# 2AC---Round 7---DRR

## Bureaucracy

### Civil Service---2AC

### Terror---2AC

### Diplomacy---2AC

### AT: Kroenig 25---2AC

## Lochnerism

### Lochnerism---2AC

### Lochnerism---2AC

### War---2AC

### Data Protection---2AC

## T-Private

### T-Private Sector---2AC

#### Counter-interp: affs can provide rights to federal workers OR private sector workers.

#### ‘Worker’ and ‘employee’ are different.

John Petrich 92. Washing Appeals Court judge. "Jamison v. Dep't of Labor & Indus." 65 Wn. App. 125, Lexis.

For purposes of assessing industrial insurance taxes on an employer for workers covered under the Industrial Insurance Act (RCW Title 51), the common law definition of an "employee" is not relevant to defining a "worker". The term "worker" as defined by RCW 51.08.180 is given an expansive construction to include anyone, whether an employee or an independent contractor, working under a contract the essence of which is the performance of personal labor for an employer.

#### Government’s obviously an employer, federal workers obviously are employees.

Richard Taranto 24. Judge for the United States Court of Appeals. "Lambro v. United States." 90 F.4th 1375, Lexis.

Overview

HOLDINGS: [1]-FLSA authorizes the recognition, solely for application of the FLSA's own provisions, of an employment relationship between the federal government and those federal government workers who satisfy the FLSA's definitions, notably its definitions of employee and employ under 29 U.S.C.S. § 203(e), (g), and appellant was entitled to a determination of whether he met those standards. The FLSA itself, through its definitional provisions, provides the applicable standard for recognizing an employment relationship for FLSA purposes, and the FLSA authorizes the application of this standard to federal and non-federal employees alike. Thus, the Claims Court had to evaluate whether appellant was employed by a federal agency under the FLSA's own standard for being employed.

#### Vacca cites OSHA, which is “circular” and “unhelpful.”

Vacca 19, Professor of Law at the University of New Hampshire School of Law (Ryan Vacca, 2019, “Uncertainty in Employee Status Across Federal Law,” Temple Law Review, University of Kansas Libraries, Lexis)

As such, only an “employer” may be cited for a violation of the act.172 Like with the NLRA and ERISA, the definitions in OSHA are circular. “Employer” is defined as “a person engaged in a business affecting commerce who has employees,” but not federal, state, or local governments.173 Unhelpfully, “employee” is defined as “an employee of an employer who is employed in a business of his employer which affects commerce.”174

#### Prefer:

#### a) Aff ground. Their interp excludes half the topic and the most salient current labor issue.

#### b) Predictability. Their ev is descriptive of the NLRA but isn’t defining any words.

#### c) Reasonability. ‘Limits first’ races to nowhere.

#### No offense: states, process, employment law, and limited literature serve as functional limits.

## T-Subsets

### T-Subsets---2AC

#### 1. We meet. Plan in a vacuum is objective and checks positional competition.

#### 2. Counter-interp: AFFs cover an entire class of employee.

André Birotte Jr. 22. United States District Court judge. "Sachs v. Pankow Operating, Inc." 2022 U.S. Dist. LEXIS 29238.

As for the Sarmiento court, it points to the Huffman court's conclusion, and then provides a policy argument for the view that § 514 applies on a CBA-by-CBA basis, rather than on an employee-by-employee basis. See Sarmiento v. Sealy, Inc., 2019 U.S. Dist. LEXIS 117614, 2019 WL 3059932 at \*9. Although the court's arguments have merit, it is not evident that they apply to this Court's reading of § 514, namely that the plural terms "the employees" and "those employees" refer not to all of the employees covered by a CBA but to all employees within the same classification as the employee bringing the action. Moreover, other than its reference to Huffman, the Sarmiento court's policy argument is not grounded in prior authority, let alone the type of authority that would bind this Court in its interpretation of § 514.

#### “Collective bargaining rights” include subsets.

Andrew Roth 21. Senior Counsel at Bredhoff & Kaiser. “ATU’s Brief in Opposition to California’s Motion for a Stay/Preliminary.” 12-17-2021. Case No. 2:20-CV-00953-KJM-DB. Lexis.

Against this historical background, it is clear that when Congress made “the continuation of collective bargaining rights”—plural—a condition of federal transit grants to public transit agencies, Congress intended to protect public transit employees against unilateral state action abridging any of their bargaining rights; i.e., to protect public transit employees against unilateral state action setting or imposing limits on employee wages, fringe benefits and the like, including defined benefit pensions.

#### We meet District Court because we extend all bargaining rights to federal employees. The card doesn’t say CBRs must be granted to all workers.

US District Court 22. United States District Court, E.D. California. AMALGAMATED TRANSIT UNION, INTERNATIONAL, et al., Plaintiffs, v. UNITED STATES DEPARTMENT OF LABOR, et al., Defendants, And Cross-Claims. December 28, 2022647 F.Supp.3d 8752022 L.R.R.M. (BNA) 462,832 WestLaw.

A. Plural "Rights"

The ATU argues first that the phrase "collective bargaining rights" in section 13(c)(2) shows Congress unambiguously enshrined a separate collective bargaining right for each term and condition of employment. See, e.g., Prev. ATU Mem. Summ. J. at 6, 9-12, ECF No. 33-1. In other words, the ATU argues there is a collective bargaining [\*\*83] right related to pensions, another right related to wages, another right related to hours, and so on. That reading does not appear to be what Congress intended.

To begin, the ATU does not confront the ambiguity of the word "rights" itself. "Rights" might be plural because there are multiple protective arrangements, multiple employers and multiple employees for the Secretary to consider. Congress might also have used the plural "rights" to refer to the many actions employees can undertake to assert and protect their interests. It might have been referring to the rights to an employer's recognition, to collective negotiation, to advocate and to seek new members, among other things.

The ATU's interpretation suffers from a second basic flaw. Under its interpretation, "rights" can be defined with arbitrary granularity. It could encompass any part of the relationship between an employer and employee. Under the ATU's interpretation of the word "rights," section 13(c)(2) would permit the Secretary of Labor to indefinitely freeze any condition at will. Consider, for example, a defined benefit pension plan like the plans previously offered by many public employers in California. Under these plans, retirement [\*\*84]  benefits were determined by the number of years an employee was in service, the salary at retirement and a multiplier. An employee  [\*913]  could increase the defined benefit by artificially increasing either their years in service or their salary at retirement. If "rights" corresponded to any term or condition of employment, the Secretary of Labor could freeze every aspect of the former retirement plan by defining the "right" to bargain very specifically—beyond retirement, beyond pensions, beyond defined benefit pension plans and how those benefits accrue, beyond even the calculation of service credits all the way down to an employee's ability to purchase additional service credits and the terms of that purchase. If the "bargaining right" associated with any isolated "term" of employment did not "continue," then the Secretary could deny certification.

#### ‘Substantial’ is qualitative or quantitative.

Sonya Sotomayor 17. Justice of the Supreme Court of the United States, J.D. from Yale University, A.B. in History from Princeton University. “Life Technologies Corp. v. Promega Corp., 580 U.S. \_\_\_ (2017).” https://supreme.justia.com/cases/federal/us/580/14-1538/#tab-opinion-3694340.

We look first to the text of the statute. Sebelius v. Cloer, 569 U. S. \_\_\_, \_\_\_ (2013) (slip op., at 6). The Patent Act itself does not define the term “substantial,” and so we turn to its ordinary meaning. Ibid. Here we find little help. All agree the term is ambiguous and, taken in isolation, might refer to an important portion or to a large portion. Brief for Petitioners 16; Brief for Respondent 18; Brief for United States as Amicus Curiae 12. “Substantial,” as it is commonly understood, may refer either to qualitative importance or to quantitatively large size. See, e.g., Webster’s Third New International Dictionary 2280 (defs. 1c, 2c) (1981) (Webster’s Third) (“important, essential,” or “considerable in amount, value, or worth”); 17 Oxford English Dictionary 67 (defs. 5a, 9) (2d ed. 1989) (OED) (“That is, constitutes, or involves an essential part, point, or feature; essential, material,” or “Of ample or considerable amount, quantity, or dimensions”).

#### ‘Workers’ are discrete.

William Carlson 9. Ph.D. in public administration from Virginia Commonwealth University. "ETA & Wage and Hour Division, Final Rule, Temporary Employment of." Department of Labor. 6-29-2009. dol.gov/agencies/oalj/PUBLIC/INA/REFERENCES/FEDERAL\_REGISTER/74\_FED\_REG\_25972\_%28MAY\_29\_2009%29

United States workers means any worker who, whether U.S. national, citizen or alien, is legally permitted to work permanently within the United States.

