### Social Spending DA

#### The social spending bill is set to pass, but Biden’s PC is key and decisions in the coming weeks are crucial.

BBC ’21 – “Biden Announces Revamped $1.75 Trillion Social Spending Plan,” October 28, 2021, https://www.bbc.com/news/world-us-canada-59081791

US President Joe Biden unveiled a revamped $1.75tn (£1.27tn) spending plan on Thursday, calling it a historic investment in the country's future.

"No-one got everything they wanted, including me," he said, acknowledging the struggle within his party to reach consensus on a pair of landmark bills.

Narrow margins in Congress require nearly unanimous support from the Democrats for the bills to pass.

They include major investments in infrastructure, climate and childcare.

The White House has said the plan has the support of all 50 Democrats in the evenly divided Senate and expressed confidence that it could also pass the House. But it remains to be seen whether Mr Biden has actually achieved the level of cooperation needed from within his party to move the spending plan forward.

The administration was hoping to have a deal in place before Mr Biden flew off to Europe on Thursday. He is heading for Rome, the Vatican and later to Glasgow, Scotland, for the United Nations climate conference, COP26.

This new proposal is a stripped-down version of the roughly $3.5tn social spending plan Mr Biden unveiled earlier this year.

The Democratic president was expected to use his Thursday morning meeting with House Democrats to convince progressives in the party that this new version is close enough to the original bill, and to persuade progressives in the House of Representative to pass a separate, $1tn infrastructure bill that has already passed in the Senate.

It's a delicate balance for Mr Biden, as he tries to appeal to his party's progressives - who say they need action on the social spending bill before passing infrastructure - and some moderates, for whom the infrastructure bill is priority. Others had concerns over the price tag of the original social spending bill.

What's in the proposed new spending plan?

$555bn aimed at fighting climate change, mainly through tax-incentives for renewable and low-emission sources of energy

$400bn for free and universal preschool for all 3- and 4-year-olds

$150bn to build one million affordable housing units

Speaking on Thursday, Mr Biden said the US was at risk of "losing our edge as a nation".

"Somewhere along the way we stopped investing in ourselves, and investing in our people," he said. "We can't be competitive in the 21st Century global economy if we continue this slide."

What's been left out?

The scaled-back spending plan announced by Mr Biden on Thursday is missing several big promises from the original bill.

Paid family leave was removed entirely - a blow to progressives and American voters who hoped the US would join the majority of other countries in providing paid time off for new parents. The US is one of just eight countries without national paid maternity leave.

A plan to lower prescription drug prices has also been slashed.

The AARP, the nation's largest interest group focused on elderly Americans, released a statement after Mr Biden's announcement saying it was "outraged" that the new framework does not lower drug prices.

How does Biden say he will pay for it?

The president on Thursday made the case that his spending plan was "fiscally responsible and fully paid for" and that it will not add to the deficit.

Here is what's proposed:

The plan promises to offset its $1.75tn cost with an estimated $2tn in revenue increases, according to the White House

A 15% minimum tax on the reported profits of large firms

An additional 5% tax on incomes of more than $10m annually and another 3% tax on incomes above $25m

Increased enforcement to cut down on tax evasion by large corporations and the wealthy

What's next?

A 50-50 seat split in the Senate - and Republican resistance - means Mr Biden must bring his entire party on board if he hopes to pass the spending bill. In the coming days, Mr Biden will know if he has those numbers.

Two moderate Democrats, Senators Kyrsten Sinema of Arizona and Joe Manchin of West Virginia, appeared to signal some support for the bill in separate statements on Thursday.

"After months of productive, good-faith negotiations with President Biden and the White House, we have made significant progress," Ms Sinema said. "I look forward to getting this done."

Both Ms Sinema and Mr Manchin are widely seen to have tanked the original bill by refusing to vote for it.

Speaker of the House Nancy Pelosi is expected to hold a vote on the infrastructure bill - already passed in the Senate - as early as Thursday. To get there, she'll need progressives to agree to it.

The head of the House Progressive Caucus, Washington State Representative Pramila Jayapal, said the president made a "compelling speech" but said she'd have to wait and see where the progressives stood.

Ms Jayapal has repeatedly insisted that the infrastructure bill and the social spending bill be passed in tandem.

For Mr Biden a lot is riding on the fate of these two bills: his presidential legacy.

"I don't think it's hyperbole to say that the House and Senate majorities and my presidency will be determined by what happens in the next week," he told Democrats on Thursday morning, according to US media.

#### Labor reform saps PC – empirically prove with Obama, corporate opposition, and Democratic resistance

Leon 21 Luis Feliz Leon, 01-06-2021, “"If we want it, we’re going to have to fight like hell for it" - Labor faces an uphill battle to pass the PRO Act,” Strike Wave, https://www.thestrikewave.com/original-content/labor-faces-uphill-battle-to-pass-pro-act/SJKS

The Employee Free Choice Act (EFCA), which died in the Senate during President Barack Obama’s first term, had similar potential to increase union membership, as it would have enabled workers to get union representation if a majority signed union cards (“card check”) rather than through an election. It died because Obama was unwilling to put political capital behind it to overcome opposition from Republicans and center-right Democrats. “EFCA was very close to becoming law. At the end of the day, in my view, the Obama administration did not put the necessary political capital into securing its passage,” said EPI's McNicholas. “The Obama administration decided to focus on ‘bipartisan’ and ‘reach across the aisle’ type solutions to the 2008 financial crisis, and thus didn't care about EFCA in the face of the anti-EFCA mobilization by strong ‘antis’ like the Chamber of Commerce,” says Susan Kang, a professor of political science at John Jay College who studies political economy, labor, and human rights. “Basically, labor was swept aside by the Obama administration … at the exact moment when he had the strongest mandate and political capital.” Another issue, said Patrick Burke, an organizer with United Auto Workers Local 2322 in Massachusetts, was that EFCA's card-check provisions, when framed as a replacement for elections, “became very easy to demonize and difficult to explain to people not already familiar with labor law.” “The short story is that the EFCA was doomed from a few moderate Dems not being willing to go through with card check once actually in power to enact it. The long story is that the labor movement's disappearance from the ‘adult table’ of Democratic politics has cyclical downward effects. They're less able to convince Dems to go out on the limb for them and to prioritize their legislative requests,” said Brandon Magner, a labor lawyer in Indiana. Despite a history of betrayal and rejection, labor and immigrant rights organizations, [coalesced](https://progressive.org/dispatches/power-behind-win-feliz-leon-201123/) around Biden, a self-professed “[union guy](https://www.cnbc.com/2020/11/16/biden-holds-joint-meeting-with-union-leaders-and-retail-auto-tech-ceos.html),” after the primaries and [helped deliver](https://progressive.org/dispatches/bargaining-rights-with-that-feliz-leon-201229/) him to the White House in the hope that doing so would lead to [executive action](https://indypendent.org/2020/12/immigrants-rights-advocates-descend-on-delaware/) on immigration and labor law reform. “We call on Congress to pass and Biden to sign the Protecting the Right to Organize (PRO) Act early in 2021 to make sure every worker who wants to form or join a union is able to do so freely and fairly,” AFL-CIO President Richard Trumka said in a [statement](https://aflcio.org/press/releases/afl-cio-looks-forward-working-president-elect-joe-biden-0) after the election. But union organizers, researchers, and labor lawyers see dim prospects for winning significant labor reform during the Biden administration. “The PRO Act is obviously dead in the Senate unless Mitch McConnell gets knocked into the minority, but I don't see it being passed without full-throated support for gutting the filibuster from Biden, Harris, Schumer, Durbin, and more,” said Magner, the labor lawyer, adding that “the history of failed labor law reform efforts indicates you need 60 votes to pass anything.” That is particularly true of Democrats in “right-to-work” states like [South Carolina](https://www.postandcourier.com/politics/scs-rep-joe-cunningham-to-vote-against-pro-union-bill-in-break-with-democrats/article_426b38e2-4862-11ea-a0d9-77a96531c47e.html) where U.S. Rep. Joe Cunningham was a reliable opponent in the House. But the greatest liability might be Biden himself. “The few times that Biden met McConnell at the negotiating table during the Obama years, McConnell [left with Biden’s wallet](https://theintercept.com/2019/06/24/joe-biden-tax-cuts-mitch-mconnell/),” dryly [observed](https://theintercept.com/2020/12/28/mcconnell-trump-election/) The Intercept’s Ryan Grim. “Even if the Democrats capture the Georgia Senate seats, their margin will be too small to overcome a Republican filibuster or, if they change the rules, more than one Democrat will break ranks, and no Republicans will support the act,” said Friedman. Even if Biden were to somehow outmaneuver McConnell’s chicanery, there would be fierce opposition to contend with on the corporate side from the likes of Americans for Tax Reform, which has [used](https://www.atr.org/ab5) Georgia runoff elections as an opportunity to fearmonger on the PRO Act, and, when backed against the wall, Biden may revert to his timeworn moderate instincts and not go to bat for labor reform unless forced to. “Prospects for major labor law reform under the Biden administration are directly tied to unions’ and union federations’ willingness to hold the administration’s feet to the fire. They are not going to do it on their own – if we want it, we’re going to have to fight like hell for it,” said Pitkin, the former UNITE HERE organizer. “The biggest question is whether there is enough street heat and organizing to prioritize legislation like this," said Burke, the UAW organizer. “Workers in motion spur labor-law reforms, not the other way around.”

