### 1NC - OFF

#### Biden’s reconciliation bill passes now but compromises are delicate

Caygle and Everett 10/20 (Heather and Burgess, Congress reporters at Politico) “Dems edge closer to ditching disarray” <https://www.politico.com/news/2021/10/20/dems-edge-closer-ditching-disarray-516312> EE, DebateDrills

Nancy Pelosi and Chuck Schumer’s strategy to force through Democrats’ domestic agenda flamed out spectacularly in September. They’re ready to try it all over again.

With their party’s long-sought priorities on the line, the speaker and Senate majority leader are hustling to clinch a deal as soon as possible that would lock in evasive centrists on a framework for President Joe Biden’s $2 trillion social spending package. That framework, in turn, would free up needed progressive votes for a bipartisan infrastructure bill by Oct. 31.

It’s a rerun of the playbook Democratic leaders used just weeks ago, [only to have it blow up](https://www.politico.com/news/2021/10/01/house-democrats-biden-infrastructure-deal-514878) in their faces. But Democrats insist it actually might work this time, with political and legislative incentives aligning more neatly than they did in September.

Pelosi and Schumer are telling their members they need to secure an agreement on the social spending bill by the end of this week. The House could even vote by the end of the month.

“We’re getting there. The gaps are closing. The vibe in our caucus is different. Folks are being more clear-eyed about: ‘We’ve got to get this done,’” said Sen. Chris Coons (D-Del.), who is close to Biden. “There’s a lot of reasons why these next 10 days are critical. To chip shot this into December is really, really problematic.”

Democrats are also getting more specific, with Sen. Joe Manchin (D-W.Va.) tossing a carbon tax and a green utilities program overboard while insisting on means testing much of the bill. Biden also told progressives Tuesday that an expanded boost to the child tax credit could be made shorter and that free community college could be jettisoned.

Biden’s price tag for the bill at the moment is around $2 trillion and he wants to lock down an agreement before heading overseas at the end of this month for climate talks, according to Democrats familiar with Tuesday’s discussions.

Rep. Jimmy Gomez (D-Calif.) said he left Biden’s meeting with progressives thinking “the president is committed to getting this done as soon as possible. And I was kind of surprised by that.”

Gomez said things remain “touch and go” and it’s unclear how much is finalized, even as Democratic leaders hope to close in on a framework in the coming days.

But it’s clear the momentum has shifted in recent days. Biden and Democrats are having substantive conversations about which programs will stay in the bill, which priorities will be cut and how to knit the rest together into a package both centrists and liberals can support.

“He's being decisive, he’s showing leadership,” Rep. Debbie Dingell (D-Mich.) said of Biden after progressives’ two-hour Tuesday meeting at the White House. “I think it’s going to get done this time.”

There’s still much more to get through, however. And Democrats have a crunch of deadlines waiting later this year that they must balance with [their last, best chance](https://www.politico.com/news/2021/10/17/democrats-agenda-last-chance-516160) to capitalize on their full control of Washington and pass once-in-a-generation legislation that would significantly shore up the nation’s social safety net.

Manchin and Sen. Kyrsten Sinema (D-Ariz.) are the toughest votes to secure, but both were whirlwinds of activity on Tuesday. Each of the centrists met with Biden. And while Manchin was in the Democratic lunch with his colleagues settling on a quick timeline, Sinema was meeting with senior White House staff, according to her office. Sinema’s office declined to comment on her commitment to finishing things by the end of the week.

Though the odds are still stacked against the party, Democrats say it’s clear there’s a renewed sense of urgency among party leaders. Schumer is nudging his holdouts more than ever before, Pelosi is free from the constraints of [an agreement with moderates](https://www.politico.com/news/2021/08/24/gottheimer-house-dems-pelosi-deal-506819) that imploded and Biden is finally engaged in a meaningful way. Plus, nearly everyone has accepted the bill won’t be $3.5 trillion, as originally proposed.

“There’s a real consensus that it’s time,” said the party’s No. 3 Senate leader, Patty Murray (D-Wash.). “We all see the timeline, there’s a lot of struggle about what’s going to go in a bill that’s literally half the size of what people envisioned.”

A month ago, some Democrats privately grumbled that Pelosi was working with an artificial deadline based on an agreement she made with moderates in her chamber — but one that didn’t motivate, and maybe even alienated, key Senate holdouts from cutting a deal. Manchin and Sinema, specifically, are still fuming that the House hasn’t passed the Senate’s bipartisan infrastructure bill.

Still, just a few weeks later, several Democrats involved in the negotiations insist that even the centrists much-maligned by their party's base for chipping away at the bill are springing into action. At a caucus meeting Tuesday, Manchin listened intently to his colleagues in what one attendee called a “turning point, in that there was more of a focus on urgency.”

Importantly, Democrats on all sides are coming to grips with the reality that all of their demands will not be met. The Obamacare subsidies that House Democratic leaders have pushed for are still in the package, while liberals’ demand for a massive Medicare expansion — something Sen. Bernie Sanders (I-Vt.) called non-negotiable last week — may be significantly pared back.

While jettisoning some policy proposals and slimming the bill seem like unwelcome developments for Democrats, the more specific negotiations indicate that the party is actually down to brass tacks. Still, Gomez said some of the discussion involved “trial balloons to see what the reactions of the different factions are.”

