential risk is an adverse outcome that would either annihilate intelligent life or permanently and drastically curtail its potential. For example, a big meteor impact, large-scale nuclear war, or sea levels 70 metres higher than today. Existential risks are not amenable to the reactive (learn from failure) approach of conventional risk management, and we cannot necessarily rely on the institutions, moral norms, or social attitudes developed from our experience with managing other sorts of risks. Because the consequences are so severe — perhaps the end of human global civilisation as we know it — researchers say that “even for an honest, truth-seeking, and well-intentioned investigator it is difficult to think and act rationally in regard to… existential risks”. Yet the evidence is clear that climate change already poses an existential risk to global economic and societal stability and to human civilisation that requires an emergency response. Temperature rises that are now in prospect could reduce the global human population by 80% or 90%. But this conversation is taboo, and the few who speak out are admonished as being overly alarmist. Prof. Kevin Anderson considers that “a 4°C future [relative to pre-industrial levels] is incompatible with an organized global community, is likely to be beyond ‘adaptation’, is devastating to the majority of ecosystems, and has a high probability of not being stable”. He says: “If you have got a population of nine billion by 2050 and you hit 4°C, 5°C or 6°C, you might have half a billion people surviving”. Asked at a 2011 conference in Melbourne about the difference between a 2°C world and a 4°C world, Prof. Hans Joachim Schellnhuber replied in two words: “Human civilisation”.

# Case

## Framing

### Framing

#### Extinction outweighs.

Pummer 15 [Theron, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford. “Moral Agreement on Saving the World” Practical Ethics, University of Oxford. May 18, 2015] AT

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### Independently, no reason why structural violence should come first – ansell ev just says that violence is woven into fabric of society, but that’s not a reaosn for why focusing on existential threats are bad

#### Predictions are possible and useful

**Mearsheimer, 01** (John, professor of political science at the University of Chicago, The Tragedy of Great Power Politics, 2001 p. 8, googleprint)

As a result, all political forecasting is bound to include some error. Those who venture to predict, as I do here, should therefore proceed with humility, take care not to exhibit unwarranted confidence, and admit that hindsight is likely to reveal surprises and mistakes. Despite these hazards, social scientists should nevertheless use their theories to make predictions about the future. Making predictions helps inform policy discourse, because it helps make sense of events unfolding in the world around us. And by clarifying points of disagreement, making explicit forecasts helps those with contradictory views to frame their own ideas more clearly. Furthermore, trying to anticipate new events is a good way to test social science theories, because theorists do not have the benefit of hindsight and therefore cannot adjust their claims to fit the evidence (because it is not yet available). In short, the world can be used as a laboratory to decide which theories best explain international politics. In that spirit I employ offensive realism to peer into the future, mindful of both the benefits and the hazards of trying to predict events.

## Adv

#### Not enough prisoners will join – many like their jobs – and prison system cannot financially afford to better conditions so strikes go nowhere

Schwartzapfel 14 (Beth Schwartzapfel – Journalist writing for The Prospect, “The Great American Chain Gang: Why can't we embrace the idea that prisoners have labor rights?”, https://prospect.org/justice/great-american-chain-gang/, 28 May 2014, EmmieeM)

Despite the conditions and the pay, most inmates want to work. A job gives them a safe place to be for hours each day, provides a break from the monotony of prison life, and-in most states-puts a few dollars and cents in their commissary account. "I was happy to work," Hazen says. "It made me feel like I wasn't so much in prison. It gave me a minute by myself to get away from the craziness, time to think and reflect and figure out what I wanted to do with my life." What the job didn't provide was a wage sufficient to support her son and accumulate some savings for post-prison life, or job training that would help her pursue the goals she established in that dish room: to study psychology and one day open a domestic-violence shelter. After six months of work, Hazen left prison the way most people do: with a criminal record, no meaningful job experience beyond what she went in with, and not even enough savings to buy a suit for a job interview ($43).

Study after study has found what common sense would suggest: Prisoners who gain professional skills while locked up, and those who earn a decent wage for their work, are far less likely to end up back behind bars. But if prisons in America, with the world's highest incarceration rate, had to pay minimum wage-let alone the prevailing wage-they couldn't keep operating. If inmates like Hazen weren't washing dishes in Massachusetts prisons, the state's corrections department would spend an average of $9.22 to hire someone else to do it (the mean hourly wage for a dishwasher, according to the Bureau of Labor Statistics). That's 30 to 45 times what inmates make for performing the same service. As a result, prisons-and taxpayers-use prisoners to save hundreds of millions of dollars each year on labor costs, according to the GAO.

"If our criminal-justice system had to pay a fair wage for labor that inmates provide, it would collapse," says Alex Friedmann, managing editor of Prison Legal News, an independent magazine that promotes inmates' rights. "We could not afford to run our justice system without exploiting inmates."

#### Prisons circumvent by instead punishing prisoners for rioting, causing property damage, or inciting violence – also issue false reports to prevent enforcement of right to strike laws. Laundry list of solvency take-outs - lock-downs, cut communication lines, transferring of prisoners, bribing, labelling organizers as gang leaders to put them into solitary confinement, etc break up strikes without criminalizing the act of striking itself

Nam-Sonenstein 18 (Brian Sam-Sonenstein – Publishing Editor at ShadowProof and columnist at Prison Protest, “Florida Officials Deny Operation Proof is Ongoing, Even as They Retaliate Against Protestors”, https://shadowproof.com/2018/01/25/operation-push-update/, 25 January 2018, EmmieeM)

Kevin “Rashid” Johnson, an activist and intellectual incarcerated at Florida State Prison, was charged with “inciting or attempting to incite a riot” five days before a nonviolent prison labor strike and boycott known as Operation PUSH.

A disciplinary report filed on January 10 states Warden Barry Reddish sent an article Johnson wrote about Operation PUSH and a “series of other articles” on the action to an administrative lieutenant. The article made “numerous allegations of mistreatment of inmates at Florida state prison and proclaims Florida to be the worst prison system of the four various states [where] he’s been incarcerated.”

It does not specify which passages specifically incited a riot and at no point does Johnson’s article include a call to action.

In an “emergency note” Johnson sent to his lawyers on January 19, he alleged Florida Department of Correction (FDC) officials tortured him.

“Am being literally tortured in retaliation for article on prison strike and conditions \*by the warden\*,” Johnson wrote. “No heat. Cell like \*outside\*, temp in 30s. Toilet doesn’t work. Window to outside doesn’t close and cold air blowing in cell.”

“Its daytime and so cold can barely write,” he wrote.

His supporters fear for his life and are asking members of the public to call Florida State Prison and demand they move him to a safer cell immediately.

“Nowhere is anyone told to do anything,” Johnson wrote in response to the riot charge. “It is only a piece of journalism, which is constitutionally protected exercise of speech and press. Also FDC prisoners have no internet access, so how is something published online inciting prisoners?”

Johnson’s article runs through the demands and motivations behind Operation PUSH. He describes slave labor conditions, violence and abuse, and a lack of medical care in the Florida system, connecting these conditions to the establishment of the state’s first penitentiary just three years after slavery was abolished for all with the ratification of the 13th Amendment (excluding those convicted of felonies).

He uses his own experiences over the last six months in the Florida prison system as context for Operation PUSH and compares it to three other states where he has been incarcerated.

“I can personally attest that conditions here are among the worst I’ve seen,” Johnson writes.

The department has a record of corruption and deception, Johnson notes, pointing to the 2012 murder of Darren Rainey by corrections officers.

Rainey was a mentally ill prisoner who burned to death because officers locked him in a shower rigged to reach 160 degrees Fahrenheit—40 degrees above the state limit—and then covered it up. His death led to further revelations about death, corruption, and abuse across the Florida prison system.