#### ILO says ‘worker’ is meaningless AND lacks intent to define generally.

ILO 5, International Labour Office, Office of the Legal Adviser, “Manual for drafting ILO instruments”, <https://learning.itcilo.org/ilo/jur/en/bibl/Manual.pdf>

2.2.6. Worker

124. It is difficult to define the word “worker” in ILO instruments in terms of one single meaning. Some Conventions propose a definition that is intended to meet their specific requirements.91 The word ìworker(s)î is sometimes qualified by terms such as ìpart-time workerî,92 ìfull-time workers affected by partial unemploymentî,93 ìcomparable full-time workerî, 94 ìnight workerî, 95 ìthe workers concernedî, 96 ìmigrant workerî, 97 or ìrural workersî.98

**<Their Card Starts>**

The practice of the ILC has been to give the broadest possible meaning to the term “workers”. On many occasions, it has been emphasized that, if the subject matter of a given instrument is not limited only to employed workers, or the instrument does not provide for any specific exclusion in respect of one or more categories of workers, then “worker” is understood to cover all workers.99

#### You should narrowly apply international definitions to US law---it’s most predictable.

Curtis Bradley 16. The GOAT. Allen M. Singer Distinguished Service Professor of Law, University of Chicago Law School. “The Supreme Court as a Filter between International Law and American Constitutionalism.” https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=14094&context=journal\_articles.

By filter, I do not mean that the Court is or should be some sort of impermeable barrier to international law. Rather, the idea is that the Court should ensure that when international law passes into the U.S. legal system, it does so in a manner consistent with domestic constitutional values. Although this filtering process might in some instances dilute or narrow international law as it is applied within the United States, this is not inevitably the result. Filters can operate to improve and refine something for a particular purpose—think of a filter for coffee, for example—and this is often what happens when U.S. courts attempt to tailor international law to the U.S. domestic system.

This filtering role is needed because international law is generated through processes that often make it ill-suited for direct application in the U.S. legal system, and because it is frequently designed to perform functions different from those demanded of domestic law. The two principal sources of international law are customary international law and treaties. Customary international law arises out of the evolving practices and beliefs of nations.2 Although the United States contributes to its formation and change, this body of law does not require any specific approval process in the United States. Moreover, because customary international law is unwritten and evolving, its content is often uncertain and contested. Indeed, even the types of evidence that should count toward ascertaining its content are the subjects of substantial dispute.3 Because of its contested and evolutionary character, determinations of the content of customary international law implicate not only legal considerations but also considerations of U.S. foreign policy.4

#### Prefer:

#### a) Aff ground. They rob the aff of subset-specific advantage ground and makes PICs compete.

#### b) Precision. Labor law has never covered every worker.

Sarah Anzia & Jessica Trounstine 24. Professor of public policy and political science at the University of California, Berkeley. Professor of political science at Vanderbilt University. "Building a Movement: The Parallel Paths of Public- and Private-Sector Unions in Early 20th Century America." University of California, Berkeley. 9/3/2024. gspp.berkeley.edu/assets/uploads/research/pdf/Anzia\_Trounstine\_PublicPrivateUnions\_09\_04\_24.pdf

Many scholars have noted these divergent trends and pointed to the very different legal structures governing labor-management relations in the private and public sectors as an important contributor. The NLRA of 1935 explicitly excludes the public sector from coverage (NLRA 1935, Sec.2. [§152.]). Government employees did not have similar legal protections as private-sector employees until decades later, and even then (for state and local workers) only at the state level, when during the 1960s, 1970s, and 1980s, most states passed laws requiring government employers to recognize and collectively bargain with unions of their employees. From this, a conventional wisdom emerged that public- and private-sector unionization developed along separate paths—and that before the 1960s, organizations of government employees remained small, weak, and ineffective.

#### c) Logic. Their interp says ‘CBR for workers’ doesn’t exist in the status quo. Plain meaning’s key to prep.

#### d) Reasonability. ‘Limits first’ races to nowhere.

#### No offense: functional limits like states, process, employment law, and natural limits check aff quantity, while legal disads and politics solve ground.

## Word PIC

### Word PIC---2AC

## K

### Plan Focus---2AC

#### 1. Framework: weigh consequences of the plan against a competitive alt.

### Extinction Outweighs---2AC

### Permutation---2AC

#### First Amendment enables legal victories for trans people.

Eliot Tracz 25. Assistant professor of law at the New England Law, J.D. from the DePaul University College of Law. "Viewpoint Discrimination, Compelled Speech, and Trans Identity." *Journal of Things We Like (Lots)*,1(7), 1-2.

It's rare that an article comes along with the potential to reshape how an entire area of law is litigated. This is particularly true for articles addressing discrimination against the LGBTQ community. Katie Eyer authored such a piece,I which influenced the outcome in Bostock v. Clayton County.z Now, Zee Scout, in her article Trans Erasure, Intersex Manipulation: The First Amendment and Other Reflections from Women in Struggle v. Bain, has written just such a work, which promises to impact how anti-trans legislation is litigated.

Scout's article addresses the onslaught of state legislation targeting what she refers to as transgender, gender nonconforming, intersex, and queer (TGNCI) people. While the Equal Protection Clause has long been the tool of choice to advance TGNCI rights, federal courts have begun rolling back progress.! This rollback, according to Scout, is premised on the "real differences" doctrine, which argues that men and women have distinct biological characteristics which in turn permit certain types of distinctions in regulation. (P. 121.) As a result, states have been able to pass legislation as based on binary differences of reproductive anatomy (which of course erases intersex people entirely).

What Scout has done is respond to these types of laws with three arguments rooted in the First Amendment. Initially, she identifies several principles underlying Free Expression jurisprudence. The truth-discovery principle, embodied by Justice Holmes concept of the "market place of ideas, "4 posits that the best way to ascertain truth is through the free exchange of ideas. The second principle identified by Scout is the democratic process. This principal suggests that the First Amendment protects the formation of public opinion. The final principal is autonomy, which suggests that free speech allows us to define, develop, and express ourselves as individuals.

Using these three principles as a baseline, Scout offers two compelling First Amendment based arguments. The first is that anti-TGNCI legislation is a form of viewpoint discrimination. (P. 161.) It is well established that when the government chooses to propound certain messages over others, and, in the process, suppresses viewpoints it opposes, it chills speech. Scout argues that, in the context of anti-TGNCI legislation, the state uplifts a message that bathrooms, healthcare, and sports participation should be "organized exclusively around immutable birth sex."I In the process, the message promoted by the state erases TGNCI viewpoints regarding gender identity and access to sex-separated facilities and institutions. Scout further develops, in detail, those TGNCI viewpoints and places the argument in the context of Florida's bathroom ban. The effect is an impactful and original application of the First Amendment to anti-TGNCI laws and really any anti-LGBTQ, legislation.

Scout also offers a second novel application of the First Amendment to anti-TGNCI legislation through the application of the Compelled Speech Doctrine. It is well understood that the First Amendment prohibits the government from compelling people to choose between compliance with the law and engaging in sincere expressive speech. Indeed, this principle was at the heart of 303 Creative LLC v. Elenis,z a recent case viewed as a defeat for the LGBTQ community. The Compelled Speech doctrine has been used to stifle anti-discrimination laws, so it is fitting that Scout turns it into a tool to combat anti-TGNCI legislation by pointing out that such legislation forces TGNCI people to choose between violating their beliefs and potentially endangering their personal safety, or affirming their beliefs and risking punishment under the law. The result is that it is often the case that TGNCI individuals are forced to become bearers of the State's message.

Of course, Scout has done her due diligence and addresses a number of counter arguments. There is not space here to address them in detail, but despite some strong arguments, Scout's application of the First Amendment holds up well. Both of her arguments are worthy of application in the courts.

Zee Scout has given us a formula for a rekindled hope for equality. To be clear, the use of the First Amendment in LGBTQ rights cases is not new. Sometimes it has been wielded as a sword to strike at anti-LGBTQ policies, while at other times is has been used as a shield to protect private interests from having to accept LGBTQ people.2 What Scout has done is repurpose the First Amendment in a novel, compelling manner to breathe new life into the fight for TGNCI rights. Whether you are a scholar, a litigator, or simply an interested party, this article is worth a read or two. But once you're done reading, it's time to think about how to apply these arguments.

## Kant DA

### Kant DA---2AC

## Debt DA

### Debt DA---2AC

#### No link.

Andrea Hsu 25. Journalist. "How Trump is decimating federal employee unions one step at a time." NPR. 8/31/2025. npr.org/2025/09/01/nx-s1-5515633/trump-federal-workers-labor-unions-va

Federal employees have had the right to join unions and collectively bargain over working conditions since the 1960s. Unlike private sector workers, government employees cannot negotiate wages or strike. But through collective bargaining, they do help shape disciplinary procedures, parental leave policies, how overtime is managed and much more.