Sen. Jon Tester (D-Mont.) said on Tuesday morning that the “fact we don’t have a deal and have been gone for 10 days [on recess] means we’ve got to do better.” But after meeting with Biden Tuesday afternoon, his opinion had changed: “I think there’s a lot that’s happened the last 10 days, I just wasn’t aware of it. We’re getting to a point where we can move pretty well.”

It's critical for Pelosi and Schumer to show they can govern in a sharply divided Congress with the thinnest of majorities. Biden needs a huge win ahead of a global climate summit in Glasgow. And every Democrat wants to put a victory on the board to boost Virginia gubernatorial candidate Terry McAuliffe, whose loss would be [a major setback](https://www.politico.com/news/2021/10/16/democrats-reckoning-virginia-governor-race-516086) to the party’s agenda and midterm prospects.

Plus, the nation's highway trust fund runs dry at the end of October and will need more money from Congress — which the bipartisan infrastructure bill will supply once it clears the House.

House Majority Leader Steny Hoyer (D-Md.) insisted Tuesday that Democratic leaders are still pushing to finalize both a roughly $2 trillion social infrastructure bill and pass the $550 billion infrastructure bill by the end of the month. But even if party leaders can get their warring factions to agree to a framework for the spending bill after weeks of public feuding, that too will amount to a triumph after months of jockeying.

“We're working very hard to have both of those bills ready to be passed by the House of Representatives before that date,” Hoyer told reporters. “Now, if we make significant progress, that'll also be success towards those ends.”

#### The plan gets lumped in with the reconciliation bill and causes conflict

Mueller 09/21/2021 (Eleanor, labor reporter) “Unions squeeze pro-labor priorities into Democrats’ spending bill” Politico, <https://www.politico.com/news/2021/09/21/unions-reconciliation-bill-513423> EE, DebateDrills

Tucked amid the investments in child care, higher education and clean energy are below-the-radar provisions that would make it easier for workers to organize, such as giving the National Labor Relations Board sharper teeth and empowering it to conduct union elections online.

Both of those policies are also included in the Protecting the Right to Organize Act — an overhaul of U.S. labor law Democrats drafted to resuscitate tapering union membership, which is stalled in the Senate.

How much the language in the spending bill could really move the needle on the fortunes of organized labor remains to be seen. It must also survive the Byrd rule, which allows only spending-related legislation to move through the reconciliation process that Democrats intend to use to pass the bill. Democrats have had one of their other top priorities — immigration reform — stymied by the rule already.

Union officials are pouring time, money and energy into making sure the provisions — which they helped shape — make it across the finish line. If they are successful, it could constitute the biggest pro-union shift in U.S. labor law since the National Labor Relations Act was enacted in 1935, labor experts said.

“Labor is not only all over supporting it, it has helped craft it,” American Federation of Teachers President Randi Weingarten said in an interview.

Some on the employer side of the table say the provisions are far too consequential to be tucked into a massive spending bill.

“These are cataclysmic questions of the most fundamental policy that have gargantuan implications for the way labor and management is going to work together or not work together in this country,” said attorney Michael Lotito, who represents employers for the law firm Littler. “And this type of fundamental policy change is being done using a backdoor approach.”

Republican lawmakers have also denounced the tactic.

"The PRO Union Bosses Act was dead upon arrival in the Senate, so Speaker Pelosi and Committee Democrats are manipulating the legislative process to enact portions,” said Rep. Virginia Foxx (N.C.), the top Republican on the House Education and Labor Committee.

Unions and their allies have seen the reconciliation bill as a possible vehicle for the labor provisions since they were introduced in the PRO Act.

#### Infrastructure only passes if reconciliation does

Cochrane et al 10/18/2021 (Emily Cochrane, Luke Broadwater, and Jonathan Weisman, NYT reporters) Biden Meets With Feuding Democrats and Expresses Confidence a Deal Can Be Reached, <https://www.nytimes.com/live/2021/10/01/us/infrastructure-bill-house#house-infrastructure-delay-vote> EE, DebateDrills

President Biden, facing an intraparty battle over his domestic agenda, put his own $1 trillion infrastructure bill on hold on Friday, telling Democrats that a vote on the popular measure must wait until Democrats pass his far more ambitious social policy and climate change package.

It was largely a bid to mediate the impasse that has stalled a planned vote on the bipartisan infrastructure bill, which progressives refuse to support until they see action on the remainder of Mr. Biden’s agenda in a major budget bill to expand health care, education, climate change initiatives and paid leave.

“I’m telling you, we’re going to get this done,” Mr. Biden said at the Capitol after huddling with Democrats who have been feuding over the two bills. He added: “It doesn’t matter when. It doesn’t matter whether it’s in six minutes, six days or six weeks. We’re going to get it done.”

In private remarks, he counseled Democrats that while he wanted both pieces of legislation to become law, final passage of the Senate-passed infrastructure bill needed to wait until the party agreed to the details of the broader reconciliation package. But he also warned liberal Democrats that a proposed $3.5 trillion price tag would probably need to drop in order to accommodate centrist holdouts, and he tossed out a range of figures around $2 trillion as a possible alternative.

“He is the president of the United States, and he says that he wants to get this done, and he basically linked them together,” said Representative Henry Cuellar, Democrat of Texas. “I think if we get it done, there’ll be a victory. The question is when do we get that victory?”