Data released this year shows the number of prisoner deaths in Florida rose 20 percent to 428 deaths in 2017, even as the number of prisoners declined. By comparison, more incarcerated people died in Florida prisons last year than have been executed in all of the United States since 2007.

Johnson called the riot charge “retaliation, plain and simple, for publicizing abusive conditions.”

On January 15, when Operation PUSH was to begin (and also the day after Johnson’s disciplinary report), FDC canceled visitation at three facilities : Blackwater Correctional Institution, Everglades Correctional Institution and the Reception and Medical Center (RMC).

When the day arrived, RMC went on lockdown and sources indicate staffing levels were tripled at that facility. Around 50 protesters gathered outside to show solidarity with striking prisoners. Similar demonstrations took place around the state and in other parts of the country. News of Operation PUSH and its demands spread across U.S. and international media, including several mainstream outlets, like Newsweek and the Guardian.

The following day, as abolitionist scholar and activist Angela Davis announced her support of Operation PUSH at a speech in Florida, outside organizers for the Incarcerated Workers Organizing Committee (IWOC) reported they lost communication with their sources on the inside. (IWOC is a chapter organization under the Industrial Workers of the World that seeks to unionize incarcerated people and serves as a liaison for their political organizing.)

“The only logical answer is repression tactics,” IWOC organizers declared. Lockdowns and shakedowns had likely interrupted lines of communication. At least two organizers were thrown in solitary confinement “without reason,” and dozens more were isolated in the days before the strike began.

Meanwhile, a large protest assembled outside FDC headquarters in Tallahassee. Protesters took over the lobby for several hours, demanding a meeting with department head Julie Jones to present the demands and call for an end to the retaliation.

Around 3:00 PM, police officers attempted to break up the protest. One activist with the anti-racist organization The Dream Defenders was arrested and charged with property damage/criminal mischief of $1000 or more, resisting an officer, and trespassing. She was bonded out of jail later that night. Several others were injured in the scuffle as police tried to eject protesters from the building.

FDC made some of its first statements about Operation PUSH the next day, acknowledging the arrest and alleging “protesters became increasingly disruptive and breached the doors into a secure area of the building.”

“In attempt to enter the secure area, protesters battered FDC staff,” they claimed. FDC also said there was “no interruption to daily operations” and denied any prisoner resistance took place.

Meanwhile, Supporting Prisoners And Real Change (SPARC), which is a platform for Florida prisoners and families in Florida, reported “key organizers” were placed in solitary confinement and faced investigation for “no reason given.”

IWOC reported the Avon Park facility deactivated prison phones on the second day of the protest, “denying these political prisoners their right to inform their loved ones that they are safe.” They said “dozens” of suspected organizers were now in isolation.

Solidarity actions continued around the country. On January 19, members of Workers World held a teach-in on prison abolition and documentary film screening in Georgia. There were banner drops in Omaha, Nebraska, earlier that morning.

SPARC released a list of over 150 organizations, who expressed solidarity with Operation PUSH on January 20.

On January 22, outside activists flooded FDC phone lines with a call-in action demanding the department recognize prisoner demands. In response, the department released another statement denying any protest was happening and said normal operations continued in all prisons across the state.

“Despite recent reports, prisons and institutions across the state have had no interruption to daily operations. There were no inmate work stoppages or strikes,” the statement read.

Publicly, FDC insists there is no Operation PUSH inside its facilities. Yet incarcerated people have reported “active participation or repression of some sort” in at least sixteen state prisons.

SPARC argues this is part of FDC’s strategy of severing communication to “create the perception of inactivity and break the spirits of those participating in the strike.” Incarcerated organizers have expressed the importance of solidarity and communication with those on the outside, both for morale and for protection, for many years.

FDC threatened organizers with “harsher retaliation” if they corresponded or in some cases merely received literature from advocacy groups like IWOC and Fight Toxic Prisons.

Lockdowns, disconnected phone lines, and mass searches interrupted lines of communication, and incarcerated people suspected of organizing resistance were split up and transferred to other facilities.

Multiple incarcerated people reported being given a choice: work with the FDC against Operation PUSH and receive a transfer to a so-called “sweeter” work camp. Otherwise, face solitary confinement for corresponding with organizers on the outside.

Prison officials used gang designations to stifle the nonviolent protest, labeling suspected organizers as members of a Security Threat Group (STG). This classification level subjects prisoners to further isolation, surveillance, harassment, and loss of rights and privileges.

In an interview with the website It’s Going Down, IWOC organizer Karen Smith said suspects were investigated and charged for using contraband phones. Investigators in some cases went so far as to decide certain social media posts were tied to particular individuals even if they didn’t have a phone.

Smith called the repression “harsh and complete.” The FDC is watching social media pages and keeping close tabs on people who receive literature from outside groups, she said.

FDC’s reaction to Operation PUSH is somewhat of a departure from how the state handled prisoner resistance in recent years.

When protesters changed their tactics for Operation PUSH to focus on a nonviolent economic protest, the FDC changed theirs, too, engaging in what SPARC called “low-intensity, psychological warfare rather than blunt force.” Given the authoritarian nature of prison systems, which are afforded total obscurity and practically unlimited control over prisoner movement and communication, the FDC is well positioned to adapt its forms of repression.

“It should come as no surprise that the [FDC] can’t be trusted to report strikes occurring in Florida state prisons, just as they have been lying, or to borrow from a PUSH prisoner, ‘using wordplay,’ around the rip-off of their canteen prices,” SPARC wrote. “They have been working for weeks to eliminate the chance of the strike’s success. Claiming that it never existed is another tactic for trying to stop it. Never trust the oppressors to adequately report the facts.”

SPARC found that building outside support in advance, which prisoners felt was necessary to boost morale and participation in Operation PUSH, “provided ample notification and time for the [FDC] to bribe, t

hreaten, and gather scab labor.”

#### Worker strikes empirically fail in prisons and there’s a laundry list of tactics non-employers use within the system to prevent effectiveness without technically violating the right to strike – prisons don’t even have strike task forces because they don’t criminalize the actual striking

Washington 18 (Robin Washington – former interim commentary editor for The Marshall Project interviewing a prison warden, The Marshall Project, “A Former Warden’s View on Prison Strikes”, https://www.themarshallproject.org/2018/08/22/a-former-warden-s-view-on-prison-strikes, 22 August 2018, EmmieeM)

This week, a prison strike has been called for inmates at 17 facilities nationwide in response to an April riot at South Carolina’s Lee Correctional Institution, where seven inmates were killed while prison staff failed to immediately respond.

Among 10 demands stated by the [Incarcerated Workers Organizing Committee](https://incarceratedworkers.org/campaigns/prison-strike-2018), one of several groups endorsing the strike, are improvements in prison conditions, prevailing wages for incarcerated workers, voting rights for all confined citizens and an end to the racial overcharging, over-sentencing and parole denials to people of color. The strike is planned to continue until Sept. 9, the 47th anniversary of [the Attica prison uprising](https://www.themarshallproject.org/records/292-attica-correctional-facility).

For a view into the nature of prison strikes and how authorities respond to them, The Marshall Project spoke with Cameron Lindsay, a retired warden of three federal facilities: the Federal Correctional Institution in Lompoc, California, the U.S. Penitentiary in Canaan, Pennsylvania, and the Metropolitan Detention Center in Brooklyn, N.Y. Lindsay also ran privatized institutions in Philipsburg and Glen Mills, Pennsylvania, and has taught at several colleges. He now serves as a consultant and an expert witness in corrections cases. He spoke with Interim Commentary Editor Robin Washington. The views expressed are his own, and this interview has been edited for brevity and clarity.

