# Wiki Doc R4

## 1NC

### 1NC – States CP

#### The 50 states, territories, and DC should

#### increase prohibitions on private sector anticompetitive business practices that substantially reduce bargaining power of workers in labor markets.

#### establish coordinated prosecution of fraud violations

#### The United States federal government should not preempt the above planks

#### State action is coordinated, well-resourced, and solves.

Arteaga ’21 [Juan and Jordan Ludwig; January 28; former Deputy Assistant Attorney General for the U.S. Department of Justice’s Antitrust Division, J.D. from Columbia Law School; partner in the Antitrust and Competition Group at Crowell and Moring firm, J.D. from Loyola Law School; Global Competition Review, “The Role of US State Antitrust Enforcement,” <https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement>]

In the United States, competition laws have been implemented and enforced through a dual system where the state and federal governments play distinct, yet complementary, roles in regulating the competitive process. While the Department of Justice (DOJ) Antitrust Division and Federal Trade Commission (FTC) are widely viewed as the stewards of US antitrust laws, state attorneys general have long played an important, albeit varying, role within the United States’ antitrust enforcement regime. This has been especially true during the past 30 years because state attorneys general have become much more effective at coordinating their antitrust enforcement efforts to ensure that they have a meaningful seat at the table in any actions brought jointly with their federal counterparts or are able to bring their own actions when the DOJ and FTC decide not to do so.

Prior to the enactment of the first federal antitrust law – the Sherman Act – in 1890, state antitrust enforcement was quite robust in the United States because at least 26 states had already enacted some form of antitrust prohibition.[[2]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-126) In addition, state enforcers had often used general corporation law and common law restraint of trade principles to regulate anticompetitive business practices and transactions.[[3]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-125) This well-established state antitrust enforcement infrastructure – coupled with the fact that the Antitrust Division and FTC had only recently been created – permitted state attorneys general to continue playing a leading enforcement role for the first 30 years after the Sherman Act’s passage.[[4]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-124) Indeed, state attorneys general successfully prosecuted a number of the most consequential antitrust enforcement actions during this period.[[5]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-123)

In the early 1920s, however, state antitrust enforcers began playing a less prominent role because ‘the national dimension of the most important trusts, . . . as well as their ability to restructure in order to evade problematic state laws’, made clear that the federal government needed to step forward in order to adequately protect consumers and the competitive process.[[6]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-122) As a result, the DOJ and FTC – whose national jurisdiction and greater resources enabled them to tackle the most pressing competition issues of the time – displaced state attorneys general as the primary source of government antitrust enforcement within the United States.[[7]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-121) This largely remained true until the mid-1970s when Congress, in response to the DOJ and FTC’s perceived inactivity, passed two laws that expanded the authority of state attorneys general to enforce the federal antitrust laws and provided them with financial resources to do so.[[8]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-120)

In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorized state attorneys general to bring parens patriae suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations.[[9]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-119) Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices.[[10]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-118) These laws had their intended effect of reinvigorating state antitrust enforcement.

During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints.[[11]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-117) The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’.[[12]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-116) No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications.[[13]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-115) To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organizations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.[[14]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-114)

### 1NC – Trade DA

#### **Antitrust expansion opens the floodgates of protectionism – that ends free trade**

Murray 19 [Allison Murray, Loyola Law, Judicial Law Clerk for U.S. Bankruptcy Courts. Edited by Loyola Law Professor David Kesselman and the ILR team of editors and staff. “Given Today’s New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade’s Coffin?” 2/28/2019. https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1785&context=ilr]

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences.

Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders’ best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law.3 So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims.

Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States (“U.S.”), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally.4 To remedy bad behavior in a specialized set of industries is not to instigate a global paradigm shift. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes.5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations.

Trump is not the only high-profile leader flirting with staunch protectionism. Western leaders in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western lawmakers themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions that could counteract that progress.6 Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies.

Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be forced to rely on existing avenues to meet protectionist aims. Again, we find ourselves relying squarely on antitrust law, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization (“WTO”), “once formal trade barriers come down, other issues become more important.”7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures.

Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause the death of even the smallest semblance of international free trade that remains in the international marketplace today.

#### Nuke war

Oppenheimer 21 [Dr. Michael F. Oppenheimer, Clinical Professor at the Center for Global Affairs at New York University, Senior Consulting Fellow for Scenario Planning at the International Institute for Strategic Studies, Former Executive Vice President at The Futures Group, Member of the Council on Foreign Relations, The Foreign Policy Roundtable at the Carnegie Council on Ethics and International Affairs, and The American Council on Germany, “The Turbulent Future of International Relations”, in The Future of Global Affairs: Managing Discontinuity, Disruption and Destruction, Ed. Ankersen and Sidhu, p. 23-30]

Four structural forces will shape the future of International Relations: globalization (but without liberal rules, institutions, and leadership)1; multipolarity (the end of American hegemony and wider distribution of power among states and non-states2); the strengthening of distinctive, national and subnational identities, as persistent cultural differences are accentuated by the disruptive effects of Western style globalization (what Samuel Huntington called the “non-westernization of IR”3); and secular economic stagnation, a product of longer term global decline in birth rates combined with aging populations.4 These structural forces do not determine everything. Environmental events, global health challenges, internal political developments, policy mistakes, technology breakthroughs or failures, will intersect with structure to define our future. But these four structural forces will impact the way states behave, in the capacity of great powers to manage their differences, and to act collectively to settle, rather than exploit, the inevitable shocks of the next decade.

Some of these structural forces could be managed to promote prosperity and avoid war. Multipolarity (inherently more prone to conflict than other configurations of power, given coordination problems)5 plus globalization can work in a world of prosperity, convergent values, and effective conflict management. The Congress of Vienna system achieved relative peace in Europe over a hundred-year period through informal cooperation among multiple states sharing a fear of populist revolution. It ended decisively in 1914. Contemporary neoliberal institutionalists, such as John Ikenberry, accept multipolarity as our likely future, but are confident that globalization with liberal characteristics can be sustained without American hegemony, arguing that liberal values and practices have been fully accepted by states, global institutions, and private actors as imperative for growth and political legitimacy.6 Divergent values plus multipolarity can work, though at significantly lower levels of economic growth-in an autarchic world of isolated units, a world envisioned by the advocates of decoupling, including the current American president. 7 Divergent values plus globalization can be managed by hegemonic power, exemplified by the decade of the 1990s, when the Washington Consensus, imposed by American leverage exerted through the IMF and other U.S. dominated institutions, overrode national differences, but with real costs to those states undergoing “structural adjustment programs,”8 and ultimately at the cost of global growth, as states—especially in Asia—increased their savings to self insure against future financial crises.9

But all four forces operating simultaneously will produce a future of increasing internal polarization and cross border conflict, diminished economic growth and poverty alleviation, weakened global institutions and norms of behavior, and reduced collective capacity to confront emerging challenges of global warming, accelerating technology change, nuclear weapons innovation and proliferation. As in any effective scenario, this future is clearly visible to any keen observer. We have only to abolish wishful thinking and believe our own eyes.10

Secular Stagnation

This unbrave new world has been emerging for some time, as US power has declined relative to other states, especially China, global liberalism has failed to deliver on its promises, and totalitarian capitalism has proven effective in leveraging globalization for economic growth and political legitimacy while exploiting technology and the state’s coercive powers to maintain internal political control. But this new era was jumpstarted by the world financial crisis of 2007, which revealed the bankruptcy of unregulated market capitalism, weakened faith in US leadership, exacerbated economic deprivation and inequality around the world, ignited growing populism, and undermined international liberal institutions. The skewed distribution of wealth experienced in most developed countries, politically tolerated in periods of growth, became intolerable as growth rates declined. A combination of aging populations, accelerating technology, and global populism/nationalism promises to make this growth decline very difficult to reverse. What Larry Summers and other international political economists have come to call “secular stagnation” increases the likelihood that illiberal globalization, multipolarity, and rising nationalism will define our future. Summers11 has argued that the world is entering a long period of diminishing economic growth. He suggests that secular stagnation “may be the defining macroeconomic challenge of our times.” Julius Probst, in his recent assessment of Summers’ ideas, explains:

…rich countries are ageing as birth rates decline and people live longer. This has pushed down real interest rates because investors think these trends will mean they will make lower returns from investing in future, making them more willing to accept a lower return on government debt as a result.

Other factors that make investors similarly pessimistic include rising global inequality and the slowdown in productivity growth…

This decline in real interest rates matters because economists believe that to overcome an economic downturn, a central bank must drive down the real interest rate to a certain level to encourage more spending and investment… Because real interest rates are so low, Summers and his supporters believe that the rate required to reach full employment is so far into negative territory that it is effectively impossible.

…in the long run, more immigration might be a vital part of curing secular stagnation. Summers also heavily prescribes increased government spending, arguing that it might actually be more prudent than cutting back – especially if the money is spent on infrastructure, education and research and development.

Of course, governments in Europe and the US are instead trying to shut their doors to migrants. And austerity policies have taken their toll on infrastructure and public research. This looks set to ensure that the next recession will be particularly nasty when it comes… Unless governments change course radically, we could be in for a sobering period ahead.12

The rise of nationalism/populism is both cause and effect of this economic outlook. Lower growth will make every aspect of the liberal order more difficult to resuscitate post-Trump. Domestic politics will become more polarized and dysfunctional, as competition for diminishing resources intensifies. International collaboration, ad hoc or through institutions, will become politically toxic. Protectionism, in its multiple forms, will make economic recovery from “secular stagnation” a heavy lift, and the liberal hegemonic leadership and strong institutions that limited the damage of previous downturns, will be unavailable. A clear demonstration of this negative feedback loop is the economic damage being inflicted on the world by Trump’s trade war with China, which— despite the so-called phase one agreement—has predictably escalated from negotiating tactic to imbedded reality, with no end in sight. In a world already suffering from inadequate investment, the uncertainties generated by this confrontation will further curb the investments essential for future growth. Another demonstration of the intersection of structural forces is how populist-motivated controls on immigration (always a weakness in the hyper-globalization narrative) deprives developed countries of Summers’ recommended policy response to secular stagnation, which in a more open world would be a win-win for rich and poor countries alike, increasing wage rates and remittance revenues for the developing countries, replenishing the labor supply for rich countries experiencing low birth rates.

Illiberal Globalization

Economic weakness and rising nationalism (along with multipolarity) will not end globalization, but will profoundly alter its character and greatly reduce its economic and political benefits. Liberal global institutions, under American hegemony, have served multiple purposes, enabling states to improve the quality of international relations and more fully satisfy the needs of their citizens, and provide companies with the legal and institutional stability necessary to manage the inherent risks of global investment. But under present and future conditions these institutions will become the battlegrounds—and the victims—of geopolitical competition. The Trump Administration’s frontal attack on multilateralism is but the final nail in the coffin of the Bretton Woods system in trade and finance, which has been in slow but accelerating decline since the end of the Cold War. Future American leadership may embrace renewed collaboration in global trade and finance, macroeconomic management, environmental sustainability and the like, but repairing the damage requires the heroic assumption that America’s own identity has not been fundamentally altered by the Trump era (four years or eight matters here), and by the internal and global forces that enabled his rise. The fact will remain that a sizeable portion of the American electorate, and a monolithically pro- Trump Republican Party, is committed to an illiberal future. And even if the effects are transitory, the causes of weakening global collaboration are structural, not subject to the efforts of some hypothetical future US liberal leadership. It is clear that the US has lost respect among its rivals, and trust among its allies. While its economic and military capacity is still greatly superior to all others, its political dysfunction has diminished its ability to convert this wealth into effective power.13 It will furthermore operate in a future system of diffusing material power, diverging economic and political governance approaches, and rising nationalism. Trump has promoted these forces, but did not invent them, and future US Administrations will struggle to cope with them.

What will illiberal globalization look like? Consider recent events. The instruments of globalization have been weaponized by strong states in pursuit of their geopolitical objectives. This has turned the liberal argument on behalf of globalization on its head. Instead of interdependence as an unstoppable force pushing states toward collaboration and convergence around market-friendly domestic policies, states are exploiting interdependence to inflict harm on their adversaries, and even on their allies. The increasing interaction across national boundaries that globalization entails, now produces not harmonization and cooperation, but friction and escalating trade and investment disputes.14 The Trump Administration is in the lead here, but it is not alone. Trade and investment friction with China is the most obvious and damaging example, precipitated by China’s long failure to conform to the World Trade Organization (WTO) principles, now escalated by President Trump into a trade and currency war disturbingly reminiscent of the 1930s that Bretton Woods was designed to prevent. Financial sanctions against Iran, in violation of US obligations in the Joint Comprehensive Plan Of Action (JCPOA), is another example of the rule of law succumbing to geopolitical competition. Though more mercantilist in intent than geopolitical, US tariffs on steel and aluminum, and their threatened use in automotives, aimed at the EU, Canada, and Japan,15 are equally destructive of the liberal system and of future economic growth, imposed as they are by the author of that system, and will spread to others. And indeed, Japan has used export controls in its escalating conflict with South Korea16 (as did China in imposing controls on rare earth,17 and as the US has done as part of its trade war with China). Inward foreign direct investment restrictions are spreading. The vitality of the WTO is being sapped by its inability to complete the Doha Round, by the proliferation of bilateral and regional agreements, and now by the Trump Administration’s hold on appointments to WTO judicial panels. It should not surprise anyone if, during a second term, Trump formally withdrew the US from the WTO. At a minimum it will become a “dead letter regime.”18

As such measures gain traction, it will become clear to states—and to companies—that a global trading system more responsive to raw power than to law entails escalating risk and diminishing benefits. This will be the end of economic globalization, and its many benefits, as we know it. It represents nothing less than the subordination of economic globalization, a system which many thought obeyed its own logic, to an international politics of zero-sum power competition among multiple actors with divergent interests and values. The costs will be significant: Bloomberg Economics estimates that the cost in lost US GDP in 2019- dollar terms from the trade war with China has reached $134 billion to date and will rise to a total of $316 billion by the end of 2020.19 Economically, the just-in-time, maximally efficient world of global supply chains, driving down costs, incentivizing innovation, spreading investment, integrating new countries and populations into the global system, is being Balkanized. Bilateral and regional deals are proliferating, while global, nondiscriminatory trade agreements are at an end.

Economies of scale will shrink, incentivizing less investment, increasing costs and prices, compromising growth, marginalizing countries whose growth and poverty reduction depended on participation in global supply chains. A world already suffering from excess savings (in the corporate sector, among mostly Asian countries) will respond to heightened risk and uncertainty with further retrenchment. The problem is perfectly captured by Tim Boyle, CEO of Columbia Sportswear, whose supply chain runs through China, reacting to yet another ratcheting up of US tariffs on Chinese imports, most recently on consumer goods:

We move stuff around to take advantage of inexpensive labor. That’s why we’re in Bangladesh. That’s why we’re looking at Africa. We’re putting investment capital to work, to get a return for our shareholders. So, when we make a wager on investment, this is not Vegas. We have to have a reasonable expectation we can get a return. That’s predicated on the rule of law: where can we expect the laws to be enforced, and for the foreseeable future, the rules will be in place? That’s what America used to be.20

The international political effects will be equally damaging. The four structural forces act on each other to produce the more dangerous, less prosperous world projected here. Illiberal globalization represents geopolitical conflict by (at first) physically non-kinetic means. It arises from intensifying competition among powerful states with divergent interests and identities, but in its effects drives down growth and fuels increased nationalism/populism, which further contributes to conflict. Twenty-first-century protectionism represents bottom-up forces arising from economic disruption. But it is also a top-down phenomenon, representing a strategic effort by political leadership to reduce the constraints of interdependence on freedom of geopolitical action, in effect a precursor and enabler of war. This is the disturbing hypothesis of Daniel Drezner, argued in an important May 2019 piece in Reason, titled “Will Today’s Global Trade Wars Lead to World War Three,”21 which examines the pre- World War I period of heightened trade conflict, its contribution to the disaster that followed, and its parallels to the present:

Before the First World War started, powers great and small took a variety of steps to thwart the globalization of the 19th century. Each of these steps made it easier for the key combatants to conceive of a general war. We are beginning to see a similar approach to the globalization of the 21st century. One by one, the economic constraints on military aggression are eroding. And too many have forgotten—or never knew—how this played out a century ago.

…In many ways, 19th century globalization was a victim of its own success. Reduced tariffs and transport costs flooded Europe with inexpensive grains from Russia and the United States. The incomes of landowners in these countries suffered a serious hit, and the Long Depression that ran from 1873 until 1896 generated pressure on European governments to protect against cheap imports.

…The primary lesson to draw from the years before 1914 is not that economic interdependence was a weak constraint on military conflict. It is that, even in a globalized economy, governments can take protectionist actions to reduce their interdependence in anticipation of future wars. In retrospect, the 30 years of tariff hikes, trade wars, and currency conflicts that preceded 1914 were harbingers of the devastation to come. European governments did not necessarily want to ignite a war among the great powers. By reducing their interdependence, however, they made that option conceivable.

…the backlash to globalization that preceded the Great War seems to be reprised in the current moment. Indeed, there are ways in which the current moment is scarier than the pre-1914 era. Back then, the world’s hegemon, the United Kingdom, acted as a brake on economic closure. In 2019, the United States is the protectionist with its foot on the accelerator. The constraints of Sino-American interdependence—what economist Larry Summers once called “the financial balance of terror”—no longer look so binding. And there are far too many hot spots—the Korean peninsula, the South China Sea, Taiwan—where the kindling seems awfully dry.

### 1NC – Adv CP

#### The United States federal government should

* Institute a wealth tax and redistribution wealth program
* Establish a Guaranteed Basic Income program
* increase its investment in infrastructure development, creating an infrastructure bank
* establish a national innovation policy, to oversee procurement reform, incentives for research and development, and workforce training
* Pass the Consumer Protection and Recovery Act
* Pass a resolution affirming its trust in the FTC
* Sustain current levels of funding for the FTC
* Declare gerrymandering illegal and have an independent non-political third party determine voting districts across the country

#### Infrastructure solves inequality

Lee 10 (Oct. 11, Jessie, Director of Progressive Media and Online Response, “The President on Infrastructure Investment: "This is Work That Needs to Be Done. There Are Workers Who Are Ready to Do It."”, The White House, <https://obamawhitehouse.archives.gov/blog/2010/10/11/president-infrastructure-investment-work-needs-be-done-there-are-workers-who-are-rea>) MFE

During tough economic times, one of the toughest jobs to hold is as a construction worker. In almost any city or town in America, you're likely to see buildings, projects, or roads left half-done after investments made by private enterprise or state and local governments based on expectations of a brighter economic future dried up. Meanwhile, there is a near-universal consensus that America's infrastructure is both falling apart and lagging behind as our competitors move forward on the next generation of transportation. That's part of why a new report from the Council of Economic Advisers and the Treasury Department (pdf) encourages a bold new plan to invest, finding that infrastructure projects have a high bang for the buck because construction costs are low due to underutilized resources, and that these investments would create jobs in sectors of the economy suffering from some of the highest levels of unemployment. The Recovery Act already created hundreds of thousands of jobs this way, but there is more than enough left to do. President Obama Holds a Meeting on Infrastructure President Barack Obama holds a meeting with Cabinet secretaries, former secretaries of Transportation and mayors and governors on infrastructure investment in the State Dining Room of the White House, October 11, 2010. (Official White House Photo by Pete Souza) After meeting with some of his Cabinet secretaries, along with a bipartisan group of former secretaries of Transportation, mayors and governors who have come together in support of infrastructure investment, the President spoke both on the depth of the problem and value of the solution. On the problem: For years, we have deferred tough decisions, and today, our aging system of highways and byways, air routes and rail lines hinder our economic growth. Today, the average American household is forced to spend more on transportation each year than food. Our roads, clogged with traffic, cost us $80 billion a year in lost productivity and wasted fuel. Our airports, choked with passengers, cost nearly $10 billion a year in productivity losses from flight delays. And in some cases, our crumbling infrastructure costs American lives. It should not take another collapsing bridge or failing levee to shock us into action. So we’re already paying for our failure to act. And what’s more, the longer our infrastructure erodes, the deeper our competitive edge erodes. Other nations understand this. They are going all-in. Today, as a percentage of GDP, we invest less than half of what Russia does in their infrastructure, less than one-third of what Western Europe does. Right now, China’s building hundreds of thousands of miles of new roads. Over the next 10 years, it plans to build dozens of new airports. Over the next 20, it could build as many as 170 new mass transit systems. Everywhere else, they’re thinking big. They’re creating jobs today, but they’re also playing to win tomorrow. So the bottom line is our shortsightedness has come due. We can no longer afford to sit still. On the solution: By investing in these projects, we’ve already created hundreds of thousands of jobs. But the fact remains that nearly one in five construction workers is still unemployed and needs a job. And that makes absolutely no sense at a time when there is so much of America that needs rebuilding. So that’s why, last month, I announced a new plan for upgrading America’s roads, rails and runways for the long-term. Over the next six years, we will rebuild 150,000 miles of our roads -- enough to circle the world six times. We will lay and maintain 4,000 miles of our railways -- enough to stretch from coast to coast. And we will restore 150 miles of runways and advance a next generation air-traffic control system that reduces delays for the American people. This plan will be fully paid for. It will not add to our deficit over time. And we are going to work with Congress to see to that. It will establish an infrastructure bank to leverage federal dollars and focus on the smartest investments. We want to cut waste and bureaucracy by consolidating and collapsing more than 100 different, often duplicative programs. And it will change the way Washington works by reforming the federal government’s patchwork approach of funding and maintaining our infrastructure. We’ve got to focus less on wasteful earmarks, outdated formulas. We’ve got to focus more on competition and innovation; less on shortsighted political priorities, and more on our national economic priorities. So investing in our infrastructure is something that members of both political parties have always supported. It’s something that groups ranging from the Chamber of Commerce to the AFL-CIO support today. And by making these investments across the country, we won’t just make our economy run better over the long haul -- we will create good, middle-class jobs right now.