#### The social spending bill solves climate change.

#### **Chow ’21 -** NBC reporter focused on science and climate change

Denise Chow, “Biden’s Scaled-Down Spending Bill has Big Upsides for Climate Fight,” NBC, October 28, 2021, https://www.nbcnews.com/science/environment/bidens-scaled-spending-bill-big-upsides-climate-fight-rcna4061

Many climate activists are applauding the [$1.75 trillion spending bill](https://www.nbcnews.com/politics/congress/biden-expects-win-full-democratic-support-new-proposal-sweeping-spending-n1282608)unveiled Thursday by President Joe Biden, a move that experts say will be crucial to staving off the worst effects of global warming and building a more livable future.

Biden’s proposed framework includes $555 billion in clean energy investments, incentives and tax credits that would help the country meet its goal of reducing greenhouse gas emissions by at least 50 percent by 2030. If passed, environmental experts said it’s the type of legislation that could create much-needed momentum to slash pollution levels and [address the climate crisis](https://www.nbcnews.com/science/environment/un-releases-blistering-assessment-state-climate-change-rcna1622) in the United States and on the global stage.

The proposal also backs up [promises that Biden campaigned on](https://www.nbcnews.com/science/environment/how-biden-s-climate-plan-makes-clean-energy-2035-very-n1234528), making climate change a sizable focus of his administration’s biggest spending bill.

“This would be an absolutely historic investment in clean energy and environmental justice — both of which are essential for climate progress,” said Abigail Dillen, president of Earthjustice, a nonprofit environmental law group based in San Francisco. “A package that makes all those investments at a scale that will be transformative over the next eight years is incredible.”

The new framework comes after prolonged negotiations between the White House and two moderate Democratic senators, Joe Manchin of West Virginia and Krysten Sinema of Arizona, who opposed key parts of Biden’s original “Build Back Better” plan.

Some environmental advocates had hoped for an even larger climate package.

“The Build Back Better Framework announced by the White House today doesn’t go far enough to address the economic and climate crises facing our generation,” Cristina Tzintzún Ramirez, president of NextGen America, a progressive advocacy nonprofit started by billionaire and former Democratic presidential candidate Tom Steyer, said in a news release. “A few moderate Democrats negotiated against the best interest of the American people, forcing the rest of their party to renege on essential promises.”

Biden on Thursday urged Congress to pass the proposal, saying that the investments will “truly transform this nation.” Earlier this year, the Senate passed a nearly $1 trillion infrastructure bill with robust bipartisan support, but the House has yet to vote on that measure, citing the need for parallel action on the social safety net portion of Biden’s agenda.

The bill’s timing is crucial as Biden is set to meet with other world leaders in Scotland next week for the United Nations Climate Change Conference, where countries are expected to negotiate and set forth targets to reduce emissions in line with the goals of the Paris Agreement.

Stalled negotiations had generated concern among environmentalists around the world that Biden could show up to the conference empty-handed, leaving little incentive for other countries to offer their own aggressive plans to cut carbon emissions.

Sam Ricketts, co-founder and co-director of the climate advocacy group Evergreen Action, said lawmakers should feel increased urgency to pass the revamped Build Back Better act, but added that the proposal itself should benefit Biden by demonstrating to other nations that the U.S. is actively working to achieve its emissions targets.

“This will show the global community that America really is an ally and can be a leader in driving forward global climate efforts,” Ricketts said. “It shows that after four years of President Trump’s outright climate denial, the U.S. government is moving with leadership against this global crisis.”

The proposed climate bill will also give the U.S. stronger footing in Scotland during negotiations with other top emitters, including China.

“The Biden administration will have more leverage to push other countries to make strong commitments,” said Danielle Arostegui, a senior climate analyst at the Environmental Defense Fund. “We can show that we’re putting our money where our mouth is.”

The bill would significantly boost investments in renewable energy, including for solar and wind power, and would provide clean energy tax credits and an electric vehicle tax credit that would lower the cost of an electric vehicle by up to $12,500 per middle-class family, according to the White House.

The framework also prioritizes [environmental justice](https://www.nbcnews.com/science/environment/why-i-can-t-breathe-resonating-environmental-justice-activists-n1228561) by earmarking 40 percent of the overall benefits of investment for disadvantaged communities. The plan would fund the electrification of ports, in addition to electrifying bus and truck fleets, and would provide grants to communities that are disproportionately affected by climate change and economic injustice.

“This marks a new beginning in the fight against injustice in this country, and a long-overdue boost to the communities that have struggled with the toxic legacy of environmental pollution and systemic racism,” officials with the Equitable and Just National Climate Platform, a consortium of climate change and environmental justice advocates, said in a statement.

Dan Lashof, U.S. director of the World Resources Institute, a Washington-based research nonprofit group, said the legislation could bring the country significantly closer to meeting its emissions goals, but added that there is still ground to make up.

The White House said the bill will reduce greenhouse gas emissions by 1 billion tons by 2030, but Lashof said a total of 2 billion tons of emissions need to be cut to reach Biden’s target by the end of the decade.

Still, he said these types of investments could spur other developments in the private sector, or at the state and local level, which could make up the difference.

“It’s important to recognize that this is a huge amount of progress,” Lashof said. “This bill together with the infrastructure bill really does lay the foundation for meeting the 2030 target. It’s all moving in the right direction.”

The legislation would create a 300,000-member environmental workforce, known as the Civilian Climate Corps. The program is designed to provide opportunities for people to learn skills and trades as the country transitions to a “greener” economy.

The proposal also includes grants and loans for rural communities to deploy renewable energy technologies and will bolster state and local efforts to electrify buildings, migrate to clean transportation and electric buses and help communities build protections against extreme weather and other climate-fueled disasters.

“When folks hear tax credits, they tend to think of only utilities and wind and solar power, which of course are hugely important,” Dillen said. “But this is a holistic package that accelerates clean energy across every sector of the economy.”

#### Warming causes extinction—causes lethal heat conditions, droughts, destruction of ecosystems, and wars over resources.

Specktor ’19 – Senior writer at Live Science, formerly a staff writer and editor at Reader’s Digest Magazine

Brandon Specktor, “Human Civilization Will Crumble by 2050 If We Don’t Stop Climate Change Now, New Paper Claims,” Live Science, June 4, 2019, https://www.livescience.com/65633-climate-change-dooms-humans-by-2050.html

What might an accurate worst-case picture of the planet's climate-addled future actually look like, then? The authors provide one particularly grim scenario that begins with world governments "politely ignoring" the advice of scientists and the will of the public to decarbonize the economy (finding alternative energy sources), resulting in a global temperature increase 5.4 F (3 C) by the year 2050. At this point, the world's ice sheets vanish; brutal droughts kill many of the trees in the [Amazon rainforest](https://www.livescience.com/57266-amazon-river.html) (removing one of the world's largest carbon offsets); and the planet plunges into a feedback loop of ever-hotter, ever-deadlier conditions.

"Thirty-five percent of the global land area, and 55 percent of the global population, are subject to more than 20 days a year of [lethal heat conditions](https://www.livescience.com/55129-how-heat-waves-kill-so-quickly.html), beyond the threshold of human survivability," the authors hypothesized.

Meanwhile, droughts, floods and wildfires regularly ravage the land. Nearly one-third of the world's land surface turns to desert. Entire ecosystems collapse, beginning with the planet's coral reefs, the rainforest and the Arctic ice sheets. The world's tropics are hit hardest by these new climate extremes, destroying the region's agriculture and turning more than 1 billion people into refugees.

This mass movement of refugees — coupled with [shrinking coastlines](https://www.livescience.com/51990-sea-level-rise-unknowns.html) and severe drops in food and water availability — begin to stress the fabric of the world's largest nations, including the United States. Armed conflicts over resources, perhaps culminating in nuclear war, are likely.

The result, according to the new paper, is "outright chaos" and perhaps "the end of human global civilization as we know it."

### Uncoop CP

#### CP Text: The fifty states and all relevant sub-federal governments should inform the White House that state cooperation with federal initiatives will be contingent on the United States recognizing an unconditional right to strike by amending the National Labor Relations Act to extend the definition of ‘employee’ to include agricultural laborers.

