

Preempting progress in the heartland

State lawmakers in the Midwest prevent shared prosperity and racial, gender, and immigrant justice by interfering in local policymaking

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Key findings

Preemption is common in the Midwest and is embedded in a racist history.

- “Preemption” in this context refers to a situation in which state lawmakers block local ordinances from taking effect—or dismantle an existing ordinance.
- State lawmakers in Midwestern states are more likely than those in the Northeast and West regions to misuse preemption to interfere with local governments’ ability to set strong labor standards that would support people struggling to make ends meet, such as raising the minimum wage and guaranteeing paid sick leave. While preemption of workers’ rights is most common in the South, it is also a significant problem in the Midwest.
- The abuse of preemption by Republican-controlled state legislatures in the Midwest is intertwined with a history of segregation and other policy choices

that have reinforced anti-Black racism and white supremacy.

- Preemption laws in the Midwest are passed by majority-white legislatures and tend to create barriers to economic security in cities whose residents are majority people of color; in many cases, a plurality of residents in these cities are Black.
- In most cases, the local ordinances that state lawmakers preempt would disproportionately benefit Black workers and other workers of color, as well as women, immigrants, and workers who are paid low wages.
- Advocates and lawmakers have pushed back on harmful preemption. Notably, the Chicago Teachers Union succeeded in a campaign to restore their right to bargain over employment conditions. Momentum is also building to repeal rent control preemption in Illinois.

Preemption limits local governments' ability to protect their residents from the COVID-19 pandemic.

- Misuse of preemption has prevented localities in some Midwestern states from responding to the pandemic with local policies promoting public health, such as mask mandates and stay-at-home orders.
- In addition, interference with local policymaking in the past prevented these same localities from enacting measures that would have made them better prepared to respond to the COVID-19 dual public health and economic crisis.

Case studies. In this report, we use case studies to (1) document the pattern of misuse of preemption by state lawmakers and (2) explore the adverse implications of this state interference on workers.

Introduction

For many, the COVID-19 pandemic shed light on the precarity of workers, especially people paid low wages, and of marginalized groups within our economic system. For others, the pervasive inequality and uncertainty that characterized the pandemic and economic crisis were not anomalies—they were just another manifestation of the poor job quality, weak worker protections, and economic unfairness that has long been in place. These features are the result of deliberate policy choices. In order to combat them, lawmakers at all levels of government must be motivated and empowered to act.

Local government efforts across the country have often been key to advancing welfare-enhancing policies to protect workers and counter economic inequities—especially when federal and state action has been inadequate or absent. Local governments have taken

action, for example, to fight climate change, to protect and promote public health, and to reverse systemic injustices against people of color, women, immigrants, and the LGBTQ+ community.

Given the complexity and urgency of such issues, states should be working *with* their peers in local governments on them. But instead of partnering with local governments, conservative state lawmakers have increasingly used preemption—a tactic whereby a higher level of government limits or eliminates the power of a lower-level government to regulate an issue—to reduce the policy tools and power available to local lawmakers.

The Midwest is second only to the South in abuse of preemption

As we document in another report, *Preempting Progress: State Interference in Local Policymaking Prevents People of Color, Women, and Low-Income Workers from Making Ends Meet in the South*, preemption of workers’ rights policies is most common in the South, where these laws are part of a long-running effort to limit the rights and freedoms of Black people and entrench white supremacy (Blair et al. 2020). While white supremacy is most associated with the South and the states of the former Confederacy, white supremacy has been an unfortunate component of Midwest history as well. This shameful legacy lives on in many of the region’s institutions, including in state government’s abuse of preemption to prevent progress and justice.

After the South, the Midwest is the region in which the preemption of workers’ rights is most prevalent (Kim, Aldag, and Warner 2021). As shown in the interactive map (viewable at epi.org/235163), state lawmakers in the Midwest have used preemption to deny local governments the ability to improve job quality through minimum wage increases, fair scheduling laws, and paid leave requirements. They have stopped local governments from setting standards for municipal contracts and procurement through mechanisms common elsewhere such as project labor agreements (PLA)—contracts used in the construction industry to set basic conditions for safety, pay, and benefits on municipal projects—and prevailing wage laws. They have also preempted any effort by local governments to hold app-based platform or “gig economy” companies to the same standards as other employers. In choosing preemption rather than empowerment, these state lawmakers are often bending to pressure from corporate interests and right-wing groups such as the American Legislative Exchange Council (ALEC) (Cornejo, Chen, and Patel 2018).

What’s in this report

We begin this report with an exploration of the historical context behind preemption in the Midwest. As is the case in the South, current-day preemption of workers’ rights in the Midwest is an extension of policies that were motivated by and that reinforced anti-Black racism. The modern policy landscape now also works to stifle efforts to promote equity for other workers of color, women, immigrants, and workers who are paid low wages.

After reviewing the historical context, we turn to specific case studies highlighting a range of issues, primarily focused on workers' rights, in which state policymakers are interfering with local democracy throughout the Midwest. To the extent that the data allow, we show the specific impacts state interference has on people of color as well as women, immigrants, and workers who are paid low wages. In two of our case studies, we highlight ways advocates are resisting preemption, through efforts to repeal two types of preemption in Illinois.

Preemption in the Midwest is, in a great many ways, similar to preemption in the South. When local governments enact policies that benefit people of color or advance worker justice, state lawmakers—typically, though not exclusively, conservative lawmakers—have passed laws to overturn those local decisions. Sometimes, even when local policymakers have not passed any specific ordinances, state lawmakers act preemptively to take away their *future* rights to do so. In the cases documented here, the state legislatures were all majority white and male. (The appendix tables provide the demographics of the cities or counties side by side with those of the state legislatures.)

Finally, we discuss how the COVID-19 pandemic has disproportionately harmed the communities of color that have been preempted from taking local action, limiting their ability to effectively combat the public health crisis and further entrenching economic inequality.

Preemption in the Midwest is tied to segregation

The use of preemption to suppress communities of color in the Midwest today has its roots in the oppressive housing segregation policies the region implemented in response to the Great Migration. In the first half of the 20th century, 6 million Black Americans moved out of the South, many to Midwest cities where they found work in factories (Gordon 2019). Their arrival changed the demographics of the Midwest.

Black migrants to the Midwest frequently faced hostility in their new homes

As more and more Black families began settling in the Midwest, violence against the newcomers increased, often with the goal of enforcing segregationist policies. When the “second Klan”¹ emerged in 1915, it also took hold in the Midwest. By the mid-1920s, 30% of U.S.-born men in Indiana were Klan members, including many state and local officeholders—all the way up to the governor (Fischer 2017; Ryan 2020).

In the first half of the 20th century, race riots—in which white people assaulted Black neighborhoods, burned Black-owned businesses, and lynched Black residents—broke out in several Midwestern cities, including Springfield, Illinois, in 1908, East St. Louis in 1917,

and Duluth, Minnesota, in 1920. In Chicago, a group of white swimmers assaulted—to the point of drowning—a Black 17-year-old who had drifted across the line segregating Lake Michigan while swimming with his friends. The event set off a series of race riots during what became known as the Red Summer of 1919 (Jones 2019; Sander 2020).

As was the case in the South, white workers often resisted the entry of Black workers into blue-collar union jobs. In Detroit, 25,000 white workers at a Packard plant went on strike in 1943—in defiance of World War II no-strike orders—to protest that three Black workers had been promoted at the plant (Loomis 2018). In 1973 alone, 1,600 charges of racial discrimination by unions were filed with the Equal Employment Opportunity Commission (Windham 2017). When some white workers in unions showed solidarity with Black workers, other white people reacted violently. For example, over five days in Chicago in 1949, a white mob threw rocks at and tried to burn down the home of Aaron and Louise Bindman after Aaron, a white union leader, invited Black union stewards to his home for a meeting (Harney and Charlton 2000).

Government and businesses acted to segregate neighborhoods

In response to the growing number of Black people in the region, white lawmakers and business leaders developed a collection of systems and policies that racially segregated Midwestern cities by neighborhood (Rothstein 2017). Segregation was a means of controlling and limiting the economic freedom of Black migrants to the region, with far-reaching consequences for wealth creation, education, and health.

In the South, the agricultural system was designed so that enslavers and enslaved Black people lived in close proximity on plantations. This gave wealthy, white enslavers direct control over the lives of Black people. When, in the early Reconstruction years, Black elected officials began to gain power—and Black people could begin to take control of their own lives—backlash quickly followed. Southern lawmakers acted quickly to restore and enshrine their control and supremacy in the post-Civil War political structure. This control and supremacy is reinforced today in the South by state preemption of local laws (Blair et al. 2020).

In the Midwest, however, white supremacy took hold through segregation. Without the plantation forming the central political and economic unit, communities were separated geographically along racial lines. Through private and government housing practices, Black people were restricted in where they could live in Midwestern cities.

The real estate industry advanced segregation

Although the Supreme Court found explicit city segregation ordinances to be unconstitutional in a 1917 ruling (*Buchanan v. Warley*), segregation of private property nonetheless proliferated. During the 1910s, Chicago's burgeoning real estate industry propagated the racist idea that neighborhood integration would decrease property values

(Moser 2017). Race-restrictive covenants were used to prevent property in white neighborhoods from being sold or rented to Black people.

Real estate speculators also employed a tactic known as “blockbusting.” To goad fearful white residents into selling their homes below market value, these speculators would make the racist claim that a Black family moving into the neighborhood would cause home values to decline. The speculators then sold those homes to Black families at a markup. This shifted the racial demographics of neighborhoods almost overnight: The departing white families often moved to suburban enclaves that excluded people of color—marking the phenomenon known as “white flight” (Sugrue 1996).²

The use of race covenants during the 1910s and 1920s, combined with blockbusting following World War II, caused Midwestern cities such as Chicago and Milwaukee to become among the most segregated cities in the nation (Jones-Correa 2001).

Lawmakers codified segregation—and cemented the resulting inequities

Government policies also entrenched segregation. In the 1930s, the Home Owners Loan Corporation, a federal agency created by the New Deal, developed “redlining” maps that were used to prevent Black homeowners from getting mortgages for homes in white neighborhoods. At the local government level, exclusionary land-use zoning practices prohibited the construction of multifamily housing in many white neighborhoods, creating another barrier for Black families and other people of color seeking to live there.

Because of policies that allowed (even encouraged) banks to refuse mortgage loans to Black and Brown people, Midwestern suburbs are far less racially diverse, even to this day, than the big cities they surround (Gordon 2019). This has had profound effects on the economic welfare of Black Midwesterners and other people of color in the region.

Residential segregation artificially suppressed growth of property values in Black neighborhoods, which increased the relative value of properties in white neighborhoods, helping spur the enormous wealth gap between white and Black households that persists to this day (Jones 2017; Rothstein 2017). In turn, because school funding in most states has historically been derived from property taxes, this disparate growth in property values has meant dramatic differences in school funding and school quality between majority-Black and majority-white neighborhoods.

As federal civil rights legislation and court rulings began to dismantle overt, legal segregation, activists and progressive policymakers pushed for states and the federal government to treat segregation as an issue that crossed jurisdictions. They noted that patterns of segregation did not clearly match city, county, and state boundaries, and argued that there was a real need for regional policies at both the intrastate and interstate level.

Unfortunately, those advocates suffered a decisive defeat in the Supreme Court’s *Milliken*

v. *Bradley* decision in 1974. *Milliken* ruled that neither the state of Michigan nor suburban school districts in Michigan bore responsibility for the segregated state of Detroit schools and that the lower courts did not have authority to order regionwide desegregation plans that crossed school district lines.

Decades of white flight into the suburbs meant that desegregation, by definition, would require Black and white children to cross district lines to attend the same schools. Still, the Court's decision established that states and suburban cities had no obligation to cooperate with efforts to desegregate schools in and around large cities. In the pursuit of racial justice goals that stretched across city and county lines, localities were on their own, and the Court would not force them to work together.

This was the case across the Midwest, as the suburbs of Cleveland, Chicago, Milwaukee, and Kansas City developed in the same way as Detroit's. White suburbs became the home of high-quality, well-funded public schools and other quality public services, while the big cities' schools were left with fewer resources.

Reversing the effects of segregation requires state-level support for local jurisdictions' efforts

Raising standards and ensuring equity for all workers and their families requires cooperation. In the case of school desegregation, that means coordination across municipalities, and state intervention—to ensure consistency and equity in school access and quality—would be beneficial.

Although explicit, intentional racial segregation in housing and public services has been outlawed, many of the systems that create and perpetuate segregation in the Midwest still exist. These include exclusionary zoning, disparities in education funding that privilege wealthy, predominantly suburban school districts, and overpolicing and mass incarceration in Black and Brown communities (Charles, Vock, and Maciag 2019). Consequently, Midwestern cities are the most segregated in the U.S. today (Maciag 2019).

While desegregation should be the primary end goal, state lawmakers could intervene to at least mitigate one of the largest material outcomes of segregation: inequitable outcomes across school districts. History has proved this is possible—where there is the will to do so.

A 1971 reform increased the state of Minnesota's share of education funding by more than 50%, reducing schools' reliance on local property taxes—in effect, shifting the cost burden of schools away from urban and rural communities and onto wealthier suburbs (Dornfeld 2007). The “Minnesota Miracle” led to decades of nation-leading academic achievement before it was dismantled, leaving the state with one of most serious education gaps in the country (Grunewald and Nath 2019).

The *Milliken* decision and the rollback of the Minnesota Miracle illustrate the failure of state lawmakers to intervene in local policymaking in a positive, productive, and sustained

way. While these examples do not involve outright state preemption, they underscore how preemption advocates' calls for "consistency" statewide are simply a justification for keeping standards *consistently low* and for denying local government the policy tools they need to address collective problems.

Ultimately, preemption of local action to raise standards and combat problems echoes the "separate and unequal" reality at the core of segregation and reinforces the very same elements of racial injustice and economic inequality that segregation does. Moreover, one of the fundamental purposes (and effects) of segregation—white leaders restricting and harming Black and Brown communities—continues to be replicated in the Midwest through state lawmakers' abuse of preemption as they prevent, or even roll back, efforts by local governments to make life better for their residents.

Segregation and preemption intersect with other policy choices to undermine racial justice

To fully understand the harm caused by the abuse of preemption today, we must look at three particular strands of Midwest history that interacted with, and reinforced, segregation and inequality: declining investment in public services, a surge in privatization that has further tied the hands of local governments, and the precipitous decline of organized labor in the Midwest. By devaluing public goods and undermining cross-racial and class solidarity, these trends created the political environment for the abuse of preemption to occur and have magnified its harmful impact.