#### Passing Consumer Protection and Recovery Act solves trust. Consumer protection’s a massive alt cause to trust—as is resource loss! Aff only makes things worse—cal’s yellow.

Testimony of Ted Mermin 21. Executive Director Center for Consumer Law & Economic Justice UC Berkeley School of Law. Before the United States House of Representatives Committee on Energy & Commerce Subcommittee on Consumer Protection and Commerce Hearing on “The Consumer Protection and Recovery Act: Returning Money to Defrauded Consumers”. https://docs.house.gov/meetings/IF/IF17/20210427/112501/HHRG-117-IF17-Wstate-MerminT-20210427.pdf

10. Trust the FTC. This final step informs all the others. There can be no doubt that there is more work to do protecting consumers than the FTC currently has the tools or resources to accomplish. There is also no doubt that the FTC has been trammeled in ways that its sister agencies, federal and state, have not. Whatever the reason, it is high time to retire the “zombie ideas” about the FTC – that the Commission is unnecessary, or overreaching, or heavy-handed, or inefficient.23 It is time, as one commissioner stated in Senate testimony last week, to “turn the page on the FTC’s perceived powerlessness.”24

For an American public eager for greater – not lesser – protection from increasingly sophisticated scam artists, deceptive advertisers, and privacy violating tech companies, building an effective FTC is an easy decision. It can and should be for this committee as well.

IV. Conclusion

This subcommittee meets at a remarkable historical moment, when the COVID-19 pandemic has revealed the profound need for a robust Federal Trade Commission just days after the Supreme Court made action by Congress an absolute necessity. This is a perilous time, with the chief protector of American consumers rendered nearly powerless just when those consumers are experiencing a heightened threat resulting from a once-in-a-century pandemic. The Consumer Protection and Recovery Act provides a critical first step toward restoring authority and effectiveness to the nation’s leading consumer protection agency.

Swift action to restore the FTC’s traditional 13(b) authority means that when constituents contact your office, and tell your staff that they have lost their life’s savings to a work-at-home scam, or their identity has been stolen and someone has opened accounts in their name, or they just spent their stimulus payment on a supposed cure for COVID for their grandmother who’s on a respirator – there will still be an agency to refer them to. No one wants that staffer to have to add: “Well, we could send you to the FTC, but they don’t actually have the power to get you your money back.”

Inaction or delay will mean no recovery for millions of wronged American consumers. The time to pass the Consumer Protection and Recovery Act is now.

#### Wealth tax solves inequality

BBC 4/7 [BBC News, "Tax wealth to help shrink inequality caused by Covid says IMF", 4/7/21, https://www.bbc.com/news/business-56665505]

Governments should consider raising taxes on the wealthy to help pay for the cost of Covid, the International Monetary Fund says.

It suggested a temporary increase in taxes on wealth or high incomes could help tackle inequalities that have widened due to the crisis.

In its fiscal report, it added the move would help the worst affected by the pandemic feel a sense of cohesion.

But the organisation urged governments to "carefully assess trade-offs".

The International Monetary Fund (IMF) pointed to the reform of current policies on inheritance taxes or property, for example, before turning to wealth taxes.

"To help meet pandemic-related financing needs, policymakers could consider a temporary Covid-19 recovery contribution, levied on high incomes or wealth," the report said.

"To accumulate the resources needed to improve access to basic services, enhance safety nets, and reinvigorate efforts to achieve the sustainable development goals, domestic and international tax reforms are necessary, especially as the recovery gains momentum," it said.

A wealth tax typically targets the assets owned by taxpayers, such as property or investments. Its use has declined in recent decades.

#### Guaranteed Income solves inequality

Holder 21 [Sarah Holder and Brentin Mock, "What a National Guaranteed Income Could Look Like", 7/8/21, https://www.bloomberg.com/news/articles/2021-07-08/what-a-national-guaranteed-income-could-look-like]

Researchers behind the Guaranteed Income for the 21st Century proposal estimate that it could elevate the nearly 14 million U.S. households who lived in poverty before the pandemic above the federal poverty line. It claims even more profound effects on Black households, which are disproportionately represented under the poverty line.

“We know that poverty is not race-neutral. We know that employment interactions are not race-neutral,” said Hamilton. By structuring the tax to benefit those with the fewest resources, it “will have heroic effects on addressing some racial inequities,” he said. “We know that there are dramatically disproportionate shares of Black and white people in poverty, particularly Black children. So what this does is say, well, we're going to eliminate it in its entirety.”

A negative income tax has been proposed in the past, most famously by conservative economist Milton Friedman during the Nixon administration. “A negative income tax has always been something supported by both sides of the political spectrum,” said William Lee, the chief economist for the Milken Institute. “The way it’s often proposed that gets the broadest support is to say we need a complete replacement of the existing benefits program in the U.S. with a basic minimum level of income.”

That’s where this proposal diverges from past iterations: It wouldn’t be a replacement of other elements of the social safety net, or an answer to calls for reparations or universal health insurance. Instead, it would flip the existing tax code — which is designed for “poverty maintenance, rather than income mobility, or income maintenance, rather than income mobility,” Hamilton says. Because the plan is linked to the median income of the country, indexing such support structurally would mean that “in perpetuity, we are trending families towards the middle class.”

#### National policy restarts innovation and solves slow growth without market disruption.

Sadat ’20 [Mir; November 22; former Policy Director leading interagency coordination on defense and space policy issues, including at the Department of Defense and National Security Council, Ph.D. from Claremont Graduate University; The Hill, “Why innovation is so important to America's global leadership,” <https://thehill.com/opinion/technology/526535-why-innovation-is-so-important-to-americas-global-leadership>]

The U.S. government must mitigate the harm to America’s innovation base. So far, the government has yet to craft a national innovation policy and stand up a true national innovation council to modernize government; coordinate between the government, industry and academia; transform monopolistic or oligopolistic markets into competitive sectors; and ensure that America regains global economic leadership through foreign partnerships. Reform of American innovation is necessary for several reasons.

First, to harness the untapped potential of exponential technologies, the government must democratize its requirements processes that have advantaged legacy systems and traditional technology providers. The government must evolve its industrial age procurement policies, practices and beneficiaries to the digital age by placing innovation at the core of its activities. The innovation base needs public and private investment capital, scaled to the risk and importance of the invention, to level the playing field for startups and scale-ups, and to increase competitiveness. In short, the government must increase funding and incentives for Apollo-scale research and development (R&D) programs.

Second, to create exponential technologies in an era of unprecedented disruption, America’s workforce requires continuous training and education. The “lone innovator” is a myth because every American invention is a mix of persistence, genius, teamwork, business model and resource management. The government must establish whole-of-nation policies that stimulate world-class innovators in the areas of science, technology, engineering and mathematics (STEM); support nationwide STEM access and diversity; promote R&D and economic growth in technologically underserved areas using economic opportunity zones; and improve mentorship programs for underrepresented persons.

Third, individual innovators and their teams are challenged to achieve successful outcomes because of the high costs and risks, the uncertainty and gaps in funding, and the vicissitudes of the market’s readiness. America’s innovators are strewn across the federal enterprise, the national security establishment, state and local governments, startups and established corporations, universities and research institutions, and other consortiums. Innovators must collaborate by leveraging innovation multipliers such as diversity of effort, thought and demographics.

Fourth, if rules-based, free-market innovation is to compete economically and demonstrate American leadership, then the government must create and enhance opportunities for innovators to compete in international markets and garner global funding. Innovation is the global competition that transcends borders. We must be the first to disrupt our markets, rather than others who could render particular industries potentially obsolete.

### 1NC – Biz Con DA

#### Growth is up – businesses are confident

Hilsenrath 2/28 [Jon, senior writer for The Wall Street Journal, where he has written about economics and finance since 1997. “U.S. Positioned to Withstand Economic Shock From Ukraine Crisis”. 2/28/22. https://www.wsj.com/articles/u-s-positioned-to-withstand-economic-shock-from-ukraine-crisis-11646083994]

As Russian President Vladimir Putin launched a war against Ukraine, half a world away the U.S. economy appeared to be rebounding from a winter surge of Covid-19 infections.

A range of U.S. data suggests U.S. economic activity picked up in recent weeks. Many Wall Street analysts expect the Labor Department on Friday to report large job gains in February and a further decline in unemployment.

These developments suggest that the U.S. is in a position to withstand the economic shock that might emanate from battlegrounds in Ukraine. Those effects could push U.S. inflation higher from already elevated levels, but the economic expansion appears to be on solid ground.

“It looks like the U.S. has gotten through the Omicron variant and weathered that storm and the economy is growing solidly,” said Mickey Levy, chief U.S. economist at Berenberg Capital Markets LLC, the securities arm of a German bank.

Much could change in the days or weeks ahead. If fighting intensifies or spreads to other countries, or if sanctions and Russian reprisals to sanctions deepen, the effects could hit the U.S. economy harder.

But for now, Mr. Levy has been watching weekly signs of rising U.S. consumer spending and output in February. OpenTable Inc., the online restaurant reservation business, reports that U.S. restaurant seating broke 6% above pre-pandemic levels in February after slumping earlier this year.

STR LLC, a research firm that tracks hotel trends, said occupancy at U.S. lodgings hit 59% in mid-February, up from 50% early in the month and 45% during the same period a year earlier.

Meantime, the Transportation Security Administration said airport checkpoint counts hit 2.15 million in late February, compared with 1.54 million at the end of January and 1.19 million at the same time a year earlier.

Mr. Levy said these are important developments because they suggest resurging life in the services side of the economy, which has been hit hardest by pandemic-driven disruptions.

U.S. Covid-19 cases and hospitalizations dropped substantially in February and deaths have fallen in recent weeks with a lag.

In all, consumer spending in the first half of February was up 7.2% from a year earlier, compared with a 2.7% increase in the first two weeks of January, according to data from Earnest Research, which tracks credit- and debit-card purchases.

Economists at Citigroup estimate the Labor Department will report Friday that U.S. payrolls grew by more than 500,000 in February and the jobless rate fell to 3.8%. Morgan Stanley estimates payrolls grew 730,000 in February and the jobless rate dropped to 3.7%. In 2021, monthly payroll increases averaged 555,000. In the decade before the pandemic, monthly increases of around 150,000 to 200,000 were more normal.

Swift Sanctions: How Cutting Off Banks Pressures Russia

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A powerful coalition of democracies announced it would cut off some Russian banks from the global payment system Swift. Here’s how Swift works, and how the move could ramp up pressure on Russian President Putin. Photo: Anton Vaganov/Reuters

The U.S. economy is exposed to Russia and Ukraine mostly through energy channels. Russia is a major supplier of oil and gas supplies to the globe—especially Europe—and also supplies commodities such as potash and palladium that are important components of goods including fertilizer and catalytic converters for cars. The war and the Western financial sanctions resulting from it have disrupted supplies and pushed up prices for these and other commodities, worsening global inflation.

However analysts so far aren’t forecasting a big hit to U.S. economic growth from these effects. Chris Varvares, head of U.S. economics at IHS Markit, an economic advisory firm, estimates higher oil prices will shave 0.4% percentage point from the U.S. growth rate in 2022, to 2.5% for 2022 from its prewar forecast of 2.9%, and have almost no effect in 2023 and 2024.

Moody’s Analytics, another economic advisory firm, estimates a sustained move of oil prices up to $100 a barrel would slightly sap U.S. consumer spending in other markets, but not in a highly disruptive way. It estimates a shock of this kind would shave just 0.2 percentage point off the U.S. growth rate in 2022. The firm has already lowered its growth forecast to 3.5% this year, from its forecast of 3.7% before the war, said Mark Zandi, its chief economist.

‘The impact of the Russian invasion on the U.S. economy will be on the margins.’

— Mark Zandi, chief economist of Moody’s Analytics

“The impact of the Russian invasion on the U.S. economy will be on the margins,” Mr. Zandi said in a written assessment of the impact of an oil price spike.

#### The plan spills over, decimating business confidence and overall economic recovery

Trace Mitchell 21, Policy Counsel at NetChoice, JD from the George Mason University, Antonin Scalia Law School, Former Research Associate at the Mercatus Center at George Mason University, BA in Political Science and Government from Florida Gulf Coast University, “Weaponizing Antitrust to Attack Big Tech Is a Bad Idea”, Morning Consult, 3/3/2021, https://morningconsult.com/opinions/weaponizing-antitrust-to-attack-big-tech-is-a-bad-idea/

From the House Judiciary report calling for dramatic antitrust reform to federal antitrust regulators and state attorneys general initiating lawsuits against Facebook and Google, government officials are once again calling for more aggressive antitrust enforcement to go after America’s tech businesses.

And while critics from all sides are reaching for any and all tools to go after “Big Tech,” weaponizing antitrust will only end up harming American consumers and the American economy at a time when we’re still trying to keep our heads above water.

Using antitrust to go after American tech won’t stop at Silicon Valley. Every sector of our economy will be at risk of politically motivated antitrust enforcement. And that won’t just hurt consumers searching for information on Google or shopping for products on Amazon — America’s economy could lose its global competitiveness amid a global pandemic.

In fact, the recent cases against Google from the Department of Justice and state attorneys general are a great example of just how this misuse of antitrust could harm Americans across the country and halt innovation in its tracks.

These suits conveniently forget how consumers benefit from Google’s suite of products in attempts to claim that Google unfairly monopolized the search and search advertising markets. Even worse, by claiming consumer harm, the government fails to truly grasp what consumers actually want.

You see, under the consumer welfare standard, antitrust enforcement is built to focus on what consumers want and whether consumers benefit. When the government argues Google is harming Americans because its products are preinstalled and even the default search engine on Apple, the government forgets that American consumers don’t think this is a problem.

The vast majority of search users prefer Google to its competitors. And through preinstallation, we get free-to-use products, quick searches and near-limitless information in an integrated system with the click of a mouse. It isn’t a problem; it’s a time saver. Further, because Google can reinvest in developing more user-friendly tech in a preinstalled ecosystem, we get interoperable apps that make our experience that much more convenient and intuitive. And even if consumers do want a different app, they can fix this problem with no heavy leg work or travel — just the swipe of a finger.

But if the government gets its way, the message could be disastrous for innovation: Even if your business benefits Americans and improves the user experience, the government can still put a target on your back. Not to mention, the government would be more likely to put a target on your back if you’re large and politically disfavored. Consumers across the internet and the American economy would be hurt and left without more accessible and more affordable technology as options.

We should be working to reward, not punish, innovation. Otherwise, the next Google may just decide it isn’t worth the time and effort.

Similarly, the Federal Trade Commission’s recent case against Facebook also puts the wants of policymakers above the actual interests of consumers.

Here, the government claims that Facebook harms consumers by acquiring and then integrating services like Instagram and WhatsApp. So harmful, the Federal Trade Commission says, that Facebook must divest from these services, even if that would harm American consumers, innovation and entrepreneurship for decades to come.

But this is not a case of consumer harm or bad behavior — Facebook’s acquisition of Instagram and WhatsApp helped ensure that consumers’ desires were prioritized. Through millions of investment dollars into research and development, Facebook turned good services into great services that consumers actively keep coming back to.

Through relentless product improvement, WhatsApp became a free-to-use platform and Instagram became one of the most successful photo-sharing social media apps in the world. In both cases, consumers benefited from convenient and state-of-the-art advancements. No longer do we have to pay to use messaging or search through multiple results to shop our influencer feed.

As it stands, the Federal Trade Commission case could splinter one successful tech company into multiple, less efficient organizations, setting a precedent that could affect every American industry. Consumers would not only lose Facebook’s free-to-use services but also potentially the next big clothing brand or the next hit microbrewed beer.

By impeding mergers, the sheer fear of potential antitrust enforcement would shutter the doors on small businesses from all sectors of the economy. So much investment in innovation is built on the possibility of being acquired by a larger player. Entrepreneurs and innovators from manufacturing, automotive and tech alike would be left with an unfortunate takeaway — succeed and benefit consumers, but not too much.

And with an economy still struggling to recover, the absolute last thing we need is to leave consumers without innovative and affordable choices, small businesses without key investment opportunities and our economy without a competitive edge globally.

But by weaponizing antitrust, we’ll get neither thoughtful intervention nor consumer benefits. Instead, the United States will lose ground to foreign competitors and American consumers will ultimately pay the price.

#### Decline cascades---nuclear war

Dr. Mathew Maavak 21, PhD in Risk Foresight from the Universiti Teknologi Malaysia, External Researcher (PLATBIDAFO) at the Kazimieras Simonavicius University, Expert and Regular Commentator on Risk-Related Geostrategic Issues at the Russian International Affairs Council, “Horizon 2030: Will Emerging Risks Unravel Our Global Systems?”, Salus Journal – The Australian Journal for Law Enforcement, Security and Intelligence Professionals, Volume 9, Number 1, p. 2-8

Various scholars and institutions regard global social instability as the greatest threat facing this decade. The catalyst has been postulated to be a Second Great Depression which, in turn, will have profound implications for global security and national integrity. This paper, written from a broad systems perspective, illustrates how emerging risks are getting more complex and intertwined; blurring boundaries between the economic, environmental, geopolitical, societal and technological taxonomy used by the World Economic Forum for its annual global risk forecasts. Tight couplings in our global systems have also enabled risks accrued in one area to snowball into a full-blown crisis elsewhere. The COVID-19 pandemic and its socioeconomic fallouts exemplify this systemic chain-reaction. Onceinexorable forces of globalization are rupturing as the current global system can no longer be sustained due to poor governance and runaway wealth fractionation. The coronavirus pandemic is also enabling Big Tech to expropriate the levers of governments and mass communications worldwide. This paper concludes by highlighting how this development poses a dilemma for security professionals.

Key Words: Global Systems, Emergence, VUCA, COVID-9, Social Instability, Big Tech, Great Reset

INTRODUCTION

The new decade is witnessing rising volatility across global systems. Pick any random “system” today and chart out its trajectory: Are our education systems becoming more robust and affordable? What about food security? Are our healthcare systems improving? Are our pension systems sound? Wherever one looks, there are dark clouds gathering on a global horizon marked by volatility, uncertainty, complexity and ambiguity (VUCA).

But what exactly is a global system? Our planet itself is an autonomous and selfsustaining mega-system, marked by periodic cycles and elemental vagaries. Human activities within however are not system isolates as our banking, utility, farming, healthcare and retail sectors etc. are increasingly entwined. Risks accrued in one system may cascade into an unforeseen crisis within and/or without (Choo, Smith & McCusker, 2007). Scholars call this phenomenon “emergence”; one where the behaviour of intersecting systems is determined by complex and largely invisible interactions at the substratum (Goldstein, 1999; Holland, 1998).

The ongoing COVID-19 pandemic is a case in point. While experts remain divided over the source and morphology of the virus, the contagion has ramified into a global health crisis and supply chain nightmare. It is also tilting the geopolitical balance. China is the largest exporter of intermediate products, and had generated nearly 20% of global imports in 2015 alone (Cousin, 2020). The pharmaceutical sector is particularly vulnerable. Nearly “85% of medicines in the U.S. strategic national stockpile” sources components from China (Owens, 2020).

An initial run on respiratory masks has now been eclipsed by rowdy queues at supermarkets and the bankruptcy of small businesses. The entire global population – save for major pockets such as Sweden, Belarus, Taiwan and Japan – have been subjected to cyclical lockdowns and quarantines. Never before in history have humans faced such a systemic, borderless calamity.