#### Weak administration makes emerging tech existential.

Jieli Li 25. Associate professor-clinical of pathology, director of clinical pathology services, and codi-rector of the Clinical Chemistry & Toxicology Laboratory at the Ohio State University College of Medicine, M.D. from the Shanghai Jiao-Tong University School of Medicine. "Governing High-Risk Technologies in a Fragmented World: Geopolitical Tensions, Regulatory Gaps, and Institutional Barriers to Global Cooperation." *Fudan Journal of the Humanities and Social Sciences*. 3-16-2025. researchgate.net/publication/391825967\_Governing\_High-Risk\_Technologies\_in\_a\_Fragmented\_World\_Geopolitical\_Tensions\_Regulatory\_Gaps\_and\_Institutional\_Barriers\_to\_Global\_Cooperation

2 The “Risk Society” in a “Runaway World”: A Theoretical Synthesis

The contemporary world is increasingly marked by uncertainty, complexity, and the unintended consequences of technological progress. Various sociopolitical theories provide valuable insights into these evolving dynamics, particularly the perspectives of Habermas (1975, 1984), Beck (1992, 2009), Giddens (1990, 2003), Bauman (2000), and Perrow (1984, 2011). These theories offer an analytical framework to examine emerging risks and potentially catastrophic outcomes that societies may face amid rapid technological advancement and fragmented regulatory systems in today’s world.

The erosion of trust in governance institutions, as explained by Habermas’ concept of the “legitimation crisis,” highlights the growing disconnection between modern governance structures and the public they serve. Habermas (1975) argues that as modern states struggle to maintain security and stability, public confidence in institutional frameworks deteriorates, leading to a crisis of legitimacy. This issue is particularly relevant in the governance of emerging high-risk technologies, where regulatory bodies often fail to keep pace with rapid innovation in fields such as nuclear power, synthetic biology, and artificial intelligence. The growing dependence on expert systems and technocratic governance further distances the public, intensifying concerns over democratic accountability and transparency in the decision-making process (Jasanoff 2011). In this context, global technology governance is caught in a double bind—striving to build public legitimacy and trust while also maintaining the efficiency and technical expertise needed to regulate fast-moving industries. Without inclusive, participatory mechanisms, governance institutions may become detached from the public sphere, leading to heightened skepticism, resistance, and potential regulatory failures.

The growing uncertainty and unpredictability of technological risks align with Beck’s “risk society” thesis, which describes modernity as a system increasingly defined by man-made risks rather than natural ones. Beck (1992, 2009) argues that societies today face systemic and unpredictable risks that arise from technological and industrial developments, many of which go beyond national boundaries. He distinguishes between “voluntary risks” (e.g., workplace hazards) and “involuntary risks” (e.g., large-scale technological disasters and climate change), emphasizing that the latter are becoming harder to control. He asserts that “in advanced modernity, the social production of wealth is systematically accompanied by the social production of risks” (Beck 1992, p. 19). This paradox presents a unique challenge: While technological advancements offer efficiency and progress, they also introduce profound vulnerabilities that are difficult to predict, mitigate, or regulate.

The acceleration of such vulnerabilities in a globalized world, as suggested by Giddens’ “runaway world” thesis, highlights how technological change often outpaces governance structures, leaving regulatory mechanisms struggling to keep up. Giddens (1990, 2003) describes how globalization has intensified risks while simultaneously diminishing the regulatory capacity of national governments. He explores the concept of “disembedding,” wherein traditional social structures are supplanted by abstract systems, leading to an increased reliance on expert knowledge while simultaneously eroding public engagement and trust. This growing detachment complicates regulatory efforts, as governance mechanisms often struggle to keep pace with rapid technological advancements.

Similar to Beck, Giddens argues that modern society is increasingly shaped by “manufactured risks”—threats that emerge from human innovation rather than natural processes. The acceleration of such risks is evident in phenomena like AI-driven disinformation, climate change fueled by industrial emissions, and financial crises triggered by algorithmic trading. Given the inherently global nature of these risks, effective international governance mechanisms are essential. However, their development remains constrained by geopolitical rivalry, economic disparities, and national security concerns, which hinder coordinated responses and the establishment of effective regulatory frameworks.

The instability and unpredictability of global governance structure in the modern world align with Bauman’s concept of “liquid modernity,” which depicts a world where regulatory institutions and governance mechanisms are increasingly fragmented and volatile. Bauman (2000) contrasts “liquid modernity” with the solid and predictable governance structures of the past, arguing that contemporary political and economic institutions are increasingly characterized by instability. This fluidity heightens uncertainty and insecurity, making political, social, and economic conditions more volatile. Bauman’s theory is particularly relevant to the governance of high-risk technologies, where regulatory frameworks are in constant flux in response to technological developments. The rapid progression of AI, biotechnology, and cybersecurity threats exemplifies the challenge of establishing stable governance mechanisms. Cultural shifts, evolving legal standards, and geopolitical uncertainties further complicate efforts to develop consistent global governance strategies.

The inevitability of failures in complex technological systems is central to Perrow’s “normal accidents” theory, which suggests that failures in highly interconnected, tightly coupled systems are unavoidable. Perrow (1984) argues that large-scale technological systems—such as nuclear plants, chemical factories, and air traffic control networks—are inherently vulnerable to unforeseen failures, regardless of safety measures. Despite efforts to design fail-safe mechanisms, complex interdependencies between system components make catastrophic failures inevitable. The 2011 Fukushima nuclear disaster serves as an example of how multiple failures within a tightly coupled system can escalate into large-scale catastrophes, even in the presence of extensive precautionary measures (Perrow 2011). Similarly, the increasing complexity of digital infrastructures—particularly those powered by artificial intelligence—heightens the potential for cascading failures with far-reaching global consequences, including financial crashes and large-scale cybersecurity breaches (World Economic Forum, 2023).

Synthesizing the above theoretical perspectives reveals a common theme: the governance of high-risk technologies is increasingly constrained by complexity, unpredictability, and transnational interdependence. Habermas’ “legitimation crisis” highlights the political dimensions of risk management, illustrating how declining public trust in governance structures complicates regulatory efforts. Beck’s “risk society” underscores the uncertain and pervasive nature of technological risks, emphasizing their global and systemic implications. Giddens’ “runaway world” aligns with Beck’s arguments, demonstrating how globalization accelerates technological change, often outpacing regulatory adaptation. Perrow’s “normal accidents” theory further reinforces this challenge, arguing that failures within highly complex systems are not only inevitable, but also difficult to contain. Meanwhile, Bauman’s “liquid modernity” provides a broader sociological framework for understanding the instability and fluidity that characterize contemporary governance structures, emphasizing their struggle to keep pace with rapid technological transformations.

These theoretical perspectives highlight the urgent need for innovative global governance structures to manage emerging technological risks. Given the deeply interconnected nature of emerging technologies, national policies alone are insufficient for mitigating systemic risks, thereby necessitating coordinated international regulatory responses. As technological advancements continue to accelerate, governance institutions must adapt to the challenges of complexity, unpredictability, and interdependence. In the absence of comprehensive regulatory mechanisms, the risks posed by high-tech innovations may outpace society’s capacity for oversight and control, further deepening the crisis of legitimacy in both national and international governance systems. A forward-thinking, collaborative approach is therefore essential to ensuring that technological progress aligns with societal well-being and long-term global stability.

3 The Catastrophic Potentials of High-Risk Technologies

A defining feature of the “risk society” is the proliferation of high-risk technologies, as modern societies are increasingly shaped by “manufactured risks” and the global threats arising from industrial and scientific progress. Although these advancements have the potential to greatly improve global well-being, they also carry the risk of catastrophic consequences for humanity.

3.1 Nuclear Technology

Nuclear energy has long illustrated the dual-edged nature of high-risk technology—offering clean energy solutions while at the same time presenting severe environmental and public health challenges. Historical nuclear disasters highlight the systemic vulnerabilities of nuclear power. The 1986 Chernobyl disaster remains one of the most catastrophic nuclear accidents in history, releasing widespread radioactive contamination, and leading to long-term health crises, environmental devastation, and mass displacement (Medvedev 1990; Plokhy 2018). Similarly, the 2011 Fukushima Daiichi nuclear disaster demonstrated how technological failures, compounded by natural disasters, can have far-reaching transnational consequences (Funabashi & Kitazawa 2012). The radiation contamination from Fukushima impacted not only Japan, but also neighboring countries, disrupting global food supplies and trade networks (Madigan et al. 2012).