Declining investment in public services in the Midwest

There was a time when the Midwest had many laboratories of democracy—including progressive municipal governments, counties, and school districts that enacted policies to support working families. This is not to say that all was well, but there was certainly a time when local governments were willing and able to do a lot more.

In case after case, though, these efforts foundered on the rocks of racism. When given a choice between supporting Black and Brown families, as well as white working-class families, or abandoning good policies even when it cost all families, Midwestern political leaders too often chose the latter. Segregation enabled and even encouraged these policy choices, since underinvestment in Black communities could persist while wealthy white communities could continue to enjoy robust public investment.

Take Milwaukee, for example: In the 1950s, Milwaukee Mayor Frank Zeidler ran what *Fortune* magazine called the "second-best-run city in the country." He established

Milwaukee's public television station, built affordable housing, and once blocked a freighter from Milwaukee harbor because it was carrying materials for the Kohler Company, whose workers were striking.

Zeidler's policies, however, triggered racist backlash, with one election opponent running on the slogan, "Milwaukee needs an honest white man for mayor." After Zeidler left office in 1960, the city stopped plans to build more affordable housing, canceled civil rights programs, and earned the nickname "the Selma of the North" (Arndorfer 1999).

Heather McGhee's *The Sum of Us* (2021) ably documents the decline of municipal recreation infrastructure in St. Louis and other cities across the Midwest and the country: The Fairground Park pool in St. Louis was one of the largest municipal swimming pools ever constructed, one of thousands of such pools built by cities in the 20th century.

Within a few years of being ordered to integrate in 1949, however, the pool was closed and eventually buried underground, as were most other municipal swimming pools. Throughout *The Sum of Us*, McGhee details how undermining services for communities of color typically resulted in poor white communities suffering as well.

During the Midwest's industrial heyday in the years after the Second World War, public hospitals were founded or expanded in most of the region's major cities. These hospitals provided vital services for growing cities, made possible in no small degree by the generous insurance benefits of unionized workers.

However, as deindustrialization and white flight hollowed out Midwestern cities, governments were "not willing to continue to operate a hospital...exclusively for the poor" and began divesting the hospitals or transferring them to private operation, with concomitant risks for poor patients (Legnini et al. 1999). In the Midwest, the practical effect of this is that health care options for Black and Brown families in Midwestern cities are much worse than they are for white residents in those same cities.³

While the Great Migration may have offered Black children in the North the promise of greater economic mobility than in the South, by the mid-20th century a racial gap in upward mobility took hold in the North too. Ellora Derenoncourt (2019) documents this trend and identifies two key culprits: changes in public spending and segregation. Increasing shares of white children were enrolled in private schools in these destination cities, suggesting a "white flight" from public school districts in urban areas in response to the migration and a corresponding decline in resources devoted to the remaining public school students, including most Black students. At the same time, migration was associated with higher spending on policing targeted at neighborhoods with Black residents.

Increased privatization

An important tool in the hands of local governments is their ability to use the assets they control for the public good. Ensuring access to clean drinking water, good public schools, well-maintained parks and roads, and ample mass transit are at the core of local government functions. When well-managed, municipal assets—public works facilities, public lands, public health care facilities, and so on—can be drivers of equity.

But in the Midwest, as across the country, fiscal difficulties created by years of inadequate revenue generation led local leaders to sell public assets to private, for-profit companies, creating a short-term cash windfall at the expense of long-term investment. A study in Minnesota, for example, demonstrated that privatizing school bus services increased costs by as much as 15.8% (Thompson 2011). Chicago’s decision to privatize its parking meters for \$1.16 billion gave the city a short-term windfall but meant potentially forfeiting more than \$100 million in annual revenue and, according to a class-action lawsuit filed this summer, prevented the city from doing more to support public transit, ride-sharing, and bicycle use (AP 2021).

Of deeper concern than the fiscal loss is the direct harm done to people. Privatization reflects the same impulse seen in the reactions to integration, rooted in racism and classism, to discard public goods (ITPI 2016; McGhee 2021). By introducing a profit motive, privatization fundamentally changes how the value of providing a public good is determined, leading to services prioritizing meeting needs of wealthier individuals at the expense of broadly accessible services that promote healthy and safe communities, economic equality, and racial and gender justice.

Water systems

Nothing exemplifies the harms of privatization better than water. Food & Water Watch estimated in 2015 that the privatization of water systems resulted in charges to consumers 59% higher, on average, for water service than local government utilities, while also costing one in three water workers at the formerly public utilities their jobs (Food & Water Watch 2015). In the Midwest, the share of households who now get their water through a privatized water system ranges from 1% in Minnesota to 30% in Ohio and 29% in Missouri (Douglass 2017).

Flint, Michigan, is of course the ultimate horror story of water policy gone wrong. When the city’s local government was replaced by a state-appointed overseer, the source of Flint’s water was switched to the Flint River. The corrosion of old lead pipes from that river was the cause of the Flint water crisis that has caused so much harm to so many people.

Congressional testimony asserted that one purpose of the switch was to enable future privatization of the water system (Shariff 2019). A private company, Veolia, contracted to assist the overseer’s switch in water systems, knew about the risk of lead contamination in February 2015. However, the residents of Flint were not formally warned of the risk until

September of that year. A lawsuit filed by the Michigan Attorney General alleged that Veolia had engaged in “professional negligence, fraud, and public nuisance” for, among other things, reporting to citizens in February 2015 that the “water is in compliance with drink water standards” when a test done on the same day the report was issued showed lead levels almost seven times higher than what is deemed safe (Holden, Fonger, and Glenza 2019).⁴

It will be years before we can fully catalog the harms caused by the Flint water crisis, but the lessons are clear now. When a profit motive influences public policy decisions involving public assets, the dangers are real (ITPI 2016).

Education

Privatization has also undermined another vital public service in the Midwest, the K–12 education system, through the expansion of school vouchers and charter school systems. Charter school advocates argue that channeling public resources into private schools in the name of “school choice” promotes integration; however, charter schools tend to be more racially and economically segregated than public schools (Kahlenberg, Potter, and Quick 2016; Mathis and Welner 2016).

School vouchers have their origins in Southern states, where they were used during the backlash against school integration in the 1950s and 1960s to effectively establish a publicly funded private school system for white children and undermine investments in the public schools still serving Black communities (Ford, Johnson, and Partelow 2017).

In recent years, Midwestern states have been at the forefront of expanding school voucher programs and charter school systems. Indeed, the very first charter school in the country was City Academy in St. Paul, Minnesota, founded in 1992 after Minnesota passed the nation’s first law sanctioning charters (Sanchez 2012). The Wisconsin state legislature targeted the Milwaukee School District in 1989 with the first modern school voucher program in the country, and Indiana established the first statewide school voucher program for low-income students in 2011 (Cunningham 2016).

Indiana’s voucher program, already one of the broadest programs in the nation when it was established, was further expanded by lawmakers in 2013 under then-Gov. Mike Pence. Eligibility was extended to some middle-income families, as well as to some children who had never attended a public school (i.e., children who had previously only attended private schools or been home-schooled). Following these changes, the share of students using vouchers who were Black declined while the share who were white increased (Peers McCoy 2021; Turner 2017).

Wisconsin has also greatly expanded its voucher system since its inception, including in the 2015 budget passed by the Republican state legislature and signed by Gov. Scott Walker. The budget simultaneously seriously reduced K–12 education funding and eliminated the state’s only program intended to desegregate public schools (Strauss 2015).

The Wisconsin budget came a year after Betsy DeVos—a major proponent of school vouchers and charter schools—and her husband personally contributed to Scott Walker’s 2014 campaign. The American Federation for Children—a pro-school-choice organization led by DeVos at the time—also contributed to Wisconsin state legislative races in the same election cycle. DeVos has funded pro-voucher groups and candidates across the country, including in her home state of Michigan—where she, her family, and her allies have been influential in the passage of laws removing accountability for and limits on the number of charter schools (Boser, Bombardieri, and Libassi 2017; Conniff 2019).

Like preemption, the long-term trend of privatization of public services at the local government level limits the options available for local policymakers to take action to improve the lives of working people and advance racial and gender justice.

Organized labor’s decline

As public services were undermined in the Midwest, so was another force for collective good: unions. Organized labor, like local government, is a structure in which groups of people united by a common stake can exercise their collective power to better their communities.

The benefits of unions for workers and their families are clear: Unionized workers tend to have higher pay, better benefits, and a stronger voice in their workplace (McNicholas et al. 2020). Workers covered by a union contract are paid, on average, 11.2% more than workers in similar jobs with similar education and experience. Unionization makes an even bigger difference for Black and Latinx workers, who are paid 13.7% and 20.1% more, respectively, when covered by a union contract.

However, unions are too often thwarted by those in power who stand to benefit from the economic exploitation of others. Like preemption, the concerted efforts of private interests to undermine unions can deny workers a voice and limit their ability to advocate for shared prosperity.

A brief history

The benefits of unions for workers and their families are clear: unionized workers tend to have higher pay, better benefits, and a stronger voice in their workplace (McNicholas et al. 2020). Workers covered by a union contract are paid, on average, 11.2% more than workers in similar jobs with similar education and experience. Unionization makes an even bigger difference for Black and Latinx workers, who are paid 13.7% and 20.1% more, respectively, when covered by a union contract.

Heading into the 1980s, strong labor unions supported better economic conditions for working families in the Midwest—especially Black and Brown workers, who were more likely to be covered by union contracts than white workers (Rhinehart, Windham, and Mishel 2020). Union density—the share of workers in a union or covered by a union contract—was higher than the U.S. average in six of the nine states we look at in the

report, and the three most populous states—Illinois, Ohio, and Michigan—were among the top 10 in the country for union density.⁵

Between 1983 and 2020, however, the Midwest experienced a decline in labor unions far more severe than the overall national decline. Only one Midwestern state, Minnesota, remains in the top 10 states for union density. This decline is the direct result of policy and corporate practices that undermine worker power.

So-called right-to-work laws undermine unions

Eight Midwestern states (North Dakota, South Dakota, Nebraska, Kansas, Iowa, Wisconsin, Michigan, and Indiana) have so-called right-to-work (RTW) laws, which weaken unions by requiring them to represent workers who are not union members and who do not pay “fair share fees.” “Fair share fees”—paid by workers who are covered by a union contract but are not dues-paying union members—help with the cost of negotiating and administering collective bargaining agreements (NCSL 2021).

Most RTW laws in the Midwest were passed either in the 1940s or 1950s, as housing segregation was becoming prominent, or during a more recent wave from 2012 to 2015. Like so many other efforts to entrench white supremacy, RTW laws had their roots in the Jim Crow South before being exported to the Midwest (Kromm 2012).

Employer tactics undermine unions

The decline in unionization also reflects employer tactics, both legal and illegal, to unfairly defeat or deter union campaigns—tactics that are enabled by inadequate and weakly enforced federal labor law (Rhinehart, Windham, and Mishel 2020). Those in power have an economic incentive to use such tactics, and it pays off, at least for some: Nationally, the decline in union density was mirrored by a precipitous rise in the share of income going to the top 10%, shown in **Figure A**.

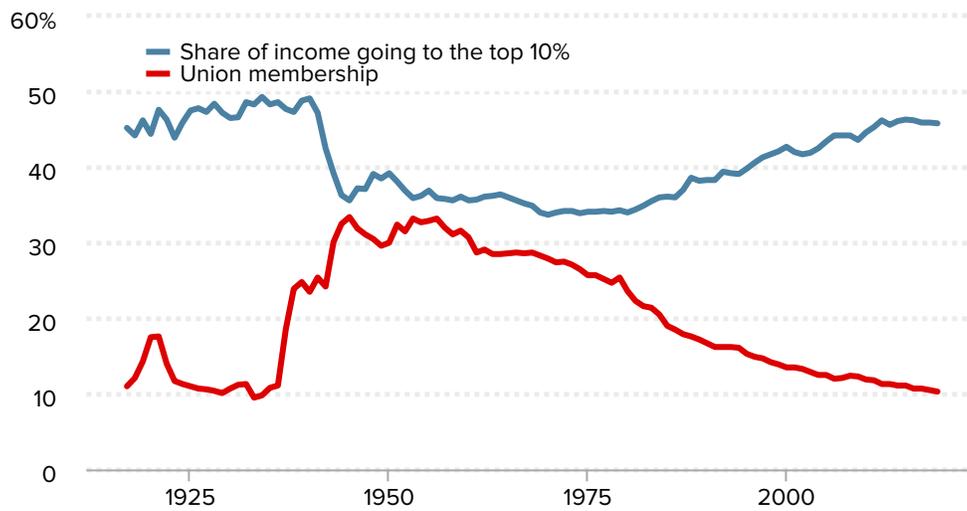
Implications for racial justice and equity

Unions are important mechanisms for working people to demand better and fairer economic outcomes, and membership in a union has been shown to reduce a white person’s feelings of racial resentment (Frymer and Grumbach 2021). The decline of unions has made it easier for the political right to sow racial division and use it to advance an agenda that benefits the wealthy. The policy decisions we document in the following case studies—decisions that hurt all working people, but particularly workers of color, women, and immigrants—likely met with less resistance because of the decline of unions.

Figure A

As union membership declines, income inequality increases

Union membership and share of income going to the top 10%, 1917–2019



Source: Reproduced from Figure A in Heidi Shierholz, *Working People Have Been Thwarted in Their Efforts to Bargain for Better Wages by Attacks on Unions*, Economic Policy Institute, August 2019.

Economic Policy Institute

Case studies

Segregation, disinvestment from public services, and the weakening of collective bargaining rights are all the result of deliberate past policy choices. This history has undermined cooperation and shared prosperity and has left Midwesterners with fewer policy tools to promote economic security and justice. While the stage was set long ago, today's state policymakers are reinforcing these same long-standing trends by abusing preemption, further limiting the options available to local governments to improve the lots of their communities.

The following case studies from across the Midwest document how the misuse of preemption stifles local policies aimed at improving the lives of working people, in particular those who are paid lower wages. The policies these cases focus on would also have helped to build more equitable communities by disproportionately benefiting people of color, women, and immigrants, who have been economically marginalized by systemic racism, sexism, and xenophobia.