#### The counterplan solves the aff by forcing the federal government to adopt the plan through the use of uncooperative federalism.

Gerken ’17 – Dean and professor at Yale Law School and one of the country’s leading experts on constitutional law and election law

Heather Gerken, “We’re About To See States’ Rights Used Defensively Against Trump,” Vox, January 20 2017, <https://www.vox.com/the-big-idea/2016/12/12/13915990/federalism-trump-progressive-uncooperative>

People assume that if Congress changes a law, everything changes on a dime. They forget that Congress depends heavily on states and localities to implement federal policy.

The federal government doesn’t have enough resources to deal with immigration, enforce its own drug laws, carry out its environmental policies, build its own infrastructure, or administer its health care system. Instead, it relies on the states to do much of this work. We call such arrangements between the states and federal government “cooperative federalism.” But we forget that they create many opportunities for what Jessica Bulman-Pozen and I have called “[uncooperative federalism](http://digitalcommons.law.utulsa.edu/symposia/gerken/330/10/).”

Progressives at the state and local level can influence policy simply by refusing to partner with the federal government. By doing so, they force issues onto the national agenda, foregrounding debates that the Republicans would rather avoid. More importantly, defeating state or local opposition costs fiscal resources and political capital the federal government would rather employ elsewhere.

The GOP-controlled federal government can’t put cops on every beat or bureaucrats at every desk; it needs state and local officials to get its agenda through. If blue states and cities refuse to implement Trump’s agenda, Republicans will sometimes be forced to compromise rather than pay a political and fiscal price.

Deploying federalism against the Patriot Act and education reform

Sometimes states engaged in uncooperative federalism simply refuse to participate in federal programs, or they do so begrudgingly. Some states have refused to carry out the [Patriot Act and federal immigration law](http://digitalcommons.law.utulsa.edu/symposia/gerken/330/10/). States didn’t just denounce the Patriot Act’s broad surveillance and detention rules as an attack on civil liberties. Blue and red states [instructed their own officials](https://www.cga.ct.gov/2005/rpt/2005-R-0858.htm) not to collect or share information with the federal government unless there was a reasonable suspicion of criminal activity, or they forbade state officials to engage in activities inconsistent with the states’ constitutions.

Other states have repeatedly stymied federal education reform just by dragging their feet. States resisted the No Child Left Behind Act by manipulating testing standards and by slow-walking reforms. State recalcitrance was so great that eventually the Bush Administration threw in the towel and granted states so many waivers that the federal program was [basically gutted](http://law.slu.edu/sit).

Federal dependence on states is so pronounced in criminal law that the Vanderbilt law professor [Robert Mikos](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1356093) has suggested that states can effectively “nullify” federal marijuana law simply by withdrawing enforcement resources, as did Colorado and Washington. To be sure, Jeff Sessions, Trump’s choice for attorney general, can try to change the equation by selectively targeting a few businesses, but it will be an uphill climb.

Sometimes states take advantage of the gaps that are inevitable in any regulatory scheme to take a program in a direction Congress never anticipated. In the early 1990s, [Michigan and Wisconsin](http://digitalcommons.law.utulsa.edu/symposia/gerken/330/10/), led by their Republican governors, enacted the models for “Welfare to Work” inside the very federal welfare scheme they aimed to topple. Their successes eventually won over Bill Clinton to their cause and pushed Democrats on the Hill to junk the existing system and follow their model. National welfare reform was the still-controversial result.

States used their powers under the State Children’s Health Insurance program to provide coverage for adults. Back in 2006, Massachusetts used Medicaid funds to help enact “Romneycare,” which would become the model for Obamacare. And when states are pushed too hard, uncooperative federalism can even devolve into outright defiance (as in the case of the Patriot Act).

Uncooperative states and towns

[Uncooperative “localism”](http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3383&context=dlj) — resistance at the level of city or town — can be just as effective as uncooperative federalism. When cities refuse to assist homeland security or deportation efforts, there is relatively little the federal government can do. That’s presumably why the Trump administration is so panicked about [sanctuary cities](http://www.pri.org/stories/2016-11-15/sanctuary-cities-around-us-promise-defy-trumps-threats) that have promised not to implement his immigration policies. (“Sanctuary cities” is not a legal term, but it typically refers to municipalities that refuse to assist with certain types of deportation efforts — for instance, instructing their police not to ask about a person’s immigration status).

The Trump administration already threatened to [cut off all federal funding](https://assets.donaldjtrump.com/_landings/contract/O-TRU-102316-Contractv02.pdf) to such cities. While the federal government can entice states to carry out federal policy by offering financial incentives, a decision [penned by Chief Justice Roberts](https://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf) forbids the federal government from using conditional spending to coerce state officials. (The case involved the Obama administration’s attempt to force states to expand Medicaid as part of the Affordable Care Act, lest they lose all Medicaid funding.)

Even if President Trump spends enough political capital to win this or that battle against blue cities and states, he cannot win the war. The federal government doesn’t have the resources to carry out Trump’s policies. Spending political capital and legal resources to win the marijuana dispute, for instance, takes away resources from the immigration fight or battling California on climate change. Political scientists have long talked about the power of the [“street-level bureaucrat”](https://www.russellsage.org/publications/street-level-bureaucracy) to thwart the law the legislature enacts. But in today’s federalism, the power of the street-level bureaucrat is rarely confined to the street.

Federal dependence on states and localities thus creates an enormous incentive for moderation and compromise. Often the only way for a national program to succeed is to have a national consensus behind it. Just ask President Obama, who had to [compromise a great deal](https://hbr.org/2013/04/real-state-power-means-getting) to bring Obamacare to the red states, offering individual red states waivers and incentives to convince them to join. Trump may not have to cooperate with Democrats on the Hill, but he’s going to need the support of blue states and cities if he wants to get things done. A federal program that doesn’t touch California, New York, or Illinois won’t affect a large swath of the American economy. That should create a healthy incentive for moderation going forward.

#### Uncooperative federalism allows for effective climate change mitigation.

Galbraith ’17 - Jean Galbraith is a scholar of public international law and U.S. foreign relations law. She has published extensively on the separation of U.S. foreign affairs powers and on the design of international treaty regimes. She received her BA summa cum laude from Harvard University and her JD from Berkeley Law School, where she was the Editor-in-Chief of the California Law Review. After graduating law school, she clerked for Judge David S. Tatel of the U.S. Court of Appeals for the D.C. Circuit, for Justice John Paul Stevens of the Supreme Court of the United States, and for Judge Theodor Meron of the International Criminal Tribunal for the former Yugoslavia. She practiced as an associate at Hangley Aronchick Segal & Pudlin and continues to litigate appellate cases as the Co-Director of Penn Law’s Appellate Advocacy Clinic. In 2017 and again in 2020, she received the Harvey Levin Memorial Award for Teaching Excellence, which is awarded by vote of the graduating 3L class

Jean Galbraith, “Cooperative and Uncooperative Foreign Affairs Federalism,” Penn Law, June 10, 2017, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=2772&context=faculty_scholarship>

Mitigating climate change is a challenge for all levels of government — international, national, state, and local. As Glennon and Sloane note, some states and cities have embraced climate change mitigation measures (pp. 62–63). In doing so, states have often coordinated with each other and with foreign counterparts in both practical and expressivist ways (pp. 62–63). California’s efforts are exceptionally notable. State legislation requires sweeping emissions reductions; California and Quebec have sought to integrate their cap-and-trade programs. and California has spearheaded a coalition of state and local governments around the world who have committed to climate policy. California even sent a large and high-profile delegation to the United Nations conference on climate change in Paris in 2015.

The issue of climate policy is a rebuttal to all three of the “myths” identified by Glennon and Sloane. It is self-evidently a matter of both domestic and foreign affairs; states and local governments are acting in this space; and some states and local governments are doing so in progressive ways. The actions of state and local governments in this space invite constitutional inquiry. Can California constitutionally regulate carbon emissions, enter into a highly formalized agreement with Quebec and softer agreements with other subnational governments, and send delegations to international negotiating conferences?

Yet focusing exclusively on these questions would lead to a highly incomplete sense of the legal scope of California’s power to act. For although Glennon and Sloane do not mention it, California is acting amidst a welter of federal laws, regulations, and other executive branch actions applicable to climate change. In 2007, in a lawsuit brought by liberal states against the EPA, the Supreme Court held that the federal Clean Air Act supplies to greenhouse gas emissions. This Act explicitly delegates authority to California to pursue stronger emissions measures for new motor vehicles than are undertaken at the federal level and in general involves states in the Act’s enforcement through cooperative federalism.