Mr. Cuellar noted that moderates had an agreement with Speaker Nancy Pelosi of California to vote on the bill this week, and said it was up to her how to handle that promise.

On Friday evening, Ms. Pelosi indefinitely postponed a vote on the infrastructure bill that she had promised to moderates who had publicly pushed for a stand-alone vote. She wrote in a letter to colleagues, “Clearly, the bipartisan infrastructure bill will pass once we have agreement on the reconciliation bill.”

“Our priority to create jobs in the health care, family and climate agendas is a shared value,” she wrote, adding that leading lawmakers were “still working for clarity and consensus.”

Representative Pramila Jayapal of Washington, the chairwoman of the Congressional Progressive Caucus, said Mr. Biden “was very clear” that the two bills were tied together.

#### Failure of the infrastructure package locks in catastrophic climate change---extinction

Paul Bledsoe 9/4, strategic adviser at the Progressive Policy Institute and a professorial lecturer at American University’s Center for Environmental Policy. He served on the White House Climate Change Task Force under former President Bill Clinton, “Climate devastation is upon us. Congress must act.,” NY Daily News, 9-4-2021, https://www.nydailynews.com/opinion/ny-oped-climate-congress-20210904-mqbe75qni5b77ocke5orzrmjce-story.html?outputType=amp

Many Democrats publicly expressed the need to act on climate change, and offered legislation at the federal and state level. Yet while the ability of Democrats to pass needed legislation was hindered by some divisions within their own ranks, resistance came primarily from Republicans who overwhelmingly opposed any serious actions to limit climate change and the greenhouse gas emissions that cause it. With a few prominent exceptions like former Sen. John McCain, most Republicans derided climate concerns as alarmism and claimed any attempts to limit emissions would be devastating to the U.S. economy.

Fast forward 20 years, and our climate situation has grown immeasurably more grave. As predicted climate change impacts are inflicting huge human and economic costs in the U.S., with much worse to come without immediate action. Yet stunningly, our broken politics on climate change seem much the same as decades before.

Democrats, beginning with President Biden, are desperately pushing to enact hundreds of billions of dollars in climate change and clean energy measures later this month as part of a wider economic and budget bill. These actions can cut U.S. emissions by 50% below 2005 levels by the end of the decade, and put the U.S. in a stronger position to force other nations to act in key climate negotiations in November.

But right now Republicans are unified in opposition to any but cursory climate actions. John Barrasso of Wyoming, the top Republican on the Senate Energy Committee, claimed the Biden climate measure was a “spree to impose this green new disaster on every American,” willfully ignoring the real climate disasters all around us that Biden’s legislation will help limit. This summer, every single Republican member of the key Senate Finance Committee voted against tax incentives for solar, wind, geothermal, electric vehicles and dozens of other clean energy sources.

The stakes of the climate crisis are far more profound and long-lasting than most leaders seem to recognize. What’s needed is a united, bipartisan front like that the U.S. created during the Cold War, in part to force other key nations like China to cut their emissions as aggressively as we do. An inkling that this may be possible is found in bipartisan support for recent legislation promoting American technology innovation to compete globally, and significant bipartisan support for infrastructure legislation.

But slow action to cut emissions won’t work. We must act decisively and quickly now in Congress this fall to create a clean energy future and cut emissions that are destabilizing our climate. Otherwise, we are consigning ourselves and all of those who come after us to a devastated and denuded world.

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#### CP: Just governments ought to formally declare that customary international law compels not enforcing restrictions and/or conditions on strikes

#### CP solves and avoids the net benefit. CIL is legally binding and enforceable.

**Brudney 21** (Professor James J. Brudney is the Joseph Crowley Chair in Labor and Employment Law at Fordham Law School. Professor Brudney served for six years as Chief Counsel and Staff Director of the U.S. Senate Subcommittee on Labor. He has been Adjunct Professor of Law at the Georgetown Law Center and Visiting Professor of Law at Harvard Law School. His scholarly writing is in the areas of workplace law and statutory interpretation. Professor Brudney is co-chair of the Public Review Board for the United Auto Workers International Union, and is a member of the Committee of Experts of the International Labor Organization “The Right to Strike as Customary International Law”. 2021.)