We also show in these case studies that the state legislatures enacting these preemption laws do not represent the demographics of the cities whose ordinances they are preempting. Rather, this troubling trend echoes a long history of white, male voices dominating policy decision-making.

Minimum wage: St. Louis and Kansas City, Missouri

In the summer of 2015, lawmakers in both St. Louis and Kansas City, Missouri, raised their local minimum wages. That same summer, the state legislature preempted future local minimum wage increase ordinances, while business leaders in Kansas City filed for a referendum to overturn the city council's ordinance. This delayed the ordinance from taking effect and, coupled with the preemption bill, ultimately killed the minimum wage increase. Although the St. Louis bill took effect briefly, state lawmakers passed a second preemption bill in 2017—and the second bill was retroactive, nullifying the St. Louis measure. In both St. Louis and Kansas City, higher shares of the population are people of color than statewide.

The federal minimum wage was last raised in 2009 to \$7.25, where it remains today. Every year the minimum wage is left unchanged, inflation erodes its purchasing power. Indeed, congressional neglect of the federal minimum wage has led to a 31% decline in its value since its high point in the late 1960s (Cooper, Mokhiber, and Zipperer 2021).

In response to this inaction at the federal level, more than half of U.S. states and many cities have set minimum wages above the federal standard (see EPI 2021). This includes Missouri, which in 2006 adopted a ballot measure to raise the state minimum to \$6.50 and

index it to inflation—i.e., to automatically adjust the state minimum wage each year thereafter to reflect changes in consumer prices over the preceding year.

The federal increases that took place in 2008 to \$6.55 and \$7.25 in 2009 superseded the minimum wage level determined by Missouri's indexing formula, but by 2013 the inflation-linked value of the state minimum wage set in 2006 rose above the federal \$7.25. When that occurred, Missouri's state minimum wage began rising modestly above the federal minimum. By 2015, the state minimum wage was \$7.65.

Kansas City and St. Louis sought to raise their minimum wages

In July 2015, the city council in Kansas City, Missouri, voted 12–1 to pass an ordinance establishing a city minimum wage of \$8.50 per hour, effective August 24, 2015. The measure would have gradually raised the city minimum wage to \$13 by 2020 (Horsley 2015). However, roughly two weeks after the city council vote, a coalition of business groups filed a petition with the city clerk's office for a referendum on the ordinance—a move that, under the city's charter, effectively blocked the ordinance from taking effect until the referendum could be voted on in a city election, which would likely have taken place the following spring had the state legislature not preempted local minimum wage increases first (KCUR 2015).

Separately, in August 2015, aldermen in St. Louis voted 16–8 to establish a city minimum wage of \$8.25 per hour, effective that October. The measure would have gradually raised the city minimum wage to \$11 per hour by January 2018 (Pistor 2015). In September, business groups sued the city, and the day before the measure was scheduled to take effect, a St. Louis district court blocked the higher minimum wage from being implemented. Lawmakers from the city appealed to the state supreme court.

Missouri state lawmakers acted to preempt local minimum wages

While elected leaders in these two cities were passing higher local wage floors with broad support, they faced challenges not only from businesses, but also from lawmakers at the statehouse in Jefferson City who were working to take away their ability to enact such measures. In May, the Republican-controlled state legislature passed a bill, H.B. 722, that preempted any local government from establishing a minimum wage higher than the state minimum wage. The governor at the time, Democrat Jay Nixon, vetoed the measure, but the legislature subsequently overturned Nixon's veto later that September.

Notably, the 2015 minimum wage preemption law stipulated that local ordinances enacted prior to August 28, 2015, would not be preempted by the state law. This should have saved Kansas City's minimum wage ordinance. But because Kansas City's ordinance was blocked from full enactment by the business groups' ballot petition, and an election to vote on the measure could not have been held prior to the August 28 deadline, the

Kansas City minimum wage was effectively dead (Newill 2015).

However, St. Louis's minimum wage ordinance—despite being blocked from taking effect as scheduled—was still in legal limbo as the city's appeal to the state supreme court was being considered. In February 2017, the Missouri Supreme Court ruled that St. Louis's minimum wage ordinance was legal and, because it had passed prior to the August 2015 deadline set in the state's preemption law, it would be allowed to take effect later that year. On May 5, 2017—more than a year and a half after its original October 2015 start date—the St. Louis minimum wage ordinance took effect, setting a local minimum wage of \$10 per hour (the amount the measure had stipulated would be effective on January 1, 2017).

Sadly, the St. Louis minimum wage was short-lived. On May 12, 2017—exactly one week after the ordinance took effect—the Republican-controlled state legislature passed a *new* preemption law that specifically targeted the St. Louis measure by outlawing *all* local minimum wage laws, regardless of when they were enacted. Missouri's new Republican governor, Eric Greitens, opted to neither sign nor veto the bill, which, under Missouri's constitution, allowed the bill to become law. Consequently, on August 28, 2017, the minimum wage in St. Louis dropped from \$10 an hour to the state minimum wage of \$7.70 per hour (Park 2017).

A predominantly white, male state legislature blocked ordinances that would disproportionately benefit women and people of color

Both of these cases reflect the common preemption pattern of a majority-white state legislature overruling the will of local communities that are either majority or disproportionately people of color (Blair et al. 2020). As shown in **Appendix Table 1**, Missouri's state legislature is 88% white, yet the population of Kansas City is only 52% white and St. Louis is majority people of color, with only 44% of its population being white.

Both instances also represent cases of state lawmakers undermining local officials' ability to implement public policies that reduce harm and combat social problems. St. Louis and Kansas City have significantly higher poverty rates than the state overall.⁶ Raising the local minimum wage was an appropriate policy response, given that higher minimum wages have been shown to have direct poverty-reducing effects (Dube 2019). Yet this tool was taken away from Missouri's local policymakers by state lawmakers who may have little awareness of, or shared experience with, the communities they are denying self-governance.

Table 1, adapted from Cooper 2017, shows that Missouri's preemption law undermined potential raises (in 2018) for an estimated 38,300 workers in St. Louis, 15.2% of the city's total workforce. Of those workers who would have received a raise, 51.2% were Black and roughly one in 10 (9.9%) were Latinx, Asian American/Pacific Islander (AAPI), or some other race or ethnicity. Again, this starkly contrasts with the demographics of the state legislature, which is 88% white. Similarly, the table also shows that 56.1% of the workers

Table 1

Missouri state lawmakers undercut raises for 38,000 workers

Workers affected by St. Louis minimum wage increase to \$10, and projected under scheduled increase to \$11

Category	Increase to \$10 (May 5, 2017)				Increase to \$11 (scheduled for Jan 1, 2018)			
	Estimated workforce	Directly affected	Share of category	Share of affected workers	Estimated workforce	Directly affected	Share of category	Share of affected workers
Total	251,800	30,900	12.3%	100.0%	252,200	38,300	15.2%	100.0%
Gender								
Women	123,000	17,500	14.2%	56.6%	123,200	21,500	17.5%	56.1%
Men	128,900	13,400	10.4%	43.4%	129,000	16,700	12.9%	43.6%
Race/ethnicity								
White	156,500	12,900	8.2%	41.7%	156,800	14,900	9.5%	38.9%
Black	77,400	15,000	19.4%	48.5%	77,500	19,600	25.3%	51.2%
Latinx	7,400	1,400	18.9%	4.5%	7,400	2,000	27.0%	5.2%
Other	10,500	1,500	14.3%	4.9%	10,500	1,800	17.1%	4.7%

Notes: Estimated workforce describes employed ACS respondents ages 16 and older for whom a valid hourly wage can be determined, and who reported working in the city of St. Louis, regardless of their place of residence. Directly affected workers are those that would otherwise have had hourly wages below the specified wage value. Totals may not sum due to rounding.

Source: EPI analysis of American Community Survey microdata, 2015. Adapted from Table 1 in David Cooper, "State Lawmakers in Missouri Just Undercut Wages for 38,000 Workers in St. Louis," *Working Economics Blog* (Economic Policy Institute), July 14, 2017.

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who would have benefited from the city's minimum wage law were women—another striking departure from the composition of the state legislature, where 75% of lawmakers were men (see Appendix Table 1).

The preemption of Kansas City's minimum wage similarly denied a raise to an estimated 52,000 workers—20.6% of wage-earners in the city. **Table 2** describes the Kansas City workforce that would likely have received a raise had the city's ordinance not been undone by state lawmakers. Although the majority of workers who would have received pay increases were white, workers of color would have disproportionately benefited: Nearly one in five white workers in the city (18.6%) stood to benefit, while 27.5% of Black and 24.9% of Latinx workers would have received a raise.

In St. Louis and Kansas City combined, 90,000 workers were directly denied higher pay by the actions of the Missouri state legislature. In all likelihood, many more workers throughout the state also missed out on larger paychecks, as the higher wage floors in these two cities would have put pressure on employers elsewhere in the state to raise pay—and other localities might have followed suit and raised their minimum wages.

Missouri voters advocated for workers

Fortunately, Missouri's lowest-paid workers did ultimately receive raises, as a voter-driven

Table 2

Workers of color would have disproportionately benefited from the minimum wage increase in Kansas City, Missouri

Workers directly affected by Kansas City, Missouri, minimum wage increase from \$7.65 in 2015 to \$13 by 2020

Group	Estimated workforce	Share of workforce	Directly affected	Share of group directly affected
Total	252,100	100.0%	51,900	20.6%
Race/ethnicity				
White	164,100	65.1%	30,600	18.6%
Black	49,400	19.6%	13,600	27.5%
Latinx	24,100	9.6%	6,000	24.9%
AAPI	8,100	3.2%	1,600	19.8%
Other	6,300	2.5%	2,100	33.3%

Notes: Estimated workforce describes employed ACS respondents ages 16 and older for whom a valid hourly wage can be determined. The count and shares of affected workers by group were estimated from the population of workers in Jefferson, Platte, and Clay Counties, and then scaled to reflect those counties' share of employment in Kansas City using published Census Bureau data on employment in each geography. Employment levels by group were adjusted to reflect the population shares of each group in Kansas City relative to the counties as a whole. Directly affected workers are those that would otherwise have had hourly wages below the specified wage value. Totals may not sum due to rounding. AAPI stands for Asian American/Pacific Islander.

Source: Economic Policy Institute analysis of American Community Survey microdata, 2015.

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initiative to raise the statewide minimum wage passed in 2018. The measure will raise the statewide minimum wage to \$12 by 2023 and index it to inflation thereafter.

Minimum wage: Johnson, Linn, Polk, Wapello, and Lee Counties, Iowa

In March 2017, Iowa state lawmakers passed a law preventing localities from enacting a higher minimum wage and nullifying existing local minimum wage laws. In the two years prior, four counties had raised their minimum wages and at least one other was poised to do so just before the preemption bill was passed. A majority of the workers who would have gotten a raise were women.

In 2006, when Congress amended the Fair Labor Standards Act to establish the schedule of increases that would bring the federal minimum wage to \$7.25 by July 2009, lawmakers in Iowa decided they need not wait that long. In 2007, the state legislature passed—and Gov. Tom Vilsack signed—a minimum wage increase that took the state minimum to \$7.25 by January of 2008. But in the years that followed, the state minimum wage—like the

federal minimum—was left to languish.

Five Iowa counties took action to raise their minimum wages

In September 2015, after seven years of decline in the purchasing power of the state minimum wage, the Board of Supervisors in Johnson County—home of Iowa City—voted to enact a county minimum wage of \$8.20 per hour, effective November 1. The measure specified the county minimum wage would gradually increase to \$10.10 per hour by January 2017 and would be indexed to inflation thereafter, with automatic increases beginning in July 2018. The measure was a success, lifting pay for more than 10,100 workers in Johnson County as its minimum wage rose. The majority (56%) of affected workers were women, nearly 80% were adult workers ages 20 or older, and most had at least some college experience (IPP 2015).

Seeing the success of the Johnson County ordinance, county supervisors in neighboring Linn County—home to Cedar Rapids, the second-largest city in the state—enacted their own county minimum wage in September 2016 (Moore 2016). The ordinance set a county minimum wage of \$8.25 in January 2017, with subsequent increases to \$10.25 by January 2019. An analysis by Peter Fisher (2016) at the Iowa Policy Project estimated that the Linn County measure would raise wages for upward of 18,400 workers in the county. As in Johnson County, most of the Linn County workers who would benefit were women (54%) and adults at least 20 years old or older (80%).

The day after the Linn County measure was passed, the county board of Wapello County—a much smaller, more rural county in southeast Iowa—voted to enact their own county minimum wage of \$8.20 per hour, effective January 1, 2017, with subsequent increases to \$10.10 by January 2019 (AP 2016). However, this measure was weakened when lawmakers in Ottumwa, the largest city in the county, voted to opt out of this county-level minimum wage increase (Whitaker 2016).

As shown in **Table 3**, if fully enacted across the county, the Wapello County measure would have likely raised wages for 2,200 workers—one in six workers in the county. The Wapello measure is especially noteworthy because incomes in Wapello are significantly lower and poverty rates noticeably higher than in much of the rest of the state—meaning that the minimum wage increase there would likely have had a more significant impact on the welfare of local working families.

Momentum for raising wage standards in Iowa was clearly building, and the Wapello County measure was not the end. In October 2016, the Board of Supervisors of Polk County—Iowa's most populous county and home to the state capital, Des Moines—voted to establish a local minimum wage of \$8.75, starting in April 2018, with subsequent increases that would have brought the minimum wage to \$10.75 by January 2019. The measure would have directly lifted pay for over 38,000 workers, about 15% of workers in Polk County.