During the Obama Administration, state and local government efforts to reduce greenhouse gas emissions were not only congruent with the aims of the Clean Air Act (as interpreted to apply to greenhouse gases), but also with the goals of the executive branch. The EPA during the Obama Administration applauded and sought to facilitate state and local efforts. Its leading rule on climate change mitigation measures, known as the Clean Power Plan, explicitly gave states substantial autonomy in crafting their own approaches,73 although this rule is currently facing a court challenge brought by states that oppose federal efforts to reguate emissions. The Obama White House expressed approval of the transnational coalitions that California and other state and local governments have joined in seeking to address climate change.

All this positive reinforcement will presumably diminish or disappear under the Trump administration. The Trump Administration may even try to roll back climate change mitigation efforts by progressive states and cities, in addition to undermining or reversing Obama- era regulations and international commitments. If it does so, however, the legal questions that such efforts would raise probably have fairly little to do with the constitutional issues posed by traditional foreign affairs federalism. Instead, they would center on administrative law — around the interpretation of the Clean Air Act and the laws and norms that govern regulatory practice — as they had already come to do by the end of the George W. Bush Administration.

These four illustrations are far from unique. Sometimes state and local government activity in relation to foreign affairs occurs against a backdrop of federal inaction, as is the case with the incorporation of unratified human rights treaties into the municipal law of progressive cities. But interaction is far more common, sometimes cooperative and sometimes full of contestation. The executive branch approves of and provides some support for states and cities seeking to promote tourism or encourage exports abroad. The federal government collaborates with states in determining U.S. international negotiating positions with respect to insurance. In private international law, the federal government has shown strong interest in using state law rather than federal law to implement certain treaties. And all levels of government deal with security — both traditional and cyber — and inter- act with each other over it. To understand what is going on, we must focus on the political branches as much as (or even more than) the courts. And we must think not just in terms of constitutional law, but also in terms of international law, administrative law, and state law.

III. COOPERATIVE AND UNCOOPERATIVE FEDERALISM

IN THE CONTEXT OF FOREIGN AFFAIRS

As foreign affairs federalism becomes increasingly interactive, how much will it resemble cooperative and uncooperative federalism in the domestic context? At the very least, scholarship on cooperative and uncooperative federalism as a domestic matter, especially work focused on the political branches, provides a valuable starting point for under- standing foreign affairs federalism today. This scholarship offers in- sights into how the federal government can incentivize state and local governments to help advance federal interests, how these state and local governments can in turn influence and resist federal policy, and how Congress and the executive branch can each use state and local action to build power at the expense of the other branch. These broad themes manifest themselves in the foreign affairs context as well. Yet the foreign affairs context brings some additional complexities because of its ties to international law and global governance and because it comes with stronger presidential powers. This leads to certain differences between cooperative and uncooperative federalism in the realm of foreign affairs, in terms of both how practice proceeds and of what doctrine should be.

A. Structural Implications

The interactions between the federal government and state and lo cal governments in relation to foreign affairs mean that federal policy shapes state and local policy. By providing assistance, financial and otherwise, to the sister-cities program, the federal government makes it easier for cities to participate. By signaling its support for state “Buy American” laws, Congress encourages them — and the Department of Transportation incentivizes them even further by refusing to partici- pate in contracts governed by state “Buy American” laws that are less strict than the federal ones. In the context of immigration and climate change, the federal government incentivizes (and sometimes comes close to forcing) state and local action in support of federal policy. All of these examples in the foreign affairs context reflect an “increasing concentration of power at Washington in the instigation and supervision of local policies, just as cooperative federalism arrangements do in the domestic context.

In work focused on the domestic context, Heather Gerken shows that the interactive nature of modern federalism also provides state and local governments with ways to influence federal policy. State and local actors exercise “the power . . . of the servant,” which offers the chance “not just to complain about national policy, but to help set it. In shaping federal policy, these actors are not simply employing the traditional tools of process federalism; rather, it is their role in adminis tering federal policy that gives them a say in the shape that this implementation will take. Yet the scope of this role also limits what they can do: “power dynamics are fluid; minority rule is contingent, limited, and subject to reversal by the national majority. In related work, Gerken and Jessica Bulman-Pozen elaborate on the ways in which state and local governments can engage in “uncooperative federalism,” including by resisting federal policies that they are charged with enforcing.

Building on the core insight that state and local governments can help shape federal policy through their roles in implementing federal law, Bulman-Pozen further shows that these interactions can affect the distribution of power between Congress and the executive branch. In a pair of articles, she describes the ways in which state and local activities can strengthen the powers of one branch against the other. The more that Congress invites or effectively requires state and local participation in the administration of a federal statutory regime, the more these actors can serve as checks on the executive branch’s power to implement this regime. On the flip side, such shared roles in implementing previously enacted statutory schemes can empower the executive branch and subnational executive actors to work together in ways that crowd out the current Congress.

Similar dynamics can occur with respect to foreign affairs federal- ism. Indeed, some of the examples that Gerken and Bulman-Pozen focus on are issues that have transnational implications. to climate, for example, they show how states have used the power of the servant to try to shape federal policy, including efforts by conserva-tive states to push back against the federal regulatory scheme and by progressive states to make it stronger. Bulman-Pozen also uses climate as an example of how “federal and state executives negotiate without Congress once a broad statutory scheme is in place. Some payoffs for the foreign affairs context here are simply derivative: the more that state and local governments enhance or reduce federal efforts to mitigate climate change, then the more or less the United States does with respect to addressing this global problem. But other implications relate specifically to how the United States engages inter- nationally. Continuing with the climate context, the extent to which President Obama could make commitments on behalf of the United States during the negotiations for the 2015 Paris Agreement was largely limited by the scope of the Clean Air Act, since he had no realistic chance of getting new congressional legislation that would advance his since he had no realistic chance of getting new congressional legislation that would advance his goals with respect to climate. But since California and other progressive state and local actors were doing more than what the Clean Air Act required, President Obama could take this into account in set- ting the target to which the United States was committing with respect to climate change mitigation. President Obama’s option set was thus enhanced by state and local action in the climate context.

#### Climate change causes extinction.

Weston ’21 – Biodiversity writer for The Guardian

Phoebe Weston, “Top Scientists Warn Of Ghastly Future Of Mass Extinction And Climate Disruption,’ The Guardian, January 13, 2021, <https://www.theguardian.com/environment/2021/jan/13/top-scientists-warn-of-ghastly-future-of-mass-extinction-and-climate-disruption-aoe>

The planet is facing a “ghastly future of mass extinction, declining health and climate-disruption upheavals” that threaten human survival because of ignorance and inaction, according to an international group of scientists, who warn people still haven’t grasped the urgency of the biodiversity and climate crises.

The 17 experts, including Prof Paul Ehrlich from Stanford University, author of The Population Bomb, and scientists from Mexico, Australia and the US, say the planet is in a much worse state than most people – even scientists – understood.

“The scale of the threats to the biosphere and all its lifeforms – including humanity – is in fact so great that it is difficult to grasp for even well-informed experts,” they write in a report in[Frontiers in Conservation Science](https://www.frontiersin.org/articles/10.3389/fcosc.2020.615419/abstract)which references more than 150 studies detailing the world’s major environmental challenges.

The delay between destruction of the natural world and the impacts of these actions means people do not recognise how vast the problem is, the paper argues. “[The] mainstream is having difficulty grasping the magnitude of this loss, despite the steady erosion of the fabric of human civilisation.”

The report warns that climate-induced mass migrations, more pandemics and conflicts over resources will be inevitable unless urgent action is taken.

Dealing with the enormity of the problem requires far-reaching changes to global capitalism, education and equality, the paper says. These include abolishing the idea of perpetual economic growth, properly pricing environmental externalities, stopping the use of fossil fuels, reining in corporate lobbying, and empowering women, the researchers argue.

The report comes months after the world [failed to meet](https://www.theguardian.com/environment/2020/sep/15/every-global-target-to-stem-destruction-of-nature-by-2020-missed-un-report-aoe) a single UN Aichi biodiversity target, created to stem the destruction of the natural world, the [second consecutive time](https://www.theguardian.com/environment/2010/apr/29/international-failure-biodiversity-decline) governments have failed to meet their 10-year biodiversity goals. This week a coalition of more than 50 countries [pledged](https://www.theguardian.com/environment/2021/jan/11/50-countries-commit-to-protection-of-30-of-earths-land-and-oceans) to protect almost a third of the planet by 2030.

An estimated one million species are at risk of extinction, many within decades, according to a recent [UN report](https://www.un.org/sustainabledevelopment/blog/2019/05/nature-decline-unprecedented-report/#:~:text=The%20Report%20finds%20that%20around,20%25%2C%20mostly%20since%201900).

“Environmental deterioration is infinitely more threatening to civilisation than Trumpism or Covid-19,” Ehrlich told the Guardian.