Beyond reactor failures, nuclear proliferation remains a critical global security concern. The dual-use nature of nuclear technology—where civilian nuclear energy programs can be diverted for military applications—exacerbates international tensions. The North Korean nuclear crisis and Iran’s uranium enrichment program exemplify the geopolitical instability linked to nuclear governance, as both state and non-state actors pursue nuclear capabilities despite international sanctions (Cirincione 2008). The difficulties in enforcing global nuclear security are further demonstrated by the limitations of non-proliferation frameworks such as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which faces ongoing compliance challenges and enforcement difficulties.

3.2 Biotechnology and Genetic Engineering

Advancements in gene-editing technologies, particularly CRISPR-Cas9, have sparked significant ethical, ecological, and security concerns. One of the most controversial incidents occurred in 2018, when Chinese scientist He Jiankui genetically modified twin embryos to confer resistance to HIV (Regalado 2018). This experiment sparked widespread global concern, underscoring the unpredictable long-term consequences and ethical dilemmas associated with human genetic modification (Krimsky 2019).

Beyond human genome editing, gene drives—a groundbreaking biotechnology designed to facilitate the spread of genetic modifications through entire wild populations—introduce serious ecological risks. While gene drives hold promise for controlling disease-carrying insects, they also present unintended environmental consequences. For instance, modifying mosquito populations to reduce malaria transmission could inadvertently disrupt ecosystems and threaten biodiversity (Esvelt & Gemmell 2017). Another pressing issue is genetic pollution, where genetically modified organisms (GMOs) interbreed with wild populations, posing risks to biodiversity and food sovereignty. A notable case is the contamination of native maize varieties in Mexico by genetically modified corn, raising concerns over its impact on traditional agriculture and indigenous food systems (Quist & Chapela 2001; Altieri & Rosset 1999).

Furthermore, the emergence of synthetic biology has introduced new bioterrorism threats. In 2017, Canadian researchers successfully synthesized a smallpox-like virus, demonstrating how engineered pathogens can be recreated using publicly available genetic data (DiEuliis & Giordano 2018). This breakthrough has intensified fears regarding the weaponization of synthetic viruses, as both accidental releases and intentional misuse could lead to global pandemics, reinforcing the urgent need for stronger biosafety regulations (Koblentz 2021; Koblentz & Popescu 2024).

3.3 Quantum Computing

Quantum computing holds transformative potential across sectors such as pharmaceuticals, logistics, climate modeling, and AI, yet it also introduces significant, often overlooked risks. These stem not only from the technology itself, but also from its geopolitical, economic, and ethical ramifications. As with other high-risk technologies, governance is hindered by international fragmentation, regulatory inertia, and strategic competition. A major concern is its capacity to break existing cryptographic systems. Algorithms like Shor’s could render RSA and elliptic curve cryptography obsolete, threatening global digital security and enabling “quantum decryption” of previously secure data (Bernstein & Lange 2017; Mosca 2018). The risk is heightened by “harvest now, decrypt later” tactics and slow adoption of post-quantum cryptography (Kshetri 2021).

Quantum computing could also disrupt financial markets and infrastructure. Algorithms such as Grover’s might be used to manipulate trading systems, speed up AI decision-making, or compromise control systems (National Academies of Sciences, Engineering, and Medicine, 2019). Its dual-use nature raises concerns over arms control and strategic stability, especially as states race for “quantum advantage” in secure communications and nuclear simulation (Zwitter & Hazenberg 2020). Moreover, its environmental and resource demands—cryogenic cooling, rare-earth materials, and complex fabrication—present ecological and supply chain risks. Concentration of development in a few nations and firms may deepen technological divides and undermine global equity.

Most concerning is the unpredictable interaction of quantum systems with other emerging technologies like AI, synthetic biology, or autonomous weapons. These combinations may produce emergent risks, feedback loops, or systemic failures that elude regulation (Zwitter & Hazenberg 2020). These challenges are magnified by the absence of robust international oversight. Ultimately, quantum computing exemplifies the high-risk technology paradox: immense promise matched by peril.

3.4 AI-Driven Risks

Artificial intelligence (AI) has rapidly emerged as one of the most transformative and high-risk technologies, sparking concerns over autonomous warfare, economic instability, and the proliferation of large-scale disinformation. Among the most pressing risks is the development of lethal autonomous weapon systems (LAWS), commonly referred to as “killer robots.” These AI-driven combat drones and robotic warfare systems operate with minimal human oversight, increasing the chances of unintended conflicts and civilian casualties (Russell 2019). The absence of comprehensive international regulations on AI weapons has intensified a global military arms race, further escalating concerns over autonomous warfare (Crootof 2016). Beyond military applications, AI also presents significant economic risks. The 2010 US stock market flash crash exemplifies how high-frequency trading algorithms can trigger severe financial disruptions within milliseconds, wiping out billions of dollars in market value (MacKenzie 2018).

Additionally, AI-generated disinformation, particularly through deepfake technology, presents a significant threat to democratic institutions and public trust. AI-powered deepfakes have been weaponized to manipulate elections, incite social unrest, and undermine political processes by fabricating convincing but false narratives (Chesney & Citron 2019). These highly sophisticated digital forgeries blur the line between reality and misinformation, making it increasingly difficult for the public, policymakers, and media to distinguish fact from fiction. Furthermore, as AI-driven disinformation tactics evolve, they contribute to the emerging risk of virtual societal warfare, where state and non-state actors exploit digital ecosystems to manipulate perceptions, sow division, and erode institutional credibility in a rapidly shifting information landscape (Mazarr et al. 2019). Without effective countermeasures, including advanced detection technologies, legal frameworks, and public awareness initiatives, AI-powered disinformation could further destabilize democratic governance and global security. With increasing concerns over AI-driven cyber threats, international cooperation on data governance will be essential in mitigating the risks associated with large-scale digital surveillance and cyber warfare.

These challenges reflect Giddens’ “runaway world” thesis, which argues that technological advancements evolve faster than regulatory frameworks can adapt, resulting in systemic vulnerabilities (Giddens 2003). Perhaps the most extreme AI-related risk, as highlighted by Bostrom (2014), is the potential for an AI “takeover,” where highly advanced AI systems surpass human control, misalign with human values, and make autonomous decisions that could pose existential threats to humanity and jeopardize human survival.

### --AT: Debt---2AC

#### Debt is thumped for decades, caused by tax cuts, and the DA can’t solve our 40 trillion dollar deficit. Card says 1.6 trillion. Hello??

#### No debt impact that we don’t solve for.

Paul Krugman 24. Distinguished Professor of Economics at City University. “Why You Shouldn’t Obsess About the National Debt.” 6/6/24.

How scary is the debt? It’s a big number, even if you exclude debt that is basically money that one arm of the government owes to another — debt held by the public is still around $27 trillion. But our economy is huge, too. Today, debt as a percentage of G.D.P. isn’t unprecedented, even in America: It’s roughly the same as it was at the end of World War II. It’s considerably lower than the corresponding number for Japan right now and far below Britain’s debt ratio at the end of World War II. In none of these cases was there anything resembling a debt crisis.

But haven’t there been many debt crises in history? What about Latin America in the 1980s, southern Europe in 2010-12 and others? Well, almost every debt crisis I’ve been able to find in the historical record involved a country that borrowed in someone else’s currency, which left it vulnerable to a liquidity crunch when lenders for some reason ran for the exits and it couldn’t print cash to pay them off until the panic subsided. In fact, the euro crisis rapidly faded away after Mario Draghi, then the president of the European Central Bank, said three words — “whatever it takes” — implying that the bank would provide cash to debtor nations under stress.

The only clear example I know of a national crisis brought on by high debt owed in the country’s own currency is France in 1926, and that story is extremely complicated.

Still, even many of us who don’t believe that the current level of debt will cause a financial and economic implosion can’t help feeling a bit uneasy over projections that show debt as a percentage of G.D.P. rising steadily over the next 30 years. So what would it take to assuage this unease?

Bear in mind that governments, unlike individuals, never have to pay off their debt. How did we pay off the debt from World War II? We didn’t. Federal debt when John F. Kennedy took office was slightly higher than it had been in 1946. But debt as a percentage of G.D.P. was way down, thanks to growth and inflation.

So what would it take to stabilize debt as a percentage of G.D.P. for the next 30 years? Bobby Kogan and Jessica Vela of the Center for American Progress, working with Congressional Budget Office numbers, estimate that we would need to increase taxes or cut spending by 2.1 percent of G.D.P.

That isn’t a big number! (Yes, the exact number could be either bigger or smaller, but in either case probably not by enough to change the basic point.) America collects a much smaller percentage of its G.D.P. in taxes than most other rich countries; collecting an extra two percentage points would still leave us a low-tax nation and would be unlikely to hurt the economy. If stabilizing debt seems hard, that’s only because given our deeply divided politics, even modest steps toward responsibility are extremely hard to take.