Table 3

Iowa lawmakers denied raises to tens of thousands of women workers by preempting local minimum wages

Workers who would have been directly affected by increasing the Johnson, Linn, Wapello, Polk, and Lee County minimum wages

	Estimated county workforce	Share of county workforce	Directly affected	Share of group directly affected	Share of county's affected workers
Johnson County <i>(\$10.10 by January 2017)</i>	40,000	100.0%	10,100	25.3%	100.0%
Gender					
Women	20,100	50.3%	5,700	28.4%	56.4%
Men	19,900	49.8%	4,400	22.1%	43.6%
Linn County <i>(\$10.25 by January 2019)</i>	101,600	100.0%	18,400	18.1%	100.0%
Gender					
Women	48,300	47.5%	9,900	20.5%	53.8%
Men	53,400	52.6%	8,500	15.9%	46.2%
Wapello County <i>(\$10.10 by 2019)</i>	13,000	100.0%	2,200	16.6%	100.0%
Gender					
Women	5,900	45.2%	1,500	25.1%	68.5%
Men	7,100	54.8%	700	9.5%	31.5%
Polk County <i>(\$10.75 by January 2019)</i>	252,700	100.0%	38,000	15.0%	100.0%
Gender					
Women	127,400	50.4%	22,100	17.3%	58.2%
Men	125,300	49.6%	15,900	12.7%	41.8%
Lee County <i>(\$8.20 by May 2017)</i>	15,000	100.0%	2,100	14.3%	100.0%
Gender					
Women	6,000	40.1%	1,300	21.0%	59.0%
Men	9,000	59.9%	900	9.8%	41.0%

Notes: Estimated workforce describes employed ACS respondents ages 16 and older for whom a valid hourly wage can be determined. Directly affected workers are those that would otherwise have had hourly wages below the specified wage value. Totals may not sum due to rounding.

Sources: Fisher 2016, IPP 2015, and Economic Policy Institute analysis of American Community Survey microdata, 2012–2015.

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County supervisors in Lee County, another more rural county in the southeast corner of the state, also began working on a local minimum wage ordinance that would ultimately be passed in March 2017 (Radio Iowa 2017). That measure would have raised pay for 2,100 workers, 14% of the county workforce.

Iowa state lawmakers halted the minimum wage momentum

By early 2017—with four counties having recently passed higher wage standards, and Lee County heading in that direction—one might expect state lawmakers to recognize the evidence of a need and public desire for a statewide minimum wage increase. Indeed, a 2014 poll of Iowans showed nearly two-to-one support for raising the state minimum wage above \$7.25 (Jacobs 2014). But instead, state lawmakers chose to move in the opposite direction.

On March 30, 2017, Republican Gov. Terry Branstad signed HF 295, a bill passed by the Republican-controlled Iowa legislature that preempted local governments from establishing any labor standards that differed from state law, including higher minimum wages. The law applied to all existing and future local ordinances, making Iowa the first state in the country to nullify an existing local minimum wage law that had already taken effect (Hirsch 2017). (Missouri followed suit two months later.)

The Iowa case is revealing, as it shows how state lawmakers had no qualms—and seemingly suffered few political consequences—for contradicting the expressed preferences of a majority of state residents on an issue that was clearly gaining traction across the state.

A majority-men state legislature denied raises to a majority-women low-wage workforce

The Iowa case demonstrates how state preemption can reinforce not just racial hierarchies, but gender ones as well. Women are far more likely to be employed in low-paying jobs and would have benefited disproportionately from the Iowa local minimum wage ordinances.

Table 3 shows the gender composition of each Iowa county's workforce and the workers who would have benefited from the local minimum wage measures. In every county, a majority of the workers who would have gotten a raise were women, and in Lee and Wapello Counties, women would have benefited at more than twice the rate of men. Yet tens of thousands of women workers in these counties were denied pay increases by a state legislature that was majority men (NCSL 2020).

Preemption's use as a tool for reinforcing white control over communities of color was present in Iowa, although the racial differences were less pronounced. As of 2019, the state was 85.7% white, yet as of 2020, the state legislature was 96% white (see **Appendix Table 2**). American Community Survey data show that the populations of Wapello County,

Johnson County, and Polk County are 81.0%, 78.0%, and 77.0% white, respectively—still majority white, but with substantial Black, Latinx, and AAPI populations. The racial makeup of Linn and Lee Counties are similar to the overall state composition.

Fair scheduling: Detroit, Michigan

In 2015, the Michigan state legislature passed a law, monikered the “Death Star Bill” by opponents, that prohibited local governments from implementing a range of policies that would benefit workers, including fair scheduling regulations, paid leave mandates, local minimum wages, and prevailing wage laws. Fair scheduling could benefit 38,702 retail and food service workers in Detroit; 77.4% of those workers are Black.

Michigan’s state legislature took a particularly aggressive approach when they passed a sweeping anti-worker preemption bill in 2015.⁷ Known by its opponents as the “Death Star Bill” for its complete destruction of local authority, this bill preempted local governments from enacting a broad slate of pro-worker policies. It targeted regulations that would benefit low-income workers and workers of color, such as minimum wages, fair chance hiring or “ban-the-box” laws, and mandated employee benefits such as paid leave. The legislature took clear aim at workers by including measures against union organizing, strikes, wage disputes, and apprenticeships in the list of prohibited local policies.

Local fair scheduling regulations were among the many policies targeted by the Death Star Bill.

Fair scheduling laws mitigate employer practices that can wreak havoc in workers’ lives

Fair scheduling laws require that employers give advance notice of worker schedules or provide additional pay to employees when their schedules are changed without adequate notice. These laws typically aim to improve scheduling practices in low-wage sectors such as retail and hospitality.

By prohibiting its cities and counties from enacting such laws, Michigan is preventing communities from adopting labor standards that would disproportionately benefit women and workers of color, who are far more likely to hold positions subject to erratic scheduling (Rothstein and Morsy 2015).

The COVID-19 pandemic has shown that life can be challenging and unpredictable, especially in the midst of a personal health crisis or when schools and day cares close unexpectedly. Having some say in their work hours gives workers the ability to manage the challenges that life poses, whether it is scheduling doctor’s appointments, arranging for child care, or just going grocery shopping, while mitigating negative effects on their economic security.

However, many workers, especially hourly workers and workers who are paid low wages, are subject to unpredictable schedules (Vogtman and Tucker 2017). Under the guise of

flexibility, employers leverage technology to make last-minute and inconsistent scheduling decisions. The result is that workers are required to give up their own freedom and flexibility (Corser 2019).

These unfair scheduling practices can take many forms, often used in combination, compounding their negative effects. Some employers use “just-in-time” scheduling—the practice of using computer algorithms to make last-minute staffing decisions in response to anticipated changes in demand. Another tactic is on-call scheduling: Workers are asked to stay available, generally without compensation, but are not told whether they are required to come in until a few hours before the shift. Alternatively, workers may be scheduled for a full shift but then sent home early with no notice, depriving them of expected income while still requiring them to make child care, transportation, or other arrangements. Workers may also be asked to work unreasonable shifts, for example, a “clopening”—a late closing shift followed by an early opening shift (Vogtman and Tucker 2017; Schneider and Harknett 2019).

Each of these practices is widespread within the retail and food service industries (Schneider and Harknett 2019). While unfair scheduling is certainly not limited to retail and food service, most fair workweek laws do focus on protecting workers in those industries (Wolfe, Jones, and Cooper 2018).

Unpredictable scheduling practices wreak havoc in workers’ lives. To keep their jobs and satisfy their employers’ scheduling whims, workers must plan their time, spending, and savings around these inconsistent (and often insufficient) hours. Unpredictable scheduling can negatively impact workers’ access to child care and health care. It can be time-consuming to find and apply for an open spot in a day care center, and day cares often require consistent drop-off schedules. And doctor visits require advance appointments. Enrolling in additional training and education can be nearly impossible when you are required to “stay available” for shifts (Vogtman and Tucker 2017). Even when compared with peers with similar wages, retail and food service workers with less predictable schedules were more likely to experience material hardship, such as going hungry or being unable to pay bills (Schneider and Harknett 2019).

Furthermore, unfair scheduling practices can make it difficult to schedule job interviews or shifts at other jobs, preventing workers who are part time but would like to work more hours from getting full-time work or another part-time job (Golden 2015). Part-time work and lower hours are more prevalent in wholesale and retail trade, as well as in leisure and hospitality (which includes restaurants), than in the overall workforce. At the same time, part-time workers in these industries are also more likely to want full-time work than their peers in the overall workforce (BLS 2021b).

Retail and food service workers of color, and particularly women of color, are more likely to experience unstable schedules than their white peers, an inequity that persists even when controlling for other demographic characteristics and education (Schneider and Harknett 2019).

Because of the clear importance of predictable scheduling to workers, a number of cities

and one state have adopted scheduling fairness laws. As of 2018, 1.8 million workers in New York City, San Jose, Seattle, San Francisco, Emeryville (California), and the state of Oregon were protected by fair workweek laws that focused largely on retail and fast-food workers (Wolfe, Jones, and Cooper 2018). In 2020, fair workweek protections took effect in Chicago and Philadelphia, with Chicago's ordinance covering workers in health care facilities, building services, and hotels in addition to restaurant and retail workers (HR Dive 2019).

Majority-white state legislature denied the right of a majority-Black city to pass fair scheduling laws

By preempting fair scheduling laws, the Michigan state legislature denied local governments the opportunity to protect those who work in retail and food service, not to mention workers in other industries who would stand to benefit from broader fair workweek protections.

In particular, if Detroit, a majority-Black city, were to enact fair workweek legislation, 38,702 nonmanagerial workers in retail and food service would stand to benefit, as shown in **Table 4**. The vast majority (29,943, or 77.4%) of those workers are Black. Women also stand to benefit from a fair workweek law focused on these industries, since they make up over half of this workforce. This is especially true in the retail industry, where 80.2% of nonmanagerial workers are Black and 57.2% are women.

This state interference not only has an outsize impact on Black and women workers, but it also strips Detroit, a majority-Black city, of the authority to make material improvements in the lives of their constituents with policies that the majority-white state legislature has not taken up. More than three in four (77.4% of) Detroit residents are Black, while the statewide population is 75.0% white (see **Appendix Table 3**). The state legislature, which is 78% white, is not representative of Black workers and the population whose power they are usurping.

A Michigan state senator is pushing back on the Death Star Bill

In hopes of restoring local authority to address working conditions and economic security, Michigan State Senator Winnie Brinks introduced a bill last June to repeal the Death Star Bill.⁸

Paid sick leave: Indianapolis, Indiana

In 2013, Indiana state lawmakers passed a bill preventing localities from mandating paid sick leave and other employee benefits. Given the particularly low rates of paid sick leave access in the Midwest, many workers would stand to benefit if a city like Indianapolis were able to mandate that employers provide paid sick leave.

Table 4

Most of the workers who would benefit from a fair scheduling ordinance in Detroit are Black

Number and demographic shares of nonmanagerial workers in the retail and food service industries in Detroit

	Retail		Food service		Retail and food service	
	Number of workers	Share of industry	Number of workers	Share of industry	Number of workers	Share of industry
Total	21,013	100.0%	17,689	100.0%	38,702	100.0%
Gender						
Women	12,026	57.2%	9,208	52.1%	21,234	54.9%
Men	8,987	42.8%	8,481	47.9%	17,468	45.1%
Race/ethnicity						
White	2,332	11.1%	2,590	14.6%	4,922	12.7%
Black	16,844	80.2%	13,099	74.1%	29,943	77.4%
Latinx	1,254	6.0%	1,376	7.8%	2,630	6.8%
Other	583	2.8%	624	3.5%	1,207	3.1%

Source: EPI analysis of five-year 2019 American Community Survey microdata.

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When workers do not have access to paid sick leave, they are forced to choose between their economic security and the health of themselves and their families. The workers who are the most economically precarious, who stand to lose the most by missing a day of earnings, are also the least likely to have access to paid leave. Just one in three workers in the lowest-paid 10% of occupations has access to paid sick leave, compared with 95% among the highest-paid 10% (BLS 2020).

The coronavirus pandemic made many realize the public health implications of going to work while sick—a realization that should underscore the importance of paid leave, even during “normal” times. Forcing service workers to work while ill poses an increased contagion risk to the greater community (NPWF 2021). And yet essential workers with a high degree of close contact with others—particularly in food services and personal care occupations—are especially unlikely to have access to paid sick days (IWPR 2016).

Status of paid sick leave laws in the Midwest

Despite the critical importance of paid sick leave, Indiana and six other Midwestern states—Iowa, Kansas, Michigan, Missouri, Ohio, and Wisconsin—have acted to prevent localities from passing laws mandating that employers provide paid sick leave (EPI 2019). The Midwest lags behind other regions when it comes to paid sick leave access, as does the South. More than one in four workers in those regions (27% in the Midwest and 28% in

the South) lack access to paid sick leave, compared with 19% and 12% in the Northeast and West (BLS 2020).

In Illinois and Minnesota, two Midwestern states without paid leave preemption, local governments have passed laws requiring paid sick days. It is likely that other Midwestern cities would follow the examples set by Chicago, Duluth, Minneapolis, and Saint Paul if their states' abuse of preemption were not standing in the way (ABB 2021b).

Just one Midwestern state, Michigan, has passed a statewide paid sick leave law; however, the law left a majority of workers without protection because it excluded large groups of workers, such as those at smaller businesses and those who had been at their job less than a year (Ruark 2018).

Indiana acted preemptively to prevent local governments from passing paid sick leave

In 2013, Indiana's state legislature passed a bill preventing localities from mandating employee benefits, including paid sick days.⁹ This legislation was nearly identical to a May 2011 bill passed by Wisconsin's Republican legislature preempting local paid sick leave laws. The Wisconsin bill aimed to knock out a Milwaukee ordinance that had won over nearly 70% of voters in a 2008 referendum and that had been deemed constitutional by a state Court of Appeals in March 2011 (Forward 2011). Wisconsin lawmakers succeeded in their aim and the ordinance never went into effect (*Milwaukee Business Journal* 2011).

Wisconsin's preemption bill was circulated that summer at the 2011 American Legislative Exchange Council meeting, where ALEC members from the private sector and state legislatures collaborate on and disseminate model bill language. These bills cover wide-ranging issues, including gun control, housing policy, and immigration, and often feature preemption (Jackman 2013; Winig and deVuono-powell 2019). ALEC's promotion of the Wisconsin paid leave preemption bill worked as intended. Other states, including Indiana, soon passed similar laws (Grabar 2016).

As shown in **Table 5**, nearly 200,000 Indianapolis workers—or 41.8% of the city's workforce—would gain paid time off when sick if the city council were to enact a leave mandate. More than two in five (42.0%) of the workers who would benefit are people of color. In particular, about a quarter (24.5%) are Black. Since Latinx workers are least likely to have access to paid sick days—56.4% do not have access—they would be most likely to benefit from a leave mandate.