In The Population Bomb, published in 1968, Ehrlich warned of imminent population explosion and hundreds of millions of people starving to death. Although he has acknowledged some timings were wrong, [he has said he stands by](https://www.theguardian.com/cities/2018/mar/22/collapse-civilisation-near-certain-decades-population-bomb-paul-ehrlich) its fundamental message that population growth and high levels of consumption by wealthy nations is driving destruction.

He told the Guardian: “Growthmania is the fatal disease of civilisation - it must be replaced by campaigns that make equity and well-being society’s goals - not consuming more junk.”

Large populations and their continued growth drive soil degradation and biodiversity loss, the new paper warns. “More people means that more synthetic compounds and dangerous throwaway plastics are manufactured, many of which add to the growing toxification of the Earth. It also increases the chances of pandemics that fuel ever-more desperate hunts for scarce resources.”

### Reg Neg CP

#### Text: The United States federal government ought to begin a process of negotiated rulemaking, including an announced intention to implement recognizing an unconditional right to strike by amending the National Labor Relations Act to extend the definition of ‘employee’ to include agricultural laborers

#### within a year and convene all affected parties for binding mediation over the substance of this policy including appointing a neutral mediator to facilitate the negotiations.

#### Regulatory negotiations solve the aff.

Lubbers ’08 – Professor of practice in administrative law at the American University Washington College of Law

Jeffrey Lubbers, “Achieving Policymaking Consensus: The (Unfortunate) Waning of Negotiated Rulemaking,” summer 2008, <https://digitalcommons.wcl.american.edu/facsch_lawrev/509/>

While I do not discount the possibility that other types of agency facilitation of public meetings may be useful, the waning of the use of negotiated rulemaking is unfortunate. Not because it is a panacea, but because when used in a properly targeted way, it can be very effective.7 Indeed, the conclusion to a detailed article describing a recent major California reg-neg concludes:

[T]he present rulemaking does indicate one set of circumstances where the [reg-neg] process was quite beneficial. Furthermore, by its detailed description of the actual negotiations, this article shows how the dynamics of regulatory negotiation are very different from those in a notice and comment rulemaking. It demonstrates how, in one situation, regulatory negotiation can help parties with very different interests reach creative solutions to regulatory problems.  
The federal government acutely needs creative solutions to regulatory problems. Negotiated rulemaking is one of the few "regulatory reform" initiatives that does not raise political hackles," and it has been shown to be of proven value in solving some knotty regulatory problems. The White House should breathe new life into it by providing real support for it, not just lip service; Congress should support agency use of the technique with funding and should eschew mandating it indiscriminately, and both branches should support the revival of the Administrative Conference to lend encouragement and aid to the agencies in its use.

### Biz Con DA

#### Business confidence is reemerging, approaching pre-pandemic levels.

Kamel ’21 – Aviation and company news reporter

Deena Kamel, “CEOs’ Confidence in Global Economy Recovers to Pre-Pandemic Levels, KPMG Says,” September 5, 2021, https://www.thenationalnews.com/business/2021/09/05/ceos-confidence-in-global-economy-recovers-to-pre-pandemic-levels-kpmg-says/

Senior executives from some of the world's largest companies are more optimistic about the business outlook, with their confidence in the global economy returning to pre-pandemic levels despite uncertainties about the Delta variant of the coronavirus.

About 60 per cent of the leaders are confident about the economy's growth prospects over the next three years, up from 42 per cent in a similar survey conducted earlier this year, consultancy KPMG said in its 2021 CEO Outlook. Most expect to make an acquisition to drive growth.

"Despite the continued uncertainty around the pandemic, chief executives are increasingly confident that the global economy is coming back strong," Bill Thomas, global chairman and chief executive of KPMG, said. "This confidence has put leadership in an aggressive growth stance."

The pandemic led to the world's deepest recession since the Great Depression. The global economy, which contracted 3.3 per cent in 2020, is expected to expand 6 per cent this year on the back of the rapid vaccine roll-out and the injection of about $25 trillion in fiscal and monetary stimulus by governments and central banks through the pandemic, according to the International Monetary Fund.

KPMG polled chief executives of more than 1,300 companies with annual revenues of more than $500 million in Australia, Canada, China, France, Germany, India, Italy, Japan, Spain, Britain and the US between June 29 and August 6 about their outlook for the next three years.

About 87 per cent of those polled said that they are looking to acquire businesses in the next three years to help transform theirs. Close to 70 per cent of senior executives identified inorganic growth through joint ventures, mergers and acquisitions and strategic alliances as pillars of their expansion strategy.

The survey also found that 30 per cent of chief executives plan to invest more than 10 per cent of their revenue in sustainability measures and climate-related programmes over the next three years.

“If there is a positive to come out of the past 18 months, it is that chief executives are increasingly putting ESG [environment, social and governance standards] at the heart of their recovery and long-term growth strategies," Mr Thomas said. "The unfolding climate and societal crises have made it clear that we need to change our ways and work together."

Business leaders are recognising that they need to drive positive change, supporting measures to tackle environmental dangers and social challenges – from gender and race, to equity and social mobility, he said.

Top executives identified cyber security, climate change and supply chains as the major risks to growth over the next three years, the survey found.

More than half, 56 per cent, of global chief executives said their supply chain has been under increased stress during the pandemic, KPMG said.

"While the pandemic has continued to pose challenges in the form of supply chain disruptions, cyber security and increased pressure on public finances, environmental threats, such as climate change, also need to be addressed," Rasheed Al Qenae, managing partner of KPMG in Kuwait, said.

"The silver lining, however, remains the fact that more organisations are starting to incorporate ESG in their long-term growth plans, leaving the message that global reforms and collaboration will, in fact, be key in bringing about positive environmental and societal changes.”

Almost 80 per cent of respondents said a proposed minimum tax system was of "significant concern" regarding their growth goals.

The survey also revealed changes in executives' thinking about the future of work because of the pandemic.

Just 21 per cent of business leaders now say they are planning to downsize, or have already downsized, their organisation’s office space in contrast to August 2020 when 69 per cent said that they planned to cut space.

They are focused instead on providing increased flexibility for their workforce with 51 per cent, up from 14 per cent in the earlier survey, looking to invest in shared office spaces.

Thirty-seven per cent of executives have a hybrid work model for their staff in place, one where most employees work remotely for two to three days a week.

#### Strikes reduce employment, crush business confidence, and slow growth.

Tenza ’20 – Lecturer in the Labour Law at the School of Law, holds a LLM degree

Miungisi Tenza, “The Effects of Violent Strikes on the Economy of a Developing Country: a Case of South Africa,” Obiter vol. 41 no. 3, 2020, http://www.scielo.org.za/scielo.php?script=sci\_arttext&pid=S1682-58532020000300004

When South Africa obtained democracy in 1994, there was a dream of a better country with a new vision for industrial relations.[5](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn5) However, the number of violent strikes that have bedevilled this country in recent years seems to have shattered-down the aspirations of a better South Africa. South Africa recorded 114 strikes in 2013 and 88 strikes in 2014, which cost the country about R6.1 billion according to the Department of Labour.[6](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn6) The impact of these strikes has been hugely felt by the mining sector, particularly the platinum industry. The biggest strike took place in the platinum sector where about 70 000 mineworkers' downed tools for better wages. Three major platinum producers (Impala, Anglo American and Lonmin Platinum Mines) were affected. The strike started on 23 January 2014 and ended on 25 June 2014. Business Day reported that "the five-month-long strike in the platinum sector pushed the economy to the brink of recession".[7](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn7) This strike was closely followed by a four-week strike in the metal and engineering sector. All these strikes (and those not mentioned here) were characterised with violence accompanied by damage to property, intimidation, assault and sometimes the killing of people. Statistics from the metal and engineering sector showed that about 246 cases of intimidation were reported, 50 violent incidents occurred, and 85 cases of vandalism were recorded.[8](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn8) Large-scale unemployment, soaring poverty levels and the dramatic income inequality that characterise the South African labour market provide a broad explanation for strike violence.[9](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn9) While participating in a strike, workers' stress levels leave them feeling frustrated at their seeming powerlessness, which in turn provokes further violent behaviour.[10](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn10)

These strikes are not only violent but take long to resolve. Generally, a lengthy strike has a negative effect on employment, reduces business confidence and increases the risk of economic stagflation. In addition, such strikes have a major setback on the growth of the economy and investment opportunities. It is common knowledge that consumer spending is directly linked to economic growth. At the same time, if the economy is not showing signs of growth, employment opportunities are shed, and poverty becomes the end result. The economy of South Africa is in need of rapid growth to enable it to deal with the high levels of unemployment and resultant poverty.