COVID-19 represents a classic emergent crisis that necessitates real-time response and adaptivity in a real-time world, particularly since the global Just-in-Time (JIT) production and delivery system serves as both an enabler and vector for transboundary risks. From a systems thinking perspective, emerging risk management should therefore address a whole spectrum of activity across the economic, environmental, geopolitical, societal and technological (EEGST) taxonomy. Every emerging threat can be slotted into this taxonomy – a reason why it is used by the World Economic Forum (WEF) for its annual global risk exercises (Maavak, 2019a). As traditional forces of globalization unravel, security professionals should take cognizance of emerging threats through a systems thinking approach.

METHODOLOGY

An EEGST sectional breakdown was adopted to illustrate a sampling of extreme risks facing the world for the 2020-2030 decade. The transcendental quality of emerging risks, as outlined on Figure 1, below, was primarily informed by the following pillars of systems thinking (Rickards, 2020):

• Diminishing diversity (or increasing homogeneity) of actors in the global system (Boli & Thomas, 1997; Meyer, 2000; Young et al, 2006);

• Interconnections in the global system (Homer-Dixon et al, 2015; Lee & Preston, 2012);

• Interactions of actors, events and components in the global system (Buldyrev et al, 2010; Bashan et al, 2013; Homer-Dixon et al, 2015); and

• Adaptive qualities in particular systems (Bodin & Norberg, 2005; Scheffer et al, 2012) Since scholastic material on this topic remains somewhat inchoate, this paper buttresses many of its contentions through secondary (i.e. news/institutional) sources.

ECONOMY

According to Professor Stanislaw Drozdz (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid- 2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity.

The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed $255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering $2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak.

The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented $10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth $88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020).

As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007).

Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit.

According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019):

“You can hardly trust even the closest allies after the Munich Agreement… I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author).

President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period.

A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective $1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016).

In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a). We also see how the four main pillars of systems thinking (diversity, interconnectivity, interactivity and “adaptivity”) form the mise en scene in a VUCA decade.

ENVIRONMENTAL

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation:

The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering $3 trillion. Moreover, a recent report suggests the world’s 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, “vulnerable” or unpaid jobs.

Shouldn’t this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated.

Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity.

Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021).

Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the “world’s most polluted river” began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications.

On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabriabased ‘Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008).

The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section.

Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological maniacs or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade.

GEOPOLITICAL

The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar bogeymen to reappear in societies roiling with impoverishment and ideological clefts. Anti-Semitism – a societal risk on its own – may reach alarming proportions in the West (Reuters, 2019), possibly forcing Israel to undertake reprisal operations inside allied nations. If that happens, how will affected nations react? Will security resources be reallocated to protect certain minorities (or the Top 1%) while larger segments of society are exposed to restive forces? Balloon effects like these present a classic VUCA problematic.

Contemporary geopolitical risks include a possible Iran-Israel war; US-China military confrontation over Taiwan or the South China Sea; North Korean proliferation of nuclear and missile technologies; an India-Pakistan nuclear war; an Iranian closure of the Straits of Hormuz; fundamentalist-driven implosion in the Islamic world; or a nuclear confrontation between NATO and Russia. Fears that the Jan 3 2020 assassination of Iranian Maj. Gen. Qasem Soleimani might lead to WWIII were grossly overblown. From a systems perspective, the killing of Soleimani did not fundamentally change the actor-interconnection-interaction adaptivity equation in the Middle East. Soleimani was simply a cog who got replaced.

### 1NC – T Exemptions

#### ‘Scope’ is the extent of the area covered by the core laws

Oxford 22 – Oxford English Dictionary, ‘scope’, https://www.lexico.com/en/definition/scope

1 The extent of the area or subject matter that something deals with or to which it is relevant.

*‘we widened the scope of our investigation’*

#### It’s bounded by exemptions and immunities

Layne E. Kruse 19, Co-Chair, Melissa H. Maxman, Co-Chair, Vittorio Cottafavi, Vice Chair, Stephen M. Medlock, Vice Chair; David Shaw, Vice Chair; Travis Wheeler, Vice Chair; Lisa Peterson, Young Lawyer Representative; all on the Exemptions and Immunities Committee of the ABA Antitrust Section, “Long Range Plan, 2018-19,” American Bar Association, 3/18/2019, https://www.americanbar.org/content/dam/aba/administrative/antitrust\_law/lrps/2019/exemptions-immunities.pdf

D. Top 3 Accomplishments Since Last Long Range Plan in 2015

(1) Publications. In addition to our Annual ALD Updates, we are set to publish an update to the Noerr-Pennington Handbook, which should be out in 2019. We also published a new version of the State Action Handbook in 2016. The Handbook on the Scope of the Antitrust Laws was published in 2015.

(2) Commentary on Legislative and Regulatory Proposals. The Committee has been very active in supporting Section commentary on proposed legislation, regulations, and other policy issues.

For instance, in March 2018, the E&I Committee assisted former E&I Chair John Roberti in composing his article, “The Role and Relevance of Exemptions and Immunities in U.S. Antitrust Law”, presented to the DOJ Antitrust Division Roundtable on behalf of the ABA Antitrust Section.

In January 2018, in response to a request from the Section Chair, we submitted Section comments along with the Legislative and State AG Committees, addressing the proposed Restoring Board Immunity Act legislation that would impact the post-NC Dental exemptions and immunity climate. Previously, we commented on the Professional Responsibility Act.

(3) Spring Meeting Programs. We have sponsored or co-sponsored a program at every Spring Meeting since our last long range plan. In 2019 we will chair Sham Litigation after FTC v. AbbVie The FTC v. AbbVie decision – calling for the disgorgement of $448 million on the basis of sham patent litigation. In addition, we will co-sponsor in 2019 with the Trade, Sports & Professional Associations Committee, a program on “Antitrust Law's Anomalous Treatment of Sports,” addressing how US courts have shown broad deference to the "rules of the game," including near-immunity status for concepts such as "amateurism."

II. Major Competition/Consumer Protection Policy or Substantive Issues Within Committee’s Jurisdiction Anticipated to Arise Over Next Three Years

A. Issue #1: Will Certain Exemptions Be Eliminated or Expanded?

A goal of the current DOJ Antitrust Division is to streamline antitrust laws, and in particular, take a hard look at exemptions and immunities. This is in the wheelhouse of our Committee’s fundamental policy issue: How much of the economy has opted out of our antitrust system? Is that a problem or are ad hoc exemptions acceptable ways to fine tune the application of the antitrust laws?

We anticipate, therefore, that efforts to enact or to repeal existing statutory exemptions and immunities will continue. In recent years, there have been efforts to repeal the exemptions for railroads and (at least in part) the McCarran-Ferguson insurance exemption. The Section and the Committee has generally supported efforts to repeal statutory exemptions. Given that repeal issues are very political it is unlikely that we will see many exemptions actually repealed.

On the other hand, proposals for new exemptions and immunities will continue to be introduced in Congress. The Committee will improve on a template for use in assisting the Section in drafting comments to Congress on newly proposed exemptions and immunities.

One development that may continue in the health care area are issues over a "COPA" or "Certificate of Public Advantage" at the state level. A COPA is a state statutory mechanism that provides certain collaborations in the health care community with immunity from private or government actions under the antitrust laws by invoking the state action doctrine. The FTC has generally opposed such efforts at the state level, but several states have used them to immunize health care mergers. This is a major development that should be monitored.

Through programs, newsletters, and Connect entries, the Committee intends to educate its members about Congressional and other efforts to repeal, or introduce new, exemptions and immunities, as well as the application of existing statutory exemptions and immunities in the courts. The Committee’s Handbook on the Scope of Antitrust Law, published in 2015, addresses developments in the statutory immunities area. It built on the prior publication, Federal Statutory Exemptions from Antitrust Law Handbook in 2007. Our Scope book will need to be updated within the next three years.

B. Issue #2: Will There Be Legislative Solutions to State Action Issues at State and Federal Levels?

The FTC’s case against the North Carolina Board of Dental Examiners put the "active supervision" prong of the state action test front and center. North Carolina State Board of Dental Examiners v. Federal Trade Commission, 135 S.Ct. 1101 (2015). The Court agreed with the FTC’s position that state occupational licensing boards comprised of market participants must satisfy the active supervision requirement. This spurred additional suits against other types of state boards involving regulated professionals. Moreover, every State had to reassess its boards to determine if there is "active supervision." Courts and state legislatures are addressing those issues. We also expect the proper framing of the clear articulation prong of the state action doctrine will be addressed. The Supreme Court spoke to the clear articulation test in FTC v. Phoebe Putney Health System, Inc., 133 S.Ct. 1003 (2013), narrowing the foreseeability test to cover only situations in which the anticompetitive conduct is the “inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature.” How this test has played out in the lower courts will be of particular interest to the Committee and its membership. The COPA issues, at the state level, as previously mentioned, will impact this area.

The Committee expects to address these issues through updates to Connect, newsletters, Spring Meeting programs, committee programs, its contributions to the Annual Review of Antitrust Law Developments. The State Action Practice Manual addresses these issues, as well as the Committee’s Handbook on the Scope of Antitrust Law.

C. Issue #3: Will Noerr Be Restricted or Expanded?

The Noerr-Pennington doctrine is an exemption issue that is frequently litigated. In particular, the most likely area of further development is in the pharma industry. Alleged misrepresentations to government agencies has caught the attention of some courts. In addition, there may be more development on the pattern exception, which raises the issue of whether each act of petitioning in a pattern must satisfy the objectively and subjectively baseless requirements for sham petitioning. The Committee’s new Handbook on Noerr (forthcoming) and its earlier Handbook on the Scope of Antitrust Law addresses developments in the Noerr law.

III. Specific Long Term Plans to Strengthen Committee

The Committee provides important services to the membership of the Section through publications, drafting ABA Antitrust Section comments to proposed regulation and international competition proposed immunities, and programming. The goals of the Committee include: (1) to provide policy comments on key questions about the scope of the antitrust laws for legislation and policy-making; (2) produce a mix of publications and programming that provides relevant and useful information to our members; (3) to ensure that the Committee remains valuable to our members’ practices; and (4) to make the most productive use of electronic communications to deliver the Committee’s work product.

A. Potential Modifications to Charter: What is the Role of this Committee?

The Committee’s current charter accurately characterizes its purview—that is, addressing the scope of the antitrust laws. That scope, of course, is defined primarily in terms of exemptions and immunities (both statutory and non-statutory). The Committee, however, has dealt with other doctrines, such as preemption and primary jurisdiction. These areas may not necessarily be viewed as traditional exemptions or immunities, but they nonetheless directly affect the application and extent of the antitrust laws. In addition, the Committee expends significant efforts to address international issues, including statutory exclusions from the U.S. antitrust laws, including the FTAIA; the related doctrines of act of state, sovereign immunity, and foreign sovereign compulsion; and industry-specific exemptions and exclusions from non-U.S. antitrust laws, including blocking exemptions.

#### ‘Expand’ means to make greater, not clarify its current state by applying it differently

Terry J. Hatter 90 Jr., United States District Judge, California Central District, In re Eastport Assoc., 114 B.R. 686, 690, 1990 U.S. Dist. LEXIS 6308, \*10-11 (C.D. Cal. March 20, 1990), 3/20/1990, Lexis

Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would *expand* the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### The aff intensifies the application of antitrust to already covered activities---it does not curtail an exemption or immunity.

#### Vote neg:

#### Eliminating exemptions provides a limited and predictable basis for prep and focuses debates on the balance between antitrust and regulation, ensuring conceptual unity.

### 1NC – ASPEC

#### A. The affirmative plan text must specify the agent within the United States Federal Government that enacts the plan – they don’t

#### B. Voting Issue

#### 1. Ground – failure to specify in the plan text moots agent counterplans and disadvantages that are core negative ground –

#### 2. Fairness – they can clarify the most convenient agent in cx or the 2AC that undermines pre-round prep and 1NC strategy

#### 3. Education and no solvency

Joan MacLeod Heminway, tenured professor of law at Tennessee, JD NYU, 2005

“Rock, Paper, Scissors: Choosing the Right Vehicle for Federal Corporate Governance Initiatives” 10 Fordham J. Corp. & Fin. L. 225 (2005)

This article offers a model for comparative institutional choice specifically for use in the context of federal corporate governance reforms. It also, however, constitutes part of the larger academic movement advocating comparative institutional analysis. Comparative institutional analysis is critically important to the work of scholars and other proponents of law reform. These rule proponents should not suggest changes in legal rules without also suggesting the vehicle for the suggested reforms. The determination of the appropriate rulemaking body should be accomplished by employing some rigorous form of comparative institutional analysis. In this regard, the framework included in this article is intended to endorse in full the views of Professor Neil Komesar when he says:

Unless we do better with the difficult issues of institutional choice, any reforms, changes and proposals will remain illusory or cosmetic. We will continue to cycle through the same proposals with the same arguments. Today's policy will always have feet of clay and be replaced by yesterday's rejected panacea, which somehow reappears (without blemishes) as tomorrow's solution.

Attempts to fashion proposals and programs cannot stop until we fully understand institutional choice. That understanding will be long in coming and is more likely to occur if judges, lawyers and law reformers seriously struggle with the subject as they make their decisions and proposals. It is that struggle that I hope for. I want those who make or seek to change law to seriously confront and address institutional choice and comparison. I recognize that, to do so, they will often have to rely on intuition and guesses. It is the responsibility of legal academics to provide deeper understanding of these central issues and, therefore, to improve the ability of those who struggle with these decisions. 581That is the essential purpose of this article: to entrust to rule proponents the elements of a proposed analytical model as a potential means of improving their ability to engage in jurisprudential decisionmaking and discourse in connection with federal corporate governance reform. Without models promoting a rational basis for institutional choice, rule proponents may as well rely on a game of Rock, Paper, Scissors in choosing the right vehicle for federal corporate governance initiatives.

### 1NC – Politics DA

#### Omnibus package will pass now absent partisan fights or stalls this weekend. That secures support fur Ukraine, ensures readiness, and reassures Eastern European allies.

Wong 3/3 [Scott Wong and Sahil Kapur, "Ukraine conflict adds urgency as Congress races to fund government", 3/3/22, https://www.nbcnews.com/politics/congress/ukraine-conflict-adds-urgency-congress-races-fund-government-rcna18643]

The deadly war in Ukraine, worsening by the day, has increased the urgency for lawmakers to strike a bipartisan deal on a massive government funding package that almost certainly would include emergency aid for the Eastern European country.

Congress faces a fast-approaching deadline — the government will shut down next week without any action — and related funding issues are quickly piling up.

The White House requested Thursday that $10 billion in emergency defense and humanitarian aid for the Ukraine conflict be linked to the larger omnibus spending bill, up from $6.4 billion in aid just a few days ago. President Joe Biden also wants another $22.4 billion in coronavirus aid to develop new testing, therapeutics and vaccines to fight future variants of the virus.

Both Democratic and Republican appropriators said Thursday that it was imperative to pass a government funding package, with emergency money for Ukraine, before the March 11 deadline.

“To kick the can down the road and pass another short-term stopgap measure, known as a continuing resolution, or CR, would be a “dereliction of duty,” said Senate Armed Services Committee Chairman Jack Reed, D-R.I., who is also on the Appropriations Committee.

Passing an omnibus package that funds federal agencies through September, he said, would give the Defense Department more certainty and better ability to respond to the crisis in Ukraine and shore up defenses at home.

“I think we need to pass the omnibus for the Defense Department, because they’re operating right now, and they need the certainty that the omnibus will give them in terms of funding levels,” Reed said. “And we have to basically deal with all the unexpected expenses that are happening in Ukraine.”

Sen. Rob Portman, R-Ohio, a former White House budget director who is a member of the Foreign Relations Committee, said he has personally heard from U.S. military commanders that “another CR will really hurt our readiness.”

"Now, in particular, we want to do everything we can do to enhance our readiness so that we can help protect not just Ukraine but also our Eastern European allies who are under such pressure,” Portman said. “So, yeah, we need to pass the omnibus.”

The $10 billion package would pay for humanitarian, security and economic assistance for Ukraine and central European allies “due to Russia’s unjustified and unprovoked invasion,” Shalanda Young, the acting White House budget director, wrote in a letter Thursday to congressional leaders.

“Given the rapidly evolving situation in Ukraine,” she wrote, “I anticipate that additional needs may arise over time.”

Shortly before the Senate wrapped up on Thursday, however, a senior GOP aide speculated that a stopgap bill may be necessary to prevent a shutdown next week.

Sen. Richard Shelby, R-Ala., the ranking member of the Appropriations Committee, said this weekend would be “crucial” in determining whether another continuing resolution is needed.

“We can’t afford to stall this weekend. If we do, we’re headed for a CR,” Shelby told reporters.

#### Antitrust ruins bipart—Republicans link it to other partisan disputes

Ghaffary 20 [Shirin Ghaffary, "Republicans showed why Congress won’t regulate the internet", 7/29/20, https://www.vox.com/recode/2020/7/29/21347128/big-tech-antitrust-hearing-facebook-zuckerberg-amazon-bezos-apple-cook-google-pichai]

Allegations that social media platforms have an anti-conservative bias has for years been a rallying cry of President Trump and the Republican party. And leading up to Wednesday, Republicans attacked the focus of the Democrat-run House Judiciary subcommittee hearing — calling on it to focus more on anti-conservative bias and for Twitter CEO Jack Dorsey to appear. Twitter is a small company compared to, say, Facebook, but it has recently taken measures to moderate President Trump’s posts for violating policies around misinformation and hate speech, enraging Republicans.

Democrats, meanwhile, tried to steer the conversation back to issues more directly relevant to antitrust, like if and how these companies intimidate their competition, such as when Facebook acquired its then-rival Instagram in 2012; or whether these companies exploit their users’ privacy, like how Google tracks individuals’ online browsing across the web with cookies; or if Apple is shutting out its competitors by taking an unreasonable cut of profits coming in from independent app developers in its App Store.

What really matters here is whether these companies’ business practices are ultimately harming consumers, most of whom have no choice but to use Big Tech in one way or another if they want to do basic things online like search the web, order goods, or stay in touch with their friends.

In an earlier era, Republicans and Democrats on the committee might have come together to try to focus on what’s been seen as an area of relative bipartisan agreement: protecting the free market. That didn’t happen at today’s hearing. Instead, it was a display of partisan divides.

#### Ukraine conflict will go nuclear. Only sanctions solve—imposing larger costs demonstrates resolve and deters further adventurism in the Baltics

* Not escalating means Putin will escalate faster in the next conflict
* Sanctions are the best brake on escalation

The Economist 3/5 [The Economist, "When Vladimir Putin escalates his war, the world must meet him", 3/5/22, https://www.economist.com/leaders/2022/03/05/when-vladimir-putin-escalates-his-war-the-world-must-meet-him]

If only this week’s bravery were enough to bring the fighting to an end. Alas, Russia’s president will not withdraw so easily. From the start, Mr Putin has made clear that this is a war of escalation—a hygienic word for a dirty and potentially catastrophic reality. At its most brutal, escalation means that, whatever the world does, Mr Putin threatens to be more violent and more destructive even, he growls, if that means resorting to a nuclear weapon. And so he insists that the world back off while he sharpens his knife and sets about his slaughter.

Such a retreat must not happen. Not only because to abandon Ukraine to its fate would be wrong, but also because Mr Putin will not stop there. Escalation is a narcotic. If Mr Putin prevails today, his next fix will be in Georgia, Moldova or the Baltic states. He will not stop until he is stopped.

Escalation is at the heart of this war because it is how Mr Putin tries to turn defeat into victory. The first wave of his invasion proved as rotten as the cabal who planned it—just like his earlier efforts to suborn Ukraine. Mr Putin seems to have believed his own propaganda that the territory he has invaded is not a real country. The initial assault, which led with botched helicopter strikes and raids by lightly armed units, was conceived for an adversary that would implode. Instead, Ukrainian spirits have flourished under fire. The president, Volodymyr Zelensky, has been transformed into a war leader who embodies his people’s courage and defiance.

The optimism of the warmonger made Mr Putin lazy. He was so sure Ukraine would fall rapidly that he did not prepare his people for it. Some troops have been told they are on exercises, or that they will be welcomed as liberators. Citizens are not ready for a fratricidal conflict with their fellow Slavs. Having been assured that there would be no war, much of the elite feels humiliated. They are horrified at Mr Putin’s recklessness.