This bill was not the first time Indiana lawmakers prevented progress on workers' rights issues, nor was it the last. They had already, in 2011, forbidden local governments from establishing their own minimum wages.¹⁰ Prevailing wage and ride-share standard preemption followed in 2015.¹¹ The state legislature also preempted fair scheduling requirements in 2016, one year after the Indianapolis City Council adopted a nonbinding resolution supporting a Retail Workers Bill of Rights calling for fair scheduling along with better pay and benefits (Eason 2016).¹²

Table 5

200,000 Indianapolis workers would benefit from guaranteed paid sick leave

Number and shares of Indianapolis workers without access to paid sick days, by gender, race, and ethnicity

	Indianapolis workforce	Number without access to paid leave	Share of group without access to paid leave	Share of those without access who are in each group
Overall	462,379	193,048	41.8%	100.0%
Race/ethnicity				
White	278,106	111,879	40.2%	58.0%
Black	115,079	47,387	41.2%	24.5%
Latinx	42,056	23,702	56.4%	12.3%
AAPI	15,020	5,472	36.4%	2.8%
Other	12,118	4,609	38.0%	2.4%

Notes: The overall share of Indiana workers without paid sick leave was most recently estimated for 2013 in IWPR and NPWF 2015. To update this value, we apply the change in access rates for the Midwest between 2014 and 2019 from BLS NCS 2021. To estimate access rates by gender and race/ethnicity we apply the ratio of access for that demographic group to the overall access rate using estimates from IWPR 2016. AAPI stands for Asian American/Pacific Islander.

Source: EPI analysis of five-year 2019 American Community Survey microdata and data from Institute for Women's Policy Research (IWPR) and National Partnership for Working Families 2015, Bureau of Labor Statistics National Compensation Survey 2021, and IWPR 2016.

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Indiana's state legislature is not demographically representative of Indianapolis

The Indiana state legislature's thwarting of Indianapolis's local authority is particularly disappointing since the lawmakers do not demographically represent the Indianapolis population. More than a quarter (27.7%) of Indianapolis residents are Black and one in 10 is Latinx (See **Appendix Table 4**). Yet the vast majority (89%) of the Indiana state legislature is white.

By blocking paid sick leave measures, Indiana lawmakers have prevented local policies that would help workers and their families manage individual health crises *and* that would have public health benefits. Cities should be able to lead the way, especially in the face of inaction at the state level, with policies that guarantee workers a right to paid sick leave, including additional paid time off available during public health emergencies (ABB 2021a).

Targeted and local hire laws: Cleveland, Ohio

In 2003, the Cleveland City Council passed the Fannie Lewis Law, which required that Cleveland residents be hired to perform 20% of the labor hours on public construction

projects. State lawmakers passed a law in 2016 that prohibited regional or local hiring requirements or incentives, preempting the Fannie Lewis Law. The city of Cleveland challenged the 2016 preemption law, but the state law was upheld by the Ohio Supreme Court in 2019. If the Fannie Lewis Law were reinstated, it would result in more opportunities for Black and Latinx construction workers from Cleveland.

Targeted and local hiring policies support job opportunities for those who need them most by requiring that a minimum percentage of work hours created by a development project be set aside for job-seekers from low-income communities within a city or county, especially low-income communities of color. These policies provide good jobs to local residents in communities that often experience unfair barriers to employment, including being denied job opportunities due to systemic racial discrimination in hiring practices (Cornejo, Chen, and Patel 2018; Quillian et al. 2017).

Cleveland passed Fannie Lewis Law requiring local and targeted hires on construction projects

In 2003, the Cleveland City Council passed the Fannie Lewis Law, named for its champion who served on the city council from 1980 until her death in 2008 (Tobin 2008).¹³ It required that 20% of the labor hours on public construction projects valued at \$100,000 or more be performed by Cleveland residents, with 4% of the total hours set aside for low-income residents.

As a result, Cleveland construction workers were paid a cumulative \$232 million for their work on publicly funded projects in the first 10 years that the law was on the books (WKYC Staff 2019). Between 2013 and 2017, Cleveland residents and low-income workers worked 24% and 9% of all construction hours, respectively, which was above and beyond the requirement (Ma 2019).

Ohio General Assembly passed law forbidding local hire laws

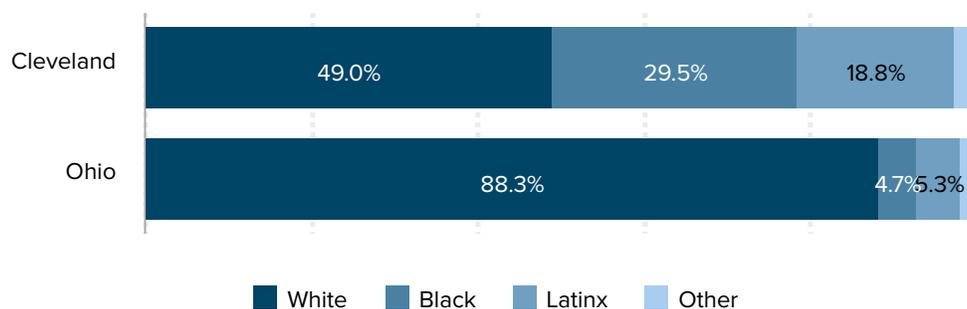
In 2016, the Ohio General Assembly forbid local laws requiring or incentivizing contractors to hire local construction workers.¹⁴ The city of Cleveland promptly responded by suing the state of Ohio, arguing that their local authority was protected by the Ohio constitution. Although a lower court and court of appeals granted and upheld a permanent injunction to keep the Ohio bill from being enforced, the Supreme Court of Ohio ultimately overruled them and the state law took effect in 2019 (Thompson Hine LLP 2019). Local labor leaders expressed their disappointment at the decision and their hope that contractors would take voluntary action to continue to give Cleveland's construction workers better access to these publicly funded jobs going forward (CBCTC 2019).

In the same year they passed the bill targeting local hire laws, the Ohio General Assembly also preempted several other workers' rights measures: fair scheduling, paid leave, and ride-sharing regulations.¹⁵ They also passed a law preempting local minimum wage

Figure B

Reinstating a local hire law in Cleveland would provide more job opportunities to Black and Latinx construction workers by ensuring more jobs go to Cleveland residents

Demographic comparison of construction workers in the city of Cleveland versus Ohio overall



Source: EPI analysis of five-year 2019 American Community Survey microdata.

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increases, keeping a proposal to increase Cleveland’s minimum to \$15 an hour off the ballot in 2017 (Pelzer 2016).¹⁶

Majority-white legislature took power away from communities that are majority people of color

This is another example of a state legislature stepping in to block welfare and equity-enhancing policy choices made by communities of color and the local lawmakers who represent them. In Cleveland, most residents (66.0%) are people of color and nearly half (47.9%) are Black. By comparison, 82% of state legislators in Ohio are white. Just 14% of Ohio state legislators are Black and 2% are Latinx. (See **Appendix Table 5**.)

Guaranteeing that 20% of construction work hours on municipally funded projects go to Cleveland residents, as the Fannie Lewis Law did, would substantially increase the chances of Black and Latinx workers being hired for this work. As shown in **Figure B**, nearly one in five construction workers living in Cleveland (18.8%) are Latinx, compared with 5.3% statewide. The trend is even more pronounced for Black workers, who account for about three in 10 construction workers in Cleveland (29.5%) and just 4.7% in Ohio.

Prevailing wage: Kansas City, Kansas

In 2013, Kansas Gov. Sam Brownback signed HB 2069, a law banning all local governments in the state from requiring prevailing wages for workers on public construction projects. The law preempted prevailing wage ordinances in Sedgwick and

Wyandotte Counties, disproportionately lowering the wages of Latinx, Black, and immigrant construction workers there.

Prevailing wage laws set wage standards in the construction contracts that cities or counties enter into with private contractors for city or state construction projects. They require that contractors pay their workers at least the prevailing wage in the city or county for the type of work being contracted. The policies' definitions of "prevailing wage" vary from location to location, although they generally reflect a commonly held or dominant wage.

How prevailing wage laws protect workers—and benefit taxpayers

The rationale for prevailing wage laws is straightforward: Communities do not want public contracts to drive down local wage standards. Because contractors typically must bid to work on public projects, without a prevailing wage requirement firms may cut wages in order to win contracts. This not only harms employees of the individual construction firm, but it also pushes down wages throughout the industry as rival firms respond with similar cuts when making their bids. Prevailing wage laws preserve wage levels for construction workers and ensure that contractors compete for government projects based on efficiency, management skill, material costs, and the productivity of a firm's employees.

In other words, prevailing wage laws help ensure that public funds are used to create strong middle-class construction jobs and pursue a high road of economic development that supports workers and good employers.

Research shows that construction workers in jurisdictions with prevailing wage laws earn substantially more than their counterparts in places without such laws. Eisenbrey and Kroeger (2017) find that construction workers in states with prevailing wage laws are typically paid 13% to 22% more per hour than construction workers in states without prevailing wage laws.

In addition to benefiting the workers on public projects, prevailing wage laws create several benefits for taxpayers. Projects under prevailing wages are more likely to hire locally, create increased tax revenue for local governments, and boost total economic activity (WP USA 2011; Mahalia 2008).

There is also a large body of evidence that prevailing wages achieve these benefits without increasing overall project costs (Hinkel and Belman 2020; Duncan, Phillips, and Manzo 2017). In a study of the preemption of prevailing wage laws in Kansas, Kelsay (2016) found no significant difference in construction costs before and after the repeal of prevailing wage laws. Prevailing wage laws can increase wages and still keep costs low because higher wages attract more highly skilled workers and incentivize investment in the apprenticeship of more skilled workers. These workers are more productive, making projects more efficient. Studies show that prevailing wages incentivize cost saving through greater management skill and decreased material costs.

How Kansas’s preemption of prevailing wage hurt workers

The 2013 Kansas state law HB 2069 nullified existing prevailing wage laws in Wyandotte County (home to Kansas City) and Sedgwick County (home to Wichita).

If these laws had not been preempted by the state law, pay would be higher for thousands of local construction workers in these counties, including many workers of color. For workers in Kansas City (which accounts for more than 90% of Wyandotte County’s population), the median annual wage of construction workers was \$34,088 in 2020—13.0% less than the median Kansas construction worker’s wage, as shown in **Table 6**, and 10.0% less than the national median of \$37,890.

A Kansas City prevailing wage law would lift pay for an estimated 6,209 construction workers in Kansas City. If their wages rose by the 13% difference (low estimate) identified by Eisenbrey and Kroeger (2017), it would translate to an hourly wage increase of \$2.35, which translates to \$4,886 annually for a full-time, full-year worker.

Majority-white legislature took prevailing wage protections away from Kansas City’s majority-Latinx and majority-immigrant construction workforce

The construction industry’s workforce in Kansas City is primarily composed of people of color and is majority (61.7%) Latinx. More than half (54.1%) of construction workers in the city are immigrants. White construction workers in the state are typically paid more than other workers, earning an hourly wage of \$22.59 compared with \$17.49 for Latinx workers. While U.S.-born workers in Kansas City are paid \$22.40 per hour, immigrant workers without U.S. citizenship are paid 32.9% less, at \$15.03 per hour.

Whereas Kansas’s legislature is 92% white, and the state population overall is 75.9% white, Kansas City is majority (59.0%) people of color (see **Appendix Table 6**). The majority-white legislature’s preemption of prevailing wages denies Kansas City the ability to raise wages for its own workers, undermining a path for workers of color and immigrants to achieve greater economic security. Based on Eisenbrey and Kroeger’s 2017 analysis, a prevailing wage in Kansas City would mean a \$2.02 hourly wage increase for a Latinx construction worker—up to \$4,209 more annually. A prevailing wage would also benefit the city’s immigrant workers, who would earn \$4,065 more annually working full time and full year.

The prevailing wage preemption is part of a larger pattern of workers’ rights preemption in Kansas

Despite the benefits of prevailing wages to workers and the state, state lawmakers in Kansas chose to interfere with localities’ ability to set their own labor standards. Unfortunately, this was not the only time during the last decade when they preempted local decision-making that would create good jobs using public dollars. In 2012, the state banned the use of project labor agreements on construction projects.¹⁷ In 2013, in addition

Table 6

Kansas City construction workers are more likely to be Latinx and less likely to be U.S. citizens

Wages and counts of construction workers by race/ethnicity and citizenship status

	Kansas			Kansas City		
	Count/ shares	Median annual earnings	Median hourly wage	Count/ shares	Median annual earnings	Median hourly wage
Overall	74,029	\$39,171	\$20.77	6,209	\$34,088	\$18.07
Race/ ethnicity						
White	71.7%	\$42,610	\$22.59	35.1%	–	–
Black	1.8%	–	–	2.4%	–	–
Latinx	23.7%	\$32,987	\$17.49	61.7%	\$29,356	\$15.57
Other	2.8%	–	–	0.8%	–	–
Citizenship Status						
U.S.-born	81.6%	\$41,421	\$21.96	45.9%	\$42,238	\$22.40
Naturalized citizen	4.3%	–	–	4.2%	–	–
Noncitizen	14.1%	\$31,679	\$16.80	49.9%	\$28,350	\$15.03

Notes: Kansas City refers to the consolidated city-county metro of Kansas City-Wyandotte County. All wages data are in 2020 dollars. Some wage data omitted due to sample size.

Source: Economic Policy Institute analysis of American Community Survey five-year 2019 microdata and May 2020 Occupational Employment Statistics. Median annual wages by race/ethnicity calculated for the Construction Industry from the ACS microdata. Overall median hourly wages are from the published May 2020 OES data and are for Construction and Extraction occupations since geographic data by industry is not available. Median hourly wages by race/ethnicity calculated by applying the ratio of each race/ethnicity's median annual wages to the overall annual median and applying it to the overall hourly median from the OES.

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to banning prevailing wages, Kansas prohibited local governments from requiring employers and contractors to give paid leave or any other employee benefit to their employees.¹⁸

This is part of a larger trend of workers' rights preemption in Kansas, with the effects reaching well beyond public employees and contractors. The 2013 bill also prohibited local governments from increasing the minimum wage beyond the state minimum—which has remained stuck at the federal minimum wage of \$7.25 per hour since 2009. Since 2013, state lawmakers have continued to interfere with local decision-making by passing a law in 2015 to preempt localities from regulating the gig economy and another law in 2016 to stop local fair scheduling measures.¹⁹

By banning cities and counties from enacting any prevailing wage ordinances, Kansas is

suppressing pay for construction workers throughout the state, not just on public projects. State lawmakers are tying the hands of local leaders, preventing them from enacting policies that would strengthen pay for workers of all races and ethnicities. And with white construction workers being paid considerably more than Black and Latinx construction workers—even in cities where white construction workers are in the minority—the inability to set local standards only further entrenches racial inequities.