One of the measures that may boost the country's economic growth is by attracting potential investors to invest in the country. However, this might be difficult as investors would want to invest in a country where there is a likelihood of getting returns for their investments. The wish of getting returns for investment may not materialise if the labour environment is not fertile for such investments as a result of, for example, unstable labour relations. Therefore, investors may be reluctant to invest where there is an unstable or fragile labour relations environment.

3 THE COMMISSION OF VIOLENCE DURING A STRIKE AND CONSEQUENCES

The Constitution guarantees every worker the right to join a trade union, participate in the activities and programmes of a trade union, and to strike.[11](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn11)The Constitution grants these rights to a "worker" as an individual.[12](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn12)However, the right to strike and any other conduct in contemplation or furtherance of a strike such as a picket[13](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn13) can only be exercised by workers acting collectively.[14](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn14)

The right to strike and participation in the activities of a trade union were given more effect through the enactment of the Labour Relations Act 66 of 1995[15](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn15) (LRA). The main purpose of the LRA is to "advance economic development, social justice, labour peace and the democratisation of the workplace".[16](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn16) The advancement of social justice means that the exercise of the right to strike must advance the interests of workers and at the same time workers must refrain from any conduct that can affect those who are not on strike as well members of society.

Even though the right to strike and the right to participate in the activities of a trade union that often flow from a strike [17](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn17) are guaranteed in the Constitution and specifically regulated by the LRA, it sometimes happens that the right to strike is exercised for purposes not intended by the Constitution and the LRA, generally.[18](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn18) For example, it was not the intention of the Constitutional Assembly and the legislature that violence should be used during strikes or pickets. As the Constitution provides, pickets are meant to be peaceful.[19](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn19) Contrary to section 17 of the Constitution, the conduct of workers participating in a strike or picket has changed in recent years with workers trying to emphasise their grievances by causing disharmony and chaos in public. A media report by the South African Institute of Race Relations pointed out that between the years 1999 and 2012 there were 181 strike-related deaths, 313 injuries and 3,058 people were arrested for public violence associated with strikes.[20](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn20) The question is whether employers succumb easily to workers' demands if a strike is accompanied by violence? In response to this question, one worker remarked as follows:

"[T]here is no sweet strike, there is no Christian strike ... A strike is a strike. [Y]ou want to get back what belongs to you ... you won't win a strike with a Bible. You do not wear high heels and carry an umbrella and say '1992 was under apartheid, 2007 is under ANC'. You won't win a strike like that."[21](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn21)

The use of violence during industrial action affects not only the strikers or picketers, the employer and his or her business but it also affects innocent members of the public, non-striking employees, the environment and the economy at large. In addition, striking workers visit non-striking workers' homes, often at night, threaten them and in some cases, assault or even murder workers who are acting as replacement labour.[22](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn22) This points to the fact that for many workers and their families' living conditions remain unsafe and vulnerable to damage due to violence. In Security Services Employers Organisation v SA Transport & Allied Workers Union (SATAWU),[23](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn23) it was reported that about 20 people were thrown out of moving trains in the Gauteng province; most of them were security guards who were not on strike and who were believed to be targeted by their striking colleagues. Two of them died, while others were admitted to hospitals with serious injuries.[24](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn24)In  SA Chemical Catering & Allied Workers Union v Check One (Pty) Ltd,[25](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn25)striking employees were carrying various weapons ranging from sticks, pipes, planks and bottles. One of the strikers Mr Nqoko was alleged to have threatened to cut the throats of those employees who had been brought from other branches of the employer's business to help in the branch where employees were on strike. Such conduct was held not to be in line with good conduct of striking.[26](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn26)

These examples from case law show that South Africa is facing a problem that is affecting not only the industrial relations' sector but also the economy at large. For example, in 2012, during a strike by workers employed by Lonmin in Marikana, the then-new union Association of Mine & Construction Workers Union (AMCU) wanted to exert its presence after it appeared that many workers were not happy with the way the majority union, National Union of Mine Workers (NUM), handled negotiations with the employer (Lonmin Mine). AMCU went on an unprotected strike which was violent and resulted in the loss of lives, damage to property and negative economic consequences including a weakened currency, reduced global investmen2t7, declining productivity, and increase unemployment in the affected sectors.[27](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn27)Further, the unreasonably long time it takes for strikes to get resolved in the Republic has a negative effect on the business of the employer, the economy and employment.

3 1 Effects of violent and long strikes on the economy

Generally, South Africa's economy is on a downward scale. First, it fails to create employment opportunities for its people. The recent statistics on unemployment levels indicate that unemployment has increased from 26.5% to 27.2%.[28](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn28) The most prominent strike which nearly brought the platinum industries to its knees was the strike convened by AMCU in 2014. The strike started on 23 January 2014 and ended on 24 June 2014. It affected the three big platinum producers in the Republic, which are the Anglo American Platinum, Lonmin Plc and Impala Platinum. It was the longest strike since the dawn of democracy in 1994. As a result of this strike, the platinum industries lost billions of rands.[29](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn29) According to the report by Economic Research Southern Africa, the platinum group metals industry is South Africa's second-largest export earner behind gold and contributes just over 2% of the country's Gross Domestic Product (GDP).[30](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn30) The overall metal ores in the mining industry which include platinum sells about 70% of its output to the export market while sales to local manufacturers of basic metals, fabricated metal products and various other metal equipment and machinery make up to 20%.[31](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn31) The research indicates that the overall impact of the strike in 2014 was driven by a reduction in productive capital in the mining sector, accompanied by a decrease in labour available to the economy. This resulted in a sharp increase in the price of the output by 5.8% with a GDP declined by 0.72 and 0.78%.[32](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1682-58532020000300004#back_fn32)

#### Lack of business confidence causes economic decline.

Shankar ’19 – Professional Forex Trader, cryptocurrency analyst, blockchain vehement, and real estate investor, manages an Asset Management Platform called Hashloops LLP

Reddy Shyam Shankar, “What is Business Confidence Index & Why is it Important?,” June 12, 2019, https://www.dittotrade.academy/education/intermediate/fundamental-analysis/fundamental-indicators/what-is-business-confidence-index-why-is-it-important/

Business Confidence Index (BCI) is a leading indicator of future developments in the country. This index is built with the opinions taken during regular surveys asking about progress in production, sales, orders, and stocks of finished goods in the manufacturing sector. It can be employed to monitor the growth in production and try to forecast future turns in the economic situation.

Speaking about numbers, above 100 suggests increased confidence in business performance and numbers below 100 indicate nervousness towards future performance. Basically, Business or economic sentiment shows the optimism that business managers have on the prospects of economic conditions in a country or region. It also presents an overview of how people foresee the economy.

It is a component of the bank’s business survey, which covers hundreds of companies to assess the business conditions in the country. The index is a leading indicator in gauging the overall health of the economy. It is being published since 1997.

The Business Confidence Index (BCI) is calculated on a net balance basis. The companies that are surveyed in the index are asked about whether there is a positive or negative outlook. Specifically, how business conditions are likely to change in the next three months, and the result is calculated as positive minus negative responses, which is the net balance. Thus, a balance above zero reflects improving business confidence, and lower than zero indicates falling confidence. A positive outlook can, therefore, be regarded as healthy for the near term economic outlook, in turn, will benefit growth-related economic instruments.

What does the Business Confidence Index (BCI) of a country measure?

BCI aims to measure the expectation of business conditions for the upcoming months and takes the average of trading, profitability, and employment indices of the companies under the survey. The Central Bank analyses the data according to industry, region, and components. The monthly report of BCI covers a lot of businesses, including tax regulation, housing prices, interest rates, supply and demand, labour market, wages, input, output prices, and others. The companies that are surveyed operate in various industries, including manufacturing, construction, mining, retail and wholesale trade, transportation, recreation and entertainment, finance, and IT. A detailed text report published by analysts also includes the responses of some companies to the questionnaire set by them. The text report looks at the factors influencing the company’s opinion.

A reliable source of information on ‘Business Confidence Index’ for Major currencies

The Business Confidence Index (BCI) is published by the National Bank of their respective nations. However, there are business analysts who also publish a monthly report on the same. Here the report will have a lot more information and analysis as compared to one released by National Bank. The business analyst report will also predict the economy and growth of various industries and their contribution to the country’s revenues. One can also get the data from financial economists as they rank the order of confidence in carrying out a business based on the risks. Here are a few BCI’s of major economies of the world.

What do traders care about the Business Confidence Index (BCI) and its impact on a currency?

The Survey of Business Confidence Index (BCI) belongs to the group of economic indicators, which measure financial confidence among businesses as well as consumers. The business confidence influences most of the fundamental analysis of the Forex market, primarily because the effect it has on the currency. If the business confidence index number is higher, it will have a positive impact on the currency. This is because higher confidence indicates the growth of a country’s economy. Conversely, if these numbers are low, it will have a negative impact on the currency. Hence, traders and investors prefer holding the currencies of those countries with higher BCI values.