And Russia’s president believed that the decadent West would always accommodate him. In fact, Ukraine’s example has inspired marches through the capital cities of Europe. Western governments, having listened, have imposed severe sanctions. Germany, which only a week ago drew the line at sending anything more lethal than helmets, is dispatching anti-tank and anti-aircraft weapons, overturning decades of policy based on taming Russia by engaging with it.

Faced with these reverses, Mr Putin is escalating. In Ukraine he is moving to besiege the main cities and calling up his heavy armour to wantonly kill their civilian inhabitants—a war crime. At home he is bringing Russians to heel by redoubling his lies and subjecting his people to the harshest state terror since Stalin. To the West he is issuing threats of nuclear war.

The world must stand up to him, and to be credible it must demonstrate that it is willing to bleed his regime of the resources that enable him to wage war and abuse his own people even if that imposes costs on Western economies. The sanctions devised after Mr Putin annexed Crimea in 2014 were riddled with loopholes and compromises. Instead of being deterred, the Kremlin concluded that it could act with impunity. By contrast, the latest sanctions, imposed on February 28th, have crumpled the rouble and promise to cripple Russia’s financial system. They are effective because they are destructive.

The danger of escalation is that this can easily become a test of who is most willing and able to go to extremes. Recent wars have been asymmetric. Al-Qaeda and Islamic State would commit any atrocity, but their power was limited. America could destroy the planet, but against foes like the Taliban in Afghanistan, nobody imagined it was willing. The invasion of Ukraine is different, because Mr Putin can charge all the way to Armageddon and he wants the world to believe he is ready to do so.

The idea of Mr Putin using a battlefield nuclear weapon is surely unlikely, but not impossible. He has, after all, just invaded his neighbour. And so the world must deter him.

Some will say there is no point in saving Ukraine only to trigger a spiral that may destroy civilisation. But that is a false choice. Mr Putin says he wants to drive nato out of the former Warsaw Pact countries and America out of Europe. If escalation serves him, the next confrontation will be even more dangerous because he will be less ready to believe that, for once, the West will stand its ground.

Others may conclude that Mr Putin is insane and deterrence is hopeless. True, his goals are abhorrent, as are his means of achieving them. Neither does he have Russia’s true interests at heart. But he nonetheless has an understanding of power and how to keep it. No doubt he is alive to the language of threats.

By contrast, still others will want to short-circuit escalation, saying that Mr Putin must be stopped before it is too late. As images of suffering emerge from the ruins of Ukraine’s cities, calls are going up for nato to do something, such as to create a no-fly zone. However, enforcing one requires shooting down Russian aircraft and destroying Russian air-defences. Instead, nato needs to preserve a clear line between attacking Russia and backing Ukraine, while leaving no doubt that it will defend its members. That is the best brake on escalation.

What, then, can it do to deter Mr Putin without courting devastation? Only Mr Zelensky and his people can decide how long to fight. But if Mr Putin causes a bloodbath, the West can tighten the screws. An oil-and-gas embargo would further ruin Russia’s economy. Ukraine’s backers can send more and better arms. nato can deploy more troops in its frontline states.

### 1NC – EU CP

#### The European Commission should

* prohibit private sector anticompetitive business practices that substantially reduce bargaining power of workers in labor markets
* prevent companies that violate the rule extraterritorially from accessing the EU market

#### The Brussels effect solves certainty and ensures spillover, but unilateralism is key to maintain influence

Bradford 12 [Anu, International Trade Law Professor @ Columbia Law School, Adam S. Chilton, Professor @ University of Chicago Law School, Katerina Linos, Professor @ University of California, Berkeley. Alex Weaver, Linklaters Law Prof. “The Brussels Effect” p. 44-45 https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1275&context=faculty\_scholarship]

The strictest antitrust laws prevail in situations where conflict exists among different regulators. If lenient antitrust jurisdiction A and stringent antitrust jurisdiction B investigate the same transaction, B's standard will prevail. A company seeking to merge that would be rejected by State B has two options: abandon the merger or abandon State B. If State B's market is relatively insignificant, the company might choose the latter. However, if State B's market is large, abandoning it is not often a realistic option.74 At the international level, the EU antitrust laws are, indeed, often the most stringent." The EU also consists of a consumer market that is too large and important to abandon. For this reason, the EU antitrust laws have often become the de facto global antitrust standards, to which the more permissive U.S. antitrust laws must yield.76 The reasons for the U.S.-EU difference in antitrust enforcement are manifold. At the most basic level, the EU antitrust authorities remain suspicious of the market's ability to deliver efficient outcomes and are therefore more inclined to intervene through a regulatory process." While the EU is more fearful of the harmful effects of nonintervention (so called "false negatives," anti-competitive practices that the EU fails to regulate), the U.S. authorities are often more mindful of the detrimental effects of inefficient intervention (so called "false positives," pro-competitive practices that the United States erroneously restricts)." Yet given the logic of unilateral regulatory globalization, it is the EU approach that determines the outcome. One of the most famous examples of the EU's global regulatory clout was its decision to prohibit the $42 billion proposed acquisition of Honeywell International by General Electric." When the EU blocked this transaction involving two U.S. companies, it was irrelevant that the U.S. antitrust authorities had previously cleared the transaction: the acquisition was banned worldwide because it was legally impossible to let the merger proceed in one market and prohibit it in another. In this sense, merger decisions are legally nondivisible.so The GE/Honeywell case is emblematic 20 107:1 (2012) The Brussels Effect of a difference in the antitrust regulatory approaches of the EU and the United States. The U.S. authorities considered the merger to be efficient and hence welfare enhancing. In contrast, the EU was concerned that any efficiencies that resulted from the transaction, including a short-term decrease in price, would later drive out competitors and result in a longterm increase in price." While GE/Honeywell is the most famous international antitrust enforcement conflict, it does not stand alone.82 The EU similarly threatened to block a merger between two U.S. companies, Boeing and McDonnell Douglas, even though the deal was already cleared by the U.S. authorities without conditions." In the end, the EU let the merger proceed subject to extensive commitments.84 These included abandoning Boeing's exclusive dealing contracts with various U.S. carriers." Similarly, the EU often gets to dictate the code of conduct for dominant companies worldwide. For example, the EU has imposed record-high fines and behavioral remedies against dominant U.S. companies, including Microsoft and Intel. 6 The global nature of antitrust remedies is not unusual. The EU has frequently extracted commitments that require parties to modify their behavior globally or restructure assets in foreign countries." However, the United States has similarly restructured deals where parties' productive assets are located offshore. Both the U.S. and EU agencies are vested with 21 NORTHWESTERN UNIVERSITY LAW REVIEW extraterritorial regulatory capacity." Both recognize their authority to apply laws to foreign companies as long as anticompetitive "effects" are felt on their markets. It is thus not the regulatory capacity as such but the EU's sustained preference to impose more frequent and more invasive remedies that has made it the world's de facto antitrust enforcer. In some respect, however, the EU Commission has an even greater regulatory capacity than its U.S. counterparts: the Commission is empowered to prohibit mergers and impose behavioral and structural remedies without first obtaining a court judgment." Administrative delegation does not reach this far in the United States, where the agencies need federal court endorsement to enjoin a merger.90

## Inequality Adv

### 1NC – Circumvention

#### Even new laws fail—courts refuse to enforce, including SCOTUS

Newman 19 [John Newman is a University of Miami School of Law professor and a former attorney with the U.S. Department of Justice Antitrust Division, "What Democratic Contenders Are Missing in the Race to Revive Antitrust", 4/1/19, https://www.theatlantic.com/ideas/archive/2019/04/what-2020-democratic-candidates-miss-about-antitrust/586135/]

But the federal courts represent a massive stumbling block for any progressive antitrust movement. Reformers have identified two paths forward; both lead eventually to the court system. The first is relatively moderate: appoint regulators who will actually enforce the laws already on the books. Warren’s plan rests in part on this straightforward idea. The second, more audacious path requires congressional action to amend and strengthen our current laws. Warren’s call for a new ban on technology companies’ buying and selling via their own platforms falls into this category. Klobuchar has also proposed new antitrust legislation that would make it easier to block harmful mergers and acquisitions.

But no matter its content, enforcing a law requires persuading a judge. When it comes to U.S. antitrust laws, federal judges—not Congress, and not regulatory agencies—are the ultimate arbiters. The Department of Justice Antitrust Division, one of our two public enforcement agencies, files all its cases in federal courts. And although the Federal Trade Commission (the other) can decide cases internally, the inevitable appeals eventually end up in court as well.

No matter how strongly worded a law may be, ideologically driven judges can usually find a way around enforcing it. The cyclical history of U.S. antitrust law is proof that judges wield nearly limitless institutional power in this area.

Soon after Congress passed the Sherman Act in 1890, a conservative Supreme Court began to chip away at its effectiveness. Congress reacted in 1914 with the Clayton Act, which sought to ban anticompetitive mergers. In 1936, at the height of the New Deal era, Congress passed the Robinson-Patman Act, which prohibits price discrimination (charging different prices to different buyers for the same product). These laws were actively enforced for decades.

But starting in the late 1970s, conservative judges began to erode the Clayton Act. Today, megamergers among competitors such as Bayer and Monsanto barely raise eyebrows. So-called vertical mergers, which combine suppliers and their customers, are now all but immune from antitrust enforcement—see the DOJ’s failed challenge to AT&T and Time Warner’s recent tie-up.

Under the business-friendly Roberts Court, the Robinson-Patman Act has similarly been eviscerated. By the 2000s, the ideas of the conservative Chicago School had become mainstream in antitrust circles. Robinson-Patman, a law intended to protect small businesses, was an easy target for Chicago School critics narrowly focused on efficiency and low consumer prices. Their attacks found a receptive audience in the federal judiciary. Among insiders, Robinson-Patman is now known as “zombie law.” It remains on the books, but regulators no longer bother trying to enforce it.

If Democrats want to change antitrust law, they will first and foremost need to change the judges who apply it. Yet none of the 2020 contenders championing antitrust reform have even mentioned the possibility of appointing progressive antitrust thinkers to the bench.

Conservatives, on the other hand, have long recognized the centrality of antitrust to broader questions about the apportionment of power in society. In his seminal work, The Antitrust Paradox, Robert Bork called antitrust a “microcosm in which larger movements of our society are reflected.” Battles fought in this arena, Bork wrote, “are likely to affect the outcome of parallel struggles in others.” Strong antitrust enforcement keeps powerful monopolies in check. Toothless antitrust allows the unlimited accumulation of corporate power.

Recognizing the high stakes, the Republican Party has gone to great lengths to appoint conservative antitrust experts to the federal judiciary. Bork was an antitrust professor at Yale Law School before becoming an appellate judge in 1982.\* Frank Easterbrook practiced and taught antitrust before donning the black robe in 1985. Douglas Ginsburg served as the head of the Justice Department’s Antitrust Division before he became a federal judge in 1986. None of the three managed to join the Supreme Court, but not for lack of trying. Reagan nominated both Bork and Ginsburg to serve as justices, though Ginsburg withdrew and Bork was famously rejected after a contentious Senate hearing.

And whom did the GOP select as its very first U.S. Supreme Court nominee during the Trump Administration? None other than Neil Gorsuch, who practiced antitrust law for more than a decade before joining the Tenth Circuit. Even as a judge, Gorsuch continued to teach a law-school course on antitrust until his confirmation to the Supreme Court in 2017.

Once upon a time, progressives demonstrated similar concern about judicial treatment of antitrust laws. Justice Stephen Breyer, for example, served as special assistant to the head of the DOJ Antitrust Division before his judicial appointment by President Jimmy Carter. Earlier still, Justice John Paul Stevens was an antitrust lawyer, scholar, and professor before his appointment to the bench.

Today’s Democratic 2020 hopefuls seem to have forgotten the lessons of history. Their antitrust proposals focus exclusively on appointing the right regulators and amending our current statutes. These are right-minded ideas, but they overlook the central role judges play in our political system.

There is an old saying in the legal community: “Hard cases make bad law.” That may be true, but it is just as often the case that bad judges make bad law. Real antitrust reform will require more than regulatory and legislative tweaks; it will require the right judges.

### 1NC – D

#### Demographic shifts lock in long term labor power.

Irwin ’21 [Neil; June 5; senior economics correspondent; New York Times, “Workers Are Gaining Leverage Over Employers Right Before Our Eyes,” <https://www.nytimes.com/2021/06/05/upshot/jobs-rising-wages.html>; KP]

Yet in key respects, the shift builds on changes already underway in the tight labor market preceding the pandemic, when the unemployment rate was 4 percent or lower for two straight years.

That follows decades in which union power declined, unemployment was frequently high and employers made an art out of shifting work toward contract and gig arrangements that favored their interests over those of their employees. It would take years of change to undo those cumulative effects.

But the demographic picture is not becoming any more favorable for employers eager to fill positions. Population growth for Americans between ages 20 and 64 turned negative last year for the first time in the nation’s history. The Congressional Budget Office projects that the potential labor force will grow a mere 0.3 percent to 0.4 percent annually for the remainder of the 2020s; the size of the work force rose an average of 0.8 percent a year from 2000 to 2020.

An important question for the overall economy is whether employers will be able to create conditions attractive enough to coax back in some of the millions of working-age adults not currently part of the labor force. Depending on your view of the causes, the end of expanded pandemic-era jobless benefits might also have an effect. Some businesses may need to raise prices or retool how they operate; others may be forced to close entirely.

Higher wages are part of the story. The jobs report issued on Friday showed that average hourly earnings for nonmanagerial workers were 1.3 percent higher in May than two months earlier. Other than in a brief period of statistical distortions early in the pandemic, that is the strongest two-month gain since 1983.

But wages alone aren’t enough, and firms seem to be finding it in their own best interest to seek out workers across all strata of society, to the benefit of people who have missed out on opportunity in the last few decades.

“I’ve been doing this a long time and have never felt more excited and more optimistic about the level of creative investment on this issue,” said Bertina Ceccarelli, chief executive of NPower, a nonprofit aimed at helping military veterans and disadvantaged young adults start tech industry careers. “It’s an explosive moment right now.”

In effect, an entire generation of managers that came of age in an era of abundant workers is being forced to learn how to operate amid labor scarcity. That means different things for different companies and workers — and often involves strategies more elaborate than simply paying a signing bonus or a higher hourly wage.

At the high end of the labor market, that can mean workers are more emboldened to leave a job if employers are insufficiently flexible on issues like working from home.

### 1NC – Inequality

#### Inequality’s declining.

Gramm ’21 [Phil and John Early; March 23; a former chairman of the Senate Banking Committee and a visiting scholar at the American Enterprise Institute; served twice as assistant commissioner at the Bureau of Labor Statistics; Wall Street Journal, “Incredible Shrinking Income Inequality,” <https://www.wsj.com/articles/incredible-shrinking-income-inequality-11616517284>; KP]

Twice over the past 50 years, the Census Bureau has significantly changed how it collects and records income statistics. In 1993 and 2013 the Census Bureau changed its methods in an effort to collect better information from high-income households. These changes created two major discontinuities and distorted the time-series so that the change in measured income inequality in those years was as much as 15 times the average annual change found for the entire 50-year period. At the time, the Census Bureau explained in detail what it had done. It also explained the limitations the changes imposed on the use of its income-inequality measure to look at changes over extended periods. In subsequent use of the data by the Census Bureau and others, however, those warnings have been neglected.

The simple solution would have been to isolate the distortions caused solely by the changes in data-collection techniques and adjusted the previous years’ measures to reflect the effect of the changes. We made these adjustments and they are shown in the nearby figure. The blue line is the actual reported Census Bureau measurement of income inequality. The yellow line eliminates the effects of the 1993 and 2013 discontinuities caused solely by changes in measurement technique. The black line shows income inequality when the value of all transfer payments received is counted as income, income is reduced by taxes paid, and the two technical corrections are made.

Lo and behold—income inequality is lower than it was 50 years ago.

The raging debate over income inequality in America calls to mind the old Will Rogers adage: “It ain’t what you don’t know that gets you into trouble. It is what you do know that ain’t so.” We are debating the alleged injustice of a supposedly growing social problem when—for all the reasons outlined above—that problem isn’t growing, it’s shrinking. Those who want to transform the greatest economic system in the history of the world ought to get their facts straight first.

### 1NC – Inequality No war

#### Inequality doesn’t cause war

Elise Must 16, PhD student at LSE, this was her PhD thesis, “When and how does inequality cause conflict? Group dynamics, perceptions and natural resources”, http://etheses.lse.ac.uk/3438/1/Must\_When\_and\_how\_does\_inequality.pdf

Does economic inequality lead to conflict? This question has attracted the attention of prominent scholars at least since the time of Aristotle (Nagel 1974). The frequent assumption that unequal distribution somehow fuels rebellion has resulted in a vast amount of theoretical as well as empirical work. For long, results remained mixed. Despite countless qualitative studies asserting that inequality is a major reason for conflict outbreak, quantitative studies struggled to establish a firm relationship between the two (Blattman and Miguel 2010, Cramer 2005, Lichbach 1989). These quantitative studies, including the most influential ones by Collier and Hoeffler (2004) and Fearon and Laitin (2003), rely on analysis of individual measures of inequality. However, as most prominently set forth by Frances Stewart, it is minority groups or collectives of individuals who rebel, not the whole population, nor individuals (Stewart 2002). Stewart’s theoretical development has given rise to several quantitative studies which uniformly support the role of economic group inequality in inducing conflict (Buhaug, Cederman, and Gleditsch 2014, Cederman, Weidmann, and Bormann 2015, Cederman, Weidmann, and Gleditsch 2011, Deiwiks, Cederman, and Gleditsch 2012, Østby 2008a, b, Østby, Nordås, and Rød 2009). Hence, there is an emerging consensus in the literature that inequality causes civil conflict when it overlaps with relevant group identities. Promising as these studies are, they nevertheless neglect a potential crucial part of the inequality-conflict causal chain. Seemingly all studies of inequality and conflict, including those measuring group inequalities, are based on objective inequalities. Yet, as Stewart (2010, 14) herself notes, ‘People take action because of perceived injustices rather than because of measured statistical inequalities of which they might not be aware’. Economic inequality measured by the Gini coefficient, or by local GDP data, is most commonly used as proxies, leaving completely aside how economic inequality is actually interpreted and perceived by both groups and individuals (ref. Zimmermann 1983). It remains obvious, however, that in order for people to take action to address inequalities, the first step is to recognize them and to consider them unjust (Han et al. 2012). The use then, of objective measures in current empirical studies, is based on the assumption that both objective and perceived horizontal inequalities essentially amount to the same thing. Put another way it is assumed that all objective inequalities are actually perceived as inequalities by relevant groups, and conversely all perceived inequalities have an objective basis. These are strong claims that are so far largely untested. Existing studies of the link between objective and perceived horizontal inequalities range from concluding that there is no such link (Langer and Smedts 2013) to documenting imperfect correlations – ranging from 0.27 to 0.30 depending on indicators and datasets (Holmqvist 2012). While cross-country analyses of conflict have neglected perceptions of inequality, the case study literature does offer some examples demonstrating their importance. Interviewing Muslim immigrants in London and Madrid, Gest (2010, 178) finds that what distinguishes democratic activists from those who engage in anti-system behavior, is the nature of their individual expectations and perceptions about shared economic realities. Moving on to larger conflicts, a recent World Bank report concludes that the so called ‘Arab Spring’ was driven by a decrease in popular subjective satisfaction, while the objective economic situation actually improved in the years before the widespread mobilization (Ianchovichina, Mottaghi, and Shantayanan 2015). The report also points to the importance of inter-group inequality as opposed to individual inequality. My main argument is that in order to better capture the role of inequality in inducing civil conflict, measures have to account for relevant groups as well as for the perception of inequality in these groups. In addition, my analyses fill two other gaps in the literature. While Stewart emphasizes how groups can mobilize around different identities, current studies have almost exclusively focused on ethnic groups. However, a regional identity might be just as relevant (ref. Posner 2004). I will therefor look at the effect of regional economic inequality on civil war. And finally, most of the studies, and all of those with a global scope, rely on time invariant measures of economic horizontal inequality. This is commonly defended by referring to the demonstrated ‘stickiness’ of horizontal inequalities (see e.g. Stewart and Langer 2008, Tilly 1999). Still, a recent study covering 1992 to 2013 demonstrates a global decline of ethnic inequality (Bormann et al. 2016), while Kanbur and Venables (2005) compare case studies of 26 developing countries and conclude that regional inequalities are rising. The data used in this analysis also show that horizontal inequalities change quite substantially over time. Using inequality data from one particular year to analyze decades of conflict incidents is therefore questionable. Hence, my study represents the first time-variant analyses of the effect of both objective and perceived regional inequality on civil war covering developed and developing countries in all world regions14 . Analysing data for the period 1989 to 2014 from the World Values Survey (WVS), I find that countries with a high level of perceived regional economic inequality have an elevated risk of civil war outbreak. On the other hand, mere objective regional economic inequalities do not have any significant effect. The group aspect remains essential, as neither objective nor perceived individual inequality is linked to increased civil conflict risk.