This Article pursues a different path. Using international labor and human rights doctrine, it analyzes **the right to strike** as an integral element of freedom of association among workers, and concludes that this right **has achieved the status of customary international law** (CIL). It then explores possible ways to incorporate such an international right in the U.S. context, recognizing certain very real jurisdictional and remedial challenges. Recourse to international law sources has garnered support from several current and recent justices, 10 but the tide may be ebbing. Given evidence of contemporary Supreme Court reluctance to accept developments in international human rights law asserted by foreign nationals as U.S. federal law,11 or to refer to foreign constitutions when interpreting federal constitutional rights,12 the arguments developed here may be discounted by some readers as more of an aspiration than a practical possibility. There are several reasons, however, to look past this position. For a start, **establishing the right to strike as CIL is an important development in itself,** beyond as well as within the U.S. judicial context. Because CIL has long been an incorporated source of English common law upon which courts may draw as required, 13 the international right to strike may be applicable in British and related common law settings. Moreover, **state courts have invoked CIL** **when relevant to resolving disputes under their own laws**, 14 **and** they **may choose to apply this** international **right to reconsider the restrictions imposed on strikes under state statutes**. Additionally, **worker movements in this country may make use of CIL as part of their vocabulary to defend the legality of strikes outside the courtroom**.15 Although the Supreme Court as currently constituted appears skeptical of CIL applications in a foreign affairs context, it has considered international human rights law relevant to domestic legal challenges in relatively recent times.16 In this regard, commentators and judges have long invoked CIL or its antecedent “law of nations” in aspirational as well as pragmatic terms. On diverse matters such as slave trading and slavery, reasonable and proportionate forms of criminal punishment, and the right to a healthy environment, international human rights doctrine has been deemed applicable even when U.S. laws and courts seemed inhospitable to recognizing relevant legal protections. 17 In what follows, the Article addresses four distinct questions. The first question involves the contents and contours of the right to strike as recognized under international instruments. The **international right is embedded within two widely endorsed U**nited **N**ations **human rights treaties,**18 **and was recently reaffirmed by the human rights committees responsible for monitoring implementation of those treaties**19 **It is set** forth **in** more **precise and detailed terms** pursuant to Convention 87 of the International Labor Organization (ILO) addressing freedom of association (FOA), and the interpretations given to that convention by ILO supervisory bodies. Notwithstanding recent objections from employers’ groups, the right is recognized by the overwhelming majority of governments that have ratified Convention 87 as being an integral part of the Convention. In this regard, there is an established ILO jurisprudence on the right to strike, developed by two of its key supervisory committees—the independent Committee of Experts (CEACR), and the tripartite Committee on Freedom of Association (CFA),20 and reinforced by observations from the two UN human rights committees. 21 The Article summarizes this jurisprudence and describes how protections for the international right exceed U.S. protections for the right to strike in two key areas. **The international law** **prohibit**ion on **private employers’ ability to permanently replace** lawfully **striking workers** conflicts with Supreme Court precedent construing the National Labor Relations Act (NLRA). 22 And the international law protection for public employee strikes with only limited exceptions conflicts with the NLRA’s allowing states to prohibit all strikes by their employees. At the same time, the international right is hardly untethered: it includes a range of exceptions and limitations that constrain its scope in certain ways when compared with U.S. statutory law. The second question is whether this international right to strike qualifies as CIL. The Article contends that it does, based on the existence of widespread State practice in which ratification or conformity reflects opinio juris, a genuine sense of obligation under international law. In addition to Convention 87 having been ratified by more than 80 percent of ILO Member States, the right to strike as an integral part of FOA is an element in broader ILO documents that obligate all countries, including those like the U.S. that have not ratified the Convention.23 Relatedly, the right is recognized through the two previously mentioned U.N. Covenants whose language expressly incorporates the guarantees provided for in Convention 87. **The right is further established in prominent decisions from transnational courts, and in domestic legal frameworks around the world** (constitutions, statutes, and high court decisions), reinforcing the argument that widespread respect from governments is based on a sense of legal obligation. Further, the broad-based evidence from domestic legal frameworks indicates that ratification reflects not simply formal commitment but active compliance by governments. Application of the international right to strike recognizes variations in nationally-specific approaches. However, the two key areas in which U.S. law deviates from the international right—approving permanent replacements for lawful strikers and allowing the prohibition of all public employee strikes—are central elements of the right itself, rather than more marginal aspects subject to national circumstances. Finally, notwithstanding that U.S. statutory protections for strikes deviate from international standards in these two areas, respect for the international right is reflected in legislation enacted by Congress in recent decades, and by executive action indicating the express understanding of the Obama and Trump Administrations that the right to strike is an integral part of FOA.24

#### Spurs and advances workers movements globally.

**Brudney 21** (Professor James J. Brudney is the Joseph Crowley Chair in Labor and Employment Law at Fordham Law School. Professor Brudney served for six years as Chief Counsel and Staff Director of the U.S. Senate Subcommittee on Labor. He has been Adjunct Professor of Law at the Georgetown Law Center and Visiting Professor of Law at Harvard Law School. His scholarly writing is in the areas of workplace law and statutory interpretation. Professor Brudney is co-chair of the Public Review Board for the United Auto Workers International Union, and is a member of the Committee of Experts of the International Labor Organization “The Right to Strike as Customary International Law”. 2021.)

**Application of CIL on behalf of U.S. workers** in domestic courts faces distinct challenges. The Article has examined these challenges and proposed ways in which they may be countered if not overcome. In the short-term, the challenges may seem too large in light of jurisdictional and procedural hurdles, linked in many ways to the Supreme Court’s current reluctance to accept international human rights law in a federal court setting. Nonetheless, the exploration of this international right remains important for a number of reasons. A common law right to strike **may open doors to litigation for public employees** in states that are more hospitable to recognizing CIL than the current majority of justices. **The right also may have immediate utility for American workers seeking a persuasive language in which to justify their growing interest in strike activities**. Further, given that the Court in its relatively recent past has recognized the relevance of international human rights law, there is reason to believe that it may do so again—in which case this in-depth analysis of how one significant human right has been advanced and applied in other countries may well be of value. **Finally, arguments stemming from the right to strike under international law are sure to have ongoing resonance beyond U.S. borders, as the right continues to be developed and debated on the global stage.**

#### Bolstering CIL regime fills Outer Space Treaty gaps and solves international space conflict

**Koplow 09** (David Koplow is a professor and the co-director of the Center on National Security and the Law at the Law Center. He joined the Georgetown faculty in 1981. His government service has included stints as Special Counsel for Arms Control to the General Counsel of the Department of Defense (2009-2011); as Deputy General Counsel for International Affairs at the Department of Defense (1997-1999); and as Attorney-Advisor and Special Assistant to the Director of the U.S. Arms Control and Disarmament Agency (1978-1981). He is a graduate of Harvard College and Yale Law School and a Rhodes Scholar. “ASAT-isfaction: Customary International Law and the Regulation of Anti-Satellite Weapons”. 2009.)