In addition to this, the BCI provides a clue as to how the public would estimate their ability to obtain employment and how their income would be spent. In case the indicator gives terrible numbers, the consumers will restrain from making large and expensive purchases like luxury items and automobiles. Banks and governments are also affected by reduced confidence. Lending will decrease, and the number of mortgage applications may drop. Central banks may look to cut benchmark interest rates, and governments will be forced to reduce taxes to propel economic growth.

#### Economic Collapse goes Nuclear.

Tønnesson 15, Stein. "Deterrence, interdependence and Sino–US peace." International Area Studies Review 18.3 (2015): 297-311. (the Department of Peace and Conflict, Uppsala University, Sweden, and Peace research Institute Oslo (PRIO), Norway)

Several recent works on China and Sino–US relations have made substantial contributions to the current understanding of how and under what circumstances a combination of nuclear deterrence and economic interdependence may reduce the risk of war between major powers. At least four conclusions can be drawn from the review above: first, those who say that interdependence may both inhibit and drive conflict are right. Interdependence raises the cost of conflict for all sides but asymmetrical or unbalanced dependencies and negative trade expectations may generate tensions leading to trade wars among inter-dependent states that in turn increase the risk of military conflict (Copeland, 2015: 1, 14, 437; Roach, 2014). The risk may increase if one of the interdependent countries is governed by an inward-looking socio-economic coalition (Solingen, 2015); second, the risk of war between China and the US should not just be analysed bilaterally but include their allies and partners. Third party countries could drag China or the US into confrontation; third, in this context it is of some comfort that the three main economic powers in Northeast Asia (China, Japan and South Korea) are all deeply integrated economically through production networks within a global system of trade and finance (Ravenhill, 2014; Yoshimatsu, 2014: 576); and fourth, decisions for war and peace are taken by very few people, who act on the basis of their future expectations. International relations theory must be supplemented by foreign policy analysis in order to assess the value attributed by national decision-makers to economic development and their assessments of risks and opportunities. If leaders on either side of the Atlantic begin to seriously fear or anticipate their own nation’s decline then they may blame this on external dependence, appeal to anti-foreign sentiments, contemplate the use of force to gain respect or credibility, adopt protectionist policies, and ultimately refuse to be deterred by either nuclear arms or prospects of socioeconomic calamities. Such a dangerous shift could happen abruptly, i.e. under the instigation of actions by a third party – or against a third party. Yet as long as there is both nuclear deterrence and interdependence, the tensions in East Asia are unlikely to escalate to war. As Chan (2013) says, all states in the region are aware that they cannot count on support from either China or the US if they make provocative moves. The greatest risk is not that a territorial dispute leads to war under present circumstances but that changes in the world economy alter those circumstances in ways that render inter-state peace more precarious. If China and the US fail to rebalance their financial and trading relations (Roach, 2014) then a trade war could result, interrupting transnational production networks, provoking social distress, and exacerbating nationalist emotions. This could have unforeseen consequences in the field of security, with nuclear deterrence remaining the only factor to protect the world from Armageddon, and unreliably so. Deterrence could lose its credibility: one of the two great powers might gamble that the other yield in a cyber-war or conventional limited war, or third party countries might engage in conflict with each other, with a view to obliging Washington or Beijing to intervene.

### Case

#### Turn: Increasing the cost of labor will just accelerate automation, outsourcing, and offshoring. Alt causes and backlash from firms deck aff solvency.

Groshen & Holzer ’19 - Erica Groshen [Senior Economics Advisor at the Cornell University School of Industrial and Labor Relations and Research Fellow at the Upjohn Institute for Employment Research] and Harry J. Holzer [Prof. of Public Policy, Georgetown U.], “Helping workers requires more than silver bullets,” *Brookings Institution* (Web). Nov. 25, 2019. Accessed Nov. 19, 2021. <<https://www.brookings.edu/opinions/helping-workers-requires-more-than-silver-bullets/>> AT

But no single silver bullet solution exists that can solve our skills and earnings problems. Why? Because no single or dominant cause explains stagnating earnings or rising inequality in the US. Thus, simplistic “silver bullet” policies would likely be ineffective or even do more harm than good.¶ Some “silver bullets” are too scattershot. For instance, free college for all would shunt billions of dollars of tax revenue into subsidizing higher education for the wealthy at a time when federal budgets are already deeply in the red. A Universal Basic Income would be even more expensive, and could induce workers to stop seeking many new jobs that will be created over time.¶ Other proposals could harm those they aim to help or be ineffective. Imposing a uniform $15 federal minimum wage, even by 2025 (as many now propose), could induce employers to eliminate jobs for low-wage workers in already distressed communities. Proposals to expand unionism alone might generate only small increases, in light of employers’ ability of to resist collective bargaining by automating, relocating their facilities, or outsourcing work to other firms.¶ To sensibly raise wages and reduce inequality among American workers, we must recognize that a confluence of causes are at work, which requires a combination of evidence-based policy responses. The causes include labor market forces like technical change, globalization, and too few well-educated workers; they also include changes in labor institutions beyond weakened unions and a lack of worker “voice.” Indeed, a growing set of employer practices, such as outsourcing some activities to other firms (which is often called employment “fissuring”) likely contribute to weak outcomes as well. Such practices break the time-honored links between a firm’s profitability and its workers’ earnings, and diminish employer interest in training workers to make them more productive.¶ Without important, systematic policy changes, the earnings and employment of US workers – especially those without college degrees – will likely continue to deteriorate. More trade and automation in the form of robotics and artificial intelligence (AI) will almost certainly lead millions of workers to be displaced, while our failure to adequately fund public institutions of higher education and workforce services will limit workers’ readiness for new jobs that will be created. In other areas – including federal wage and hour laws, worker rights to representation on the job, and employer staffing arrangements – we are surely still moving in the wrong direction.

#### The problem with worker organization isn’t the right to strike- it’s companies taking deliberate anti-union action, which the aff doesn’t solve. Means the aff can never solve.

Heidi **Shierholz, 20** - ("Weakened labor movement leads to rising economic inequality," Economic Policy Institute, 1-27-2020, 11-4-2021https://www.epi.org/blog/weakened-labor-movement-leads-to-rising-economic-inequality/)//AW

The basic facts about inequality in the United States—that for most of the last 40 years, pay has stagnated for all but the highest paid workers and inequality has risen dramatically—are widely understood. What is less well-known is the role the decline of unionization has played in those trends. The share of workers covered by a collective bargaining agreement dropped from 27 percent to 11.6 percent between 1979 and 2019, meaning the union coverage rate is now less than half where it was 40 years ago. Research shows that this de-unionization accounts for a sizable share of the growth in inequality over that period—around 13–20 percent for women and 33–37 percent for men. Applying these shares to annual earnings data reveals that working people are now losing on the order of $200 billion per year as a result of the erosion of union coverage over the last four decades—with that money being redistributed upward, to the rich. The good news is that restoring union coverage—and strengthening workers’ abilities to join together to improve their wages and working conditions in other ways—is therefore likely to put at least $200 billion per year into the pockets of working people. These changes could happen through organizing and policy reform. Policymakers have introduced legislation, the Protecting the Right to Organize (PRO) Act, that would significantly reform current labor law. Building on the reforms in the PRO Act, the Clean Slate for Worker Power Project proposes further transformation of labor law, with innovative ideas to create balance in our economy. How is it that de-unionization has played such a large role in wage stagnation for working people and the rise of inequality? When workers are able to join together, form a union and collectively bargain, their pay goes up. On average, a worker covered by a union contract earns 13.2 percent more than a peer with similar education, occupation and experience in a non-unionized workplace in the same sector. Furthermore, the benefits of collective bargaining extend well beyond union workers. Where unions are strong, they essentially set broader standards that non-union employers must match in order to attract and retain the workers they need and to avoid facing an organizing drive. The combination of the direct effect of unions on their members and this “spillover” effect to non-union workers means unions are crucial in fostering a vibrant middle class—and has also meant that as unionization has eroded, pay for working people has stagnated and inequality has skyrocketed. Unions also help shrink racial wage gaps. For example, black workers are more likely than white workers to be represented by a union, and black workers who are in unions get a larger boost to wages from being in a union than white workers do. This means that the decline of unionization has played a significant role in the expansion of the black–white wage gap. But isn’t the erosion of unionization because workers don’t want unions anymore? No—survey data show that in fact, a higher share of non-union workers say they would vote for a union in their workplace today than did 40 years ago. Isn’t the erosion of unionization due to the shifts in employment from manufacturing to service-producing industries? No again—changing industry composition explains only a small share of the erosion of union coverage. What has caused declining unionization? One key factor is fierce corporate opposition that has smothered workers’ freedom to form unions. Aggressive anti-union campaigns—once confined to the most anti-union employers—have become widespread. For example, it is now standard, when workers seek to organize, for their employers to hire union avoidance consultants to coordinate fierce anti-union campaigns. We estimate that employers spend nearly $340 million per year hiring union avoidance advisers to help them prevent employees from organizing. And though the National Labor Relations Act (NLRA) makes it illegal for employers to intimidate, coerce or fire workers in retaliation for participating in union-organizing campaigns, the penalties are grossly insufficient to provide a meaningful disincentive for such behavior. This means employers often engage in illegal activities, such as threatening to close the worksite, cutting union activists’ hours or pay, or reporting workers to immigration enforcement authorities if employees unionize. In at least 1 in 5 union elections, employers are charged with illegally firing workers involved in organizing. In the face of these attacks on union organizing, policymakers have egregiously failed to update labor laws to balance the system. Fundamental reform is necessary to build worker power and guarantee all workers the right to come together and have a real voice in their workplace.