## Democracy Adv

### 1NC – Demo D

#### Democracy is resilient but fails

Renske Doorenspleet 19, Politics Professor at the University of Warwick, “Conclusion: Rethinking the Value of Democracy,” Rethinking the Value of Democracy, Springer Berlin Heidelberg, 2019, pp. p. 239-243

Key Findings: Rethinking the Value of Democracy

The value of democracy has been taken for granted until recently, but this assumption seems to be under threat now more than ever before. As was explained in Chapter 1, democracy’s claim to be valuable does not rest on just one particular merit, and scholars tend to distinguish three different types of values (Sen 1999). This book focused on the instrumental value of democracy (and hence not on the intrinsic and constructive value), and investigated the value of democracy for peace (Chapters 3 and 4), control of corruption (Chapter 5) and economic development (Chapter 6). This study was based on a search of an enormous academic database for certain keywords,6 then pruned the thousands of articles down to a few hundred articles (see Appendix) which statistically analysed the connection between the democracy and the four expected outcomes.

The frst fiding is that a reverse wave away from democracy has not happened (see Chapter 2). Not yet, at least. Democracy is not doing worse than before, at least not in comparative perspective. While it is true that there is a dramatic decline in democracy in some countries,7 a general trend downwards cannot yet be detected. It would be better to talk about ‘stagnation’, as not many dictatorships have democratized recently, while democracies have not yet collapsed.

Another fnding is that the instrumental value of democracy is very questionable. The feld has been deeply polarized between researchers who endorse a link between democracy and positive outcomes, and those who reject this optimistic idea and instead emphasize the negative effects of democracy. There has been ‘no consensus’ in the quantitative literature on whether democracy has instrumental value which leads some beneficial general outcomes. Some scholars claim there is a consensus, but they only do so by ignoring a huge amount of literature which rejects their own point of view. After undertaking a large-scale analysis of carefully selected articles published on the topic (see Appendix), this book can conclude that the connections between democracy and expected benefts are not as strong as they seem. Hence, we should not overstate the links between the phenomena.

The overall evidence is weak. Take the expected impact of democracy on peace for example. As Chapter 3 showed, the study of democracy and interstate war has been a fourishing theme in political science, particularly since the 1970s. However, there are four reasons why democracy does not cause peace between countries, and why the empirical support for the popular idea of democratic peace is quite weak. Most statistical studies have not found a strong correlation between democracy and interstate war at the dyadic level. They show that there are other—more powerful—explanations for war and peace, and even that the impact of democracy is a spurious one (caveat 1). Moreover, the theoretical foundation of the democratic peace hypothesis is weak, and the causal mechanisms are unclear (caveat 2). In addition, democracies are not necessarily more peaceful in general, and the evidence for the democratic peace hypothesis at the monadic level is inconclusive (caveat 3). Finally, the process of democratization is dangerous. Living in a democratizing country means living in a less peaceful country (caveat 4). With regard to peace between countries, we cannot defend the idea that democracy has instrumental value.

Can the (instrumental) value of democracy be found in the prevention of civil war? Or is the evidence for the opposite idea more convincing, and does democracy have a ‘dark side’ which makes civil war more likely? The findings are confusing, which is exacerbated by the fact that different aspects of civil war (prevalence, onset, duration and severity) are mixed up in some civil war studies. Moreover, defining civil war is a delicate, politically sensitive issue. Determining whether there is a civil war in a particular country is incredibly diffcult, while measurements suffer from many weaknesses (caveat 1). Moreover, there is no linear link: civil wars are just as unlikely in democracies as in dictatorships (caveat 2). Civil war is most likely in times of political change. Democratization is a very unpredictable, dangerous process, increasing the chance of civil war significantly. Hybrid systems are at risk as well: the chance of civil war is much higher compared to other political systems (caveat 3). More specifcally, both the strength and type of political institutions matter when explaining civil war. However, the type of political system (e.g. democracy or dictatorship) is not the decisive factor at all (caveat 4). Finally, democracy has only limited explanatory power (caveat 5). Economic factors are far more significant than political factors (such as having a democratic system) when explaining the onset, duration and severity of civil war. To prevent civil war, it would make more sense to make poorer countries richer, instead of promoting democracy. Helping countries to democratize would even be a very dangerous idea, as countries with changing levels of democracy are most vulnerable, making civil wars most likely. It is true that there is evidence that the chance of civil war decreases when the extent of democracy increases considerably. The problem however is that most countries do not go through big political changes but through small changes instead; those small steps—away or towards more democracy—are dangerous. Not only is the onset of civil war likely under such circumstances, but civil wars also tend to be longer, and the confict is more cruel leading to more victims, destruction and killings (see Chapter 4).

A more encouraging story can be told around the value for democracy to control corruption in a country (see Chapter 5). Fighting corruption has been high on the agenda of international organizations such as the World Bank and the IMF. Moreover, the theme of corruption has been studied thoroughly in many different academic disciplines—mainly in economics, but also in sociology, political science and law. Democracy has often been suggested as one of the remedies when fghting against high levels of continuous corruption. So far, the statistical evidence has strongly supported this idea. As Chapter 5 showed, dozens of studies with broad quantitative, cross-national and comparative research have found statistically signifcant associations between (less) democracy and (more) corruption. However, there are vast problems around conceptualization (caveat 1) and measurement (caveat 2) of ‘corruption’. Another caveat is that democratizing countries are the poorest performers with regard to controlling corruption (caveat 3). Moreover, it is not democracy in general, but particular political institutions which have an impact on the control of corruption; and a free press also helps a lot in order to limit corruptive practices in a country (caveat 4). In addition, democracies seem to be less affected by corruption than dictatorships, but at the same time, there is clear evidence that economic factors have more explanatory power (caveat 5). In conclusion, more democracy means less corruption, but we need to be modest (as other factors matter more) and cautious (as there are many caveats).

The perceived impact of democracy on development has been highly contested as well (see Chapter 6). Some scholars argue that democratic systems have a positive impact, while others argue that high levels of democracy actually reduce the levels of economic growth and development. Particularly since the 1990s, statistical studies have focused on this debate, and the empirical evidence is clear: there is no direct impact of democracy on development. Hence, both approaches cannot be supported (see caveat 1). The indirect impact via other factors is also questionable (caveat 2). Moreover, there is too much variation in levels of economic growth and development among the dictatorial systems, and there are huge regional differences (caveat 3). Adopting a one-size-ftsall approach would not be wise at all. In addition, in order to increase development, it would be better to focus on alternative factors such as improving institutional quality and good governance (caveat 4). There is not suffcient evidence to state that democracy has instrumental value, at least not with regard to economic growth. However, future research needs to include broader concepts and measurements of development in their models, as so far studies have mainly focused on explaining cross-national differences in growth of GDP (caveat 5).

Overall, the instrumental value of democracy is—at best—tentative, or—if being less mild—simply non-existent. Democracy is not necessarily better than any alternative form of government. With regard to many of the expected benefts—such as less war, less corruption and more economic development—democracy does deliver, but so do nondemocratic systems. High or low levels of democracy do not make a distinctive difference. Mid-range democracy levels do matter though. Hybrid systems can be associated with many negative outcomes, while this is also the case for democratizing countries. Moreover, other explanations—typically certain favourable economic factors in a country—are much more powerful to explain the expected benefts, at least compared to the single fact that a country is a democracy or not. The impact of democracy fades away in the powerful shadows of the economic factors.8

#### They can’t solve global democracy because nobody models US antitrust

Anu Bradford, Professor of Law and International Organization at Columbia, Adam S. Chilton, Professor of Law at the University of Chicago, and Filippo Maria Lancieri, JSD Candidate at Chicago, March, 2020 [SYMPOSIUM: REASSESSING THE CHICAGO SCHOOL OF ANTITRUST LAW: The Chicago School's Limited Influence on International Antitrust. University of Chicago Law Review, 87, 297. <https://advance-lexis-com.libproxy.berkeley.edu/api/document?collection=analytical-materials&id=urn:contentItem:5YBG-PW81-FGY5-M0XY-00000-00&context=1516831>]

The rise of law and economics introduced profound changes in a wide range of legal fields. In few fields, however, did the [\*298] movement have a more profound effect than in antitrust. The law and economics movement led antitrust law and scholarship in the United States to become increasingly informed by economic theories. Formalistic per se rules that used to characterize US antitrust doctrine gave way to a case-by-case assessment of the economic effects of firm conduct. As a result, antitrust enforcement increasingly began to rely on economic experts, theoretical models, and econometrics studies that are now all but mandatory in antitrust litigation. 1

This shift in US antitrust policy marked the triumph of ideas championed by scholars associated with the University of Chicago. 2The "Chicago School of Antitrust Analysis" 3(Chicago School) used rigorous microeconometric analysis to change antitrust enforcers' focus from economic power to economic incentives. 4This new focus, combined with a more conservative judiciary, led to a gradual reversal of many previously established antitrust doctrines 5--from the prosecution of vertical mergers 6to the per se treatment of several forms of unilateral conduct. 7Although antitrust scholars may disagree on the appropriateness of the Chicago School [\*299] ideas, few would question the profound influence those ideas have had on US antitrust policy.

An open question remains, however, whether the Chicago School has influenced the antitrust policies of other countries. Anecdotal examples indicate a complex picture. For instance, several countries recognize an efficiency defense--that is, justifications used to approve an otherwise anticompetitive merger because of the various efficiencies the merger is expected to generate--in assessing the competitive effects of mergers. 8This practice is very much in line with the Chicago School's ideas. But at the same time, enforcement against unilateral conduct of dominant firms remains vigorous in many jurisdictions (at least when compared to the United States), including the European Union. 9 This practice is in tension with the Chicago School view that unilateral conduct rarely calls for an antitrust intervention. 10 Moreover, Chicago scholars also strongly condemned the use of antitrust laws for redistributive ends or the promotion of industrial policy. For them, it would be disconcerting to learn that several countries list the promotion of employment or of national industries as a goal of antitrust laws or evaluate mergers based on whether they advance the "public interest."

In this Essay, we seek to go beyond these anecdotes and empirically measure the Chicago School's international influence. To do so, we leverage two recently created datasets on antitrust regimes around the world. 11The first--the Comparative Competition Law Dataset--provides detailed coding on the provisions of the antitrust statutes of 131 jurisdictions from their first adoption through 2010. The second--the Comparative Competition Enforcement Dataset--provides data on the enforcement resources [\*300] and activities of 112 antitrust agencies between 1990 and 2010. Together, these datasets provide a detailed picture of the world's antitrust regimes across countries and over time.

As these data illustrate, since the Chicago School's antitrust revolution, the number of countries with antitrust regimes has soared. Figure 1 shows that in 1979, at the end of the period when the Chicago School's most prominent intellectual contributions were made, 12just 41 countries had an antitrust regime in place. 13But by 2010, 127 countries had adopted an antitrust regime. 14Our data thus allow us to examine whether these 86 antitrust regimes that were adopted after the Chicago School's prominence in the US incorporate the insights of the Chicago School into their regime, and also whether the countries that already had antitrust regimes amended their laws to reflect Chicago School theories.

We specifically use these datasets to examine the influence of the Chicago School in three areas. First, we examine the goals and exemptions that countries have codified in their antitrust statutes. This analysis reveals that many countries have explicitly endorsed ideas in their antitrust laws that are antithetical to Chicago School theories. For instance, by 2010, 50 percent of countries with antitrust regimes had explicitly codified goals in their antitrust laws unrelated to efficiency--including the protection of small companies or promotion of exports. 15Second, we examine the provisions of countries' antitrust regimes that regulate unilateral conduct. These data reveal that a majority of countries with antitrust regimes prohibited several kinds of conduct that Chicago School scholars had argued were unlikely to reduce competition. For instance, in 2010, 63 percent of countries with antitrust regimes prohibited unfair pricing. Moreover, in 2010, there were more investigations opened around the world into abuses of dominance than into cartels. Third, we examine merger review policies globally. Again, this analysis illustrates that many countries with merger review regimes have laws that incorporate ideas that were rejected by the Chicago School. For example, by [\*302] 2010, 42 percent of countries with antitrust regimes had merger defenses unrelated to efficiency--including the promotion of general "public interest."

## FTC Adv

### 1NC – FTC Turn

#### The plan trades off with wins in other areas – causes Facebook loss

Nylen 20 [Leah Nylen, covers antitrust and investigations for POLITICO Pro. Before joining POLITICO, Leah spent eight years covering antitrust at MLex. She has also worked for Bloomberg and Congressional Quarterly and was selected as an Abe Journalist Fellow in 2014 for a reporting project in Japan on price-fixing cartels and cartel deterrence policies. “FTC Suffering a Cash Crunch as it Prepares to Battle Facebook” https://www.politico.com/news/2020/12/10/ftc-cash-facebook-lawsuit-444468]

The agency that just launched a landmark antitrust suit to break up Facebook is so strapped for cash that its leaders have discussed shrinking their staff and warned against taking on more cases.

In a series of emails to all Federal Trade Commission staff, obtained by POLITICO, Executive Director David Robbins said the agency would face a period of “belt tightening” to cut costs — and that filing fewer cases and trimming litigation expenses must be on the table.

“[W]e will either need to bring fewer expert intensive cases or significantly decrease our litigation costs (e.g. experts, transcripts, litigation support contractors, etc.),” Robbins said in an Oct. 29 email.

The emails offer an increasingly dire portrait of the money woes facing the FTC, which has launched a record amount of litigation in the past year even as the pandemic has caused a sharp reduction in the corporate merger filing fees that normally supply about half its budget. The crunch also raises the possibility that the FTC may not have the cash it needs to win its case against Facebook, which is gearing up for an expensive fight, or to take on additional companies like Amazon.

### 1NC – Scamming D

#### No scamming impact.

Ewing 20, Citing Keir Giles, a Russia specialist with the Conflict Studies Research Centre in the United Kingdom and Tim Hwang, director of the Harvard-MIT Ethics and Governance of AI Initiative. (Philip, 5-7-2020, “Why Fake Video, Audio May Not Be As Powerful In Spreading Disinformation As Feared”, *NPR*, <https://www.npr.org/2020/05/07/851689645/why-fake-video-audio-may-not-be-as-powerful-in-spreading-disinformation-as-feare>)

Sophisticated fake media hasn't emerged as a factor in the disinformation wars in the ways once feared — and two specialists say it may have missed its moment. Deceptive video and audio recordings, often nicknamed “deepfakes,” have been the subject of sustained attention by legislators and technologists, but so far have not been employed to decisive effect, said two panelists at a video conference convened on Wednesday by NATO. One speaker borrowed Sherlock Holmes' reasoning about the significance of something that didn't happen. “We've already passed the stage at which they would have been most effective,” said Keir Giles, a Russia specialist with the Conflict Studies Research Centre in the United Kingdom. “They're the dog that never barked.” The perils of deepfakes in political interference have been discussed too often and many people have become too familiar with them, Giles said during the online discussion, hosted by NATO's Strategic Communications Centre of Excellence. Following all the reports and revelations about election interference in the West since 2016, citizens know too much to be hoodwinked in the way a fake video might once have fooled large numbers of people, he argued: “They no longer have the power to shock.” Tim Hwang, director of the Harvard-MIT Ethics and Governance of AI Initiative, agreed that deepfakes haven't proven as dangerous as once feared, although for different reasons. Hwang argued that users of “active measures” (efforts to sow misinformation and influence public opinion) can be much more effective with cheaper

, simpler and just as devious types of fakes — mis-captioning a photo or turning it into a meme, for example. Influence specialists working for Russia and other governments also imitate Americans on Facebook, for another example, worming their way into real Americans' political activities to amplify disagreements or, in some cases, try to persuade people not to vote. Other researchers have suggested this work continues on social networks and has become more difficult to detect. Defense is stronger than attack Hwang also observed that the more deepfakes are made, the better machine learning becomes at detecting them. A very sophisticated, real-looking fake video might still be effective in a political context, he acknowledged — and at a cost to create of around $10,000, it would be easily within the means of a government's active measures specialists. But the risks of attempting a major disruption with such a video may outweigh an adversary's desire to use one. People may be too media literate, as Giles argued, and the technology to detect a fake may mean it can be deflated too swiftly to have an effect, as Hwang said. “I tend to be skeptical these will have a large-scale impact over time,” he said. One technology boss told NPR in an interview last year that years' worth of work on corporate fraud protection systems has given an edge to detecting fake media.” This is not a static field. Obviously, on our end we've performed all sorts of great advances over this year in advancing our technology, but these synthetic voices are advancing at a rapid pace,” said Brett Beranek, head of security business for the technology firm Nuance. “So we need to keep up.” Beranek described how systems developed to detect telephone fraudsters could be applied to verify the speech in a fake clip of video or audio. Corporate clients that rely on telephone voice systems must be wary about people attempting to pose as others with artificial or disguised voices. Beranek's company sells a product that helps to detect them, and that countermeasure also works well in detecting fake audio or video. Machines using neural networks can detect known types of synthetic voices. Nuance also says it can analyze a recording of a real, known voice — say, that of a politician — and then contrast its characteristics against a suspicious recording. Although the world of cybersecurity is often described as one in which attackers generally have an edge over defenders, Beranek said he thought the inverse was true in terms of this kind of fraud detection.” For the technology today, the defense side is significantly ahead of the attack side,” he said. Shaping the battlefield Hwang and Giles acknowledged in the NATO video conference that deepfakes likely will proliferate and become lower in cost to create, perhaps becoming simple enough to make with a smartphone app. One prospective response is the creation of more of what Hwang called “radioactive data” — material earmarked in advance so that it might make a fake easier to detect. If images of a political figure were so tagged beforehand, they could be spotted quickly if they were incorporated by computers into a deceptive video. Also, the sheer popularity of new fakes, if that is what happens, might make them less valuable as a disinformation weapon. More people could become more familiar with them, as well as being detectable by automated systems — plus they may also have no popular medium on which to spread. Big social media platforms already have declared affirmatively that they'll take down deceptive fakes, Hwang observed. “That might make it more difficult for a scenario in which a politically charged fake video goes viral just before Election Day. “Although it might get easier and easier to create deepfakes, a lot of the places where they might spread most effectively, your Facebooks and Twitters of the world, are getting a lot more aggressive about taking them down,” Hwang said. That won't stop them, but it might mean they'll be relegated to sites with too few users to have a major effect, he said. “They'll percolate in these more shady areas.

### 1NC – Terror D

#### No nuke terror – people like Allison are hacks

* Two decades of threats haven’t panned out
* Too many things can go wrong:

Getting trusted collaborators

Stealing and transporting guarded material

Getting the top technicians in the world

No ability to test

Skilled detonation crew

All that while attracting zero attention

* Weapons have safety devices, are stored in pieces in different places
* Terrorists are like Bond villains that scheme instead of accomplishing anything
* Most attacks are bombs which don’t even work

Mueller and Stewart 10/29/18 [John Mueller is Woody Hayes Senior Research Scientist, Mershon Center for International Security Studies, and adjunct professor of Political Science, at Ohio State University. He is also a Senior Fellow at the Cato Institute in Washington. Mark G. Stewart is Professor of Civil Engineering and Director of the Centre for Infrastructure Performance and Reliability at The University of Newcastle in Australia. Terrorism and Bathtubs: Comparing and Assessing the Risks. October 29, 2018. https://www.tandfonline.com/doi/abs/10.1080/09546553.2018.1530662?journalCode=ftpv20]

However, there is of course no guarantee that things will remain that way, and the 9/11 attacks inspired the remarkable extrapolation that, because the terrorists were successful with box cutters, they might soon be able to turn out weapons of mass destruction— particularly nuclear ones—and then detonate them in an American city. For example, in his influential 2004 book, Nuclear Terrorism, Harvard’s Graham Allison relayed his “considered judgment” that “on the current path, a nuclear terrorist attack on America in the decade ahead is more likely than not.”11 Allison has had a great deal of company in his alarming pronouncements. In 2007, the distinguished physicist Richard Garwin put the likelihood of a nuclear explosion on an American or European city by terrorist or other means at 20 percent per year, which would work out to 91 percent over the eleven-year period to 2018.12

Allison’s time is up, and so is Garwin’s. These off-repeated warnings have proven to be empty. And it is important to point out that not only have terrorists failed to go nuclear, but as William Langewiesche, who has assessed the process in detail, put it in 2007, “The best information is that no one has gotten anywhere near this. I mean, if you look carefully and practically at this process, you see that it is an enormous undertaking full of risks for the would-be terrorists.”13 That process requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew, all the while attracting no attention from outsiders.