And by deeply divided politics I mostly mean Republicans, who declaim the evils of debt while pursuing policies that put long-run fiscal sustainability even farther out of reach. In a related analysis, Kogan and Vela estimate that permanently extending the 2017 Trump tax cuts — many of which are scheduled to expire after 2025 — would substantially worsen the fiscal outlook. Yet it’s hard to find Republicans in Congress opposing such an extension.

Worse yet, House Republicans are pushing for drastic cuts in the Internal Revenue Service budget, depriving the agency of the resources it needs to crack down on wealthy tax cheats. That is, even as they yell about budget deficits, they’re both seeking to cut taxes and trying to block efforts to collect the taxes high-income Americans owe under current law.

So politics — specifically right-wing politics — rather than the size of the debt is the problem.

## EVs DA

### Deregulation DA---2AC

#### 1. No link: the civil service isn’t a monolith. A lot of bureaucrats like Trump’s agenda. That’s Schumaker.

<For Reference>

A minority of federal workers back Trump and support what he’s doing. Thirty-eight percent of them voted for him last November, according to a Washington Post-Ipsos poll conducted in early March, and 83 percent of those who voted for Trump approved of his job performance, despite the turmoil in their workplaces that was well underway at the time.

#### Workers don’t categorically oppose him.

Karen Baehler 25. Scholar-in-residence at American University's School of Public Affairs, former faculty member of Victoria University Wellington's School of Government, Ph.D. and M.P.P. from the University of Maryland, College Park. "Federal Workforce Reforms in Trump's Second Term: two scenarios." *Policy Quarterly*, 21(1), 38-39.

Five policies

Trump and his proxies promised to ‘dismantle the deep state’ throughout the recent presidential campaign. By ‘deep state’ they mean an imagined horde of bureaucrats who conspire to abuse their authority and expropriate government resources to pursue their own personal agendas, which include spreading ‘woke propaganda’ and sabotaging Trump’s agenda at every turn (Project 2025, 2023, p.9). The new rhetoric often includes accusations of widespread corruption in the federal workforce, which feed off Trump’s vengeful disdain for career federal employees in the Department of Justice and several security agencies who participated in official investigations of wrongdoing in his campaigns, businesses and previous conduct in office.

Experts searching for evidence of a deep-state cabal in the federal bureaucracy have found deep knowledge, deep professional norms, deep understanding of what the law requires, and deep suspicion of arbitrary decision making by executives (Skowronek, Dearborn and King, 2021). They have found an administrative state thick with management layers, but decidedly not ‘unified or singular’ (Rosenbloom, 2022). Most of the time, federal workers are quietly operating programmes authorised and funded by Congress, eager not to run afoul of statutory law. Contrary to the deep-state narrative, it is notoriously difficult to organise cooperative initiatives across so-called departmental silos (Peters, 2018). Rather than being monolithic, this ‘structurally and institutionally fragmented’ federal government ‘operates under a massive and varied legal regime framed by constitutional law, administrative law, and judicial decisions as well as presidential executive orders, memoranda, proclamations, and other directives’ (Rosenbloom, 2022). Boring? Exasperating at times? Yes, certainly, but hardly a Leviathan.

Although the spectre of a deep state does not withstand scrutiny, most of the Trump proposals for administrative reform assume a nest of scheming, rogue bureaucrats who must be flushed out.

#### 2. Deregulation fails absent the civil service.

Tyler Cowen 24. Professor of economics at George Mason University. Ph.D. in economics from Harvard University. "Sorry, Elon, But Businesses Rely on Regulation." Bloomberg. 8-24-2024. bloomberg.com/opinion/articles/2024-08-26/musk-should-realize-that-business-relies-on-government-regulation. Language modified.

Consider the relatively straightforward idea, popular in some Republican circles, of firing large numbers of federal bureaucrats. There would be immediate objections, not only from the employees themselves but also from US businesses.

Businesses need to make plans, and they frequently consult with regulatory agencies as to what might be permissible. The Food and Drug Administration needs to approve new drug offerings. The Federal Aviation Administration needs to approve new airline routes. The Federal Communications Commission needs to approve new versions of mobile phones. The Federal Trade Commission and Department of Justice need to give green lights for significant mergers. The Federal Deposit Insurance Corp. needs to approve plans for winding down failed banks. And so on.

If those and other agencies were stripped of their staffs, a lot of US businesses would be [smoked] ~~paralyzed~~. You might argue that this fact is itself proof that there is too much regulation, but the fact remains. Shutting down a large chunk of the federal regulatory apparatus would make it harder, not easier, for the private sector. Furthermore, regulation would give way to litigation, and the judiciary is not obviously more efficient than the bureaucracy.

There is a precedent for elimination of an entire agency, but it is limited in applicability. It took more than six years, but in 1985 the federal government abolished the Civil Aeronautics Board as part of a larger law that deregulated the airline industry. The result was lower fares, more competition and improved airline safety. In the absence of the CAB, there was still enough of a coherent legal permission structure to allow the airlines to keep flying.

A similar tactic might work today with the Department of Education. Of course there would be opposition, but the department could be abolished with a minimum of disruption.1 The same would not be the case, for example, with the Department of Energy: Someone needs to oversee the maintenance of the nation’s nuclear weapons, as the DOE currently does, among other essential functions.

Another approach would be to examine agency regulations on an individual basis, discarding any that are outdated or counterproductive. I’m all for that, but it involves a lot of process and delay. The number of regulations is growing all the time, as for instance a year’s worth of the Federal Register might run to 60,000 to 90,000 pages. A review could slow the growth of regulation, but it would probably not reverse it.

The basic paradox is this: Government regulations are embedded in a large, unwieldy and complex set of institutions. Dismantling it, or paring it back significantly, would require a lot of state capacity — that is, state competence. Yet deregulators are suspicious of greater state capacity, as it carries the potential for more state regulatory action. Think of it this way: If someone told a libertarian-leaning government efficiency expert that, in order to pare back the state, it first must be granted more power, he would probably run away screaming.

My favorite deregulatory tactic, and one which is relatively effective, is simply to be slow to regulate new sectors of the economy. Thanks to economic growth and innovation, there will always some important yet less regulated sectors of the economy. Those particular forbearances won’t last forever, but over time, other new and less regulated sectors will arise to take their place. This phenomenon is currently playing out with the development of AI.

In the early stages of a new sector, there might appear to be insufficient government regulation. But this less regulated period can be especially useful for sorting out exactly how these sectors will (and will not) work and contribute to the overall economy.

Much as it pains me to admit, a lot of regulation is irreversible. So looking for partial victories, and preventing or delaying new regulation, is the way to go. Anyone hoping to deregulate needs to understand that.

### AT: EVs---2AC

#### Lochnerism slows EV adoption and causes extinciton through warming!

Erin Murphy 24. J.D. from the Northwestern Pritzker School of Law, B.B.A. from the University of Notre Dame." The Impossibility of Corporate Political Ideology: Upholding SEC Climate Disclosures Against Compelled Commercial Speech Challenges." *Northwestern University Law Review*, 118(1703), 1704-1706.

INTRODUCTION

A cursory glance through recent U.S. news cycles reveals shocking and dangerous trajectories for important yet seemingly unrelated concepts: our climate and our First Amendment doctrine.1 However, the invisible string between these topics may be getting ever shorter. As the government attempts to address climate change by compelling businesses to speak on and disclose their climate impacts, it risks jeopardizing fundamental doctrines of the First Amendment.

The climate crisis grows increasingly dire. The results of climate change remain devastating: temperatures rise, putting humans and other species at risk, and natural disasters ravage communities at never-before-seen frequencies.2 Scientists warn that the Earth is nearing its threshold of recovery.3 They urge people and governments to stop this crisis by making changes immediately.4 Facing a scientific community in alarm, the United States has taken steps to mitigate climate change's impacts. One such approach, proposed by the U.S. Securities and Exchange Commission (SEC), requires companies to reveal their climate impact to investors through financial statement disclosures. The hope is that the market will punish unsustainable business practices, and this momentum will force businesses into positive climate actions. The disclosure regulations have sparked controversy as businesses push back on the costs and logistics of implementation.5 Concerns about free speech have also been raised by those who believe disclosing climate information is forcing a political statement, rather than supplying the market with factual information on economic risk.

The fate of the disclosure requirements is especially concerning given the U.S. Supreme Court's posture in recent free speech cases. In the past five years, the Court has demonstrated an increased propensity to grant certiorari to cases involving compelled speech, ruling in favor of those claiming protection.6 In examining the Court's highly speech-protective opinions, scholars have noted that the majority of the current bench has been willing to engage in a First Amendment battle any time the government attempts to regulate a type of speech.7 Zealous litigants representing corporate interests have responded by relying on First Amendment theories to challenge laws that regulate subjects at the crossroads of politics and markets, which some describe as "First Amendment Lochnerism."8 Liberal Justices in dissent have called out this behavior as "weaponizing the First Amendment."9 Recognizing this trend, and in response to the SEC's final climate disclosure rule, opponents of the rule argue that the First Amendment protects companies from being compelled to speak on and disclose information that they disagree on or believe to be a politically charged topic.10 Courts will be tasked with untangling a messy area of First Amendment doctrine to resolve challenges brought against the climate disclosures.

