PREEMPTION: A HISTORY

ADVANCEMENT PROJECT

PRE-CIVIL WAR
PRE-1865

1 PRE-1865:
The Original Power Grab

Before 1865, Black people in the United States had no legal personhood. Slavery meant total control over Black life, enforced by law and upheld by violence. Black people were denied all rights to self-governance, land ownership, and power. Plantation owners in the South controlled local and federal governments, especially over Black people. The federal government was also organized entirely around the preservation of white supremacy.

THE RECONSTRUCTION ERA
1865-1877

2 APRIL 9, 1865:
The End of the Civil War

Communities of newly freed and former slaves begin finding Black self-determination and building power for themselves. They built schools and hospitals, and gained political, social, and economic power. They were elected to local and state offices, passed legislation, voted, and organized for one another.

APRIL 14, 1865:
The Assassination of Abraham Lincoln - Presidency of Andrew Johnson

Reconstruction formally began when Andrew Johnson was sworn in as the 17th President of the United States. With the country in deeper following President Lincoln's violent assassination, Johnson outlined how state governments would be created. States could manage their own affairs, but Black people were not included in the process. Black people were excluded from voting, from holding office, and from owning land in expensive as the law of the land. Among other social controls, the Black codes required African American and Black people to sign yearly labor contracts, which ensured that white plantation owners maintained control over Black labor. The Black codes created systems for Black people with criminalized plantation discipline and control for white employers.

3 1868:
Dillon's Rule Introduced as an Alternative to Home Rule

Introduced in a decision by Iowa Supreme Court Justice John F. Dillon, Dillon's Rule is not an opposite of home rule but a governance structure. Under Dillon's Rule, municipalities or local governments powers that a state explicitly delegates to them by law.

1875:
The First Home Rule State: Missouri

The concept of local governments authorized to draft and pass across the country. Home rule allows local governments within a state to largely govern themselves, but the state has the power to deny a locality's governance on certain issues and policies. Preemption is the opposite of home rule, allowing states to deny a locality of a jurisdiction from self-governance.

Missouri becomes the first state to implement home rule, with St. Louis becoming the first city to adopt a home rule government. This government model divides a given locality into districts equal in populace and elects one resident as a council member. There is then a proportional number of at large members elected by the entire locality. The number of at large members is half the number of the member per district and one at large member. A locality divided into six districts has one member per district and three at large members, and so on. Missouri's home rule statute allows localities (meaning of 10,000 or more residents) to opt in to this governance model.

POST-RECONSTRUCTION/ "REDEMPTION"
1875-1900

4 1875:
"Redeemers" Dismantle Local Governance

White formal paramilitary coalitions who called themselves "redeemers" took back control of state governments and enacts "redemption." Local governments were dismantled, and laws enacting the multiracial democracy that Black communities were beginning to build. Redeemers became state constitutions to eliminate Black-led governance. The redeemers focused on disenfranchisement, segregation, and criminalization. Black people were forced into a caste system, and the "Jim Crow" era began. Black people were forced into a state of peonage, otherwise known as the slave trade, infamously resulting in the Jim Crow era.

JIM CROW ERA
1900S-1940S

5 1944:
Right to Work Laws

By now, local Black political power is virtually nonexistent. State laws begin to overrule or prohibit local policies supporting civil rights, Black education, voting rights, and more. These laws usher in the Jim Crow era, a time where Black people were subject to excessive and suppressive policies and terrible violence at the hands of white people in power. Communities became increasingly segregated, and the politics passed kept it that way.

In Florida and Arkansas, a series of laws designed to take rights away from working people under "Right to work" were aimed to make companies and corporations richer, either their workers stay poor and underpaid. Right to work laws ban labor unions from organizing and negotiate for better wages, benefits, and working conditions. They kept workplaces segregated and bucked multiracial labor organizing.

CIVIL RIGHTS MOVEMENT
1950S-1970S

6 1953:
Landmark Reforms Surrounding Home Rule are Released

During this era, cities began attempting to pass local civil rights ordinances, school integration plans, and police oversight. States bushed these efforts with preemption by overriding various plans, blocking passed laws, and preventing the expansion of basic rights including voting.

The American Municipal Association (AMA) - who later became the National League of Cities - was formed to promote the preemption reform effort of Indiana city governing every state to update their constitutions and broaden local initiative power. The document, titled "Modern Constitutional Provisions for Municipal Home Rule, revealed the traditional Dillon's Rule assumption that a state's "sovereignty" is superior to that of its municipalities. The document argued that home rule should be a default provision, not one that states granted to its cities. But they also hated that states should maintain broad authority to structure or preempt local laws. The AMA Model stated that the state legislature should be able to modify home rule, subject to other constitutional constraints.

THE RISE OF CAPITALISM AND CORPORATIONS
1980S-1990S

7 1975-1980:
Mobile v. Bolden Upholds Voting Maps that Dilute Black Votes

Corporations and industries are now invested in preemption as a means to protect their business interests. They use preemption to hinder public health and labor reforms at the local level across the country.

In 1975, the Non-Partisan Voters' League filed a lawsuit alleging that Mobile's voting system violated the Fourteenth and Fifteenth and the Voting Rights Act of 1965. An at-large government with five council members by the entire city population, not by neighborhood or district, diluted the Black community's voting power. The Court, where it was rejected and the Court held that at-large elections are racially neutral.

ALEC AND NATIONALIZED PREEMPTION
2000S-2010S

8 2000S:
The Fight for $15 Movement

Local movements for increasing minimum wages began popping up all over the country. ALEC responded by promoting model minimum wage preemption legislation and other anti-labor strategies, assisting corporations to state lawmakers who opposed higher minimum wages. The Fight for $15 Movement, which began in 2012 in New York City, is the movement that ultimately forced Congress to introduce federal legislation preempting higher minimum wages at the local level. Most of these states are controlled by Republicans.