Nor have terrorist groups been able to steal existing nuclear weapons—characteristically burdened with multiple safety devices and often stored in pieces at separate secure locales—from existing arsenals as was once much feared. And they certainly have not been able to cajole leaders in nuclear states to palm one off to them—though a war inflicting more death than Hiroshima and Nagasaki combined was launched against Iraq in 2003 in major part under the spell of fantasies about such a handover.14

More generally, the actual terrorist “adversaries” in the West scarcely deserve accolades for either dedication or prowess. It is true, of course, that sometimes even incompetents can get lucky, but such instances, however tragic, are rare. For the most part, terrorists in the United States are a confused, inadequate, incompetent, blundering, and gullible bunch, only occasionally able to get their act together. Most seem to be far better at frenetic and often self-deluded scheming than at actual execution. A summary assessment by RAND’s Brian Jenkins is apt: “their numbers remain small, their determination limp, and their competence poor.”15 And much the same holds for Europe and the rest of the developed world.16 Also working against terrorist success in the West is the fact that almost all are amateurs: they have never before tried to do something like this. Unlike criminals they have not been able to develop street smarts.

Except perhaps for the use of vehicles to deliver mayhem (though this idea is by no means new in the history of terrorism), there has been remarkably little innovation in terrorist weaponry or methodology since 9/11.17 Like their predecessors, they have continued to rely on bombs (many of which fail to detonate or do much damage) and bullets.18

# 2NC

### States CP

#### Preemption doesn’t exist for pro-labor laws – pro-collective bargaining policies are good and distinct – also article is titled – the way forward for labor is through the states – that means all other deficits are trash

Moshe Marvit 17. attorney and fellow at the Century Foundation, and co-author with Richard D. Kahlenberg of Why Labor Organizing Should Be a Civil Right: Rebuilding a Middle-Class Democracy by Enhancing Worker Voice. “The Way Forward for Labor Is Through the States.” The American Prospect. 9/1/2017. <https://prospect.org/labor/way-forward-labor-states/>

While reforms to federal law have been blocked by Congress, states and cities have faced a different hurdle: the courts. Starting in 1959, **the Supreme Court has written into the National Labor Relations Act (NLRA) a continually expanding preemption doctrine that prevents states and cities from passing laws that touch upon anything related to labor**, involve the interpretation of a collective bargaining agreement, or even involve issues that the courts believe Congress intended to leave to the free play of market forces. Congress can, and often does, expressly preempt states from passing laws that fall within a defined scope. Neither the NLRA nor its extensive legislative history, however, contains any mention of preemption: Congress did not expressly preempt states from acting. **In instances where Congress has not expressly preempted states from acting, state laws that actually conflict with federal laws are still preempted**. However, neither the NLRA nor its legislative history show any consensus that Congress meant to push states and cities from making laws that advanced, and do not conflict with, the pro-collective-bargaining policies of the NLRA. And yet, as Harvard Law Professor Ben Sachs has pointed out, the Supreme Court has not employed the typical typologies of preemption at all when dealing with labor law. Rather, it has created a preemption doctrine [that] is among the broadest and most robust in federal law. In most other areas of worker protection, from minimum wage to antidiscrimination laws, the federal government has set the floor under which states and cities may not go, but they can and often do raise the ceiling by increasing state or local minimum wage or including additional protected categories such as sexual orientation to existing protections. Indeed, the evolution of many of the nation's employment and civil rights protections began at the state level and trickled up to the federal government. It is only in the area of workers' labor rights that states and cities are powerless to act and that, solely as the result of judicial decisions. The Supreme Court's preemption doctrine started with the 1959 case, San Diego Building Trades v. Garmon, where the employer got a state court injunction against the union for picketing. The Supreme Court should have held that the picketing that the union was engaged in was a protected right under federal labor law, and therefore the state could not pass a law that conflicts with that right. Instead, the Court went further and held that Congress gave the National Labor Relations Board primary agency jurisdiction, and so when something is arguably protected or prohibited by the NLRA, then only the Board can act. Furthermore, only the Board can answer the initial question of whether conduct is arguably under the Board’s jurisdiction. The Supreme Court then doubled down on its preemption doctrine in the 1976 case, Machinists v. Wisconsin Employment Relations Commission. In the Machinist case, an employer brought an unfair labor practice charge against union workers who engaged in concerted refusal to work overtime during contract negotiations. The NLRB dismissed the charge because it held that the work refusal was not prohibited under the NLRA, so the employer brought a state court action against the union. In response, the Supreme Court expanded its earlier Garmon preemption to hold that Congress intended that certain conduct be left unregulated and left to be controlled by the free play of economic forces. Though the union in the Machinists case benefitted from the Court’s expansion of federal preemption, the decision has led to states and cities being almost absolutely prohibited from passing laws that promote unionization and collective bargaining. These Court decisions, and **thousands of lower court decisions that have followed the precedent in overturning state and local laws,** rely on three types of specious and archaic reasons that deserve challenge and reconsideration. First, the Court has repeatedly shown a strong reliance on the state of the economy and labor force during the time when these decisions were issued. In the Machinists case, the Court described how it experimented with various types of preemption before settling on the broad form begun by Garmon, stating, as it was, in short, experience, not pure logic, which initially taught that each of these methods sacrificed important federal interests in a uniform law of labor relations. The experience the Court referred to was that of the late 1940s and 1950s, when union membership was at its peak. Whatever balance between labor and management that may have existed then has since eroded. Second, the Court has long interpreted the statute to require a uniform labor law across the country, and yet, labor law has become in many ways a crazy quilt, varying from region to region, from state to state, and from one president to the next. The NLRB has become a highly politicized agency, with its decisions swinging wildly every time a new president appoints new members and a general counsel. Cases that proceed through the National Labor Relations Board are often appealed to federal courts, and different federal circuits often come to opposite conclusions, meaning that the laws in different states effectively differ though it is the courts, not state or local governments, that create those differences. Further, the expansion of state right to work laws, as well as a variety of state public sector labor laws have also undermined any goal of national uniformity in labor law. Lastly, the Court's determination that Congress intended to leave a wide variety of conduct to the free play of economic forces has, in the words of NYU Law Professor Cynthia Estlund, done what Congress did not do in the NLRA, or even with the Taft-Hartley Act: It has granted to employers a federal right to use their economic power against unions. The Congress that passed the NLRA may have intended to ensure a balance between employer and union power, but there is no indication that it intended employers to be able to use the Act to evade any regulation in broad areas through a laissez faire argument. The result of this judicially created broad preemption has been to limit state and local experimentation in line with what Justice Brandeis described as laboratories of democracy with labor laws that advance the stated purpose of federal labor law. However, since states and cities cannot act in the field of labor law, all discussions of federal labor law reform are purely theoretical and lack any empirical basis for their possible effects. Numerous labor law scholars have written critically over the years of the rationale for such broad preemption, as well as the effects it has had on workers' ability to organize. Recently, Lewis & Clark Law Professor Henry Drummonds came up with a list of ten potential reforms that would advance the pro-collective bargaining mission of the NLRA if states could be able to pass such reforms under normal preemption rules. These include allowing states to: increase damages for violating workers' labor rights so the penalties are in line with those for other forms of workplace discrimination; experiment with restrictions on permanent replacement of striking workers and on the use of employer lockouts; experiment with â€œcard checkâ€ recognition of the union; provide equal access to union advocates as well as employers during a campaign for unions; and require arbitration if an impasse arises in the bargaining over a first contract. **The one and only major state labor reform since** the **1935** enactment of the NLRA has had a profound effect on the division of wealth and power in the United States. That, of course, **was the provision of the 1947 Taft-Hartley Act enabling states to pass right to work laws.** Allowing states and cities to create local rules that promote unionization and collective bargaining that are tailored to local needs and local industries could prove just as significant in the opposite direction.

#### NLRA only affects labor law, not antitrust – no warrant on it

Mack 19 [Curtis L. Mack, University of Michigan Law School. Keahn N. Morris, Sheppard, Mullin, Richter & Hampton LLP Travis S. West, Beeson, Tayer & Bodine. “THE FUNDAMENTALS OF FEDERAL LABOR PREEMPTION.” https://www.americanbar.org/content/dam/aba/events/labor\_law/2020/section-conference/materials/fundaments-of-federal-labor-preemption.pdf]

The Constitution’s Supremacy Clause serves as the foundation for the doctrine of federal preemption. Under this doctrine, federal law operates to invalidate state and local laws and decisions that conflict with it because “the Laws of the United States [are] the Supreme Law of the Land”. 1 Federal preemption is “a ubiquitous feature of the modern regulatory state” and “almost certainly the most frequently used doctrine of constitutional law in practice.”2 Nowhere is that truer than in the case of federal labor law where the National Labor Relations Act3 (NLRA or Act) and Section 3014 of the Labor Management Relations Act often collide with state and local laws/decisions seeking to regulate parties, conduct and matters already affected by federal labor law.

#### They’re just wrong on the merits – there is a strong presumption against preemption and the Supreme Court has repeatedly declined to preempt state law in the area of antitrust

Alan J. Meese 10-2020 [Ball Professor of Law and Co-Director, Center for the Study of Law and Markets, William and Mary Law School 70 Am. U. L. Rev. 75 (2020)   
“Antitrust Regulation and the Federal-State Balance: Restoring the Original Design”]

Development of this canon paralleled development of a related canon, namely, the presumption against preemption of state law.388 Both canons buttress states’ regulatory prerogatives over conduct the primary effects of which occur within states’ borders, thereby preserving regulatory diversity in a federal system.389 States may exercise these prerogatives in various ways. They may ban such conduct (imposing the same, more lenient, or harsher penalties as provided by federal law), allow such conduct, or even encourage it.390

Intrastate restraints that impact interstate commerce indirectly are certainly a “domain traditionally left to the States.”391 As explained earlier, states have been regulating intrastate restraints, including those producing substantial fortuitous effects on interstate commerce, since before 1890, employing corporate, antitrust, and contract law.392 The Supreme Court bolstered such regulation by repeatedly declining, over five decades, to apply the Sherman Act to such conduct, granting states exclusive authority.393 States exercised such authority with gusto, bringing numerous cases under their own antitrust laws.394 States also declined to ban certain intrastate restraints that would have violated the Sherman Act if deemed restraints of interstate commerce.395 The Supreme Court and other courts repeatedly rejected constitutional challenges to regulation of local restraints that also incidentally impacted interstate commerce, further legitimizing such regulation.396 Indeed, in 1989, the Court recognized the “long history of state common-law and statutory remedies against monopolies and unfair business practices” and concluded 397 that state antitrust law is “an area traditionally regulated by the States.”

By abruptly expanding the Act to reach intrastate restraints with fortuitous effects on interstate commerce, the Court significantly altered the allocation of regulatory responsibility between states and the nation, granting the latter authority over restraints producing only intrastate harm. To be sure, the Court simultaneously jettisoned precedents holding that jurisdiction over commercial activity was mutually exclusive.398 Thus, states remained free to regulate agreements now subject to the Sherman Act.399 However, as noted earlier, state regulation could only replicate or exceed the scope of regulation imposed via the Sherman Act, which now provided a regulatory floor.400 The result was a (much) smaller sphere of exclusive state authority and less regulatory diversity.401

#### Prefer our evidence about application over their evidence about theory – in practice, courts won’t pre-empt state enforcement.

Rauch ’20 [Daniel; JD @ Yale Law School; “Sherman's Missing Supplement: Prosecutorial Capacity, Agency Incentives, and the False Dawn of Antitrust Federalism”; *Cleveland State Law Review* 68(2), p. 172-216; AS]

C. Federal Government "Displacement"?

A third argument, sometimes suggested but rarely precisely elaborated, is that federal antitrust law somehow "displaced" state enforcement. On this account, once state officials saw that the federal government had enacted the Sherman Act, they decided to stop enforcing their own statutes in response. Describing this approach, Werner Troesken writes:

The work of Gabriel Kolko suggests another way the trusts might have perceived a federal antitrust law as beneficial. According to Kolko, businesses of all kinds - railroads, banks, insurance companies, and so on - lobbied for increased federal regulation and control because they believed it would forestall more hostile forms of regulation taking place at the state and local level.1 10

On this reading, as one commenter asserted, the Sherman Act's passage, in and of itself, "sounded the death knell for state enforcement efforts.""

Such appeals to an ill-defined federal "displacement" of state law leave much to be filled in. It is possible the "displacement" they refer to is the formal displacement of federal preemption. If so, then the doctrinal arguments outlined earlier would seem to conclusively dispose of this. Yet in any case, once again, the data do not support such an interpretation, since if the federal government had broadly "displaced" state prosecutions, one would not expect to find so much of it in the "high enforcement" states. And, if the Sherman Act really was supposed to "displace" state antitrust laws, it proved an unambiguous failure, as a host of states adopted new antitrust laws or strengthening old ones in the decade following the Act's passage. 1 12

#### Empirically proven based on 130 years of history

HLR ’20 [Harvard Law Review; “Antitrust Federalism, Preemption, and Judge-Made Law,” *Harvard Law Review* 133(8), p. 2557-2578; AS]

Even when it is not a constitutional hurdle, federalism is still a relevant constitutional value. The Framers embraced federalism for its policy virtues,11 and contemporary judges and scholars laud federalism for its modern-day policy perks. 1 2 The Supreme Court often invokes federalism in the form of a presumption that Congress does not lightly intrude on state sovereignty.13 One example is the Court's presumption against preemption: a party alleging federal preemption of state law faces a judicial presumption that Congress did not intend to make that choice.14 That presumption is validated by Congress's choice to refrain from preempting state law in the antitrust arena: state and federal antitrust laws have coexisted since the federal government's first steps into the arena in 1890.15

#### Lit supports 50 state uniformity in antitrust

Greve 5 [Michael S. Greve, John G. Searle Scholar, American Enterprise Institute; Ph.D. 1987, Cornell University. “Cartel Federalism? Antitrust Enforcement by State Attorneys General.” 2005. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=5317&context=uclrev]

Largely in connection with the Microsoft litigation, the antitrust enforcement authority of state attorneys general, in their parens patriae capacity, has generated acrimonious debate.' Perhaps the only point of genuine agreement is the complaint over the lack of reliable empirical evidence on state antitrust enforcement. This Essay attempts to make a modest contribution to the data front and a more ambitious and provocative contribution to the theoretical debate. I present and examine two sets of data:

\* A list of state parens patriae antitrust actions, compiled and kindly made available to me by Judge Richard Posner.4 I combined and cross-checked these cases with parens patriae cases extracted from a similar list of state antitrust cases for the 1993-2002 period, compiled by different means by Michael DeBow.5 So amended, the list (hereinafter, "the PosnerDeBow list") comprises 103 parens patriae actions.

\* Sixty-eight antitrust cases, dating back to 1977, in which states submitted eighty-four briefs amici curiae. (In four cases, different states submitted briefs on either side; in the remaining cases, states submitted briefs at different stages of the litigation.) Robert Hubbard kindly supplied this list;' I have added some briefs from a website and a few obviously "missed" Supreme Court cases.

While these sets of data are still incomplete and, perhaps, unrepresentative, they are at least somewhat more comprehensive than the preceding efforts on which they build. They confirm earlier findings about state antitrust enforcement in two respects: the extraordinary extent of state consensus and cooperation on antitrust matters (coordinated, since 1983, through the National Association of Attorneys General (NAAG) Antitrust Task Force);9 and a pattern of limited, somewhat parochial, state enforcement," interspersed by dramatic and increasingly frequent multistate interventions in high-stakes national antitrust proceedings."

#### States solve the aff – uniformity, follow on, and no preemption

ABA 18 [American Bar Association, voluntary bar association of lawyers and law students, which is not specific to any jurisdiction in the United States. “State Antitrust Enforcement Handbook.” Chapter 1: Context of State Antitrust Enforcement. https://www.americanbar.org/content/dam/aba-cms-dotorg/products/inv/book/309647692/5030649\_sample.pdf]

A. Introduction and Overview of State Antitrust Enforcement

State antitrust enforcement officials continue to be very active in investigating, litigating and resolving civil and criminal antitrust matters. The rising tide of antitrust enforcement by state attorneys general affects all industries and jurisdictions and has had a significant impact on the development of U.S. antitrust law. The states’ efforts in this area have also sought to improve consumer welfare by increasing competition, with the result being higher quality products and services, more choice, and greater innovation. State antitrust enforcement is not without its challenges—the interplay of state and federal antitrust laws is complex, sometimes involving a multiplicity of actors, laws, and jurisdictions.1 The Section of Antitrust Law (Section) has prepared this Third Edition of the State Antitrust Enforcement Handbook (Handbook) to analyze these developments and serve as valuable resource for state and federal antitrust enforcers and private practice attorneys.

In particular, the Handbook focuses on how state attorneys general exercise their authority to investigate antitrust concerns and to secure remedies for antitrust violations. Whether one views antitrust enforcement by state attorneys general as “an important part of the enforcement network,”2 “free rid[ing],”3 achieving “rough justice,”4 or a force for “imprecision, duplication and costs,”5 attorneys general are a significant independent force, with independent decision-making authority, and they must be reckoned with in many antitrust investigations.

The chapters that follow focus on specific aspects of attorney general authority that can be divided into four primary areas: (I) legal authority for state antitrust enforcement (Chapters 1 and 2); (II) process related to state antitrust enforcement (Chapters 3, 4, and 5); (III) substantive areas where states commonly enforce antitrust law (Chapters 6 and 7); and (IV) criminal enforcement (Chapter 8).

The Section has made every effort to ensure that the information contained in this Handbook is accurate and current; however, in a project of this size and complexity, it is always possible that errors or omissions have occurred, or that after publication deadlines the law has been superseded by statutory or case law developments. Hence, this Handbook should be used as a reference and starting point for an analysis relating to state antitrust enforcement issues.

While this Handbook would not be possible without the valuable comments and contributions received by various attorneys in the offices of state attorneys general, the views set forth in the following chapters should not be taken to be an endorsement of the contents of the publication nor a reflection of the official or unofficial views of any state attorney general.

States have significant rights under federal and state antitrust law. These rights are exercised by state attorneys general, who fulfill their enforcement responsibilities within a federal system in which each state is sovereign.6 Each state has the right to make enforcement decisions that differ from those of other state and federal enforcers.7 Moreover, state enforcers can rely on state antitrust law, which generally is not preempted by federal antitrust law even when federal antitrust law differs from state antitrust law. State enforcers can also assert state law claims as supplemental claims in federal court.8

State attorneys general have broad authority to address competition concerns that affect three constituencies.

First, as chief legal officers of their states, attorneys general often pursue proprietary claims—that is, claims as direct purchasers of goods or services—on behalf of state agencies, divisions, and programs.9 Proprietary claims constitute a significant part of state enforcement.10

Second, state attorneys general may represent consumers, pursuing injunctive relief and damages on their behalf under both federal and state laws.11 Where consumers (including state agencies) are “indirect” purchasers who are unable to recover damages under federal law because of the Supreme Court’s holding in Illinois Brick Co. v. Illinois, 12 attorneys general in a number of states can pursue claims on these consumers’ behalf, primarily under state laws.13

Third, states have broad authority to represent the public interest. State law often gives state attorneys general criminal enforcement authority14 and broad investigatory powers.15 Moreover, in addition to the typical right to injunctive relief under Section 16 of the Clayton Act,16 state attorneys general can act as parens patriae to prevent actual or threatened harm to a state’s general economy.17 States can also file amicus curiae briefs in the federal appellate courts without the consent of the parties or leave of court, and may collaborate with federal enforcers and private counsel in investigating and litigating violations of the antitrust laws.18

B. History of State Antitrust Enforcement

The historical forces that led to the passage of the Sherman Act also stimulated the development of state antitrust laws.19 By 1890, when the Sherman Act was passed, at least 26 states already had some form of antitrust prohibition.20 Among the purposes Senator Sherman cited for his bill was “supplement[ation of] the enforcement of” these state laws.21 Many fundamental concepts of federal antitrust law, such as the per se rule against price fixing, were based at least in part on principles developed by state courts that were construing state antitrust laws.22

The 1970s were a very active period for state antitrust enforcement. First, the National Conference of Commissioners on Uniform State Laws adopted a model state antitrust statute in 1973.23 Although the model act was not widely adopted, it might have been an impetus for state legislatures to review their individual statutes with an eye toward modernization. Follow-on actions on behalf of states and public entities, brought in the wake of federal criminal and civil actions, became the norm by the early 1970s.24 Then, in 1976, Congress passed the HartScott-Rodino Antitrust Improvements Act (HSR Act),25 authorizing state attorneys general, as a matter of federal law, to sue on behalf of their citizens as parens patriae.26

Congress expected parens patriae authority to foster claims in consumer industries when private actions, even class actions, might not be practical and efficient. Congress also expected that state attorneys general would use parens patriae authority to seek damages for consumers who were harmed in small amounts by statewide or nationwide conspiracies.27 Illinois Brick, however, virtually eliminated federal damages lawsuits by and on behalf of consumers who suffer damages indirectly through a passed-on overcharge.28 In the years since Illinois Brick, state enforcement officials have recovered on behalf of indirect purchasers by invoking parens patriae authority under state law, rather than federal law.29

In addition to the HSR Act, as part of the Crime Control Act of 1976,30 Congress authorized $30 million in grants to state attorneys general as “seed money” to establish antitrust enforcement units within their offices and to enforce the antitrust laws on behalf of their states and citizens.31

Much state antitrust enforcement is coordinated with other enforcers, usually other states. Building on multistate activities in the 1970s and early 1980s, in 1983 the states created the Multistate Antitrust Task Force of the National Association of Attorneys General (NAAG Multistate Task Force) to coordinate the exercise of the powers and authority of state attorneys general in antitrust matters. Through NAAG’s Multistate Task Force, the states have issued a series of resolutions, guidelines, protocols, and a compact, all of which address the manner in which states typically analyze competitive concerns. These documents include the Vertical Restraint Guidelines, Protocol for Coordination in Merger Investigations, Horizontal Merger Guidelines, Voluntary PreMerger Disclosure Compact, Model Healthcare Conversion Guidelines, Protocol for Consideration of Whether to Participate as Amicus Curiae, and the State-Federal Protocol for Increased State Prosecution of Criminal Antitrust Offenses.