Q: Have you experienced any strikes, hunger strikes, work strikes or other organized prisoner actions?

A: I’ve seen pretty much all of that over the course of 29 years. The most widespread strike that I ever saw that comes close to what I’m hearing about this week was in federal prisons in October of 1995. It was mostly African American inmates. They were protesting the vast disparity of sentencing laws between powder cocaine and crack cocaine.

It was the first and only time in history that (the federal prison system) announced a nationwide lockdown. The lockdown of a facility is something to be taken very, very seriously. It’s complicated and fraught with all kinds of problems. It’s not a decision to be made lightly.

I can promise you if these inmates do engage in some kind of systematic strikes that wardens will lock down the facilities.

Q: What have you experienced specifically?

In 1995, I worked at the Federal Correctional Institution, McKean, in Bradford, Pennsylvania. It started as a work strike. The first inmate called to duty is at 4 a.m. What we experienced on Oct. 24, 1995, was the inmate crew refused to go to work. There were some that wanted to but they didn’t because they feared retaliation. I have had others on a less severe scale. We had a very brief food strike at the (U.S. Penitentiary) in Lewisburg, Pennsylvania. It was small and isolated.

There are food strikes, work strikes, then all-out disturbances and/or riots, depending on the severity. You might have food service inmates who are upset about wages or the way they are being treated by staff. A work strike is the most common way — inappropriate, I might add — that inmates will demonstrate in an attempt to get the attention of the staff. Typically when it happens, the warden will lock down the facility until they have a chance to gauge what really is going on. They’ll gather intelligence, talk to informants, listen to telephone calls, until they can figure out what is going on out there. They may even reach out to certain inmate leaders. Usually, the next thing they do is remove the quote-unquote “agitators” from the general population and put them in isolation. Then they interview every single inmate so that nobody feels singled out.

Q: Does a strike ever work? From the inmate point of view?

In the short term, no. They don’t work because the ringleaders tend to get locked up, and after they are isolated they’re transferred to other facilities.

In the long term, they may be able to effect some change because they do get some media and political attention. In 1987 in Oakdale, Louisiana, and Atlanta, there were simultaneous riots. There was a specific cadre of Cuban inmates from the Mariel boatlift. Our government decided to repatriate them to Cuba. They did not want to go, so they raised hell in their facility. In the long term, their actions did lead to some changes.

Q: The cocaine sentencing disparities protested in the 1995 strike also were eventually changed.

There you go.

Q: Do prisons have a strike task force of some kind, with COs appointed to investigate?

That’s a tough answer. People talk about the “criminal justice system,” but it’s not one system, it’s a whole bunch of systems. There are local corrections, state corrections and federal corrections. There’s very rarely a coordinated effort on a widespread basis for a type of strike.

In the federal Bureau of Prisons, they are really good about gathering and cultivating intelligence. The staffers should be able to predict when one of these happens. Conversely, if you have a correctional facility that is not well operated and they don’t know that something is going to go down, when it does, they’re not going to know how to react.

#### 2018 strike wave was largest ever in prison history – proves right to strike exists and strikes don’t solve

Lopez 18 (German Lopez – writing for Vox and has written for numerous other publications, “America’s Prisoners Are Going On Strike In At Least 17 States”, https://www.vox.com/2018/8/17/17664048/national-prison-strike-2018, 22 August 2018, EmmieeM)

America’s prisoners are going on strike.

The demonstrations are planned to take place from August 21 to September 9, which marks the anniversary of the bloody uprising at the Attica Correctional Facility in New York. During this time, inmates across the US plan to refuse to work and, in some cases, refuse to eat to draw attention to poor prison conditions and what many view as exploitative labor practices in American correctional facilities.

“Prisoners want to be valued as contributors to our society,” Amani Sawari, a spokesperson for the protests, told me. “Every single field and industry is affected on some level by prisons, from our license plates to the fast food that we eat to the stores that we shop at. So we really need to recognize how we are supporting the prison industrial complex through the dollars that we spend.”

Prison labor issues recently received attention in California, where inmates have been voluntarily recruited to fight the state’s record wildfires — for the paltry pay of just $1 an hour plus $2 per day. But the practice of using prison inmates for cheap or free labor is fairly widespread in the US, due to an exemption in the 13th Amendment, which abolished chattel slavery but allows involuntary servitude as part of a punishment for a crime.

For Sawari and the inmates participating in the protests, the sometimes forced labor and poor pay is effectively “modern slavery.” That, along with poor prison conditions that inmates blame for a deadly South Carolina prison riot earlier this year, have led to protests.

For prisons, though, fixing the problems raised by the demonstrations will require money — something that cash-strapped state governments may not be willing to put up. That raises real questions about whether the inmates’ demands can or will be heard.

The demonstrations come two years after what was then the largest prison strike in US history, with protests breaking out in at least 12 states in 2016. The new demonstrations could end up even larger than those previous protests.

Protests are planned in at least 17 states

There’s no hard estimate for how many inmates and prisons are taking part in the protests, as organizers continue to recruit more and more inmates and word of mouth spreads. But demonstrations are expected across at least 17 states.

The inmates will take part in work strikes, hunger strikes, and sit-ins. They are also calling for boycotts against agencies and companies that benefit from prisons and prison labor.

#### Harvard Law Review says that Courts uphold inmate right to strike even if Congress doesn’t – Harker reads blue

1AC Harvard Law Review, 19 - ("Striking the Right Balance: Toward a Better Understanding of Prison Strikes," Harvard Law Review 03/8/2019, accessed 10-28-2021, <https://harvardlawreview.org/2019/03/striking-the-right-balance-toward-a-better-understanding-of-prison-strikes/)//ML>