The American Legislative Exchange Council, or ALEC, is a powerful lobbying group who is responsible for a significant number of preemption bills across the country. They are known to draft up abusive preemption policies - or "model" policies, as ALEC calls them - and send them to multiple states. We know that ALEC is behind a preemption bill especially when numerous states introduce bills on the same preemption topics that are almost verbatim. ALEC rose to power in the 1980s and 1990s, but they became increasingly involved in blocking growth and reform in labor, housing, gun control, and climate movements in the 21st century.

9 2011:
Florida Passes their Landmark Punitive Firearms Preemption Law

Florida passed a bill that threatens lawsuits of city officials who enact gun safety laws. Known as the Firearm Owners Privacy Act (FOPA), the bill allows citizens to sue local officials who violate the state's preemption law, preventing any city from legislating anything pertaining to firearms whatsoever. The law states that any existing or future actions passed or taken would be declared null and void, and that local legislators would be subject to a fine of $100,000 and forced to pay the lawsuit's plaintiff's legal fees and removed from office. The law has been challenged multiple times since its passage, including in attempts to repeal it via legislation.

ALEC AND NATIONALIZED PREEMPTION
2000S-2010S

10 2016:
Arizona Passes SB 1487

Preemption has become a mechanism for punishing localities for passing laws that the state doesn't agree with. Multiple states pass laws that threaten lawsuits or stripping them of funding for passing laws on certain topics, including Florida's extremely restrictive 2011 firearms preemption law. Other bills passed in this late 2010s period include bans on cities passing anti-discrimination laws in Tennessee, North Carolina, and Arkansas.

Arizona passes a punitive state law that allows the state to pull funding from "noncompliant" cities. Cities considered noncompliant are those that pass legislation or take any official action that violates state law or the state constitution. The old statute that allegedly let violations earned an investigation, as a case can easily be made for any municipal action and actions that a locality feels that authority disagrees with.

ABUSIVE PREEMPTION ON THE RISE
2020-2024

11 SUMMER-FALL 2020:
Legislative Backlash Follows Uprisings After George Floyd's Death

In the months following the onset of the COVID-19 pandemic, the Black Lives Matter movement rises to even greater heights since its inception in 2013.

Many millions of people saw the video of the violent murder of George Floyd, a Black man living in Minneapolis, at the hands of police. They took to the streets to stand up against racism and police violence, which was amplified by the pandemic. Protests and uprisings in 140 cities and counties in the United States ensued, and a wave of backlash and a wave of legislative attempts of police reform at local levels.

LATE 2020:
COVID-19 Denialism Risks Public Health Protections Nationwide

The onset of the pandemic resulted in numerous temporary preemptive measures, including the Centers for Disease Control and prevention mandate requiring the CDC. The revolutionary mandate of families safely and stably housed during an extremely uncertain time is US history. But people and governments grew tired of the mandate, and many local governments passed legislation, including local mask mandates, were challenged in courts and legislatures. Many have often been passed as an anti-protest legislation target, with bans for wearing them if not for public health purposes. Some states passed bans without exemptions for public health reasons, meaning for masks at any time for any reason.

THE CURRENT LANDSCAPE OF ABUSIVE PREEMPTION
PRESENT

12 2023-2024:
Legislative Sessions Feature a Severe Uptick in Abusive Preemption Bills

Embolden by the Trump-Vance administration, states led by conservative legislators have introduced and passed an unprecedented amount of legislation that target communities of color and anyone who disagrees with the administration's priorities.

During this period, abusive preemption legislation exploded across the country, with 45 states introducing over 1500 bills. The bills based water treaties for workers in Florida, stripped local control over housing and labor (Texas HB 2127), banned teaching students about sexual orientation and gender identity (Florida HB 1557), imposed significant criminal penalties, fines, and threats to funding for anyone who tried to legislate over certain issues banned by their states.

2020S-NOW:
Rises in Curricular Preemption

As other conservative states joined the country, at least 17 states have passed laws banning or restricting curriculum in public schools pertaining to race, gender, or sexuality. Many of these laws are also coined parts of the "anti-woke" or "anti-critical race theory" efforts further embedded our nation's history and even is to our students about how the United States came to be, and is deciding local school boards not by of that are a communities of color.

JANUARY 20, 2025:
Endless Legislative Attacks on Communities Through Preemption

Bills from all over the country and across a myriad of issues have attacked localities communities. As of May 2024, the Local Solutions Support Center (LSSC) has tracked and recorded over 685 introduced preemption bills, with 90 having passed and 19 vetoed by governors or signed into law.

The largest subset of abusive preemption bills introduced and passed in 2024 are those regarding immigration enforcement. Many states have banned their cities from declaring themselves sanctuary jurisdictions, or from prohibiting law enforcement officers that allow their police and sheriff's departments from participating in federal immigration enforcement. Other preemption bills have included minimum wage, workplace safety, and benefits, ending high-DEI programs, public health, "Death Star" bills (which eliminate all local authority on a wide array of issues), elections, and many more.

MARCH 26, 2025:
Missouri State Legislature Passes HB 496

HB 496 vested control of the St. Louis Metropolitan Police Department and gives the governor of Missouri a state-controlled board. The board can remove the city's elected officials, and the board can also control police funding, and limit police oversight efforts, which the community has fought for following the killing of 18-year-old Michael Brown by police in 2014. St. Louis is a predominantly Black city, which leads to the majority-white state legislature overbearing its police department.