### ASPEC

#### Agent-specification is key to topic-based education – it’s THE essential question in antitrust law, this turns all their offense

William E. Kovacic 2012 [Global Competition Professor of Law and Policy, George Washington University Law School. The Institutions of Antitrust Law: How Structure Shapes Substance, 110 Mich. L. Rev. 1019]

<https://repository.law.umich.edu/mlr/vol110/iss6/7>

Daniel Crane's The Institutional Structure of Antitrust Enforcement ("Institutional Structure")7 may do for antitrust law what Essence of Decision did for public administration. Unlike most literature on antitrust law, this superb volume does not address pressing issues of substantive analysis (e.g., when can dominant firms offer loyalty discounts?). Instead, Institutional Structure studies the design and operation of the institutions of U.S. antitrust enforcement. Professor Crane skillfully advances a basic and powerful proposition: to master analytical principles without deep knowledge of the policy implementation mechanism is dangerously incomplete preparation for understanding the U.S. antitrust system, or any body of competition law. "Institutions," Professor Crane observes, "are a critical and underappreciated driver of an antitrust policy that interacts in many subtle ways with substantive antitrust rules and decisions" (p. xi). Institutional Structure demonstrates that the causes of observed policy outcomes, good and bad, often reside in the institutional framework. Seemingly potent conceptual insights may fizzle, or create mischief, if the institutions that must apply them are deformed. Good policy results depend on the strength of what Allison called "the path between preferred solution and actual performance." In the language of modem technology, one cannot deliver broadband-quality policy outcomes through dial-up institutions.

The emphasis in Institutional Structure on institutional arrangements helps correct a serious imbalance in the study of antitrust law

. A substantial body of economic literature has examined how institutional quality affects public policy. A number of economists have concentrated on the structure and operations of antitrust authorities, including recent work that explores how the integration of economists into the agency decisionmaking process affects the development of cases." Political scientists long have emphasized the significance of institutional design on government performance and have used antitrust enforcement to show how institutional arrangements shape policy. By contrast, the antitrust legal literature is rich in substantive concepts and lean in the study of institutions. Influential exceptions (such as the volumes of the antitrust treatise published by Phillip Areeda and Donald Turner in 1978) are islands in a vast ocean of discourse on doctrine and analytical principles. The typical law school antitrust syllabus consigns the operational framework of antitrust enforcement to the oblivion of optional readings.

#### ‘the’ requires specification

**Random House 6** (Unabridged Dictionary, http://dictionary.reference.com/browse/the)

(used, esp. before a noun, with a **specifying or particularizing effect**, as opposed to the indefinite or generalizing force of the indefinite article *a* or *an*): the book you gave me; Come into the house.

### Inequality Adv

#### Here is an example – also cites studies so means the aff independently fails

Sherk 9 [James Sherk, research fellow in labor economics at The Heritage Foundation. “What Unions Do: How Labor Unions Affect Jobs and the Economy.” 5/21/9. https://www.heritage.org/jobs-and-labor/report/what-unions-do-how-labor-unions-affect-jobs-and-the-economy]

Unions function as labor cartels. A labor cartel restricts the number of workers in a company or industry to drive up the remaining workers' wages, just as the Organization of Petroleum Exporting Countries (OPEC) attempts to cut the supply of oil to raise its price. Companies pass on those higher wages to consumers through higher prices, and often they also earn lower profits. Economic research finds that unions benefit their members but hurt consumers generally, and especially workers who are denied job opportunities.

The average union member earns more than the average non-union worker. However, that does not mean that expanding union membership will raise wages: Few workers who join a union today get a pay raise. What explains these apparently contradictory findings? The economy has become more competitive over the past generation. Companies have less power to pass price increases on to consumers without going out of business. Consequently, unions do not negotiate higher wages for many newly organized workers. These days, unions win higher wages for employees only at companies with competitive advantages that allow them to pay higher wages, such as successful research and development (R&D) projects or capital investments.

#### Enforcement and prohibition are distinct steps

Alan S. Kaplinsky & Mark J. Levin 1, Kaplinsky is the former longtime Practice Leader of the firm's Consumer Financial Services Group; Senior Counsel @ Ballard Spahr, “ANATOMY OF AN ARBITRATION CLAUSE: DRAFTING AND IMPLEMENTATION ISSUES WHICH SHOULD BE CONSIDERED BY A CONSUMER LENDER,” May 2001, ALI-ABA COURSE OF STUDY MATERIALS, Lexis

. So that there is no misunderstanding on the part of the consumer, the lender should consider expressly disclosing the unavailability of class actions in arbitration, as in the sample clause language. Some lenders go even further and include an express "waiver" by the consumer of any right to participate in or prosecute a class action. But, see, the Reporter's Notes to Section 10 of the Proposed Revisions of the Uniform Arbitration Act (February, 2000) which states: "In some cases [i.e., where the clause specifically precludes class actions], such provisions may effectively undermine consumer's rights by making the relative cost of arbitrating or securing effective legal representation cost prohibitive. In such cases, it may be appropriate for a court to refuse to enforce the term prohibiting class actions and consolidation under Section 6 of the Act." Section 6(a) of the Revised UAA provides that an arbitration agreement "is valid, enforceable, and irrevocable except upon grounds that exist in law or in equity for the revocation of any contract."

#### 1) DELAY---even if enforcement orders are ultimately entered, each case takes too long to prosecute---that means remedies come too late to create competition.

Alison Jones & William E. Kovacic 20, Jones is a professor at King’s College London; Kovacic is Global Competition Professor of Law and Policy, The George Washington University Law School, “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy,” The Antitrust Bulletin, vol. 65, no. 2, SAGE Publications Inc, 06/01/2020, pp. 227–255

In the discussion above, we have been addressing the types of remedies that are imposed at the conclusion of a lawsuit. A problem in highly dynamic markets, however, is that the lag between the initiation of a case and a final order on relief may be so great that market circumstances have changed dramatically or the victim of allegedly improper exclusion may have left the market or otherwise lost its opportunity to expand and contest the position of the incumbent dominant firm. In this context, the antitrust cure arrives far too late to protect competition. The relatively slow pace of antitrust investigations and litigation (with appeals that follow an initial decision) has led some observers to doubt the efficacy of antitrust cases as effective policy-making tools in dynamic commercial sectors.

### Democracy Adv

#### Legitimacy has structurally collapsed – Trump judges thump and make exceptions inevitable

Root 19 [Danielle Root, director of voting rights and access to justice on the Democracy and Government Reform team at the Center for American Progress. Sam Berger, vice president of Democracy and Government Reform at the Center for American Progress. “Structural Reforms to the Federal Judiciary.” 5/8/2019. https://www.americanprogress.org/issues/courts/reports/2019/05/08/469504/structural-reforms-federal-judiciary/]

Discussions of the federal judiciary often focus on the substance of decisions made—which side wins and which side loses—and rightly so. These individual opinions are frequently of incredible importance, not just to the parties involved but in shaping the law more broadly. Yet this focus on substantive decisions has obscured deeper structural factors at play in the nation’s federal judiciary. Structural problems—such as lack of judicial diversity, ideologue judges, and lack of judicial accountability—undercut the courts’ legitimacy and have tangible negative effects on judicial decision-making. Instead of protecting everyday Americans by serving as a check on abuses of power, too often the federal courts have become a tool for carrying out the agendas of special interests and corporations.

Structural problems with the judiciary have always existed to varying degrees. But they have been exacerbated in recent years due to an ongoing campaign by conservatives to take control of the federal courts, often through procedural changes that have significant effects but garner little public attention. The problem has now reached a crisis point. Conservatives have shown a willingness to abandon any and all norms to undermine the judicial nominations process and pack the courts with judges who will help them realize political goals they cannot achieve through the political process. These judges have proven more than willing to carry out the task, supporting the most specious of legal claims

in order to skew the system in favor of conservative interests and even prevent many Americans from accessing the courts at all.

# 1NR

### FTC Adv

#### Congressional backlash – lobbying undermines resources

Jones 20 [Alison Jones, Professor of Law at King's and a solicitor at Freshfields Bruckhaus Deringer LLP. William E. Kovacic, George Mason University Foundation Professor at the George Mason University School of Law. “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy.” 2020. <https://journals.sagepub.com/doi/pdf/10.1177/0003603X20912884>]

D. Political Backlash

As we have already indicated, the government’s prosecution of high stakes antitrust cases often inspires defendants to lobby elected officials to rein in the enforcement agency. Targets of cases that seek to impose powerful remedies have several possible paths to encourage politicians to blunt enforcement measures. One path is to seek intervention from the President. The Assistant Attorney General of the Antitrust Division serves at the will of the President, making DOJ policy dependent on the President’s continuing support. The White House ordinarily does not guide the Antitrust Division’s selection of cases, but there have been instances in which the President pressured the Division to alter course on behalf of a defendant, and did so successfully.125

The second path is to lobby the Congress. The FTC is called an “independent” regulatory agency, but Congress interprets independence in an idiosyncratic way.126 Legislators believe independence means insulation from the executive branch, not from the legislature. The FTC is dependent on a good relationship with Congress, which controls its budget and can react with hostility, and forcefully, when it disapproves of FTC litigation—particularly where it adversely affects the interests of members’ constituents. Controversial and contested cases may consequently be derailed or muted if political support for them wanes and politicians become more sympathetic to commercial interests. The FTC’s sometimes tempestuous relationship with Congress demonstrates that political coalitions favoring bold enforcement can be volatile, unpredictable, and evanescent.127 If the FTC does not manage its relationship with Congress carefully, its litigation opponents may mobilize legislative intervention that causes ambitious enforcement measures to the founder.

Imagine, for a moment, that the DOJ and the FTC launch monopolization cases against each of the GAFA giants. Among other grounds, these cases might be premised on the theory that the firms used mergers to accumulate and protect positions of dominance. The GAFA firms have received unfavorable scrutiny from legislators from both political parties over the past few years, but the current wave of political opprobrium is unlikely to discourage the firms from bringing their formidable lobbying resources to bear upon the Congress. It would be hazardous for the enforcement agencies to assume that a sustained, well-financed lobbying campaign will be ineffective. At a minimum, the agencies would need to consider how many battles they can fight at one time, and how to foster a countervailing coalition of business interests to oppose the defendants.

#### No emerging tech impact.

Pinker et al. ’20 [Steven; PhD, Professor of Psychology @ Harvard; Stuart Russell, Professor of Computer Science @ UC Berkeley; Lucas Perry; “Steven Pinker and Stuart Russell on the Foundations, Benefits, and Possible Existential Threat of AI”; June 29th, 2020; https://futureoflife.org/2020/06/15/steven-pinker-and-stuart-russell-on-the-foundations-benefits-and-possible-existential-risk-of-ai/]

Lucas Perry: Now that’s quite a beautiful picture of the future. There’s a lot of existential hope there. The other side to existential hope is existential risk. Now this is an interesting subject, which Steve and you, Stuart, I believe have disagreements about. So pivoting into this area, and Steve, you can go first here, do you believe that human beings, should we not go extinct in the meantime, will we build artificial superintelligence? And does that pose an existential risk to humanity?

Steven Pinker: Yeah, I’m on record as being skeptical of that scenario and dubious about the value of putting a lot of effort into worrying about it now. The concept of superintelligence is itself obscure. In a lot of the discussions you could replace the word “superintelligence” with “magic” or “miracle” and the sentence would read the same. You read about an AI system that could duplicate brains in silicon, or solve problems like war in the Middle East, or cure cancer.  It’s just imagining the possibility of a solution and assuming that the ability to bring it about will exist, without laying out what that intelligence would consist of, or what would count as a solution to the problem.

So I find the concept of superintelligence itself a dubious extrapolation of an unextrapolable continuum, like human-to-animal, or not-so-bright human-to-smart-human. I don’t think there is a power called “intelligence” such that we can compare a squirrel or an octopus to a human and say, “Well, imagine even more of that.”

I’m also skeptical about the existential risk scenarios. They tend to come in two varieties. One is based on the notion of a will to power: that as soon as you get an intelligent system, it will inevitably want to dominate and exploit. Often the analogy is that we humans have exploited and often extinguished animals because we’re smarter than them, so as soon as there is an artificial system that’s smarter than us, it’ll do to us what we did to the dodos. Or that technologically advanced civilizations, like European colonists and conquistadors subjugated and sometimes wiped out indigenous peoples, so that’s what an AI system might do to us. That’s one variety of this scenario.

I think that scenario confuses intelligence with dominance, based on the fact that in one species, Homo sapiens, they happen to come bundled together, because we came about through natural selection, a competitive process driven by relative success at capturing scarce resources and competing for mates, ultimately with the goal of relative reproductive success. But there’s no reason that a system that is designed to pursue a goal would have as its goal, domination. This goes back to our earlier discussion that the ability to achieve a goal is distinct from what the goal is.

It just so happens that in products of natural selection, the goal was winning in reproductive competition. For an artifact we design, there’s just no reason that would be true. This is sometimes called the orthogonality thesis in discussions of existential risk, although that’s just a fancy-schmancy way of referring to Hume’s distinction between our goals and our intelligence.

Now I know that there is an argument that says, “Wouldn’t any intelligence system have to maximize its own survivability, because if it’s given the goal of X, well, you can’t achieve X if you don’t exist, therefore, as a subgoal to achieving X, you’ve got to maximize your own survival at all costs.” I think that’s fallacious. It’s certainly not true that all complex systems have to work toward their own perpetuation. My iPhone doesn’t take any steps to resist my dropping it into a toilet, or letting it run out of power.

You could imagine if it could be programmed like a child to whine, and to cry, and to refuse to do what it’s told to do as its power level went down. We wouldn’t buy one. And we know in the natural world, there are plenty of living systems that sacrifice their own existence for other goals. When a bee stings you, its barbed stinger is dislodged when the bee escapes, killing the bee, but because the bee is programmed to maximize the survivability of the colony, not itself, it willingly sacrifices itself. So it is not true that by definition an intelligent system has to maximize its own power or survivability.

But the more common existential threat scenario is not a will to power but collateral damage. That if an AI system is given a single goal, what if it relentlessly pursues

it without consideration of side effects, including harm to us? There are famous examples that I originally thought were spoofs, but were intended seriously, like giving an AI system the goal of making as many paperclips as possible, and so it converts all available matter into paperclips, including our own bodies (putting aside the fact that we don’t need more efficient paperclip manufacturing than what we already have, and that human bodies are a pretty crummy source of iron for paperclips).

Barely more plausible is the idea that we might give an AI system the goal of curing cancer, and so it will  conscript us as involuntary guinea pigs and induce tumors in all of us, or that we might give it the goal of regulating the level of water behind a dam and it might flood a town because it was never given the goal of not drowning a village.

The problem with these scenarios is that they’re self-refuting. They assume that an “intelligent” artifact would be designed to implement a single goal, which is not true of even the stupid artifacts that we live with. When we design a car, we don’t just give the goal of going from A to B as fast as possible; we also install brakes and a steering wheel and a muffler and a catalytic converter. A lot of these scenarios seem to presuppose both idiocy on the part of the designers

, who would give a system control over the infrastructure of the entire planet without testing it first to see how it worked, and an idiocy on the part of the allegedly intelligent system, which would pursue a single goal regardless of all the other effects. This does not exist in any human artifact, let alone one that claims to be intelligent. Giving an AI system one vaguely worded, sketchy goal, and empowering it with control over the entire infrastructure of the planet without testing it first seems to me just so self-evidently moronic that I don’t worry that engineers have to be warned against it.

I’ve quoted Stuart himself, who in an interview made the point well when he said, “No one talks about building bridges that don’t fall down. They just call it building bridges.” Likewise, AI that avoids idiocies like that is just AI, it’s not AI with extra safeguards. That’s what intelligence consists of.

### Biz Con DA

#### 2 - Any switches from consumer welfare destroy biz con and create inconsistency

Wright et al 19 [Joshua Wright: University Professor and Executive Director, Global Antitrust Institute at Scalia Law School; Elyse Dorsey: Attorney Advisor to Commissioner Noah Joshua Phillips, United States Federal Trade Commission; Jonathan Klick: Professor of Law, University of Pennsylvania; Jan Rybnicek: Counsel in the antitrust, competition, and trade practice of Freshfields, Bruckahus Deringer LLP, "REQUIEM FOR A PARADOX: The Dubious Rise and Inevitable Fall of Hipster Antitrust", May 2019, https://arizonastatelawjournal.org/wp-content/uploads/2019/05/Wright-et-al.-Final.pdf]

Opponents of the modern approach to antitrust law and policy have called for nothing less than the complete dismantling of the consumer welfare standard and the consensus that has been built over the last nearly fifty years through vigorous debate among antitrust practitioners, enforcers, and academics from across the political spectrum about how best to promote competition. It is no exaggeration to say that what these critics desire is an anti-economics revolution that untethers the antitrust laws from a coherent and consistent framework and replaces consumer welfare with vague social and political standards that ultimately would once again plunge antitrust into crisis.268

In the current debate about the appropriate framework for antitrust analysis, the most often cited replacement for the consumer welfare model is either the “public interest” or “citizen interest” standard.269 The “public” and “citizen” interest standards would purportedly capture a much broader range of potential effects emanating from a challenged transaction or business practice, including: the availability of services, the openness of markets, the stability of global supply chains and financial systems, and the ability of rivals to compete.270 Of course, there is reason to believe that any new antitrust standard might also be broad enough to capture other noncompetition factors touted by proponents of consumer welfare reform, such as income inequality,271 undue political influence, and perceived conflicts of interest between firms in a vertical relationship.

Abandoning the consumer welfare standard and embracing the “public” or “citizen” interest standard (or a similar approach) would have significant adverse costs on competition policy. It would again force antitrust to serve multiple masters, many of which have inconsistent interests. The inevitable confusion and lack of unified approach also would create uncertainty in the business community that ultimately would have a chilling effect on procompetitive conduct and encourage new efforts by firms to influence antitrust outcomes through political pressure and agency rent-seeking. This is not mere speculation. Indeed, the history of the Federal Communication Commission (FCC), which employs a similar public interest standard, serves as a prime example of the deleterious effects of vague enforcement standards that are not rooted in economic evidence.272

#### - Moving away from the consumer welfare standard in antitrust destroys innovation and growth

Auer 18 – Dick Auer, Senior Fellow, International Center for Law & Economics, “Comments of the International Center for Law & Economics: Topic 4: Antitrust law and the consumer welfare standard,” FTC Hearings on Competition & Consumer Protection in the 21st Century, https://www.ftc.gov/system/files/documents/public\_comments/2018/10/ftc-2018-0074-d-0071-155999.pdf

The adoption of the consumer welfare standard was an enormous improvement over what came before it. Yet no one would assert that every aspect of antitrust policy in furtherance of the consumer welfare standard is perfect and should remain unchanged. There will always be grounds for critique and improvement of specific policy decisions and processes. But none of these arguments undercuts the basic merits of the standard and its supremacy over alternatives.