II. LEGAL FRAMEWORK GOVERNING PRISON STRIKES: STATE LAW AND FEDERAL STATUTES¶ A. Statutes and Regulations¶ As a threshold matter, state and federal statutory law provides no recourse for protecting prison strikes. Incarcerated individuals are not included as protected “employees” in the text of federal labor laws like the Fair Labor Standards Act78 and the National Labor Relations Act,79 and courts have refused to extend the protections that these statutes offer to those confined within prison walls.80 Further, this Note is aware of no state labor laws, or for that matter any state constitutional provisions, that have been interpreted to allow prisoners to strike. ¶Not only are prison strikes not protected by statutory law — they also are often explicitly prohibited. State statutes and prison regulations pose the most immediate barrier to prison strike activity, as states across the union appear to categorically bar prison strikes and other forms of inmate collective organizing. For instance, Alaska’s administrative code lists “participation in an organized work stoppage” and “encouraging others to engage in a food strike” as “[h]igh-moderate infractions.”81 The same is true at the federal level, as the Bureau of Prisons has made “[e]ngaging in or encouraging a group demonstration” and “[e]ncouraging others to refuse to work, or to participate in a work stoppage” prohibited acts.82 ¶ Further research is certainly necessary to develop a fuller, more nuanced treatment of the various state and federal statutory schemes that impact prison strikes.83 But even this brief overview drives home a clear bottom line: that state and federal laws, in their current forms, likely offer no viable protection for prison strikes and indeed often prohibit them outright. ¶B. Constitutional Law ¶ The Supreme Court has not spoken directly on the question of whether peaceful prison protests merit constitutional protection. However, two areas of constitutional analysis — prisoners’ rights broadly and prisoners’ First Amendment rights specifically — suggest that under current law, the answer to this question is likely also a resounding no.¶ 1. Prisoners’ Constitutional Rights Generally. — Section 1 of the Thirteenth Amendment states: “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”84 By its express terms, the amendment creates an explicit exception for persons serving a sentence pursuant to conviction of a crime, and it therefore offers prisoners no basis to refuse to work or to engage in other forms of peaceful strikes.85 ¶ Despite the Thirteenth Amendment’s clear textual carve-out, courts have not, in modern times, read the wording of the amendment literally to allow the State to treat inmates like slaves.86 According to the Court, “[t]here is no iron curtain drawn between the Constitution and the prisons of this country.”87 Instead, as neither slaves nor free people,88 inmates retain some (but not all) of their constitutional rights when they cross into the prison.89 The Supreme Court has time and again asserted that “[l]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights.”90 This is the case not only because of the inherently “deprivat[ory]” nature of imprisonment,91 but also because prison administrators must be accorded wide latitude in the complex and difficult task of operating a penal institution.92 This deference, however, “yield[s] to the strictures of the Constitution.”93 Indeed, courts recognize that inmates, despite being incarcerated, retain particular constitutional rights “that the courts must be alert to protect.”94 Such rights that an inmate retains are those “that are not inconsistent with his status as a prisoner or with the legitimate penological objective of the corrections system.”95 ¶ However, as the Court explained in Turner v. Safley, 96 a prison regulation may infringe on a prisoner’s retained constitutional rights as long as “it is reasonably related to legitimate penological interests.”97 Turner identified four relevant factors in determining the reasonableness of a prison regulation: (1) whether there is “a ‘valid, rational connection’ between the regulation and the legitimate governmental interest [advanced] to justify it”;98 (2) whether alternative means for exercising the asserted right remain available;99 (3) whether accommodation of the asserted right will adversely affect “guards[,] other inmates, and . . . the allocation of prison resources generally”;100 and (4) whether there is a “ready alternative[]”101 to the regulation “that fully accommodates the prisoner’s right at de minimis cost to valid penological interests.”102 ¶ So, under the general legal framework for prisoners’ rights, finding constitutional protection for peaceful collective actions like the 2018 prison strike will likely face an uphill battle. Such a right to strike not only must fit within the confines of a “retained right,” which appears to be narrowly defined; it also must go up against Turner and its progeny, which mandate rational basis review for any prison regulation — providing prison officials with broad deference to curtail any rights that a prisoner might retain.103 Turning to prisoner First Amendment jurisprudence specifically, it becomes even clearer that a right to strike likely cannot navigate either difficulty successfully.¶ 2. Prisoners’ First Amendment Rights. — The First Amendment of the Constitution includes within its guarantees political rights to communicate, associate, and present grievances to the government.104 These rights go to the very heart of our political system — one that, as a democracy, values the participation of its citizens.105 Outside of prison walls, the Supreme Court has recognized that individuals may, in many situations, exercise their First Amendment associational rights by peacefully engaging in a work strike.106 Inside prison walls, however, the right to strike is a legal gray area. The Court has analyzed a number of First Amendment rights, including those implicating concerted political activity and association, in the prison context — asking whether (1) the First Amendment right in question is inconsistent with an inmate’s status as a prisoner and (2) prison officials’ interference with such a right reasonably relates to a legitimate penological interest.¶ 107 However, the Court has yet to perform such an analysis for prison strikes specifically. But one seminal Supreme Court case — Jones v. North Carolina Prisoners’ Labor Union, Inc.108 — casts serious doubt on prisoners’ collective right to strike. In Jones, a prisoners’ labor union109 brought an action under 42 U.S.C. § 1983, claiming that the North Carolina Department of Corrections violated its First Amendment rights110 by promulgating a prison rule that prohibited, among other things, union meetings among inmates.111 The three-judge district court agreed, granting substantial injunctive relief to the union.112 The Supreme Court reversed, however, doing so on two main grounds. Writing for the majority, then-Justice Rehnquist first invoked the familiar notion that “[t]he fact of confinement and the needs of the penal institution impose limitations on constitutional rights,” especially First Amendment associational rights.113 Then, without engaging with the specific nature of the potentially retained associational interest in question (that is, that of organizing as a union), Justice Rehnquist concluded that the challenged regulation did not unduly abridge inmates’ First Amendment rights.114 He did so by adopting a rational basis test — emphasizing the critical importance of “wide-ranging [judicial] deference” to prison officials and their informed discretion in carrying out penological goals.115 In particular, Justice Rehnquist argued that “[r]esponsible prison officials must be permitted to take reasonable steps to forestall” the “everpresent potential for violent confrontation” within prisons.116 And as he highlighted, North Carolina prison administrators had testified that the presence of, and potentially even the very objectives of, a prisoners’ union did potentially pose a danger117 — likely resulting in increased friction between inmates themselves or between inmates and prison personnel, as well as in “easily foreseeable” outcomes like “[w]ork stoppages.”118 ¶ In light of Jones, it is unlikely that the Supreme Court would, if the question came before it, recognize inmates’ First Amendment right to strike. Although the case concerned the specific issue of prison unions, the Jones Court’s holding was, in its methodology and reasoning, farreaching — (1) providing prison administrators with wide latitude to curtail any inmate collective activity that, in their “reasonable” judgment, threatened institutional order and security119 and, as a result, (2) appearing to severely curtail inmates’ First Amendment rights.120 The Court’s broad deference and narrow First Amendment view should therefore naturally be expected to extend to prison strikes and other forms of collective protest, about which prison officials have consistently offered similar safety concerns and which they have uniformly sought to ban,121 and which Jones specifically acknowledged as a possible unwelcome outcome of allowing prisoners to unionize. ¶ That Jones likely prevents any constitutional protection for prison strikes — and therefore liberally protects prison regulations banning strike activities — is reinforced by how the Supreme Court has applied the case over the past forty years. In Turner, for example, the Court rejected efforts to cabin Jones to barring only “‘presumptively dangerous’ inmate activities.”122 The Court specifically discussed Jones as part of a line of “prisoners’ rights” cases permitting “reasonable” prison regulations to impinge on inmates’ constitutional rights123 and ultimately relied in part on Jones to fashion its general four-part framework for assessing “reasonableness” across prison regulations.124 And in Overton v. Bazzetta, 125 the Supreme Court again invoked Jones to emphasize that “freedom of association is among the rights least compatible with incarceration”126 — though it declined to draw any precise boundaries that would be helpful for determining what, if any, associational rights inmates retain within prison walls, and whether those include strikes.127 ¶Lower courts have not been as wary to draw such boundaries. Under Jones, lower federal courts have uniformly held that prisoners have no constitutionally protected right under the First Amendment to strike. One district court interpreted Jones to hold that prison officials may act to prevent such strikes whenever they have a “good faith” belief that such strikes “threaten the security of the institutions they manage.”128 Lower courts have rejected a right to strike by simply citing to or briefly discussing Jones and contending that it naturally compels such a result,129 or by drawing an explicit connection between the prohibited prison unions at issue in Jones and prison strikes, dubbing strikes to be “a species of ‘organized union activity.’”130 They have also done so by delving into the specifics of why strikes purportedly pose safety and security risks within prisons and why prison regulations barring strikes are therefore rationally related to legitimate penological goals.131 ¶ Lower courts also have justified upholding prison regulations barring strikes by explicitly or implicitly turning to the general Turner framework that Jones helped create — including by arguing that there are ready alternatives to prison strikes,132 or that such regulations are generally permissible exercises of penal authority.133 And finally, it is worth noting that lower federal courts have, in deferring to prison offi- cials’ judgments regarding security, also permitted all manner of regulations designed to punish strikers134 and aid officials in preventing strikes from occurring.135 In short, there exists little, if any, room under current constitutional case law for protecting prison strikes.