Some Kansas state legislators are pushing back

Some state legislators have pushed back on this troubling trend by introducing a bill during the 2021 session that would restore local government’s power to raise the minimum wage.²⁰

Labor peace agreements: Milwaukee, Wisconsin

In 2018, the Wisconsin State Legislature passed a bill forbidding local governments from requiring labor peace agreements for publicly funded projects. Through these agreements, private employers agree to remain neutral if their workers decide to organize a union.

Prior to 2018, municipalities in Wisconsin had the right to insist on labor peace agreements for public projects. Labor peace agreements (LPAs) require private employers working on projects or in facilities that a local government has a “proprietary interest” to reach a reciprocal agreement with unions, with the union typically foregoing the right to strike.

Governments may have a “proprietary interest” in projects funded by public dollars, projects they will receive loan repayments or rent from, or projects they have another large financial stake in. In particular, many LPA agreements apply to service-sector workers, including retail, janitorial, food service, and hospitality workers at airports, hotels, casinos, arenas, and convention centers (U.S. Chamber of Commerce 2016).

In exchange for unions giving up the bargaining power that the threat of a work stoppage affords them, employers may make a range of concessions about how they would respond if and when the workers organize a union, including agreeing to a simple card check rather than forcing an election, remaining neutral rather than publicly opposing the union effort, allowing organizers to access the workplace, and providing organizers with employee contact information.

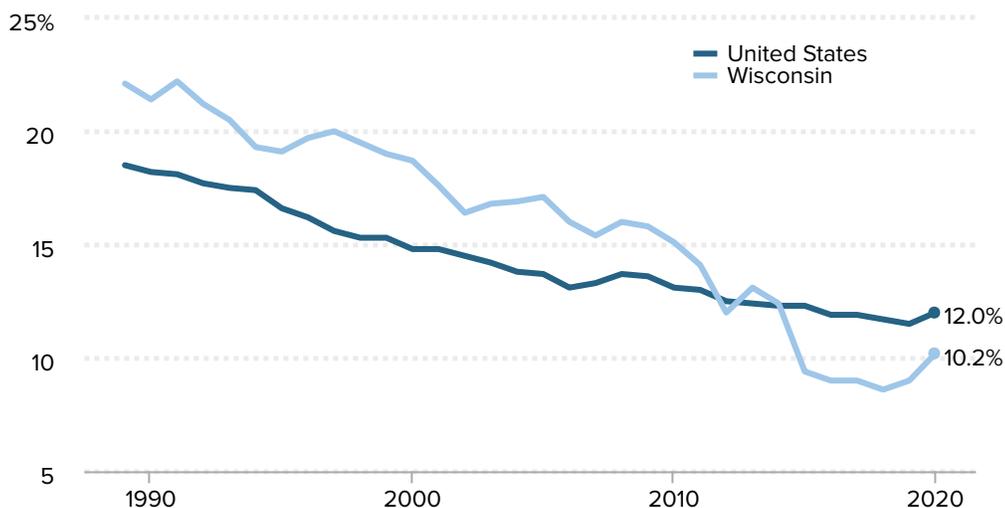
Why Wisconsin workers need labor peace agreements

Unions are good for workers. Union workers in food preparation and related occupations, for example, had higher weekly earnings than their nonunion peers nationwide, making \$604 compared with \$519 in 2019 (BLS 2021a). Similarly, union workers in building and grounds cleaning and maintenance occupations are typically paid \$692 per week compared with \$567 for their nonunion peers.

Figure C

Worker power has decline in Wisconsin, following anti-union legislation

Share of workers represented by a union in Wisconsin and nationwide, 1989–2020



Source: EPI analysis of U.S. Bureau of Labor Statistics Current Population Survey microdata.

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Unfortunately, unions in Wisconsin have been decimated thanks in no small part to anti-union legislation signed into law by Gov. Scott Walker after his election in 2010. As a result, workers in Wisconsin today have less bargaining power than ever to push for higher wages and better working conditions.

Until the 2010s, union density in Wisconsin was consistently higher than in the U.S. overall, but the anti-union measures severely undercut workers’ ability to form and maintain unions in Wisconsin. From 2010 to 2017, Wisconsin experienced the largest decline in unionization rates of any state in the country (Cooper 2018). By 2018, Wisconsin’s union coverage had already declined by 13.5 percentage points since 1989, as shown in **Figure C**.

Workers seeking to unionize face additional challenges from employers. Under current federal labor law, it is perfectly legal for employers, who already inherently have more power than their workers, to engage in a variety of activities that unfairly undermine organizing campaigns. Employers subject employees to mandatory “captive audience meetings” and one-on-ones with supervisors where they promote anti-union messages. They ban union organizers from the workplace and, collectively, they spend about \$340 million annually on union-avoidance consultants (McNicholas et al. 2019).

In addition to these legal tactics, employers also frequently engage in illegal anti-organizing activities, as enforcement against these activities is lax and penalties trivial.

LPA create a more level playing field so that workers are able to make their own decisions about unionizing.

Wisconsin state legislators took away localities' right to require labor peace agreements

However, the right to require LPAs was taken away from Wisconsin cities and counties with the passage of Assembly Bill 748 in 2018. Like the Michigan “Death Star Bill” discussed above, AB 748 was far-reaching. In addition to forbidding LPA requirements, AB 748 limited the authority of local jurisdictions to enact other labor standards—including fair scheduling and employee benefits requirements and bans on employers asking about salary history.

It is worth noting that the majority-white state legislature that acted to preempt LPAs is not representative of the population of Wisconsin’s largest city, Milwaukee (see **Appendix Table 7**). Two in five Milwaukee residents (40.9%) are Black and one in five (20.1%) are Latinx, compared with just 5% and 2%, respectively, of state legislators.

State Rep. Rob Hutton, one of the original co-sponsors of the senate corollary to AB 748, specifically referenced four counties in his testimony to the state senate—Milwaukee, Dane, Brown, and Eau Claire (Hutton 2018). The populations of the counties he chose to mention are among the youngest and most diverse in the state.

In Milwaukee County, 26.1% of the population identify as Black, more than twice any other county in the state. In Dane County, 5.9% identify as Asian, making it the county with the largest Asian population in the state (WI DSC 2021). All four counties are among the 10 youngest (by median age) of the state’s 55 counties. Now that AB 748 is in effect, it is reducing the tools available to raise labor standards for workers of color and younger workers.

Milwaukee workers could particularly benefit from LPAs

Few cities in Wisconsin are in greater need of the tools preempted by AB 748 than its largest, Milwaukee. Income inequality in Milwaukee County grew by more than 21.9% during the 2010s (U.S. Census Bureau 2020). The median income of a Black household in Milwaukee is only 42% of the median income of a white household, the biggest income gap in the country. The Black poverty rate—33.4%—tops all large metropolitan areas in the United States. Nearly three-quarters (72.2%) of Black schoolchildren in Milwaukee go to “hypersegregated” schools,²¹ the highest share in the country (Levine 2020).²² The situation is so dire that in 2019 Milwaukee County officials declared racism a public health crisis (Pierre 2019).

Given the tremendous inequity and concentrated poverty among communities of color in Milwaukee, city leaders should be able to use every tool at their disposal to boost the wages, working conditions, and bargaining power of local workers. Allowing the city to require labor peace agreements when the city has a financial interest in a project or facility

would ensure taxpayer funds are supporting good jobs that strengthen the community and give workers a voice.

Requiring that public contractors and others negotiate LPAs in which they forego some amount of interference if their workers consider coming together in a union certainly does not seem to be an unreasonable or burdensome requirement for those benefiting from receiving public contracts. When local governments cannot set even minimal standards for the contractors with whom they do business and the facilities they are financially intertwined with, their ability to improve economic conditions for workers and communities is severely limited.

Collective bargaining over employment conditions: Chicago, Illinois

In 1995, the state legislature passed a law preventing the Chicago Teachers Union (CTU) from negotiating with Chicago Public Schools (CPS) over numerous conditions of employment, including class sizes and the length of the school day and year. In a rare reversal of preemption, in 2021, the CTU regained this long-preempted right. This represents an opportunity for collective bargaining to advance the common good in the Midwest's largest city.

In 1995, the Republican-controlled Illinois legislature passed the Chicago School Reform Amendatory Act. In addition to transferring considerable control over Chicago Public Schools to then-Mayor Richard M. Daley, the law changed the allowable scope of negotiations between the Chicago Teachers Union (which at the time represented more than 30,000 teachers) and CPS (Haney 2011). The state law prohibited CPS and CTU from negotiating over nearly all noneconomic issues, including assignments, technology, class sizes, and outsourcing.

Illinois's preemption law was yet another example of a majority-white state legislature limiting the rights of a community that is majority people of color

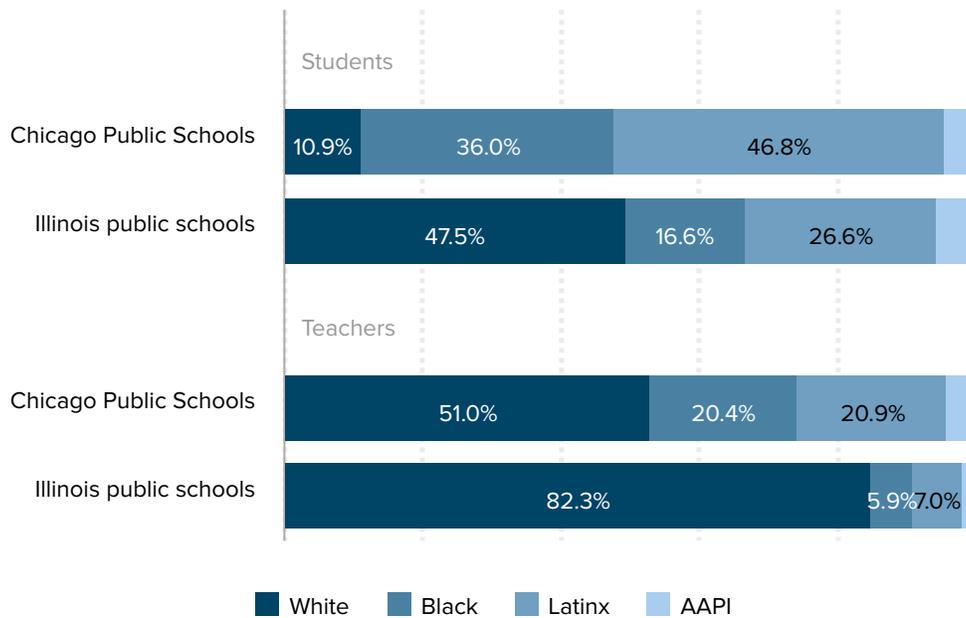
By targeting CPS in particular, Illinois lawmakers were interfering with a school system that serves communities of color and employs workers of color. In 2021, 36.0% of Chicago students were Black and 46.8% Latinx, compared with 16.6% and 26.6%, respectively, in the state as a whole, as shown in **Figure D**. Indeed, while Chicago Public Schools enroll just 17.8% of Illinois's K–12 students, they serve 38.5% of Illinois's Black students, 31.3% of the state's Latinx students, 27.9% of English learners, 28.8% of students from low-income families, and 30.2% of homeless students (Illinois State Board of Education 2020).

Similarly, a Chicago teacher is more than three times as likely to be Black, and nearly three times as likely to be Latinx, as the state teacher workforce as a whole. By comparison, just 18% of Illinois state legislators are Black and only 8% are Latinx (see **Appendix Table 8**).

Figure D

Chicago Public Schools serves and employs far more people of color than Illinois overall

Demographic comparison of students and teachers in the Chicago Public Schools district versus in Illinois public K–12 overall



Note: AAPI stands for Asian American/Pacific Islander.

Source: Chicago Public Schools 2021 and Illinois State Board of Education 2020.

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Damage was done over the many years the law was in effect

The inability of CTU and CPS to negotiate over class sizes has had an impact; despite having a greater share of low-income students, homeless students, and English learners than Illinois schools overall, Chicago Public Schools have a student-to-teacher ratio 16% higher than the state average in elementary schools and 11% higher in secondary schools. With the exception of kindergarten, class sizes in the district are noticeably larger at every level: 18% larger in 3rd grade, 17% larger in 6th grade, and 19% larger in high school. As one would expect from a school district with higher-than-average class sizes and other challenging working conditions, the annual teacher retention rate in Chicago Public Schools is 6% below the state average (Illinois State Board of Education 2020).

The preempted rights of CPS and CTU to negotiate over so many important concerns also came into play during the COVID-19 pandemic. In December 2020, the Illinois Educational Labor Relations Board (IELRB, which oversees operation of collective bargaining in Illinois public schools) denied CTU’s request for an injunction to force CPS to negotiate over

plans to reopen schools in 2021. The IELRB specifically cited the curtailed bargaining rights in Chicago as the reason it denied the request (Masterson 2020).

Nevertheless, the Chicago Teachers Union persisted in advocating for Chicago’s teachers and students

In response to decades of understaffing and a lack of CPS attention to the needs of its students, the Chicago Teachers Union over the past decade has revitalized itself and, in the process, helped to establish the concept known as “Bargaining for the Common Good,” a strategy of union action that emphasizes the union’s commitment to the welfare of everyone in a community, not just its own members (McCartin and Najimy 2020). As a consequence of a 2012 strike, for example, CTU managed to win a collective bargaining agreement that included the right of students to have textbooks at the beginning of the school year, a demand of no financial benefit to CTU members but one that demonstrated a real willingness to use worker power to support their communities (Kamper 2018). A short 2016 strike produced small gains on class size issues, and in a 2019 strike, the union demanded (but did not win) a commitment by the city and the school district to provide housing for all the district’s homeless students (Potter and Inouye 2021).

The Illinois Educational Labor Relations Act, which governs collective bargaining for teachers in Illinois, was created under the presumption that “[u]nresolved disputes between the educational employees and their employers are injurious to the public, and...adequate means must be established for minimizing them and providing for their resolution.”²³ CTU’s strikes over the last decades have, at least in part, been the consequence of the 1995 law limiting their ability to negotiate over noneconomic matters; without the ability to compel the employer to negotiate in good faith at the bargaining table, CTU was forced to resort to strikes in order to address their legitimate concerns.