1. **More strikes lead to backlash bills that weaken unions – empirically proven. Partelow ‘19**

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In 2018 and 2019, after a decade of disinvestment in education that led to stagnant teacher salaries, policymakers have introduced [proposals in states](https://thehill.com/homenews/state-watch/426030-states-race-to-prevent-teacher-strikes-by-boosting-pay) across the country to begin reinvesting, spurred in part by teacher walkouts and activism nationwide. While it is wonderful to finally see broad support for raising teacher salaries and investing in public schools, a predictable backlash has also emerged. Legislators in some states that were hotbeds of teacher activism are [introducing bills](http://nymag.com/intelligencer/2019/01/teacher-walkouts-gop-lawmakers-push-retaliatory-bills.html) to explicitly prohibit walkouts or punish teachers who participate, often with a sprinkling of additional anti-union provisions. **Weakening unions and refusing to invest in education** are long-standing conservative tenets, and these bills are evidence that we should expect conservative policymakers to return to them as soon as they believe them to be politically viable. The consequences of a decade of education funding cuts came into sharp relief last spring, after teachers staged walkouts in [half a dozen states](https://www.nytimes.com/2018/05/16/us/teacher-walkout-north-carolina.html). The [decade of disinvestment](https://www.americanprogress.org/issues/education-k-12/reports/2018/09/20/457750/fixing-chronic-disinvestment-k-12-schools/) in education had its roots in the Great Recession, when many states were forced to drastically cut their K-12 education funding. But as the recovery got underway, many governors — particularly in red states — made intentional policy choices to cut taxes for wealthy residents and corporations rather than allow education funding to rebound to pre-recession levels as revenue increased. As a [result](https://www.americanprogress.org/issues/education-k-12/reports/2018/09/20/457750/fixing-chronic-disinvestment-k-12-schools/%5b), teacher wages stagnated, school budgets were strapped, and expenses such as building repairs and learning materials were deferred year after year. By 2018, reports of [crumbling schools](https://www.motherjones.com/politics/2018/01/its-not-just-freezing-classrooms-in-baltimore-americas-schools-are-physically-falling-apart/), students learning from [decades-old textbooks](https://www.cnn.com/2018/04/03/us/oklahoma-teachers-textbooks-trnd/index.html), high teacher turnover, and staff [shortages](https://tucson.com/news/local/we-continue-to-worsen-nearly-arizona-teaching-jobs-remain-vacant/article_1c8d665a-a422-5c7b-95b9-98afe0cb0c6f.html) in these states became common. Teachers had reached their [boiling point](https://morningconsult.com/opinions/americas-teachers-are-at-their-boiling-point/). The teacher walkouts have been very effective. Though they were a last resort, they finally got lawmakers’ attention in states that had seen the most chronic and severe cuts to education. In the states where teachers walked out, governors who hadn’t historically supported [education funding](https://www.americanprogressaction.org/issues/education/news/2018/10/09/171813/little-late-many-gubernatorial-candidates-education-funding/) agreed to enact significant [pay raises](https://www.latimes.com/nation/la-na-teacher-funding-20180306-story.html) and increases in education funding. For example, in Arizona, Republican Gov. Doug Ducey was forced to sign off on a teacher pay bill he had [previously opposed](https://tucson.com/news/local/gov-ducey-teachers-aren-t-going-to-get-percent-pay/article_75a9b7dc-930b-5374-be12-61fb840e4ced.html) that provided a [20 percent raise](https://www.reuters.com/article/us-usa-education-arizona/arizona-governor-signs-bill-to-boost-teachers-wages-amid-strike-idUSKBN1I40N8) to the state’s teachers — some of the lowest-paid in the nation — and invested an additional $100 million in schools in the state. And now, in several states with low teacher pay that have so far avoided major protests, some governors have proposed salary increases. Remarkably, much of this movement is happening in [deep-red states](https://thehill.com/homenews/state-watch/426030-states-race-to-prevent-teacher-strikes-by-boosting-pay) with historically low education spending. In South Carolina, Gov. Henry McMaster wants to give teachers a 5 percent pay raise; in Texas, Lt. Gov. Dan Patrick has proposed a $5,000 increase; and in Georgia, Gov. Brian Kemp has proposed a $3,000 increase. In all three of these states, teachers are [paid less](http://www.nea.org/assets/docs/180413-Rankings_And_Estimates_Report_2018.pdf) than the national average. It’s likely that last year’s walkouts nudged these governors to consider teacher pay in a way that they wouldn’t have otherwise. Though it goes against traditional conservative principles, supporting these raises is smart politics for these governors. There is widespread public [support for increasing teacher pay](https://www.apnews.com/883e9d387709112a11ee8901c223294e), particularly in the states where walkouts occurred. But even as some conservative policymakers agree to raise teacher salaries, as the 2019 legislative sessions have begun, others in Arizona, Oklahoma, and West Virginia have introduced bills that would [make walkouts illegal](http://nymag.com/intelligencer/2019/01/teacher-walkouts-gop-lawmakers-push-retaliatory-bills.html) and penalize teachers with fines, loss of their teaching licenses, or even [jail time](https://www.vox.com/policy-and-politics/2018/4/23/17270422/colorado-teachers-strike-jail-bill). Some of the bills also contain provisions designed specifically to weaken teachers unions, such as a requirement that teachers must [opt in to dues each year](https://www.nytimes.com/aponline/2019/01/28/us/ap-us-education-bill-west-virginia.html), which sponsors hope will reduce membership by adding an extra step to the process. Legislators in walkout states have also introduced stand-alone proposals designed to **make union membership more difficult** and, therefore, less likely, such as a prohibition on districts [withholding union dues](https://newsok.com/article/5593286/bill-is-revenge-for-teacher-walkout-unions-say) from teachers’ paychecks. These backlash bills hint at a much more familiar conservative education agenda of slashing funding and working to weaken teachers unions. After all, it is this agenda that led to stagnant teacher salaries, deplorable conditions in many school buildings, and consequences for students whose schools were chronically underfunded in the first place. Supporting increases to teacher pay and greater investment in schools is the right thing to do for America’s students. Unfortunately, this wave of backlash makes clear that for some policymakers, it’s all about politics — and as soon as they have the chance, they’ll once again slash education funding and attack hardworking teachers.

1. **The right to strike just leads businesses to take stronger steps to stop unionization.**

Gordon **Lafer, 20** - ("Fear at work: An inside account of how employers threaten, intimidate, and harass workers to stop them from exercising their right to collective bargaining," Economic Policy Institute, 7-23-2020, https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/)//va

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](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note19) 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](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note20) ¶ In addition to group meetings, employers typically have supervisors talk one-on-one with each of their direct subordinates.[21](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note21) 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](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note22) ¶ 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](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note23) 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 little effective right of reply, these messages may prove extremely powerful. ¶ It is common for unionization drives to start with two-thirds of employees supporting unionization and still end in a “no” vote. This reversal points to the anti-democratic dynamics of NLRB elections: voters are not being convinced of the merits of remaining without representation—they are being intimidated into the belief that unionization is at best futile and at worst dangerous. When a large national survey asked workers who had been through an election **to name “the most important reason people voted against union representation,” the single most common response was management pressure, including fear of job loss**.[24](https://www.epi.org/publication/fear-at-work-how-employers-scare-workers-out-of-unionizing/#_note24) Those who vote on this basis are not expressing a preferenceto remain unrepresented. Indeed, many might still prefer unionization if they believed it could work. Where fear is the motivator, what is captured in the snapshot of the ballot is not preference but despair. ¶To understand what union elections look like in reality, we have profiled two cases in which workers sought to create a union and met with a harsh (and typical) employer backlash. In both cases—a tire plant in Georgia and a satellite TV company in Texas—the employer response ranges from illegally firing union activists to engaging in acts of coercion and intimidation that are illegal in any normal election to public office but are allowed under the NLRA. ¶