Remarkably, the **CIL** version of the law **of outer space** **would achieve even more comprehensive** geographic **coverage than the treaty** version. **Half of the** countries in the **world have not** yet **gotten** around **to ratify**ing **the OST**; even larger cohorts have not acted to affiliate themselves with the other important space-related instruments. **In contrast, all countries would be bound by the CIL of outer space**; it is hard to imagine any "persistent objectors" who have exempted themselves from any aspect of the now-entrenched custom, and any **new States** that emerge onto the world scene **would automatically be covered by the body of space-related CIL, even if they do not affirmatively join the treaties**. Third, outer space also illustrates the law-making role of the UNGA. When the legal regime for space was first emerging, many countries opted to employ the UNGA as the most apt mechanism for expressing themselves about the putative rules for exo-atmospheric interaction; their statements in this "global town meeting" carry weight in the evaluation of emerging CIL. Successive UNGA resolutions, especially the 1963 Outer Space Declaration' 153 (which initiated and expressed many of the principles that were later cast into treaty vocabulary in the OST) were prepared with a solemnity (and adopted via unanimous vote) suggesting a conscious legislative function. As the Restatement notes, [t]he Outer Space Declaration, for example, might have become law even if a formal treaty had not followed, since it was approved by all, including the principal "space powers." ... A spokesman for the United States stated that his Government considered that the Declaration "reflected international law as accepted by the members of the United Nations," and both the United States and the U.S.S.R. indicated that they intended to abide by the Declaration.154 Of course, not every enactment of the UNGA (still less, the actions of the CD) is automatically entitled to the status of CIL, but **the elusive mechanisms of customary law**-making sometimes **do repose special respect to the weightiest resolutions of those global instrumentalities.** 155

#### Space war goes nuclear.

Johnson-Freese 17 (Joan Johnson-Freese, Professor and chair of space science and technology @ Naval War College, *Space Warfare in the 21st Century*, Routledge, ISBN 978131552917, p 18-20. 2017.)

Space warfare runs two untenable risks: the creation of destructive debris and escalation to terrestrial, even nuclear, warfare. Kinetic warfare in space creates debris traveling at a speed of more than 17,000 miles per hour, which then in itself becomes a destructive weapon if it hits another object—even potentially triggering the so-called Kessler Syndrome,86 exaggerated for dramatic effect in the movie Gravity. Ironically, both China and the United States learned the negative lessons of debris creation the hard way. In 1985, the United States tested a miniature homing vehicle (MHV) ASAT launched from an F-15 aircraft. The MHV intercepted and destroyed a defunct US satellite at an altitude of approximately 250 miles. It took almost 17 years for the debris resulting from that test to be fully eliminated by conflagration re-entering the Earth’s atmosphere or being consumed by frictional forces, though no fragment had any adverse consequences to another satellite—in particular, no collisions. China irresponsibly tested a direct-ascent ASAT in 2007, destroying one if its defunct satellites. That test was at an altitude almost twice that of the 1985 US test. The debris created by the impact added 25 percent to the debris total in low Earth orbit87 and will dissipate through the low Earth orbit, heavily populated with satellites, for decades, perhaps centuries, to come. Perhaps most ironically, because of superior US debris-tracking capabilities, the United States—even though not required to do so—has on more than one occasion warned China that it needed to maneuver one of its satellites to avoid a collision with debris China itself had likely created.88 In 2013, a piece of Chinese space junk from the 2007 ASAT test collided with a Russian laser ranging nanosatellite called BLITS, creating still more debris.89 The broader point is that all nations have a compelling common interest in avoiding the massive increase in space debris that would be created by a substantial ASAT conflict. Gen. Hyten has said that not creating debris is “the one limiting factor” to space war. “Whatever you do,” he warns, “don’t create debris.”90 While that might appear an obvious “limiting factor,” preparing to fight its way through a debris cloud had been a Pentagon consideration in the past. Now, however, sustaining the space environment has been incorporated into Pentagon space goals. Beyond debris creation, MacDonald points out that as China becomes more militarily capable in space and there is more symmetry between the countries, other risks are created – specifically, escalation. That is, the United States could threaten to attack not just Chinese space assets, but also ground-based assets, including ASAT command-and-control centers and other military capabilities. But such actions, which would involve attacking Chinese soil and likely causing substantial direct casualties, would politically weigh much heavier than the U.S. loss of space hardware, and thus might climb the escalatory ladder to a more damaging war that both sides would probably want to avoid.91 MacDonald isn’t alone in concerns about escalation. Secure World Foundation analyst Victoria Samson has also voiced apprehension regarding US rhetoric that does not distinguish between actions against unclassified and classified US satellites, stating that “things can escalate pretty quickly should we come into a time of hostility.”92 Theresa Hitchens explained the most frightening, but not implausible, risk of space war escalation in a 2012 Time magazine interview. Say you have a crisis between two nuclear-armed, space-faring countries, Nation A and Nation B, which have a long-standing border dispute. Nation A, with its satellite capability, sees that Nation B is mobilizing troops and opening up military depots in a region where things are very tense already, on the tipping point. Nation A thinks: “That’s it, they’re going to attack.” So it might decide to pre-emptively strike the communications satellite used by Nation B to slow down its ability to move toward the border and give itself time to fortify. Say this happens and Nation B has no use of satellites for 12 hours, the time it takes it to get another satellite into position. What does Nation B do? It’s blind, it’s deaf, it’s thinking all this time that it’s about to be overwhelmed by an invasion or even nuked. This is possibly a real crisis escalation situation; something similar has been played out in U.S. Air Force war games, a scenario-planning exercise practiced by the U.S. military. The first game involving anti-satellite weapons stopped in five minutes because it went nuclear – bam. Nation B nuked Nation A. This is not a far-out, “The sky’s falling in!” concern, it is something that has been played out over and over again in the gaming of these things, and I have real fears about it.93 While escalation to a nuclear exchange may seem unthinkable, in war games conducted by the military, nuclear weapons are treated as just another warfighting weapon. Morgan also voiced concerns about escalation generally and nuclear escalation specifically in the 2010 RAND report, stating: The adversary would also likely be deterred from damaging U.S. satellite early-warning system (SEWS) assets to avoid risking inadvertent escalation to the nuclear threshold, but that firebreak would almost certainly collapse with the conclusion that such escalation is inevitable and that it is in the adversary’s interest to launch a preemptive nuclear strike.94