## Court Politics

### Court Politics DA---2AC

#### 1. Court capital is low, thumped, AND fake.

Scott Dodson 25. Professor and director of the Center for Litigation and Courts at the University of California Law, San Francisco, J.D. from the Duke University School of Law. "The Supreme Court and Public Opinion." *Iowa Law Review*, 111(117), 145-155.

IV. THE COURT AND PUBLIC OPINION TODAY

Throughout history, the Supreme Court has maintained a high public approval rating despite the occasional unpopular, even severely unpopular, decision. The Court has perennially had the highest reputational ratings of any branch of government.266 Its approval rating was typically above sixty percent until 2010, and its public trust was invariably above sixty percent between 1973 and 2014.267 The Court's public-trust rating even hit eighty percent in 1999, the year before Bush v. Gore.268 But since 2010, the Court's approval rating has been below sixty percent, and, since 2014, its trust rating has fallen below sixty percent four times.269 In 2021, the Court's approval rating sunk to a record low of forty percent.270 As of fall 2023, the Court's approval rating of forty-one percent and trust rating of forty-nine percent have languished near historic lows.271

These low approval ratings seem strange for a Court helmed by a Chief Justice who has publicly pressed a judicial philosophy of humility and minimalism calling balls and strikes, respecting precedent, avoiding controversy, offering political compromises, and striving for narrow opinions that can garner unanimity.272 Indeed, Joan Biskupic has surmised that "Roberts has at times set aside his ideological and political interests on behalf of his commitments to the Court's institutional reputation and his own public image."273 But his efforts haven't done the trick. This Part explores why.

The reason, I submit, lies not in a single, explosive exercise of antidemocratic power by the Court. As even the Cherokee Cases suggest, those shocks fade quickly, often hastened by calculated judicial retreat. Instead, this Court has experienced a confluence of circumstances that have accumulated over time, including: (1) two decades of perceived persistent conservative activism; (2) the Court's dismissive attitude toward a raft of ethics scandals; (3) partisanship surrounding the appointment of new Justices; (4) a handful of unpopular opinions; and (5) a rise in partisan polarization among the populace. Meanwhile, the Court has not issued a heroic opinion like Brown or Lawrence to pick up the flagging public support. The Court has avoided knockout punches, but it has exposed itself to, perhaps even invited, a steady barrage of jabs, and the public has noticed.

A. PERSISTENT CONSERVATIVE ACTIVISM

Some of the hits have been of the Court's own making. Stare decisis adherence to prior precedent is a foundational principle that increases stability and reduces ideological variance.274 Although measuring the Court's relative commitment to stare decisis over time is difficult,275 the public perception is that the Roberts Court regularly revisits important decisions, even delighting in overturning them.276 Key examples include Citizens United (overruling precedent allowing campaign-finance limits),277Dobbs (overruling Roe v. Wade's and Casey's constitutionalization of abortion),278Students for Fair Admissions (effectively overruling precedent allowing affirmative action in higher-education admissions),279 and Loper Bright (overruling Chevron's directive that courts defer to reasonable agency interpretations of implementing statutes).280 That these important decisions have all been outcomes that align with conservative politics, decided along the Court's own ideological split, undermines the role that stare decisis plays in "protect[ing] the Court's legitimacy by reinforcing the public's opinion of an apolitical judiciary."281

Worse, the Court appears to be using its discretionary agenda-setting powers not as Bickel proposed to avoid controversy until the right moment but to actively seek out controversial cases to decide. Scholars have noted "a trend, particular to the Roberts Court, of exercising its certiorari discretion to grant review in cases that present an opportunity to overrule precedent,"282 a trend that appears to be accelerating.283 Indeed, Dobbs presented three questions in the petition for certiorari: (1) whether to overrule Roe ; (2) whether a different constitutional standard should apply; or (3) whether standing existed.284 The Court could have taken the case on the second or third grounds and avoided the question of whether to overrule Roe. But it chose to take the case only on the first question.285 In other words, the Court overruled Roe "because it wanted to, not because it had to."286 This Court has turned the passive virtues discretionary docket control into the "active vices" by reaching out to take cases on certiorari and reframe issues for decision.287

In addition to active use of certiorari discretion, the Court has dramatically scaled up its use of other aspects of its "shadow docket"288 its non-merits docket often under the guise of the need to issue emergency relief, but resolving, in the process, particularly high-profile, partisan issues,289 including immigration, COVID-19 regulations, and other matters.290 The merits docket operates with formalism and transparency including regular procedures, public oral argument, and public written opinions all designed to enhance public respect for the Court. By contrast, the shadow docket exhibits none of these features.291 The Court can use the shadow docket to issue an unsigned, summary order staying the effect of a law or lower-court opinion. On May 22, 2025, for example, the Court, in an unsigned order, granted President Donald Trump's emergency application for a stay of a lower-court ruling blocking the President's ability to remove certain agency heads, despite some precedent to the contrary, and over the dissent of Justices Kagan, Sotomayor, and Jackson.292 The last ten years have seen "an explosion in the use of [the shadow docket] powers and the controversy they create,"293 and the public has noticed.294

And the Court's merits decisions reveal a conservative majority flexing its judicial muscles.295 Some ideologies threaten to destabilize the structure of government. The Roberts Court is strongly skeptical of the power and role of administrative agencies,296 "has consistently issued holdings that restrict the scope of administrative deference,"297 and doesn't think particularly much of Congress.298 Other ideologies reflect views of the Constitution that disable elected officials from addressing the needs of the day, like reasonable gun regulation.299 Some see this agenda as an exercise in judicial aggrandizement, achieved by disparaging other branches and imposing vague standards that help the Court maintain control.300 These observations have led commentators to charge the Supreme Court with imperialism.301 The Court, as one commentator put it, "today is not only the most activist of any Court in the past century, but increasingly the locus of all legal power."302 The Court is exercising that power not through sporadic and heroic decisions but through a series of decisions seen by large swaths of the nation as ideologically driven.

A prime example of all these factors is Citizens United, in which the Court overruled prior precedent and struck down, on free-speech grounds, a popular, bipartisan federal law limiting campaign contributions.303 The opinion generated a largely critical response.304 In fact, the five Justices in the majority had very little on their side, other than the Chamber of Commerce. Opposed were four Justices in dissent, the executive branch, Congress, and many states, all of which supported campaign limits.305 The Court could have avoided controversy by deciding the case as the parties presented it: without preserving the First Amendment question.306 Yet the Court itself put the constitutional challenge back on the table as well as reconsidering two past precedents upholding campaign limits.307 All on its own, the Court chose to engage the constitutional questions, strike down a democratically popular law, and overrule two prior decisions.

In the aftermath, President Obama took the rare step of criticizing the opinion publicly in his State of the Union Address, with several Justices in attendance; Alito was broadcast visibly shaking his head and mouthing "not true."308 To be sure, Obama's reproach paled in comparison to Jefferson's, Jackson's, and Roosevelt's, but the public noted the condemnation of the Court by a popular President. Citizens United, emblematic of this Court's propensity toward activism rather than restraint, is a part of a gradual accumulation of negative public reactions to the Court.

B. ETHICS SCANDALS

Aside from decisions, certain Justices have been caught in the limelight for conduct implicating judicial ethics. Justice Thomas has repeatedly been under fire for failing to disclose numerous gifts of destination vacations, private jet flights, sports events, tuition payments, and vehicle financing paid by prominent conservative businessmen.309 Justice Alito reportedly was gifted an expenses-paid luxury fishing trip by a conservative donor, whose hedge fund subsequently appeared as a litigant before the Court; Alito neither disclosed the trip nor recused himself from the case.310 In the weeks leading up to the January 6 insurrection of the Capitol by Trump supporters, Thomas's wife, Ginni, a longtime conservative activist, sent more than two dozen text messages to White House Chief of Staff Mark Meadows urging support for claims that the election was stolen from Trump.311 When flags flown during the January 6 insurrection were flown at Alito's house, he refused to recuse himself from pending cases pertaining to the insurrection.312 Both Alito and Thomas voted, in subsequent cases, to vacate the criminal conviction of a January 6 insurrectionist and to provide broad presidential immunity to Trump for his official acts in contesting the 2020 election.313 These matters received widespread media coverage.314

The Court's response to these events has not mollified the public. It has remained, as a whole, silent on media reports involving specific Justices.315 When Congress held hearings about ethics at the Supreme Court and invited Chief Justice Roberts to testify, he declined.316 And the Court has consistently resisted efforts to impose binding ethics standards on its members.317 The Court finally issued a formal Code of Conduct in November 2023,318 but that Code confirms that individual recusal matters are decided solely by the Justice implicated.319 The reaction of the Court to the scandals has generated its own negative media attention and contributed to its declining popularity.320

C. POLITICIZED APPOINTMENTS

New Justices are appointed by the President and confirmed by the Senate. That process, as John Adams's Midnight Judges shows, has always been political and has occasionally been controversial. Abe Fortas, Robert Bork, and Clarence Thomas are prominent examples. But until recently, such polarized partisanship has been the exception rather than the rule. Antonin Scalia and Anthony Kennedy, for example, were unanimously confirmed, and Bill Clinton's appointees Ruth Bader Ginsburg and Stephen Breyer were confirmed by margins of ninety-six percent and eighty-seven percent, respectively. Since 2006, however, only one of the eight Justices confirmed has been so by more than a two-thirds vote, and the votes are invariably divided along partisan lines.