April 2021: The preemption law was reversed

On April 2, 2021, Illinois Gov. J.B. Pritzker signed House Bill 1559, which reversed the 1995 law and put Chicago teachers and CPS on the same footing as other educator unions and their negotiating partners across the state. In a statement, CTU President Jesse Sharkey said, “We now at last bargain from a level playing field—with the ability to at last reject the chronic classroom overcrowding, incompetent and wasteful third party contracting, and the desperate shortage of school nurses, social workers, counselors and other chronic staffing needs that have plagued our schools for years” (CTU 2021).

With their preempted rights restored, CTU is now in a stronger position to advocate for its members and the communities they serve, since their working conditions are also their students’ learning conditions. Full and fair collective bargaining is a proven means of improving working conditions, and CTU members have demonstrated their desire to advocate for the children and families they serve as well.

Rent control: Chicago, Illinois

In 1997, Illinois lawmakers passed a law prohibiting cities and counties from establishing local rent control policies. Rent control is one policy tool of many that should be available to local lawmakers aiming to improve affordable housing options in their communities, especially in cities facing a housing crisis like Chicago. In January 2021, Illinois lawmakers introduced a bill to repeal the rent control preemption policy.

In 1997, Illinois state lawmakers passed the Rent Control Preemption Act, prohibiting local rent control measures—policies designed to protect tenants from excessive rent increases. The preemption bill was enacted even though no advocates or local governments had made any serious effort to pass rent control at that point (Dukmasova 2017).²⁴

The spread of rent control preemption across the states

The legislation was likely motivated by business interests in the American Legislative Exchange Council, which has widely promoted model legislation for rent control preemption to state lawmakers (Dukmasova 2017; ALEC 2013). In fact, rent control was one of ALEC's earliest targets (Winig and deVuono-powell 2019).

Today, most states (including every state in the Midwest except Nebraska) prevent local governments from placing restrictions on excessive rent increases (LSSC 2021b). In contrast, only one state, Oregon, has a statewide rent control policy, and only four states—plus the District of Columbia—contain localities with rent control laws in place: New York, New Jersey, California, and Maryland (Rajasekaran, Treskon, and Greene 2019).²⁵

Effects of Illinois's 1997 rent control preemption bill

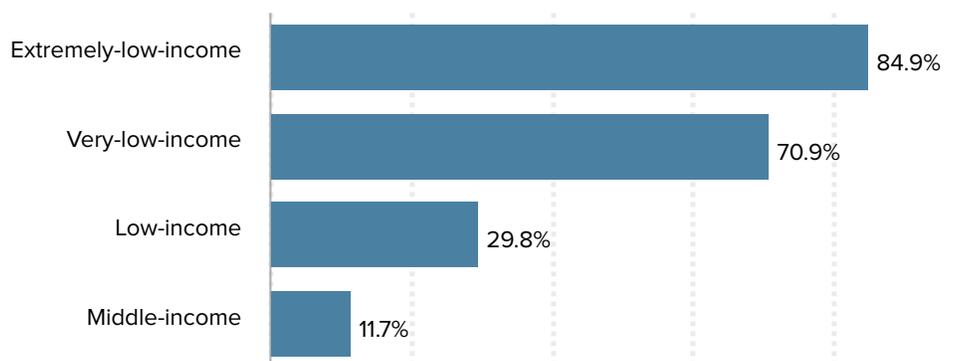
Although the bill did not immediately undermine any existing municipal laws, the effects of the 1997 Illinois bill have become more acute in recent months. In April 2021, Cook County's First District Appellate Court struck down Chicago's "Keep Chicago Renting Ordinance," arguing it violated the Rent Control Preemption Act. The ordinance had been enacted in 2013 to protect tenants living in foreclosed properties from displacements, by requiring the new owners to offer them a lease extension with a rent increase of no more than 2% or help pay their moving costs (Dukmasova 2017).

In addition, the prohibition on local rent control measures has reduced the policy tools available to local governments during the COVID-19 pandemic. Nationwide in 2020, Black renters were twice as likely as white renters to report being behind on rent payments (31% compared with 14%, and 26% for Latinx renters) (Acosta, Bailey, and Bailey 2020). And the crisis is still ongoing. In early 2021, more than 20% of Illinois households still struggled to pay rent (JCHS 2021).

Figure E

The majority of the lowest-income Illinois households are cost-burdened by housing and utilities

Share of Illinois households that are cost-burdened by income group



Notes: Renter households are considered cost-burdened if they spend more than 30% of their income on housing and utilities. Area Median Income (AMI) is used to determine income eligibility for affordable housing programs, reflecting geography and family size. In this analysis, the household income groups are based on metropolitan area median family incomes and the aggregate statewide nonmetro median family income for households in nonmetropolitan areas. Extremely-low-income = 0–30% of AMI (or below the poverty guideline). Very-low-income = 31% (or the poverty guideline)–50% of AMI. Low-income = 51–80% of AMI. Middle-income = 81%–100% of AMI.

Source: Adapted from NLIHC 2020.

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Housing policy and racial justice

As documented earlier in this report, racist housing policy in the Midwest has been used to promote segregation and concentrate wealth and public investment in white communities. While explicitly racist practices, such as redlining, have been outlawed, exclusionary housing policies continue to segregate communities while reducing the overall housing supply and raising costs (Gyourko and Molloy 2015; Rothwell and Massey 2009).

Exclusionary zoning is a particularly harmful practice, and it is unfortunately only one component of a multifaceted housing affordability crisis across the country, which affects renters especially acutely (JCHS 2021). In Illinois, more than a quarter (27%) of renters have extremely low incomes, with incomes that are either at or below the federal poverty line or less than 30% of their area’s median income (NLIHC 2020).²⁶ Among these very-low-income individuals, over two-thirds spend more than half of their income on rent.

The federal government defines a household as being “cost-burdened” if they spend more than 30% of their income on housing. As shown in **Figure E**, nearly three in 10 low-income Illinois households (households whose income is 51–80% of the area median), and the vast majority of extremely-low-income households, are cost-burdened.

High rents limit the housing options available to low- and moderate-income families,

sometimes displacing them from the neighborhoods where they live and preventing them from moving to nearby or other preferred neighborhoods. This displacement can be related to gentrification, although the two phenomena can and do occur separately (NLIHC 2019).

As of 2017, the Urban Displacement Project (2021) categorized more than a fifth (22%) of Chicago's low-income neighborhoods (those with median household incomes at or below 80% of the regional median) as being at risk of gentrifying. Even without gentrification, 16% of Chicago's low-income neighborhoods were seeing low-income households displaced. At the same time, the majority (59%) of the city's moderate- and high-income neighborhoods (those with incomes above 80% of the regional median) already had rents so high that many low-income families could not afford to move there.

How rent control policies can help

Rent control, combined with policies that increase the supply of affordable controlled units, can help alleviate the major financial burden of housing costs for some families, especially those who are already economically precarious. It offers tenants greater stability by ensuring that they can afford, or at least predict, their rent.

Rent control policies in place today are primarily aimed at rent stabilization—capping rent increases, often at a percentage tied to inflation. While the specifics of rent control policies differ, they generally do not establish a long-term price ceiling, and they typically allow for rent increases during vacancies or other circumstances (for example, following substantial upgrades to the property). Rent control often applies only to older buildings or buildings with higher numbers of tenants (Rajasekaran, Treskon, and Greene 2019). These policies also usually include provisions intended to ensure that landlords can still make a reasonable profit and to avoid decreasing the overall housing supply.

Research shows that existing rent control policies have decreased rents and that tenants of rent-controlled units are less likely to move out, although there have been conflicting findings as to whether rent control increases or decreases rents for noncontrolled units (Rajasekaran, Treskon, and Greene 2019). There is also evidence that by encouraging tenant stability, rent control helps curtail gentrification of communities (Autor, Palmer, and Pathak 2014).

Rent control works best when combined with other policies to promote equity

Still, more research is needed to determine how to best design rent control policies that promote racial and economic integration and equity. Past research suggests that by primarily generating benefits for existing residents, rent control does not adequately target low-income individuals (Sturtevant 2018). There also isn't clear-cut evidence that people of color access and benefit from rent control enough to reduce inequality (Rajasekaran, Treskon, and Greene 2019).

This does not mean that local governments should not pursue rent control. Rather, they should also intentionally explore specifications that address racial and economic disparities head on and use rent control in tandem with other policies that can make housing more affordable.

Further, certain policies should be used in conjunction with rent control to mitigate some of the unintended side effects of rent control. For example, since there is evidence that landlords become worse at maintaining properties under rent control, local governments should also be empowered to incentivize maintenance and enforce housing code violations (Rajasekaran, Treskon, and Greene 2019).

Policymakers should prioritize eliminating *exclusionary* zoning practices and increasing the supply of affordable housing through *inclusionary* zoning policies that require or incentivize private developers to make some share of newly constructed housing affordable. Since the federal government has fallen short in addressing the housing crisis, it is particularly important that state governments not stand in the way of local governments working to increase and maintain affordable housing options and to stabilize local housing markets (LSSC 2021b). In fact, Chicago has taken steps in this direction with an ordinance requiring certain development projects to include some affordable housing units (Chicago DOH 2021).

Preemption repeal introduced

In January 2021, Illinois state lawmakers introduced a bill to repeal rent control preemption. The bill was championed by Lift the Ban, a Chicago-based coalition that includes community groups, tenants unions, and labor unions (Groeger 2019).²⁷ While a similar bill was introduced first in 2017 and again in 2019, this time the Housing Committee voted to advance the preemption repeal bill. Advocates—including Rep. Will Guzzardi (D-Chicago), who introduced the bill—have attributed some of the bill’s recent momentum to the COVID-19 pandemic (McClelland 2021).

Eviction moratoriums and emergency rental assistance proved to be critical during the pandemic, shining a light on the importance of using policy to promote affordable and secure access to housing. Early in the pandemic, the Chicago City Council Latino Caucus called directly on Gov. Pritzker to use emergency powers to lift rent control preemption (Bloom 2020). Although the governor had campaigned on lifting the ban, he has not acted on the issue while in office (Bennett and Duncan 2020).

Repealing state preemption of rent control would give local governments one more tool to address the housing crisis that is acutely affecting low-income households and displacing Black Chicagoans. State lawmakers should heed the calls of advocates for preemption repeal and let local lawmakers decide whether rent control could be used to help maintain affordable housing in their communities.

Preemption and the pandemic

The COVID-19 pandemic deepened existing racial inequalities. The virus has taken the lives of Black, Indigenous, Pacific Islander, and Latinx people at higher rates than white people (APM 2021). This inequality of health outcomes is coupled with an economic crisis that is disproportionately affecting communities of color.

How the COVID crisis has disproportionately harmed communities of color

As a result of systemic racism, Black and Latinx workers have long endured economic conditions that left them particularly vulnerable to this crisis. They are paid less, are more likely to be living in poverty, and are less likely to have access to paid sick leave than white workers (Gould and Wilson 2020; Gould, Perez, and Wilson 2020). Black and Latinx workers are also less likely to be able to work from home—meaning they are more likely to have been laid off from in-person work or to be exposed to COVID-19 on the job (Gould and Kandra 2021).

Even as the economy improves, workers of color are experiencing a less rapid recovery than their white counterparts. The unemployment rates for Black and Latinx workers were still 9.2% and 7.4% in June 2021, compared with 5.2% for white workers (BLS 2021c). These inequalities were embedded in the economy long before the pandemic hit and they will persist unless policymakers at all levels government address the unique challenges these communities face.

The crisis also worsened America’s already stark economic inequality, irrespective of race. Nearly 8 million lower-wage workers lost their jobs between 2019 and 2020, while higher-wage workers actually gained 1 million jobs (Shierholz 2021).

Low-wage industries—leisure and hospitality in particular—experienced particularly sharp employment declines; however, there was inequality within industries as well. A recent Bureau of Labor Statistics working paper found that, in many industries, employment among the lowest-paid workers suffered the most between April 2020 and May 2021 (Dalton et al. 2021). Already vulnerable workers in low-wage jobs were also especially likely to become “part-time for economic reasons” during the pandemic—meaning they have been able to get only part-time hours although they would prefer to work full time.

Preemption made a bad situation worse for those who were suffering the most

During the COVID-19 pandemic, the existing policy landscape and subsequent policy response had important implications for the health and economic welfare of communities. However, all too often state lawmakers stepped in to foil local leaders’ efforts to keep their communities safe.

Misuse of preemption prevented localities in some states from enacting policies that would have made them better equipped to deal with the pandemic, such as paid sick leave laws, eviction moratoriums, and municipal broadband. As a result, many localities were unable to ensure that their residents had access to sick leave during the pandemic, secure housing during an economic crisis, and adequate internet access when needed for work and school (Haddow et al. 2020). We provide just a few examples below.

Lawmakers have restricted localities from providing public broadband access. Six states in the Midwest have put in place barriers to establishing municipal broadband services: Iowa, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin (LSSC 2021a). Broadband access is one of the many policy areas in which the corporate-backed ALEC has promoted a model bill encouraging the abuse of preemption (ALEC 2017).

Nebraska has particularly restrictive laws. Despite inadequate broadband access in much of the state, state legislators rejected an amendment to a budget bill in April that would have repealed this preemption and allowed local governments to provide internet services (Stoddard 2021). Internet access is critical infrastructure worthy of public investment. This is undeniable in the aftermath of a public health crisis in which students were suddenly attending school on the internet and working from home became more common.

Lawmakers acted to give corporations immunity, restricting localities' ability to hold them accountable. ALEC was also at the center of the push for legal immunity for corporations from being held accountable for endangering workers and consumers. ALEC made coronavirus-specific adjustments to model corporate immunity bills that had long been a priority for them (Lacy 2020).

On top of the inadequate workplace safety response from the Trump administration, corporations sought to avoid accountability from the standards that did exist, at all levels of government (Dixon 2020). State legislatures and governors across the country ushered in corporate immunity across the country, some as early as May 2020 (Haddow 2021). In the Midwest, Iowa, Kansas, Missouri, and Ohio all passed bills that limited local government's ability to hold corporations accountable to health and safety standards.²⁸

Lawmakers preempted local public health efforts. Across the country, state lawmakers intervened in local public health measures, stymieing efforts to protect communities and workers while creating unnecessary confusion.

While preempting public health measures is particularly abhorrent during a pandemic, this practice predates COVID-19. A 2019 survey of local health officials reported that more than 70% had delayed or abandoned their efforts to enact local public health policies because of the shadow of state preemption (Rutkow et al. 2019).