#### The global economy is recovering and is set to accelerate this year, but any shocks can devastate growth

World Bank 21 - [The World Bank is an international financial institution that provides loans and grants to the governments of low- and middle-income countries for the purpose of pursuing capital projects.] "The Global Economy: on Track for Strong but Uneven Growth as COVID-19 Still Weighs" 06/08/2021 <https://www.worldbank.org/en/news/feature/2021/06/08/the-global-economy-on-track-for-strong-but-uneven-growth-as-covid-19-still-weighs> VS

A year and a half since the onset of the COVID-19 pandemic, the global economy is poised to stage its most robust post-recession recovery in 80 years in 2021. But the rebound is expected to be uneven across countries, as major economies look set to register strong growth even as many developing economies lag. Global growth is expected to accelerate to 5.6% this year, largely on the strength in major economies such as the United States and China. And while growth for almost every region of the world has been revised upward for 2021, many continue to grapple with COVID-19 and what is likely to be its long shadow. Despite this year’s pickup, the level of global GDP in 2021 is expected to be 3.2% below pre-pandemic projections, and per capita GDP among many emerging market and developing economies is anticipated to remain below pre-COVID-19 peaks for an extended period. As the pandemic continues to flare, it will shape the path of global economic activity. The United States and China are each expected to contribute about one quarter of global growth in 2021. The U.S. economy has been bolstered by massive fiscal support, vaccination is expected to become widespread by mid-2021, and growth is expected to reach 6.8% this year, the fastest pace since 1984. China’s economy – which did not contract last year – is expected to grow a solid 8.5% and moderate as the country’s focus shifts to reducing financial stability risks.

### 1NC - OFF

#### The standard is maximizing expected wellbeing.

#### Biological death is the worst evil

Paterson 03 – Department of Philosophy, Providence College, Rhode Island. (Craig, “A Life Not Worth Living?”, Studies in Christian Ethics, <http://sce.sagepub.com>)

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81 In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### Extinction comes first!

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)

#### Pleasure and pain are intrinsically valuable. People consistently regard pleasure and pain as good reasons for action, despite the fact that pleasure doesn’t seem to be instrumentally valuable for anything.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] SJDI

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that pleasure and pain are both places where we reach the end of the line in matters of value.

#### Extinction first –

#### 1 – Forecloses future improvement – we can never improve society because our impact is irreversible

#### 2 – Turns suffering – mass death causes suffering because people can’t get access to resources and basic necessities

#### 3 – Moral obligation – allowing people to die is unethical and should be prevented because it creates ethics towards other people

#### 4 – Objectivity – body count is the most objective way to calculate impacts because comparing suffering is unethical

#### 5 – Moral uncertainty – if we’re unsure about which interpretation of the world is true – we ought to preserve the world to keep debating about it

### Case

#### The right to strike does nothing to companies who actually exploit workers—they just hire consultants and employ shady tactics

**Lafer and Loustaunau 20**-- Gordon Lafer [political economist and is a Professor at the University of Oregon] and Lola Loustaunau [assistant research fellow at the Labor Education and Research Center, University of Oregon]; Fear at work: An inside account of how employers threaten, intimidate, and harass workers to stop them from exercising their right to collective bargaining; July 23, 2020; Economic Policy Institute; <https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/>. (AG DebateDrills)