The partisan voting pattern reflects the partisan popular view of the Court. From 1993 to 2016, the Court's political balance remained relatively constant. Conservative Justices held a 5-4 majority, with some conservative moderates namely, Justices Kennedy and O'Connor voting with liberal Justices to uphold key precedents, like Roe v. Wade.321 Republican Presidents would replace conservative retirements, and Democratic Presidents would replace liberal retirements, without dramatically altering the political valence of the Court.

But the political climate surrounding the Supreme Court began to change dramatically in 2015, in the waning years of an outgoing Democratic President and several aging liberal Justices who seemed unlikely to retire in time for Obama to appoint a younger successor. Then, Justice Scalia, a conservative standard-bearer, suddenly died, resulting in a vacancy that President Obama attempted to fill by appointing Merrick Garland, a highly respected judge on the D.C. Circuit at the time. The Republican-controlled Senate, however, refused to act on the appointment, arguing that a Supreme Court confirmation should not occur in an election year when an outgoing President was of a different party than the controlling Senate majority.322 It was not lost on the public that Garland's confirmation would have given liberal-leaning Justices a majority on the Court for the first time since 1970.323

The gambit paid off. Donald Trump prevailed in 2016 and appointed Neil Gorsuch to fill Scalia's seat, securing a conservative majority on the Court. Soon after, Justice Kennedy retired, and Trump appointed the reliably conservative Brett Kavanaugh to the Court, who was confirmed by a 50-48-1 vote only after a controversial and widely televised hearing involving allegations of sexual assault.324 And, soon after, liberal icon Justice Ruth Bader Ginsburg died, giving Trump the opportunity to flip a liberal seat to a reliably conservative vote, which he took by appointing Amy Coney Barrett in a move widely viewed as portending the end of Roe v. Wade's constitutional protection of abortion.325 That view proved true in the 2022 overruling of Roe in Dobbs v. Jackson Women's Health.326 The dissenters in that case wrote: "Neither law nor facts nor attitudes have provided any new reasons to reach a different result than Roe and Casey did. All that has changed is this Court."327 The culmination of a string of high-profile appointments whose ideologies have shifted the political valence of the Supreme Court has firmly tied the appointments process to popular politics.328

D. POLITICAL POLARIZATION

These events have, since 2010, coincided with "a rapid rise in party polarization," with Republican voters and candidates becoming more conservative and Democratic voters and candidates becoming more liberal.329 As a result, the public is more likely to view the Court in partisan terms, and elected officials are more likely to characterize the Court in partisan terms. With a shrunken political center, the Court, whatever it decides, is likely to dismay around half the populace.

That dismay is increasingly felt by the left. President Trump and his appointees "supercharged liberal discontent with the Supreme Court"330 by dismantling cherished precedent like Roe,331 undermining core progressive values,332 elevating the primacy of religious rights and gun rights,333 expressing a "deep distrust of bureaucracy,"334 and handing Trump a win on presidential immunity from criminal prosecution.335 With now more than fifty-five years of conservative dominance on the Supreme Court, the shine of the Court has worn off for progressives.336 Waning liberal support for the Court, in an age of Court politization and party polarization, is contributing to the view of the Court as just another form of dirty politics.337

CONCLUSION

Throughout history, the Court has ably managed its relationship with the coordinate branches and the people, despite punctuated events of extraordinary controversy. Today's Court sits in a somewhat different position, beset by lowgrade but persistent political and public skepticism, fueled by charged partisanship and the Court's own conduct.

It is unclear what the Court can do, or is willing to do, to restore its reputation. The Court has committed itself to assuming the apex position not only of the judiciary but also in law itself, such that the other branches and the people routinely look to the Court to decide the major political and social questions of the day, cast in legal terms.338 As Susan Carle has argued, when "[c]onfronted with matters they see as profoundly important, [the Justices'] sense of responsibility, if nothing else, impels them to use the power they have to set matters straight in the way they see appropriate."339 This Court, in particular, seems inclined to do so, without regard to the reactions of the political branches or the people.340 Blunt force has overcome master strategy.

But even so, it's not clear the Court feels much threat. Although liberal anger at the Court in the wake of President Joe Biden's election generated calls for term limits and court-packing,341 Biden neutralized the fervor by forming a Presidential Commission on the Supreme Court to study reform proposals;342 the Commission did not recommend major reform, and no congressional reform measures resulted from its efforts.343 So perhaps the Court has calculated that it can continue along its path without paying a price.

But some costs are hidden. This Court, though weathering this stretch of low public opinion, has saved little political capital to cash in when needed. The real fear is whether the Court has exhausted the security and support to stand up when it really matters, perhaps in the face of serious threats to the constitutional order. Today, the Court is vulnerable. And thus so are we.

#### 2. The AFF is popular and wouldn’t cost PC.

Onotse Omoyeni 25. Communications officer at AFL-CIO, B.A. in philosophy and political science from Howard University. "Labor Movement Delivers Bipartisan Victory as House Passes Bill to Restore Federal Workers' Union Rights." AFL-CIO. 12-11-2025. aflcio.org/press/releases/labor-movement-delivers-bipartisan-victory-house-passes-bill-restore-federal-workers

(Washington, D.C.)––A bipartisan majority in the House of Representatives voted to pass the Protect America’s Workforce Act (H.R. 2550) today, a bill that would restore collective bargaining rights to 1 million federal workers by reversing President Trump’s March executive order. Following that order, the Trump administration has escalated its attacks, stripping away even more collective bargaining rights by unilaterally canceling union contracts for 700,000 federal workers.

With nearly 70% of Americans supporting unions, politicians face a clear mandate to protect workers’ rights and the freedom to have a voice on the job. The bipartisan bill, introduced by Reps. Jared Golden (Maine) and Brian Fitzpatrick (Pa.), came to the floor for a vote by a rare discharge petition and passed 231-195 with support from Republicans and Democrats. It is the first time the House of Representatives has voted to overturn a Trump executive order during his second term.

“President Trump betrayed workers when he tried to rip away our collective bargaining rights. In these increasingly polarized times, working people delivered a rare bipartisan majority to stop the administration’s unprecedented attacks on our freedoms,” said AFL-CIO President Liz Shuler. “We commend the Republicans and Democrats who stood with workers and voted to reverse the single largest act of union-busting in American history.”

### AT: Tariffs---2AC

#### Trump wins now---delay.

Victor Reklaitis 1/14. Washington Correspondent for MarketWatch. “The wait for a tariff ruling could signal a Trump win — or a refund headache.” https://www.marketwatch.com/story/the-wait-for-a-tariff-ruling-could-signal-a-trump-win-or-a-refund-headache-e1d55605?gaa\_at=eafs&gaa\_n=AWEtsqe3HtGGl2fqEZw\_T-T5T2NPYkKKyDsKH41XO-NLuqpx8VPK2UVZtbJjua-SnvQ%3D&gaa\_ts=696bcaff&gaa\_sig=dIwOtXjy9LBscU8F5Cp6j5nEHbAoZi0Z9f4Cvs4yBXC0SSzfGGBT\_-tfJuReRpCP71-iuh8k8xxL6wxn\_5k2kg%3D%3D.

The likelihood of the Supreme Court ruling in favor of President Donald Trump in a closely watched tariff case increased moderately Wednesday after the court again held off on releasing its decision.

The high court has indicated it is acting in an expedited manner in this case, which has massive economic stakes, but the justices don’t typically give hints about exactly when a particular opinion will be issued.

Investors, importers and others who had braced for a ruling on Wednesday morning were left disappointed, just as they were last Friday.