#### Rezal says squo solves mass incarceration and lists laundry list of alt causes to racialized policing and imprisonment the AFF can’t overcome – Harker reads blue

#### Rezal 21

Adriana Rezal [data journalism fellow with U.S. News and World Report], 21 - ("A New Report Explores Racial Disparities in America’s Incarceration Rates," US News & World Report, 10-3-21, accessed 11-3-2021, https://www.usnews.com/news/best-states/articles/2021-10-13/report-highlights-staggering-racial-disparities-in-us-incarceration-rates)//LF

A national view of **U.S. incarcerated populations** by race and ethnicity **show**s **high rates of disparity among the country's communities of color and white Americans, especially among Black communities.** While **Black Americans are on average 4.8 times more likely to be incarcerated than white Americans, in some states such as** [**New Jersey**](https://www.usnews.com/news/best-states/new-jersey)**, Black Americans can be up to 12.5 times more likely to be incarcerated than white Americans**. [Hawaii](https://www.usnews.com/news/best-states/hawaii) demonstrates the lowest differential of Black to white American imprisonment, as shown by the map below. However, Black Americans in Hawaii are still over twice as likely to be incarcerated than white residents. While Latino individuals are on average 1.3 times more likely to be incarcerated than whites in the U.S., in some states such as [Massachusetts](https://www.usnews.com/news/best-states/massachusetts), Latino populations are up to 4.1 times more likely to be incarcerated than whites. In 20 states, including Oklahoma, North Carolina and New Hampshire, the data in the report shows the likelihood of imprisonment is higher for whites compared to the Latino population. However the report emphasizes the unreliability of ethnicity data possibly contributing to an underestimation of Black and Latino American data. "An example lies in Florida, which claims that 13% of its prison population is Latinx though more than one quarter of its residents are Latinx," (a gender neutral term for 'Latino,' according to the report. "There are most assuredly more Latinx people in prison than are officially reported but the exact number is unknown." **When it comes to incarceration, the U.S. is a world leader with 1.2 million people in state prisons across the country.** According to the report, **imprisonment is** a **life-altering** event **that can create negative impacts on the individual and societal level. Individuals released** from incarceration **may have difficulty gaining employment, finding stable housing and experience reduced lifetime earnings. Additionally, high levels of incarceration within communities can result in increased crime rates and contribute to neighborhood deterioration,** according to the study. Although the U.S. remains a world leader in imprisonment, The Sentencing Project reports that nine states have been successful in decreasing their incarcerated population by more than 30% in recent years as a result of policy reforms and reduced prison admissions and lengths of stay. These states include Alaska, New Jersey, New York, Connecticut, Alabama, Rhode Island, Vermont, Hawaii and California. The report cites a number of causes for racial disparity within U.S. prisons. According to the report**, the nation's history of white supremacy over Black people created a legacy of racial subordination that impacts their criminal justice outcomes today. The report also asserts that communities of color, especially Black Americans, are negatively affected by biased policies and practices including police-citizen relations, pre-trial detention, the weight criminal history records can carry in sentencing and unequal prosecutorial charging.**

#### Eisen concedes AFF leaves US unable to deal with COVID and that work strikes happen now and aren’t effective – Harker reads blue

#### 1AC Eisen 20

Lauren-Brooke Eisen [director of the Brennan Center’s Justice Program where she leads the organization’s work to end mass incarceration], 20 - ("Covid-19 Highlights the Need for Prison Labor Reform," Brennan Center for Justice, 4-17-2020, accessed 11-4-2021, https://www.brennancenter.org/our-work/analysis-opinion/covid-19-highlights-need-prison-labor-reform)//ML

For decades, prisoners in American correctional facilities have worked for no wages or mere pennies an hour. As the United States attempts to reduce transmission of Covid-19, more than a dozen states are now relying on this captive labor force to manufacture personal protective equipment badly needed by healthcare workers and other frontline responders.¶ [Prisoners in Missouri](https://wgem.com/2020/03/31/missouri-governor-provides-updates-on-covid-19-response/) are currently earning between $0.30 and $0.71 an hour to produce hand sanitizer, toilet paper, and protective gowns that will be distributed across the state. In Louisiana, prisoners are [making hand sanitizer](https://www.theadvocate.com/baton_rouge/news/coronavirus/article_98081a40-74ea-11ea-b367-2774f5090b74.html) for about $0.40 an hour. And in Arkansas, where incarcerated workers are [producing](https://www.eldoradonews.com/news/2020/apr/02/state-prisoners-manufacturing-masks/) cloth masks for prisoners, correctional officers, and other government workers, their labor is entirely uncompensated.¶ This unprecedented health emergency is re-exposing how our country’s long-held practice of paying nothing or next-to-nothing for incarcerated labor, with no labor protections, is akin to modern-day slavery.¶ Prisoners are not protected by the Fair Labor Standards Act (FLSA), the federal law establishing minimum wage and overtime pay eligibility for both private sector and government workers. In 1993, a federal appeals court [held](https://casetext.com/case/harker-v-state-use-industries) that it is up to Congress, not the courts, to decide whether the FLSA applies to incarcerated workers.¶ Courts have also [ruled](https://www.theatlantic.com/business/archive/2015/09/prison-labor-in-america/406177/) that the National Labor Relations Act, which guarantees the right of private sector employees to collective bargaining, does not apply in prisoners.¶ Even worse, prisoners are excluded from the U.S. Occupational Health and Safety Administration protections that require employers to provide a safe working environment. This dehumanizing lack of protection for prison workers has long subjected them to conditions that have [endangered their physical safety](https://theintercept.com/2016/12/28/california-blames-incarcerated-workers-for-unsafe-conditions-and-amputations/).¶ Amid a health threat that [worsens in crowded environments](https://www.usatoday.com/story/news/politics/2020/04/09/coronavirus-hits-workers-inmates-jails-prisons-threatened/2968807001/), many prisoners are working without any mandated protections. Congress must amend the language of federal employment protections to explicitly extend to work behind bars.¶ Forced labor in prisons has its roots in the post-Civil War Reconstruction period, when Southern planters faced the need to pay the labor force that had long worked for free under brutal conditions to produce the economic capital of the South.¶ Though the 13th Amendment abolished “involuntary servitude,” it excused forcible labor as punishment for those convicted of crimes. As a result, Southern states codified punitive laws, known as the Black Codes, to arbitrarily criminalize the activity of their former slaves. Loitering and congregating after dark, among other innocuous activities, suddenly became criminal. Arrest and convictions bound these alleged criminals to terms of incarceration, often sentenced to unpaid labor for wealthy plantation owners.¶ In the following decades, Southern states — desperate for cheap labor and revenue — widely began leasing prisoners to local planters and Northern industrialists who took responsibility for their housing and feeding, a practice known as convict leasing.¶ Under this system, the captive labor market worked long hours in unsafe conditions, often treated as [poorly](https://www.nytimes.com/2008/04/10/books/10masl.html) as they had been as slaves. Records [approximate](https://books.google.com/books?hl=en&lr=&id=35zwA6yMbAgC&oi=fnd&pg=PP1&dq=Robert+Zieger,+%E2%80%9CFor+Jobs+and+Freedom:+Race+and+Labor+in+America+Since+1965.%E2%80%9D+&ots=EBzrbvCklq&sig=YkRKzrWlFAqE7YG00vNHgFBAPJ8#v=onepage&q=Robert%20Zieger%2C%20%E2%80%9CFor%20Jobs%20and%20Freedom%3A%20Race%20and%20Labor%20in%20America%20Since%201965.%E2%80%9D&f=false) that on an average day between 1885 and 1920, 10,000 to 20,000 prisoners — the overwhelming majority of them Black Americans — continued to toil under these insufferable circumstances.¶ In the 1930s, a series of laws prohibited state prisons from using prison labor, but the federal government continued to rely on this workforce to meet the demands of the rapidly changing markets of mid-century. By 1979, Congress passed [legislation](https://www.ncjrs.gov/pdffiles1/bja/203483.pdf) allowing state corrections officials to collaborate with private industries to produce prison-made goods, birthing the modern era of prison labor. ¶ Today, [approximately 55 percent](https://www.bjs.gov/content/pub/pdf/csfcf05.pdf) of the American prison population works while serving their sentences. Prison jobs are broadly divided into two categories: prison support work — such as food preparation, laundry services, and maintenance work — and “correctional industries” jobs, in which prisoners might make license plates, sew military uniforms, or staff a call center. It is prisoners in correctional industries who are currently being deployed to help meet the nation’s need for protective gear.¶ While so many behind bars are manufacturing items the country desperately needs to combat our current health crisis, their low wages and lack of labor protections — among myriad other factors — mean they are not accorded the same benefits or recognition as other workers.¶ What’s more, the measly cents per hour that is typical compensation across often-dangerous prison jobs is not nearly enough to cover the court fees and fines, restitution, child support, and room and board expenses that most state departments of corrections deduct from prisoners’ earnings. When there is anything left, it is barely enough to pay for commissary goods such as food, hygienic products, and toiletries, let alone marked-up email services that prisoners rely on to stay in touch with their loved ones. Despite working for years, many prisoners are left with thousands of dollars in ~~crippling~~ debt by the time they complete their sentences.¶ In 2018, prisoners in dozens of facilities across the country went on strike and issued a [list of demands](https://incarceratedworkers.org/campaigns/prison-strike-2018), which included “an immediate end to prison slavery” and that prisoners be “paid the prevailing wage in their state or territory for their labor.”¶ This time of national emergency requires that everyone do their part to slow the spread of coronavirus. The significant shortage of face masks, protective gowns, and hand sanitizer that is putting the lives of our frontline workers in jeopardy necessitates bold and swift action. But if the states and [federal](https://www.bloomberg.com/news/articles/2020-04-06/federal-inmates-to-make-cloth-virus-masks-for-prisoners-guards) government are going to rely on correctional labor to manufacture this equipment, they need to improve the wages and labor protections of our incarcerated workers. To fail to do so is not far off from the devaluation and brutalization of slave labor that was ostensibly abandoned a century and a half ago.