Below are some examples of states undermining local health measures in the Midwest.

Blocking mask mandates

- **Nebraska's governor** threatened to withhold federal aid from local governments that

imposed mask mandates and other public health standards (Haddow 2021).

- In August 2021, **Missouri's attorney general** sued Columbia Public School and its board of education over the district's mask mandate (McKinney 2021).
- **Iowa's state legislature** also imposed a ban on school district mask mandates in May 2021.²⁹

Divesting local public health authorities of their power

- **In Missouri, state lawmakers** have considered several bills that would restrict the ability of local public health authorities to call for business closures or states of emergency. Corporate interests representing Missouri's retail and restaurant industries back these bills, while many health and environmental groups have come out in favor of preserving local authority (STLHRC 2021).
- **In Kansas, the governor** signed a bill in March 2021 limiting the power of local health authorities to enact measures including mask mandates and limits on gatherings.³⁰
- In spring 2021, **state legislatures in Ohio, North Dakota, and Indiana** all overrode their governors' vetoes to enact limits on local health authorities.³¹

With varying vaccination rates and localized outbreaks, targeted local responses will remain an important policy tool for containing the COVID-19 pandemic. If local officials are unable to enact response measures, it will only prolong the pandemic and exacerbate harm in future emergencies—particularly for already marginalized groups. The result will be that preemption, once again, reinforces the existing racial and economic inequalities that plague communities.

Conclusion

In the cases outlined here, Midwestern state lawmakers prevented local action that would have improved economic conditions for millions, particularly low-income workers, women, people of color, and immigrants. These are groups that American institutions have systemically harmed and that suffered disproportionately during the COVID-19 dual public health and economic crisis (Wilson 2020).

During this pandemic, preemption has too often stifled local responses, generated confusion, and kept cities and states from working together to respond appropriately. Now, as local governments are looking to invest in their communities using federal funds from the American Recovery Plan, preemption has limited the policy tools that local governments can use to tie public investment to good jobs, equality, and worker justice, such as local hire agreements, prevailing wage laws, and labor peace agreements.

As noted earlier, present-day efforts to preempt local measures to strengthen workers' rights are rooted in historical policies and structures that limited the rights and freedoms of Black and Brown people and entrenched white supremacy. Segregation divides communities in the Midwest to this day. Preemption of local workers' rights policies,

underinvestment in public resources, and diminishing union coverage all reinforce the racial inequality promoted by segregation.

Countering the misuse of preemption to prevent local policies that promote racial and economic justice is a wide-reaching challenge that cuts across policy issues and geographies. Despite the strength of preemption's hold on the local policy landscape, there is still much that can and should be done to better empower communities.

Local governments, even if they are not immediately successful, should use lawsuits and other tools at their disposal to challenge state preemption, as Cleveland did to try to protect their local hire law. The examples of efforts to overturn preemption of rent control and the Chicago Teachers Union's bargaining rights in Illinois provide hope and should be replicated.

State lawmakers also have the power to repeal preemption, restore local authority, and allow localities to make the choices that best suit their needs. Over the last few years, bills have been introduced across the country to do just that, including a 2020 Indiana bill that would allow local governments to require landlords to participate in housing assistance programs, a 2019 Ohio bill repealing minimum wage preemption, and the 2020 Michigan bill repealing the "Death Star" preemption bill discussed above.³²

Undoing harmful forms of preemption across the country, and especially in the Midwest and the South, is a critical step in promoting progress. By failing to do so, present-day Midwestern lawmakers are reinforcing the deep inequality that their predecessors' racist actions incubated throughout the region.

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Demographic comparison of the state of Missouri, Kansas City, St. Louis, and the Missouri legislature

	Kansas	Kansas City, MO	St. Louis	State legislature
Total population	6,104,910	441,038	307,841	197
Gender				
Women	50.9%	51.2%	51.7%	25%
Men	49.1%	48.8%	48.3%	75%
Race/ethnicity				
White	79.4%	52.2%	43.6%	88%
Black	11.4%	30.7%	46.4%	11%
Latinx	4.2%	11.1%	4.0%	1%
AAPI	2.1%	2.6%	3.3%	1%
Other	2.9%	3.3%	2.7%	0%
Age				
17 and under	22.6%	22.1%	19.5%	–
18–29	16.2%	19.3%	19.9%	–
30–44	18.6%	20.9%	22.5%	–
45–64	26.1%	24.3%	25.0%	–
65 and over	16.5%	13.4%	13.1%	–
Citizenship				
U.S.-born	95.8%	91.8%	93.1%	–
Naturalized citizen	2.1%	3.6%	3.0%	–
Noncitizen	2.1%	4.7%	3.9%	–
Poverty				
Poverty level	806,042	74,414	63,210	–
Poverty rate	13.2%	16.9%	20.5%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019. Kansas City statistics calculated from PUMA area codes.

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Appendix
Table 2

Demographic comparison of the state of Iowa, Johnson, Linn, Polk, and Wapello Counties, and the Iowa legislature

	Iowa	Johnson, Linn, Polk, and Wapello Counties	State legislature
Total population	3,139,508	372,011	150
Gender			
Women	50.4%	50.7%	29%
Men	49.6%	49.3%	71%
Race/ethnicity			
White	85.7%	83.0%	96%
Black	3.5%	5.9%	0%
Latinx	6.0%	4.2%	0%
AAPI	2.5%	4.1%	0%
Other	2.2%	2.9%	0%
Age			
17 and under	23.2%	22.1%	–
18–29	16.4%	21.4%	–
30–44	18.3%	19.4%	–
45–64	25.4%	23.2%	–
65 and over	16.7%	13.9%	–
Citizenship			
U.S.-born	94.8%	92.8%	–
Naturalized citizen	2.1%	2.4%	–
Noncitizen	3.1%	4.8%	–
Poverty			
Poverty level	354,145	49,914	–
Poverty rate	11.3%	13.4%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Appendix
Table 3

Demographic comparison of the state of Michigan, Detroit, and the Michigan legislature

	Michigan	Detroit	State legislature
Total population	9,965,265	653,512	148
Gender			
Women	50.8%	52.6%	36%
Men	49.2%	47.4%	64%
Race/ethnicity			
White	75.0%	10.8%	78%
Black	13.6%	77.4%	12%
Latinx	5.1%	7.9%	5%
AAPI	3.1%	1.7%	1%
Other	3.1%	2.1%	1%
Age			
17 and under	21.8%	24.9%	–
18–29	16.5%	19.2%	–
30–44	17.7%	18.0%	–
45–64	27.3%	24.3%	–
65 and over	16.7%	13.6%	–
Citizenship			
U.S.-born	93.1%	93.7%	–
Naturalized citizen	3.6%	2.4%	–
Noncitizen	3.2%	3.9%	–
Poverty			
Poverty level	1,419,370	225,439	–
Poverty rate	14.2%	34.5%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Demographic comparison of state of Indiana, Indianapolis, and the Indiana legislature

	Indiana	Indianapolis	State legislature
Total population	6,665,703	951,594	150
Gender			
Women	50.7%	51.8%	24%
Men	49.3%	48.2%	76%
Race/ethnicity			
White	79.1%	55.3%	89%
Black	9.2%	27.7%	9%
Latinx	6.9%	10.4%	1%
AAPI	2.3%	3.3%	0%
Other	2.4%	3.3%	0%
Age			
17 and under	23.6%	24.7%	–
18–29	16.6%	18.4%	–
30–44	18.6%	20.7%	–
45–64	25.8%	23.9%	–
65 and over	15.4%	12.3%	–
Citizenship			
U.S.-born	94.7%	90.6%	–
Naturalized citizen	2.1%	2.8%	–
Noncitizen	3.2%	6.6%	–
Poverty			
Poverty level	889,603	165,422	–
Poverty rate	13.3%	17.4%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Appendix
Table 5

Demographic comparison of the state of Ohio, Cleveland, and the Ohio legislature

	Ohio	Cleveland	State legislature
Total population	11,655,397	386,701	132
Gender			
Women	51.0%	52.0%	27%
Men	49.0%	48.0%	73%
Race/ethnicity			
White	78.9%	34.0%	82%
Black	12.2%	47.9%	14%
Latinx	3.8%	11.9%	2%
AAPI	2.2%	2.5%	1%
Other	2.9%	3.7%	2%
Age			
17 and under	22.3%	22.0%	–
18–29	16.0%	19.1%	–
30–44	18.2%	18.5%	–
45–64	26.8%	26.2%	–
65 and over	16.7%	14.1%	–
Citizenship			
U.S.-born	95.4%	94.1%	–
Naturalized citizen	2.4%	2.8%	–
Noncitizen	2.2%	3.2%	–
Poverty			
Poverty level	1,608,064	123,067	–
Poverty rate	13.8%	31.8%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Demographic comparison of the state of Kansas, Kansas City, and the Kansas legislature

	Kansas	Kansas City, KS	State legislature
Total population	2,910,652	164,790	165
Gender			
Women	50.2%	50.4%	28%
Men	49.8%	49.6%	72%
Race/ethnicity			
White	75.9%	41.0%	92%
Black	5.6%	21.7%	5%
Latinx	11.9%	28.9%	2%
AAPI	2.9%	4.7%	1%
Other	3.7%	3.7%	1%
Age			
17 and under	24.4%	27.9%	–
18–29	16.9%	16.6%	–
30–44	18.6%	20.3%	–
45–64	24.7%	23.1%	–
65 and over	15.4%	12.1%	–
Citizenship			
U.S.-born	92.7%	83.1%	–
Naturalized citizen	2.9%	3.6%	–
Noncitizen	4.3%	13.3%	–
Poverty			
Poverty level	347,201	34,857	–
Poverty rate	11.9%	21.2%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Demographic comparison of the state of Wisconsin, Milwaukee, and the Wisconsin legislature

	Wisconsin	Milwaukee	State legislature
Total population	5,790,716	548,321	132
Gender			
Women	50.3%	52.1%	27%
Men	49.7%	47.9%	73%
Race/ethnicity			
White	81.3%	31.4%	87%
Black	6.3%	40.9%	5%
Latinx	6.8%	20.1%	2%
AAPI	2.8%	4.2%	1%
Other	2.9%	3.5%	0%
Age			
17 and under	22.1%	27.7%	–
18–29	15.8%	19.0%	–
30–44	18.4%	20.4%	–
45–64	27.2%	22.4%	–
65 and over	16.5%	10.5%	–
Citizenship			
U.S.-born	95.0%	90.2%	–
Naturalized citizen	2.3%	3.2%	–
Noncitizen	2.7%	6.6%	–
Poverty			
Poverty level	631,990	129,454	–
Poverty rate	10.9%	23.6%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Appendix
Table 8

Demographic comparison of the state of Illinois, Chicago, and the Illinois legislature

	Illinois	Chicago	State legislature
Total population	12,770,631	2,646,777	177
Gender			
Women	50.9%	51.4%	36%
Men	49.1%	48.6%	64%
Race/ethnicity			
White	61.3%	32.2%	71%
Black	14.0%	29.8%	18%
Latinx	17.1%	29.2%	8%
AAPI	5.4%	6.6%	1%
Other	2.2%	2.2%	2%
Age			
17 and under	22.6%	20.9%	–
18–29	16.4%	20.5%	–
30–44	19.7%	23.5%	–
45–64	26.1%	22.8%	–
65 and over	15.2%	12.3%	–
Citizenship			
U.S.-born	85.9%	79.8%	–
Naturalized citizen	7.2%	9.2%	–
Noncitizen	6.9%	11.0%	–
Poverty			
Poverty level	1,566,844	480,699	–
Poverty rate	12.3%	18.2%	–

Notes: State legislature demographic shares might not add to 100% because racial/ethnic information is not available for all state legislators. Age, citizenship, and poverty data not available for state legislators. AAPI stands for Asian American/Pacific Islander.

Sources: NCSL 2020, [State Legislator Demographics](#); EPI analysis of five-year American Community Survey microdata, 2019.

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Notes

1. The “second Klan” was a new Ku Klux Klan organization, inspired by but not organizationally linked to the post–Civil War Klan.
2. There is voluminous scholarship on this practice. Sugrue 1996 is a good starting point to learn more. For discussion of the development of Black political institutions in segregated cities, see Lang 2009.
3. Gabriel Winant (2021) documents this effect in Midwest-adjacent Pittsburgh.
4. A number of the charges in the suit have since been dismissed by the court, but elements of the suit are still pending. For recent developments, see ABC 2021.
5. The six states above the average were Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. Iowa, Kansas, and Missouri were below the average.
6. According to the 2019 American Community Survey, from 2015–2019 the poverty rates in St. Louis, Kansas City, and Missouri overall averaged 20.5%, 16.9%, and 13.2%, respectively.
7. MCL 123.1381–123.1396.
8. 2020-SB-0960.
9. Ind. Code § 22-2-16-3.
10. Ind. Code § 22-2-2-10.5.
11. Ind. Code Ann. § 5-16-7.2-5; Ind. Code. § 8-2.1-19.1-4.
12. Ind. Code §§ 22-2-16-3.
13. Ordinance No. 2031-A-02 Chapter 188.
14. Ohio Rev. Code 9.75.
15. Ohio Rev. Code § 4113.85; Ohio Rev. Code § 4925.09.
16. Ohio Rev. Code § 4111.02.
17. K.S.A. § 16-2003.
18. K.S.A. § 12-16,130.
19. K.S.A. § 8-2702; K.S.A. § 12-16,130.
20. KS HB 2305.
21. Hypersegregated schools are schools “in which 90 percent or more of the students are minorities” (Levine 2020 citing education sociologist Gary Orfield).
22. Estimate based on 2014–2018 American Community Survey microdata.
23. 115 ILCS 5/.

24. 50 ILCS 825/.

25. OR SB 608.

26. Area Median Income (AMI) is used to determine income eligibility for affordable housing programs, reflecting geography and family size. In this analysis, the household income groups are based on metropolitan-area median family incomes and the aggregate statewide nonmetro median family income for households in nonmetropolitan areas.

27. IL HB 0116.

28. IA SF 2338; KS HB 2016; MO SB 56; OH HB 606.

29. IA HF 847.

30. KS SB 40.

31. OH SB 22; ND HB 1323; IN SB 0005.

32. IN HB 1012; OH HB 34; 2020-SB-0960.

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