Some analysts have said it’s a good omen for Trump if the Supreme Court keeps holding off on releasing its decision. It’s possible that there is significant debate among the justices, rather than a widespread view that lower courts were right to rule in favor of the importers challenging a wide swath of Trump’s tariffs.

#### Tariffs are inevitable, but a Trump loss on IEEPA turns their economy internal.

Joseph Brusuelas 1/14. Chief Economist and Principal, RSM US LLP, UCLA Anderson School of Management's Board of Directors. “Market Minute: What happens if the Supreme Court overturns the tariffs?” https://realeconomy.rsmus.com/market-minute-what-happens-if-the-supreme-court-overturns-the-tariffs/.

A watershed day for U.S. trade policy is approaching as the Supreme Court prepares to rule on the legality of the administration’s aggressive use of tariffs.

As soon as Wednesday morning, the court will decide on whether higher tariffs imposed last year under the International Emergency Economic Powers Act, without approval from Congress, are allowed under the Constitution.

If the administration loses its case, the federal government could have to refund anywhere from $80 billion in tariffs that have been collected to our estimate of $130 billion.

The Treasury Department has collected $236.15 billion in tariff revenues for 2025, with most of it following the imposition of significantly higher levies in April.

The average tariff as of Nov. 14 was 14.03%, with trade taxes on major trading partners like Canada at 5.96%, Mexico at 8.43% and China at 30.75%.

The administration is counting on these revenues. If the tariffs are upheld, the annual collections in the future will be near $367 billion by our estimate.

But a ruling against the administration would, at least in the short term, roil fixed income markets and cause interest rates to increase as the nation’s fiscal path is disrupted. In addition, businesses would need to decide how to handle their cash windfall: Do they use the cash to cut prices, or reinvest in their business, or buy back their stock?

At the least, businesses have endured thinner profit margins as the tariffs have escalated, which may lead some to compensate themselves.

However it plays out, the money at stake is significant.

There was roughly an additional $155 billion in revenues obtained through the increase in trade taxes last year. Of that total, 84%, or about $130 billion, were custom duties, which may need to be refunded.

Not the end of the story

It’s unlikely, though, that the administration would simply fold its tent on its desire to use tariffs as cudgel in trade policy, and boost the government’s coffers.

We took Treasury Secretary Scott Bessent at his word when he recently said that he “was confident in the ability to reconstitute any lost tariff revenue by imposing duties under other legal authorities.”

Under this scenario, the administration could still seek to impose tariffs under Section 232 of the 1962 Trade Expansion Act, Sections 122 and 301 of the 1974 Trade Act or Section 338 of the 1930 Tariff Act.

If that happens, the probability of a sustained market reaction following any decision against the administration is low.

#### Lochnerism makes protectionism inevitable.

Robert Knowles 25. Associate professor at the University of Baltimore School of Law, J.D. from the Northwestern University School of Law. "How Lochnerism Ends." *Seton Hall Law Review*, 56(65), 92-95.

2. Lochnerism’s Worldview and Mission

Globalization created the conditions for Original Lochnerism, just as it would for New Lochnerism a century later. The Lochner-era courts identified a problem they believed they were suited for—managing the rise of the administrative state during an era of rapid industrialization, integration of the national economy, and the first wave of globalization.120

From the 1890s through the 1920s, global trade flourished, and the labor demand created by industrialization drove mass immigration to the United States.121 The new “pauper class” of wage laborers struggled to carve out the semblance of a middle-class life.122 Progressive-era reforms sought to mitigate the harms from these disruptive changes by regulating labor conditions and social behavior that was deemed toxic, such as drinking, gambling, and other vices.123

Another formative reaction to these changes was fears that the influx of cheap immigrant labor and cheap goods would transform the national community and its marketplace too rapidly—fears of so unrelenting and disruptive a change that it could be impossible to preserve space for citizens’ economic autonomy.124 Fears of disruptive change also stemmed from the prospect of an American Empire in the Pacific.125 By 1900, the United States had acquired a vast stretch of island territories, former Spanish colonies that were rich with vital resources but had large, non-White populations.126 If these territories were incorporated into the United States on equal terms with existing States, as had been the previous practice, it would fundamentally transform America’s economy and its society.127

With American society rocked by these changes, courts saw their role as protecting the fundamentally positive private dynamics that protected America’s growth from being stymied by overbearing Progressive-era regulations on the one hand and foreign influence and competition on the other.128 The courts deployed many doctrinal threads and legal distinctions in this enterprise, and the sources they drew from changed over time.129 But for purposes of modeling Lochnerism’s life cycle, I focus on the prominent place the jurisprudence gave to sovereignty—in particular, the sovereign citizen and the sovereign nation.130 Sovereignty is the power to exclude.131 Lochnerist courts saw their job, in part, as recognizing the dignity of sovereigns and defining the boundaries between them.

Each sovereign—the citizen and nation—requires for its protection distinct, indeed opposing, approaches to regulation. In the domestic realm, Lochnerism protects individual sovereignty by constitutionalizing a preference for the market baseline.132 The market is a proxy for the citizen’s autonomy—the predominant form of traditional, private ordering. A citizen participates freely and creatively in the market, and the law protects the citizen’s power to exclude by enforcing property rights.

In foreign affairs, however, the focus shifts from protecting individual sovereignty to protecting national sovereignty. This face of Lochnerism requires the Court to constitutionalize different preferences: those that enable America to operate in the world on its own terms, free from interference by outside actors in its internal governance structures.133 The Court empowers the federal government to heavily regulate the flow of goods and persons into the United States—it constitutionalizes maximal authority over immigrants and international trade, in addition to skepticism about enforcing international law domestically.

The tension inherent in Lochnerism, therefore, is that freeing the national sovereign from external “regulation” usually means authorizing the national sovereign to regulate internally. The constitutionality of economic regulation ultimately hinges which sovereign the Court believes is most threatened. So, when the Court assigns an issue to the foreign affairs bucket, it recognizes the existence of an external threat requiring more regulation, not less. For example, a Lochnerist judge would give the federal government broad discretion to regulate the influx of cheap goods from a foreign actor through tariffs but would be disinclined to regulate similar contracts domestically.

### --AT: War---2AC

#### Tariffs won’t cause war.

Peter Drysdale et al. 25. Professor of economics at the Australian National University Crawford School of Public Policy, Ph.D. in economics from the Australian National University. "The United States and China take a step back and send a signal of hope." East Asia Forum. 11-10-2025. eastasiaforum.org/2025/11/10/the-united-states-and-china-take-a-step-back-and-send-a-signal-of-hope

The big news of the past two weeks has been the agreements Trump forged while in Asia, in which he made some concessions, albeit limited, to the heavy tariffs he has imposed on allies and adversaries alike. China, in exchange for concessions like promises to crack down on the illicit trade in fentanyl, has obtained somewhat lower tariffs, though it should be emphasised that China-US cooperation on this issue is not exactly new and trying to stop the trade in fentanyl requires chasing a constantly moving target.

Trump’s diplomatic accomplishments can be easily overhyped. Mostly they consist of solving — often only partially — problems that he created in the first place. The agreement to slightly lower tariffs on Chinese exports and to relax some export controls is simply the United States deciding to soften some of its own self-inflicted economic damage. And the tariff rates still remain very high.

Chinese export controls on critical minerals have been relaxed, and China has pledged to start buying American soybeans again, solving a major potential political headache for Trump. Yet it is hard to see how this is a victory for Trump’s form of diplomacy: neither export controls on rare earth minerals nor restrictions on soybean imports were on the table prior to Trump’s own trade provocations.

The reaction to Trump’s trip among commentators has been relatively muted, reflecting the sense that while concessions on both sides are welcome, there is still a long way to go to restore the US-China relationship even to where it was under the previous US administration.

Yet, as former US diplomat Susan Thornton writes this week in our lead article, there is a sense in which this is grading Trump’s achievements in Asia against the wrong benchmark.

‘The biggest Trump–Xi meeting success was the signal of hope it sent for the future — that these two great powers can meet, talk and respectfully manage their interactions. This most important guardrail against a downward spiral or a hot conflict remains in place. The two leaders showed warmth, asserted that their two countries could be partners and made plans to meet again twice in the coming year’, argues Thornton.

Given the heated, almost messianic rhetoric in Washington about China that has become popular across the bench in Washington over the past decade or so, Thornton is right that a recognition that dialogue and negotiation is a more productive form of engagement than sabre-rattling has to be welcomed.

Perhaps the best way to describe the current state of the relationship is poor, but stabilised, with at least now a glimmer of hope for improvement. As Thornton argues, both sides of the relationship have learned a great deal about how the other side will react to provocation, and what the most effective levers for retaliation are. The hope is that this may lead to an equilibrium in which actual economic coercion is only, at most, a last resort rather than a habitual feature of the relationship under Trump.