Even when employers obey the law, they rely on a set of tactics that are legal under the NLRA but illegal in elections for Congress, city council, or any other public office. **A $340 million industry of “union avoidance” consultants helps employers exploit the weaknesses of federal labor law to deny workers the right to collective bargaining.**17 Over the past five years, employers using union avoidance consultants have included FedEx, Bed Bath & Beyond, and LabCorp, among others. Table 1, reproduced from an EPI report published in late 2019, lists just a few of these employers, along with the reported financial investments they made to thwart union organizing during the specified years.18 **These firms’ tactics lie at the core of explaining why so few American workers who want a union actually get one, and their success in blocking unionization efforts represents a significant contribution to the country’s ongoing crisis of economic inequality.** The lack of a right of free speech enables coercion NLRB elections are fundamentally framed by one-sided control over communication, with no free-speech rights for workers. **Under current law, employers may require workers to attend mass anti-union meetings as often as once a day** (mandatory meetings at which the employer delivers anti-union messaging are dubbed “captive audience meetings” in labor law). Not only is the union not granted equal time, but pro-union employees may be required to attend on condition that they not ask questions; those who speak up despite this condition can be legally fired on the spot.19 **The most recent data show that nearly 90% of employers force employees to attend such anti-union campaign rallies, with the average employer holding 10 such mandatory meetings during the course of an election campaign.**20 In addition to group meetings, employers typically have supervisors talk one-on-one with each of their direct subordinates.21 In these conversations, the same person who controls one’s schedule, assigns job duties, approves vacation requests, grants raises, and has the power to terminate employees “at will” conveys how important it is that their underlings oppose unionization. As one longtime consultant explained, a supervisor’s message is especially powerful because “the warnings…come from…the people counted on for that good review and that weekly paycheck.”22 Within this lopsided campaign environment, the employer’s message typically focuses on a few key themes: unions will drive employers out of business, unions only care about extorting dues payments from workers, and unionization is futile because employees can’t make management do something it doesn’t want to do.23 Many of these arguments are highly deceptive or even mutually contradictory. For instance, the dues message stands in direct contradiction to management’s warnings that unions inevitably lead to strikes and unemployment. **If a union were primarily interested in extracting dues money from workers, it would never risk a strike or bankruptcy, because no one pays dues when they are on strike or out of work. But in an atmosphere in which pro-union employees have [with] little effective right of reply, these messages may prove extremely powerful.**

#### Turn: Today’s strikes rely on public support—legal strikes always incite social tensions among groups of different statuses—only illegal strikes have the potential to be successful and change minds

**Reddy 21**-- Diana S. Reddy [Diana Reddy is a Doctoral Fellow at the Law, Economics, and Politics Center at UC Berkeley Law]; “There Is No Such Thing as an Illegal Strike”: Reconceptualizing the Strike in Law and Political Economy; Jan 6 2021; Yale Law Journal; <https://www.yalelawjournal.org/forum/there-is-no-such-thing-as-an-illegal-strike-reconceptualizing-the-strike-in-law-and-political-economy>. (AG DebateDrills)

**In recent years, consistent with this vision, there has been a shift in the kinds of strikes [are] workers and their organizations engage in—increasingly public-facing, engaged with the community, and capacious in their concerns**.178 They have transcended the ostensible apoliticism of their forebearers in two ways, less voluntaristic and less economistic. They are less voluntaristic in that they seek to engage and mobilize the broader community in support of labor’s goals, and those goals often include community, if not state, action. They are less economistic in that they draw through lines between workplace-based economic issues and other forms of exploitation and subjugation that have been constructed as “political.” **These strikes do not necessarily look like what strikes looked like fifty years ago, and they often skirt—or at times, flatly defy—legal rules. Yet, they have often been successful**. Since 2012**, tens of thousands of workers in the Fight for $15 movement have engaged in discourse-changing, public law-building strikes.** They do not shut down production, and their primary targets are not direct employers. **For these reasons, they push the boundaries of exiting labor law.179 Still, the risks appear to have been worth it. A 2018 report by the National Employment Law Center found that these strikes had helped twenty-two million low-wage workers win $68 billion in raises, a redistribution of wealth fourteen times greater than the value of the last federal minimum wage increase in 2007**.180 They have demonstrated the power of strikes to do more than challenge employer behavior. As Kate Andrias has argued: [T]he Fight for $15 . . . reject[s] the notion that unions’ primary role is to negotiate traditional private collective bargaining agreements, with the state playing a neutral mediating and enforcing role. Instead, the movements are seeking to bargain in the public arena: they are engaging in social bargaining with the state on behalf of all workers.”181 **In the so-called “red state” teacher strikes of 2018, more than a hundred thousand educators in West Virginia, Oklahoma, Arizona, and other states struck to challenge post-Great Recession austerity measures, which they argued hurt teachers and students, alike.182 These strikes were illegal; yet**, no penalties were imposed.183 **Rather, the strikes grew workers’ unions, won meaningful concessions from state governments, and built public support.** As noted above, public-sector work stoppages are easier to conceive of as political, even under existing jurisprudential categories.184 But these strikes were political in the broader sense as well. Educators worked with parents and students to cultivate support, and they explained how their struggles were connected to the needs of those communities.185 Their power was not only in depriving schools of their labor power, but in making normative claims about the value of that labor to the community. Most recently, **2020 saw a flurry of work stoppages in support of the Black Lives Matter movement**.186 These ranged from Minneapolis bus drivers’ refusal to transport protesters to jail, to Service Employees International Union’s Strike for Black Lives, to the NBA players’ wildcat strike.187 **Some of these protests violated legal restrictions. The NBA players’ strike for instance, was inconsistent with a “no-strike” clause in their collective-bargaining agreement with the NBA.**188 And it remains an open question in each case whether workers sought goals that were sufficiently job-related as to constitute protected activity.189 **Whatever the conclusion under current law, however, striking workers demonstrated in fact the relationship between their workplaces and broader political concerns.** The NBA players’ strike was resolved in part through an agreement that NBA arenas would be used as polling places and sites of civic engagement.190 Workers withheld their labor in order to insist that private capital be used for public, democratic purposes. And in refusing to transport arrested protestors to jail, Minneapolis bus drivers made claims about their vision for public transport. **Collectively, all of these strikes have prompted debates within the labor movement about what a strike is, and what its role should be.** These strikes are so outside the bounds of institutionalized categories that public data sources do not always reflect them.191 And there is, reportedly, a concern by some union leaders that these strikes do not look like the strikes of the mid-twentieth century. There has been a tendency to dismiss them.192 In response, Bill Fletcher Jr., the AFL-CIO’s first Black Education Director, has argued, “People, who wouldn’t call them strikes, aren’t looking at history.”193 Fletcher, Jr. analogizes these strikes to the tactics of the civil-rights movement. As Catherine Fisk and I recently argued, **law has played an undertheorized role in constructing the labor movement and civil-rights movement as separate and apart from each other**, by affording First Amendment protections to civil rights groups, who engage in “political” activity, that are denied to labor unions, engaging in “economic” activity.194 Labor unions who have strayed from the lawful parameters of protest have paid for it dearly.195 As such, it is no surprise that some unions are reluctant to embrace a broader vision of what the strike can be. Under current law, worker protest that defies acceptable legal parameters can destroy a union. **Recasting the strike—and the work of unions more broadly—as political is risky**. Samuel Gompers defended the AFL’s voluntarism and economism not as a matter of ideology but of pragmatism; he insisted that American workers were too divided to unite around any vision other than “more.”196 He did not want labor’s fortunes tied to the vicissitudes of party politics or to a state that he had experienced as protective of existing power structures. Now, perhaps more than ever, it is easy to understand the dangers of the “political” in a divided United States. Through seeking to be apolitical, labor took its work out of the realm of the debatable for decades; for this time, the idea that (some) workers should have (some form of) collective representation in the workplace verged on hegemonic. **And yet, labor’s reluctance to engage in the “contest of ideas” has inhibited more than its cultivation of broader allies; it has inhibited its own organizing.** If working people have no exposure to alternative visions of political economy or what workplace democracy entails, it is that much harder to convince them to join unions. **Similarly, labor’s desire to organize around a decontextualized “economics” has always diminished its power (and moral authority), given that the economy is structured by race, gender, and other status inequalities—and always has been.** During the Steel Strike of 1919, the steel companies relied on more than state repression to break the strike. They also exploited unions’ refusal to organize across the color line. Steel companies replaced striking white workers with Black workers.197 Black workers also sought “more.” But given their violent exclusion from many labor unions at the time, many believed they would not achieve it through white-led unions.198