#### Fulcher concedes strikes empirically don’t work and proves circumvention – inmates need contraband cell phones for strikes, which are punishable offenses independent of if striking is legalized – Harker reads blue

#### 1AC Fulcher 15

Patrice A. Fulcher [Associate Professor at The John Marshall Law School], 15 - ("," Journal of Civil Rights and Economic Development, Winter 2015, accessed 10-28-2021, https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1759&context=jcred)//ML

**B.**87 In 2011, FPI's net sales were 745 million dollars and their earnings were 62 million dollars.88 Restricted to sell its products only to federal agencies, FPI's largest purchaser is the U.S. Department of Defense, which makes up 52% of it revenues. 89 The FPI use to have a mandatory source requirement for all federal agencies, but it was amended to prohibit any federal agency from purchasing FPI products or services, unless the agency determines that the products offered are the "best value". 90 So in addition to making license plates, furniture and other typical prison-made goods, thousands of federal inmates work for FPI making supplies for the U.S. military. FPI inmates who are given this assignment find themselves making anti-tank missiles, body armor, land mine sweepers, components for fighter aircrafts, and other gear for the Pentagon. 91 ¶Consequently, an inmate who works within the federal prison labor system may make a maximum of $64.00 a month (prior to any state deductions for room and board, taxes, etc., assuming an inmate works 5 days a week for 8 hours), and a maximum of $92.00 a month (subtracting 50% of the wages for the IRFP, assuming an inmate works 5 days a week for 8 hours) if he works for FPI.¶ B. State Prison Labor Systems ¶There are approximately 1,382,000 inmates in state prisons in the U.S.92 State prisoners work within varying labor systems while incarcerated. 9 3 State inmates may (1) work within the confines of a prison, where state or private entities manage the facility, sell the products produced, and receive the profits, (2) work in jobs directly benefiting prison operations by cleaning, cooking, or doing laundry, or (3) work outside of prison walls laboring for the state or private companies. 94 Over the last 30 years, at least 37 states have enacted laws permitting the use of inmate labor by private enterprise. 9 5 State inmates' wages are determined by the state in which they are incarcerated, and may be affected depending on whether the state correctional facility is certified under the Prison Industry Enhancement Certification Program. ¶1. State Prison Labor ¶ Under The Prison Industry Enhancement Certification Program ("PIE") In 1979, Congress passed the Prison Industry Enhancement Certification program ("PIE") under the Justice System Improvement Act.96 The PIE exempts state and local correction departments from the Ashurst-Sumners Act legislation, which placed restrictions on the interstate sale and transportation of prison-made goods.9 7 The specific goal of the PIE was to provide private-sector work opportunities to prisoners by certifying 50 state correctional agencies to sell prison made goods interstate and to the Federal Government (over the original $10,000 limitation). 98 Once a state agency is certified under the PIE, its corrections department may either sell prison made goods on its own, or enter into prison labor contracts with private companies to sell goods in the free market.99 ¶ In order to qualify for PIE certification, correctional agencies have to apply through the Bureau of Justice Assistance ("BJA") or the National Correctional Industries Association, pay state prisoners a prevailing wage, and meet several other statutory requirements.10 0 Paying inmate workers prevailing wages under the PIE may appear equitable on its face, but it is not. Most inmates see only 20% of their gross wages because the PIE also allows for 80% wage deductions for room and board, victim assistance, taxes, and family support.lO' While expecting convicts to defray the cost of their incarceration and victim services is reasonable, as will be seen in part x of this article, the current scheme is short sighted and unwise because, among other things, so little attention is given to reducing recidivism through prison programs and support for newly released inmates. ¶According to the Bureau of Justice Assistance, there were 37 state, and 4 county-based PIE certified correctional industry programs in the U.S. in 2011.102 These PIE programs include the management of at least 175 business partnerships with private industry. 103 In 2012, the number of PIE certifications increased to 45; these certified correctional agencies employed a total of 4,700 inmates. 104 Furthermore, the 45 certified PIE agencies generated $9,780,130 in gross salary revenues in 2012.105 A majority of those earnings went to net inmate salaries ($3,958,354), then correctional institution for room and board ($3,482,883), state and federal taxes ($989,503) victims' programs ($947,770), and the lowest amount to inmate family support ($401,620).106 Therefore, each of the 4,700 prisoners working for PIE certified programs made approximately $842.00 in 2012, which equates to $70.00 a month.¶ ¶2. State Prison Labor Without PIE Protections ¶ State correctional industries without PIE protections are prohibited from selling prison-made products interstate. 107 They also are under no federal obligation to pay working prisoners prevailing wages as required for certification under PIE.108 Depending on the facility, these state correctional agencies typically require inmates to work, and pay inmates from $0.17 to $5.35 per hour.109 There are also several state-operated correctional institutions that force prisoners to work, but pay them absolutely nothing for their labor. For example, the Georgia Department of Corrections does not pay working inmates.1 10 Once a person is sentenced to one of the Georgia's 31 state prisons, he or she will be ordered to either work jobs that directly benefit the prison, make products to be sold to government agencies, or perform city work detail jobs without getting paid a cent.11 In light of these facts, it is not surprising that on December 9, 2010, thousands of Georgia inmates staged the largest prison protest in U.S. History.ll 2 Through the use of contraband cell phones, Georgia inmates in at least seven different state prisons coordinated a nonviolent prison strike.l13 These protesting inmates had several demands, but high on their list was to be paid a living wage for work.114 "If they would start paying us, that would reduce crime behind the walls," said Mike, one of the protesting prisoners, "inmates would have the means to get hygiene [items] and food from the commissary." 15 The protest lasted approximately 5 days and unfortunately, the prisoners' demands have still not been met.116 Almost all Georgia state-prisoners are still working for free, at least three inmates have publically complained that they were brutally beaten for their involvement in the protest, and in July 2012 several Georgia prisoners went on a hunger strike to protest additional inhumane punishments stemming from the 2010 prison protest.117 ¶Finally, state prisoners labor for correctional institutions that fall under the supervision of state departments of correction, but are separate selfsustaining corporate entities. Some of the prison industries have PIE certification for all of their work programs while others certify only certain jobs under PIE. Two such institutions in the U.S. are the Georgia Correctional Industries ("GCI") and the Oregon Corrections Enterprise ("OCE").118 GCI and OCE utilize state inmate labor to produce and sell a plethora of services and products to state and local government agencies. 19 For instance, GCI employs 1,400 Georgia inmates, who manufacture garments and bedding, institutional and office furniture, cleaning chemicals, perform embroidery, screen printing, reupholstering, engraving, optical, and framing services, work in milk and meat processing plants, and on farms to produce beef and pork, and harvest fruits and vegetables, eggs, grits, and corn. 120 GCI has some work programs certified under PIE, but a majority of the employed inmates work for less than minimum wage.121 GCI boast on its website that they "maintain one of the lowest raw food costs in the nation-$1.57 per day per inmate".122 So inmates laboring in GCI food production factories and fields in the sweltering heat of the Deep South are paid roughly $31.40 a month if they are lucky (prior to state deductions and if they work 5 days a week). Approximately 1,100 of Oregon's 14,300 prisoners work for OCE and perform a variety of services for Oregon government agencies; printing, call centers, laundry service, and mailing projects, and document scanning to name a few. 123 OCE has PIE certification, but it is difficult to determine whether it applies to all of their work programs since inmates' wages still appear to be low.124 In a study conducted by University of Oregon students, three inmates at OCE reported that after working each month, they had $50.00 to send home to their families or add to phone call accounts. 125 ¶ C. Private Prison Labor Systems ¶ State governments turned to prison privatization in order to solve the problems arising from the mass incarceration of people in the U.S.126 Thus, the top two private prison corporations in the U.S., Corrections Corporation of America, Inc. ("CCA") and The GEO Group, Inc. ("GEO"), have made billions from acquiring state and federal contracts to manage prisoners. 127 CCA is the leading private prison in the U.S. for it profits from housing more than 80,000 prisoners in the U.S.128 GEO, is one of the world's largest private prison corporations with approximately 80,000 beds and 114 facilities located in the U.S., the United Kingdom, Australia, and South Africa. 129 GEO is only second to CCA in the U.S. because GEO has 56 Facilities and a bed capacity of 61,132,130 while CCA 60 facilities with a bed capacity of more than 90,000.131 ¶ It is clear that CCA and GEO deliver profits to their shareholders from housing inmates, but they also create wealth through forced prison labor. CCA maintains that inmates work in vocational jobs including carpentry, computer applications, construction and building trades, electrical, horticulture and landscaping, masonry, painting, and plumbing. 132 GEO also reports that it provides vocational training, but does not list the specific jobs that inmates perform.133 Since the PIE only applies to state correctional agencies, CCA and GEO are unable to apply directly for certification. As a result, CCA and GEO are under no obligations to pay their inmates prevailing wages. ¶It is difficult to determine how much private prisons actually pay working inmates, but there is nothing to dispute that private prisons also force able inmates to work. It is estimated that private prisons on average pay inmates 17¢ per hour for a maximum of six hours a day, with CCA paying working prisoners the most at .50¢ per hour for "highly skilled positions".134 Other sources suggest that CCA pays working inmates $1.00 a day, and at the same time charges them $5.00 a minute for telephone calls. 135 Additional reports indicate that private prisons pay an average of 93¢ to $4.73 per hour.136 ¶ Private prison companies also capitalized on the growing incarceration of undocumented workers in the U.S. by obtaining million dollar federal detention contracts to house detainees for Immigration and Customs Enforcement ("ICE"). 1 37 Like the other inmates they house, private prison companies also force immigration detainees to work. 138 CCA operates an immigration detention center in Gainesville, Georgia.139 Female detainees in this facility have complained that they are paid subminimum wages for their work and about inadequate medical and living conditions. 140