Antitrust enforcers and courts have a difficult time as it is ensuring that their decisions actually benefit consumers. As Robert Pitofsky once said, “antitrust enforcement along economic lines al-ready incorporates large doses of hunch, faith, and intuition.”40 But the existence of imperfections does not justify intervention that would move us further away from economic objectives. Indeed, such intervention would more than likely make the imperfections worse.

When antitrust policy is unmoored from economic analysis, it exhibits fundamental and highly problematic contradictions, as Herbert Hovenkamp highlighted in a recent paper:

As a movement, antitrust often succeeds at capturing political attention and engaging at least some voters, but it fails at making effective or even coherent policy. The result is goals that are unmeasurable and fundamentally inconsistent, although with their contra-dictions rarely exposed. Among the most problematic contradictions is the one between small business protection and consumer welfare. In a nutshell, consumers benefit from low prices, high output and high quality and variety of products and services. But when a firm or a technology is able to offer these things they invariably injure rivals, typically those who are smaller or heavily invested in older technologies. Although movement antitrust rhetoric is often opaque about specifics, its general effect is invariably to encourage higher prices or reduced output or innovation, mainly for the protection of small business or those whose technology or other investments have become obsolete.41

Even with careful economic analysis, it will not always be clear how to resolve the inevitable tensions between consumer welfare and other policy preferences. In 1978, then-FTC-Chairman Michael Pertschuk laid out his vision for a “new competition policy” at the FTC. In it, he asserted that anti-trust policy must consider

the social and environmental harms produced as unwelcome by-products of the market-place: resource depletion, energy waste, environmental contamination, worker alienation, the psychological and social consequences of market-stimulated demands.”42

It is not clear what it would mean to take account of these things in the context of anything approaching a rigorous policy framework. But even more troublingly, many, if not all of them call for a rejection of the core, competition-focused objective of antitrust.

For instance, Jonathan Adler has described the collision between antitrust and environmental protection in cases where, precisely because of reduced output, collusion might lead to better environ-mental outcomes, such as improved conservation of wild fish and other common pool resources.43 How would a court or enforcer conceivably evaluate that trade-off? It is difficult enough to evaluate the procompetitive justifications for certain conduct already — including in somewhat similar circumstances where intrabrand price or distribution constraints, for example, may be aimed at pre-serving the “common pool resource” of brand value or consumer goodwill. But that difficulty is only magnified where the trade-off is between incommensurate benefits, distributed over entirely different populations, and without any operational connection between them within the firm undertaking the conduct in question.

Whatever benefits might conceivably come from giving weight to non-economic values, even just at the margin, they would inevitably come at the expense of the core, competitive values of modern antitrust. As Ernest Gellhorn noted in his masterful critique of Pertschuk’s “socially conscious” vision for the FTC:

Competitive values must be sacrificed if social values are to be given primacy — or else the new policy is nothing more than rhetoric and official deception. The second and equally important point is that the new chairman’s “humanistic model” for antitrust is formless, shapeless, and unpredictable. There simply are no generally accepted “democratic and social norms” for applying the antitrust laws — and some of the new chairman’s announced values are worrisome, at least to the extent they are offered as the basis for determining the shape and operation of much of our economy.

The problem is that unless antitrust law has an objective and principled foundation, antitrust enforcement can become the personal plaything of enforcement personnel, or the stock in trade of lobbyists and influence-peddlers.44

While it is perfectly reasonable to care about political corruption, worker welfare, and income ine-quality, it is not at all reasonable to try to shoehorn goals based on these political concerns into antitrust — a body of legal doctrine whose tools are wholly inappropriate for achieving those ends. As Carl Shapiro has noted, “The fundamental danger that 21st century populism poses to antitrust is that populism will cause us to abandon this core principle and thereby undermine economic growth and deprive consumers of many of the benefits of vigorous but fair competition.”45

### Politics DA

#### The impact is nuclear world war 3

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Will the Ukraine Crisis Spark World War III?

All parties owe it to themselves, their citizens, and the world to avoid an armed conflict that could accidentally escalate into World War III. Time is growing short.

Vladimir Putin’s rhetoric demands another Munich with Joe Biden capitulating, but Biden can’t and won’t oblige. But then the president predicted armed conflict. These smart leaders are better than that, and both need to avert an avoidable war. What both sides need is a grand strategy that redefines relations between the West and Russia, gives each what its pride and security interests require, and averts a conflict that could escalate into World War III. A key aspect of the U.S. posture is to stop reacting to Putin’s threats and shift to a pro-active posture to resolve the crisis, proposing actionable ideas that work for all sides. The talk is about deterrence, but the United States wants action from Russia that advances U.S. security interests just as Russia wants to advance its own. What plausible strategies might work for all the parties? Here are areas to consider for where the parties might find common ground and avoid war. If one characterized Dwight Eisenhower’s grand strategy as “containment,” this one seems to qualify as “equilibrium.” That notion doesn’t view Russia as a friend or ally. Let’s move beyond personalities and strike a balance for a stable order in Europe rooted in longer-term state-to-state relationships. Containment grasped that the Soviet Union had expansionist ambitions. Ike rightly rejected co-existence and worked to defeat communism. Russia wants to revive its Soviet sphere of influence, but it offers no ideology, and while seeking global influence as a great power, lacks communist imperial ambitions. A realistic coexistence rooted in strength makes sense for a united West, led by the United States, NATO—with its military focus—and the European Union—with its political focus. Achieving that goal will enable the West to direct fuller attention to its main challenges, particularly those posed by China’s ambitions. Russia Nationalism and hubris drive Putin to regain Russia’s influence and control over its former sphere. Putin views the Maidan Revolution that overturned a pro-Russian government in Ukraine as a U.S.-sponsored color revolution forming part of a scheme to oust him from power. Regime preservation is always Putin’s number one goal. While misguided, his fears help explain his tactics. Putin’s perception of the facts, not the facts themselves, governs Russian actions. A stable framework between Russia and the West might embrace the following ideas: First, assurances that neither Ukraine nor Georgia will become members of NATO. These nations enjoy no right to join NATO; membership is invitation only. Western security interests don’t require making them NATO members, and the West need not insinuate them so closely that Russia feels the relationship amounts to membership. Ukraine could accept a status similar to Austria’s. Austria is a democracy that does business with all sides and maintains its independence. Such status won’t harm the West, and would remove the threat that Putin most complains about. Ukraine needs to be a part of that negotiation. Second, some believe that Putin fears a successful democracy in Ukraine will spur knock-on consequences in Russia that undermine his regime. Unless he wants a real war, Putin is going to have to get real about this politically. He’s popular at home and may remain so unless Russians see lots of body bags coming home. That’s a more serious threat along, potentially, with Russia’s inept response to Covid-19. Third, Putin wants the United States to avoid meddling in Russian internal politics. Let’s be realistic. The United States rightly hit the roof over Russian meddling in U.S. elections. Putin has angered Europe by using weaponized social media and other hybrid warfare tactics to create political disruption and undercut NATO and the EU. But as Russia points out, no nation meddles in other countries’ politics as much as the United States does. One way forward may lie in a mutual agreement that the West and Russia will each stop meddling in one another’s internal affairs. Fourth, Putin would like to turn back the clock. He’s going to have to get real about that. Corruption and the failure of communism defeated the Soviet Empire, not the West. He led Russia to economic progress for the first part of his tenure. He needs to recognize that this record lights his way ahead, not armed conflict. Finally, Putin wants respect as a great power equal. One sore point for him is history. He feels that the West refuses to acknowledge that Russia fought most of the ground war against Germany during World War II and suffered the most casualties. He’s quite emotional about the issue. Addressing pride and nationalism is a matter of diplomacy. Working that out may not be easy, but the goal is achievable. In the meantime, if Putin wants more credit for Russia, Russian historians need to translate their work into English and publish in the West. The West The United States should require quid pro quos from Russia. First, as noted above, both sides must commit to cease meddling in one another’s politics or internal affairs. Second, Russia must commit to avoiding using the Nord Stream II as political leverage to influence European politics. Diplomacy must work out what that means in practice. Third, Russia must recognize that the West is acting with a united front through the United States, NATO, the EU, and the parties. The United States must make clear the West will do whatever is required to honor NATO’s Article V obligations. That includes boosting current military strength in Europe, especially airpower, which can be strategically positioned fairly rapidly. We feel clear lines of communication with Russia can help avoid confusion or cause miscalculation. Issues such as missile deployments have to be negotiated. Fourth, Russia must gain control over and crackdown on criminal cyber hacking in the West by the Russian state, its proxies, so-called “patriotic hackers,” and transnational criminal groups operating from Russia. Moscow’s attempts to disclaim such groups are nonsense and the West shouldn’t give credence to such efforts. Finally, and this is a matter for diplomacy that would take time to play out, Russia and the West should try to find common ground that recognizes the existential threat posed by China’s ambition to establish global military and economic supremacy by 2049. China’s achieving that ambition would pose an existential threat to both sides. Russia won’t join the West in an alliance against China, but the West can also influence Russia against allying with China against it. From the Western perspective, any deal has to stick. President Ronald Reagan once said that in dealing with Russia, “trust but verify.” That was a Russian proverb. If Russia plays fast and loose with a deal or breaks it, all bets are off and the West should move aggressively to protect its security interests, politically and militarily. That includes providing Ukraine with essential military support for defense. Matters are obviously more complicated and nuanced, but these ideas seem common sense and may help inform a framework for negotiation. For the United States, the Biden administration should seek bipartisan consultation and support so that the United States can present a unified front. We feel Russia perceives strategic weakness in the polarization evident in U.S. politics, and unity on Russia would strengthen the U.S. hand in dealing with Russia. All parties owe it to themselves, their citizens, and the world to avoid an armed conflict that could accidentally escalate into World War III. Time is growing short. It’s time to move out.

#### Ukraine escalation triggers nuclear winter. Extinction.

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As the crisis in Ukraine deepens, it is appropriate to consider what the actual consequences of war there might be. An armed conventional conflict in Ukraine would be a terrible humanitarian disaster. Last week, US government officials estimated that the fighting could kill 25,000 to 50,000 civilians, 5,000 to 25,000 Ukrainian military personnel, and 3,000 to 10,000 Russian soldiers. It could also generate 1-to-5 million refugees. These figures are based on the assumption that only conventional weapons are used. However, if the conflict spread beyond Ukraine’s borders and NATO became involved in the fighting, this would become a major war between nuclear-armed forces with the very real danger that nuclear weapons would be used—and the public debate about this crisis is utterly lacking in discussion of this terrible threat. Both sides in such a conflict would, of course, begin fighting with non-nuclear conventional weapons. But as a result of advances in technology and firepower over recent decades, these weapons possess much greater range and destructiveness than earlier models, enabling them to strike high-value targets—airbases, radar stations, command centers, logistical hubs, and so on—far behind the front lines. As the losses mounted up on both sides—and if one or the other faced imminent defeat—its leaders could feel driven to employ their tactical nuclear weapons to avert such an outcome. Both US and Russian military doctrines allow for the use of tactical nuclear weapons under such circumstances. Despite reductions in nuclear forces over the last several decades, Russia still has 1,900 tactical nuclear weapons and 1,600 deployed strategic nuclear weapons. On the NATO side, France has 280 deployed nuclear weapons and the UK, 120. In addition, the United States has 100 B-61 tactical bombs deployed at NATO bases in Belgium, Germany, Italy, the Netherlands, and Turkey, and an additional 1,650 deployed strategic warheads. If even a single 100-kiloton nuclear weapon exploded over the Kremlin, it could kill a quarter of a million people and injure a million more, completely overwhelming the disaster-response capability of the Russian capital. A single 100-kiloton bomb detonated over the US Capitol would kill over 170,000 people and injure nearly 400,000. But it is unlikely that an escalating nuclear conflict between the United States and Russia would involve single warheads over their respective capitals. Rather, it is more likely that there would be many weapons directed against many cities and that many of these weapons would be substantially larger than 100 kiloton. For example, Russia’s 460 SS-18 M6 Satan warheads have a yield of 500 to 800 kilotons. The W88 warhead deployed on US Trident submarines has a yield of 455 kilotons. A 2002 report showed that if just 300 of Russia’s 1,600 deployed strategic warheads were detonated over US urban centers, 78 million people would die in the first half hour. In addition, the nation’s entire economic infrastructure would be destroyed—the electric grid, Internet, food distribution system, transportation network, and the public health system. All of the things necessary to sustain life would be gone, and in the months following this attack the vast majority of the US population would succumb to starvation, radiation sickness, exposure, and epidemic disease. A US attack on Russia would produce comparable devastation there. And if NATO were involved, most of Canada and Europe would suffer a similar fate. Still, these are just the direct effects of the widespread use of nuclear weapons between NATO and Russia. The global climate effects would be even more catastrophic. Recent studies have confirmed the predictions, first advanced in the 1980s, that large-scale use of nuclear weapons would cause abrupt, catastrophic global cooling. A war involving the full deployed arsenals of the US and Russia could loft up to 150 teragrams (150 million metric tons) of soot into the upper atmosphere, dropping average temperatures around the world as much as 18 degrees Fahrenheit. In the interior regions of North America and Eurasia temperatures would drop 45 to 50 degrees, to levels not seen since the last ice age, producing a disastrous decline in food production and a global famine that might kill the majority of humanity. Even a more limited war involving just 250 warheads in the 100 kiloton range could drop average global temperatures by 10 degrees, enough to trigger a famine unprecedented in human history, which would almost certainly bring the end of modern civilization. The enormity of the risk inherent in the current game of nuclear chicken between the US and Russia demands a fundamental change in their relation to each other, and in the equally fraught relation between the US and China. The great powers can no longer pursue a zero-sum game to see who will come out on top. It is possible that one of them will emerge on top of the heap—but the heap may well be a global ash pile. Nuclear weapons are a discrete manmade threat to the survival of our species. Their elimination could be achieved within a decade if the leaders of the nuclear-armed states were committed to doing so. And the process of negotiating a verifiable, enforceable timetable for dismantling these weapons would establish a new cooperative paradigm in international relations that would enable them to address the other, more complex existential threat posed by the climate crisis. The elimination of nuclear weapons is not some pie-in-the-sky fantasy. It is an absolute necessity for our continued survival. We have not survived this far into the nuclear era because of wise leadership, or sound military doctrine, or infallible technology. As Robert McNamara famously observed, “We lucked out. It was luck that prevented nuclear war.” A hope for continued good luck is an insane security policy. A determination to eliminate these weapons is a policy grounded in reality, and it offers us the only acceptable path forward.

#### The plan’s policy fiat forces drastic shifts in agenda setting and issue focus

Joly 19, [Jeroen Joly is a Doctor Assistant at Universiteit Gent, Punctuated equilibrium theory and foreign policy, The research for this chapter was financially supported by the French Ministry of the Armed Forces, Directorate General for International Relations and Strategy (DGRIS), https://www.researchgate.net/profile/Jeroen\_Joly/publication/331073786\_Punctuated\_equilibrium\_theory\_and\_foreign\_policy/links/5c66ec3092851c1c9de446f2/Punctuated-equilibrium-theory-and-foreign-policy.pdf]

Governmental policies generally change only marginally over time; however, every once in a while, policies also change dramatically.12 The pungent quote from former Republican U.S. Representative Michael Oxley very well reflects this main idea behind punctuated equilibrium (PE) as a policymaking theory. Punctuated equilibrium theory (PET), first put forward by Frank Baumgartner and Bryan Jones (1993), explains how the same institutional setup, usually preventing new policy issues from gaining political attention, is also responsible for the occasional outbursts of attention causing disproportionately large policy shifts. While previous public policy theories had been relatively successful at explaining either policy stability or large policy changes, the main originality and novelty of PET was that it proposed a single theoretical model of policymaking that explains how the same governmental processes cause both stability and major policy shifts.

PET is based on the assumption that, due to their cognitive limitations, policymakers cannot simultaneously attend to all the problems society is facing (Simon 1957). Hence, most policymaking is delegated to policy subsystems, that is, groups of elites consisting of elected officials, career civil servants or interest groups. The politics of subsystems generally prevents large policy changes, leading to mostly small, incremental, changes instead of policies that are proportionate to solving the problem. Yet, disproportionately large policy changes can occur when the way an issue is understood changes (issue definition) and/or previously uninterested people get involved (agenda-setting). This process can be triggered by sudden or steady attention of an influential political actor or as the result of a major focusing event (Birkland 1997, 1998). The combination of these two principles—issue definition and agenda-setting— is at the heart of PET: it explains why most policies remain stable most of the time and how they can sometimes alter drastically and radically.

Initially developed as an agenda-setting theory to examine why certain issues gain political attention, PET has evolved into a more general theory on information processing in decision-making (GreenPedersen and Princen 2016: 69). By looking at the distribution of changes in policy, it is possible to examine and explain resistance to change—or institutional friction—throughout the policy process (Baumgartner et al. 2009; Jones and Baumgartner 2005). PET has been successfully applied to a wide range of public policies in numerous countries and has increasingly generated cross-sectional and cross-national analyses that aim at comparing and better understanding the causes of stability and change in different political systems. However, the focus of these studies has mostly been on domestic policies, with only very little attention for PET in a foreign policy context.

Therefore, the aim of this chapter is to demonstrate that PET is not only relevant in the realm of domestic politics, but also useful for the analysis of foreign policy. The next section reconstructs the original formulation of PET and illustrates how PET has evolved over the past two decades. Then, we outline how to study foreign policy using a PE approach, its benefits and challenges. Subsequently, we test PET in a foreign policy context by looking at yearly changes in attention to foreign policy issues, and examining the relationship between changes in foreign aid allocations and the size of the aid administrations. The chapter concludes with a reflection about the transferability of PET to the study of foreign policy more broadly.

Policy Changes: Doing Nothing And Overreacting

In the early 1990s, Baumgartner and Jones (1993) set a landmark within policy research by proposing PET, a theory which, for the first time, accounted for both incremental and dramatic policy changes. PET was a reaction to earlier public policy theories, which suggested that policy change was either highly frenetic or incremental (i.e., slow and gradual, with adjustments being based on past actions). While incrementalism seemed to be the best available alternative to explain the bulk of changes at the time, it did not account for large—and often disproportionate—policy changes in U.S. politics. In 1984, John Kingdon’s work on Multiple Streams (see the contribution by Blavoukos in this volume) explained how an issue suddenly “‘hits’, ‘catches on’, or ‘takes off’” (2003: 80). Refusing to oppose radical and incremental changes, Baumgartner and Jones (1993) argued that any theory of public policy should provide an explanation for both and, therefore, advanced PET as such a comprehensive alternative.

Original formulation

PET was initially developed as an agenda-setting theory to understand policy change in the U.S. The main idea behind agenda-setting is that political attention is a necessary pre-condition for change. Attention, however, is scarce: policymakers are rationally bounded (Simon 1957), and can therefore only focus on a limited number of problems at the same time. This implies that policymakers cannot constantly evaluate which problems need to be addressed first, and which policies have to be adjusted (and by how much). Instead, most policymaking is delegated to policy subsystems, allowing political institutions to process a greater number of issues at the same time (through parallel instead of serial processing). These subsystems are best understood as small communities of experts from NGOs, academics, civil servants and the media—experts whose work is related to a specific issue.

#### It’ll pass next week—just normal disputes

Palmer ¾ [John Bresnahan, Anna Palmer And Jake Sherman, “Punchbowl News Midday: Your daily omni rundown”, 3/3/22, https://email.punchbowl.news/t/ViewEmail/t/353AA0D2B9B73AAB2540EF23F30FEDED/28A0A10B8D38581C63B21DE8DA818551?alternativeLink=False]

→ Riders: Top GOP and Democratic appropriators are still haggling over the $1.5 trillion omnibus spending bill. Remember: The federal government will run out of money next Friday – eight days from today – absent the passage of the omnibus or a stopgap funding measure.

We were told this morning that there are hundreds of riders – individual policy issues – that are still outstanding in the negotiations. This isn’t particularly unusual because disputes over riders have to be resolved each time there’s a spending bill. The two sides are still swapping offers, but there’s not a lot of time under the current continuing resolution. This raises the possibility of another CR being needed to allow the two sides to finish up. Speaker Nancy Pelosi told us yesterday that it would take “four or five days” to write a bill once it’s finalized.

House leaders are still planning to introduce the omnibus package on Monday and vote on it Tuesday or early Wednesday. House Democrats have a retreat next Wednesday to Friday in Philadelphia. That would give the Senate several days to pass the omnibus before funding runs out March 11.