#### Blindly introducing the right to strike always entrenches neoliberalism, guaranteeing its own fruitlessness and undermining the power of the working class, turning case—South Africa proves

**Runciman 19**-- Runciman, Carin [Associate Professor of Sociology at University of Johannesburg]. "The" Double-edged Sword" of Institutional Power: COSATU, Neo-liberalisation and the Right to Strike." Global Labour Journal 10.2 (2019). (AG DebateDrills)

The analysis presented in this article offers a challenge for the use of the PRA and the analysis of institutional power. By situating institutional power within an analysis of corporatism, I argue that institutional power develops further analytical utility, which is attentive to class forces. In addition to this, in the specificities of the South African context, corporatism also provides an avenue for understanding how the specific forms of institutional power that have been forged by COSATU are related to their political relationship to the ANC, thus providing a more comprehensive account of how institutional power has been shaped. The article not only considers what gives rise to institutional power but also how it has been strategically used. Understanding this requires a wider consideration of COSATU’s associational and structural power as well as its waning political influence. **By analysing the 1995 LRA and the 2019 amendments this article is able to give some consideration as to [shows] how COSATU’s institutional power has unfolded through time. Rather than viewing the 1995 LRA as an unqualified victory, as is commonly the case within the literature (Adler and Webster, 1999), this article highlights how significant compromises within the 1995 LRA entrenched neo-liberalism in South Africa, the unintended consequences of which have served to undermine the power of trade unions and the working class overall.** The analysis presented within this article demonstrates how neo-liberal restructuring in South Africa emerged hand-in-hand with corporatism. **The 1995 LRA was the first and one of the most significant pieces of legislation to be enacted by the first democratic government. While it was undoubtedly a significant step forward for South African workers, particularly black South African workers, it also set out an explicitly neo-liberal path focused on “regulated flexibility” (Du Toit et al., 2003), an objective of both corporatism and neo-liberalism** (Humphrys, 2018). While it could be argued that the compromises of the 1995 LRA were necessary in order to formally end the apartheid labour regime, this does not mean we should negate an understanding of COSATU’s agency in resisting the forces of neo-liberalism. **As this article argues, COSATU made strategic choices about whom to organise, and in doing so chose to neglect some of the most vulnerable sections of the South African labour market. In the absence of organised labour, the number of precarious workers has grown considerably.** While COSATU did utilise its institutional power to initiate reforms to the LRA to enhance protections for vulnerable workers, this has translated into little concrete organising of these workers. **Indeed, if anything, the 2019 amendments illustrate that COSATU is willing to act against the interests of these workers in order to shore up its own structural, associational and institutional power.**