#### Fulcher is about people losing employment opportunities and reoffending due to being jailed due to that not about work opportunities in prison – Harker reads blue

#### 1AC Fulcher 15

Patrice A. Fulcher [Associate Professor at The John Marshall Law School], 15 - ("," Journal of Civil Rights and Economic Development, Winter 2015, accessed 10-28-2021, <https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=1759&context=jcred)//ML>

B. Reallocate Greater Wealth To Working Prisoners and Decrease Recidivism ¶ Working for slave wages or as a slave without compensation is the harsh economic reality for millions of prisoners in the U.S. Then after succumbing to living a life as a slave for the duration of their sentence, these prisoners are released back to society, without any means of financial support from their labors. Often indigent, homeless, and unable to overcome the challenge of obtaining employment with a conviction, many former inmates reoffend.192 Moreover, for those who do secure jobs, their earnings are greatly limited by their criminal records. A recent PEW study revealed "past incarceration reduced subsequent wages by 11 percent, cut annual employment by nine weeks and reduced yearly earnings by 40 percent."1 93 As a result, U.S. recidivism rates will remain high unless former prisoners have economic resources immediately upon release. Thus, the FLSA should be emancipated from the constraints imposed, not by Congress, but by rigid and unsupported judicial interpretation that wrongly exclude working prisoners from its provisions. Free the FLSA and compensate working inmates; allow prisoners to accumulate capital while they are incarcerated, so they will have a means of support to help them rebuild their lives, and not have to commit crimes to survive. ¶ Hence, I propose the following basic guidelines in providing FLSA coverage to working inmates: (1) employment should be voluntary; those who do not wish to work must take vocational classes for their entire prison sentence, (2) working inmates should be paid at least minimum wage, (3) automatic wage deductions shall be allowed for taxes and other previous court ordered obligations only, and (4) a forced 80 percent wage deduction will be deposited into an outside interest bearing bank account, accessible only upon release. In adopting this payment scheme, the economic reality for working prisoners will be greatly improved.¶ Utilizing the total PIE quarterly statics from 2012 mentioned above in section III(B)(1)(only subtracting family costs and taxes), each of the, 4,700 inmates working in PIE programs would have received approximately $356.00 a month instead of $70.00.194 This figure represents net wages after an 80 percent deduction of $1,427.00 is transferred into an interest bearing account.1 95 Additionally, since today's prisoners serve an average of 5.2 years in prison, 196 each of the 4,700 inmates under the proposed new FLSA guidelines would have at least $3,567.50 upon his or her release if the 80% were placed in an account with an interest rate of at least a 3%. Granted, this amount may not seem significant, but it is better than expecting that a bus ticket and a knapsack of clothes will be enough to enable a person who has been incarcerated to build his life in free society. ¶

#### Harvard Law review claims that squo strikes solve – Harker reads blue

1AC Harvard Law Review, 19 - ("Striking the Right Balance: Toward a Better Understanding of Prison Strikes," Harvard Law Review 03/8/2019, accessed 10-28-2021, <https://harvardlawreview.org/2019/03/striking-the-right-balance-toward-a-better-understanding-of-prison-strikes/)//ML>

But in order to ensure that the Constitution truly does not stop at the prison walls, courts cannot simply accept prison administrators’ fears regarding strikes at face value and instead should rigorously test their credibility and basis in fact.143 And more importantly, by over-deferring and failing to engage in any analysis of the merits of prison strikes, courts miss an important opportunity. As this Note has argued, prison strikes represent an underappreciated aspect of prison life — the means by which prisoners have, throughout the course of American history, surfaced pressing problems of our carceral state and initiated important transformations in our prison system. Therefore, it is imperative to meaningfully consider why and how such strikes merit legal protection — even if such protection appears to fly in the face of the current state of the law and to defy conventional wisdom. To that end, this Part first explores the First Amendment as one potential avenue for considering the merits of prison strikes, by presenting three critical First Amendment values contained within prison strikes,144 and it then briefly discusses other potential legal avenues for courts and scholars to consider. A. Considering the First Amendment Values of Prison Strikes The right to strike within prisons may be conceptually viewed as a composite of three separate fundamental First Amendment freedoms: the freedom to peacefully associate, the freedom of speech, and the freedom to assemble and petition for redress of grievances.145 Each is considered in turn. 1. Association. — The right to peaceful association is one that captures the right of individuals to commune with others for the expression of ideas and for effective advocacy.146 Strikes, like prison unions, represent an important means of association for prisoners — allowing them to “lay claim to a social identity as ‘workers’ . . . and in doing so generate claims to respect and solidarity.”147 This identity and solidarity can, in turn, enable inmates to engage in productive and peaceful bargains with prison officials for better conditions, higher pay, and other reform desires. Bargaining is, in many respects, already very common in prisons, “for the simple reason that [prison] administrators rarely have sufficient resources to gain complete conformity to all the rules.”148 However, such bargaining typically happens in an informal, ongoing, private process;149 in their recurrent, day-to-day contact with inmates, prison administrators use their arsenal of tools150 to “negotiate” only with select inmate leaders,151 with the central goal of maintaining “short term surface order.”152 This informal bargaining is “dysfunctional” to the long-term stability of prison institutions and “the real needs of those incarcerated within” them153 — creating hierarchical relationships154 that breed mistrust155 and leave many inmates powerless and feeling aggrieved.156 As a result, inmates often feel that they have to resort to violence to protect themselves from exploitation, express their dissatisfaction, and obtain redress.157 Alternatively, peaceful, collective prison strikes avoid these harmful consequences by allowing for “open” and “formal” negotiations between all inmates and prison staff.158 Such transparent and legitimated bargaining benefits both inmates and prisons as a whole. By initiating peaceful protests such as work stoppages, all inmates are able “to solve problems, maximize gains, articulate goals, develop alternative strategies, and deal with [administrators] without resorting to force or violence.”159 And by permitting peaceful strikes, prison administrators “provide inmates with a channel for airing grievances and gaining official response . . . giv[ing] the institution a kind of safety-valve for peaceful, rather than violent, change”160 — avoiding potentially expensive and time-consuming litigation and even helping rehabilitate inmates,161 all while deemphasizing hierarchical structures in prisons that harm institutional order.162 2. Speech. — A prison strike also represents a critical way by which inmates can express themselves.163 First, as alluded to above, a strike allows inmates to claim and communicate an identity — as more than just marginalized, ignored convicts with little to no self-determination, but instead as workers and human beings entitled to basic dignity. Such collective actions represent the “performative declaration and affirmation of rights that one does not (yet) have.”164 And, as Professor Jocelyn Simonson discusses, these strikes are collective contestations to “demand dignity, calling attention to the ways in which [prisoners] are treated as less than human and in the process reclaiming their own agency.”165 Such dignitary considerations, which courts have sought to protect under First Amendment principles, should therefore naturally extend to prisoners attempting to, through strikes, express their basic selfworth.166 Beyond representing a form of inherent, individual expression for inmates, prison strikes also represent a broader form of expression, allowing inmates to be visible to and heard by the public at large. Over the course of American history, inmates — by virtue of being locked up in isolated, impregnable penitentiaries — have largely been a silent and ignored segment of the American population.167 Through peaceful protests like the 2018 national prison strike, however, their suffering, their calls for reform, and their voices are, for the first time, directly expressed on a large scale, ringing out loudly beyond the prison walls and jumpstarting important conversations of criminal justice reform. It is critical to protect such expression; “[i]ndeed, it is from the voices of those who have been most harmed by the punitive nature of our criminal justice system that we can hear the most profound reimaginings of how the system might be truly responsive to local demands for justice and equality.”168 3. Petition for Redress. Inmates’ strikes can be seen not only as expressions of their dignity and general efforts to express their voices beyond prison walls but also as significant methods of assembly to call attention to specific grievances and seek redress from the government.169 While in theory “[t]here is no iron curtain drawn between the Constitution and the prisons of this country,”170 in practice, “prisons often escape the daily microscope focused on other American institutions such as schools, churches, and government.”171 Courts grant prison administrators wide deference not only in running day-to-day life within prisons but also in restricting press access to prisons.172 Therefore, much of the American public — already closed off from and largely indifferent to the lives of prisoners — is kept even more in the dark about prison conditions and the state of our carceral system as a whole. Prison conditions, from what has been documented, are horrendous across states. Many prisons are severely overcrowded and seriously understaffed;173 inmates routinely experience physical abuse and even death at the hands of prison guards,174 receive inadequate protection from guards, are deprived of basic necessities,175 are given substandard medical care,176 and are forced to live in squalor and tolerate extreme circumstances;177 most prisoners have minimal, if any, access, to rehabilitative or mental health services;178 and prisoners have little legal recourse, as internal prison grievance procedures are often stacked against inmates,179 and judicial deference and federal legislation have effectively shut the courthouse doors on prisoners’ civil rights claims.180 And across prisons, criminal sentencing laws not only have contributed to an unprecedented era of mass incarceration, but also have forced African Americans and people of color broadly to bear much of this burden.181 As the Marshall Project states, “[s]ociety won’t fix a prison system it can’t see”;182 peaceful prison strikes like the 2018 strike, however, draw back the “iron curtain” of prison walls, bringing to light many of the pressing issues described above. Through these strikes, inmates are able not only to express their grievances to their prison administrators, but also to “publicize their on-the-ground realities to the larger world”183 and, in turn, gain attention from and access to the political branches able to implement policy reforms.184 As recent history has shown, inmates have experienced some success by pressing their claims against the government through publicized strikes. For example, as described above, the California strikes in 2011 and 2013 generated public outcry that eventually resulted in transfor- mations to the California prison system’s solitary confinement policies.185 In Alabama, inmates’ participation in the 2016 nationwide prison strike helped prompt the Department of Justice to open an investigation into the state’s prison conditions.186 And more broadly speaking, strikes like the 2018 strike have begun to “remedy power imbalances, bring aggregate structural harms into view, and shift deeply entrenched legal and constitutional” barriers to critical prison reforms.187 B. Considering Additional Legal Avenues for Protecting Prison Strikes The foregoing analysis suggests that the First Amendment is a critical, worthwhile vehicle for considering the merits of a right to strike for prisoners. As Justice Black recognized, the importance of such analysis likely transcends prisoners themselves. He wrote: “I do not believe that it can be too often repeated that the freedoms of speech, press, petition and assembly guaranteed by the First Amendment must be accorded to the ideas we hate or sooner or later they will be denied to the ideas we cherish.”188 But this Note acknowledges that judicial recognition of prison strikes’ First Amendment values requires significant doctrinal change. Convincing the Supreme Court to overturn its Jones and Turner precedents, and instead to adopt a test with less deference than is currently afforded to prison administrators, is unlikely. As a result, future research is necessary to identify other potential avenues to consider the legal status and merits of prison strikes. As alluded to above, labor law presents one such promising avenue, as does state constitutional and statutory law. Drawing from the broader j