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### Plan---1AC

#### The United States federal government should prohibit private sector business practices that violate an antitrust worker welfare standard.

### Inequality---1AC

#### Advantage 1 is Inequality.

#### Increased concentration of buyer power in labor markets drives inequality---only antitrust can address the supply and demand side of wage suppression.

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A détente is especially desirable today in light of the severe stagnation in American wages. In the past thirty-five years, U.S. gross domestic product has all in all grown but the purchasing power of the average worker has barely changed.3 Labor’s share of national income declined precipitously in the 2000s, and in the five years after the Great Recession it was lower than at any point since World War II.4 Because most people get most of their income from labor, and because those who get most of their income from capital tend to be wealthy, this income shift has dramatic consequences for inequality.

Economists and policymakers have advanced numerous explanations for this troubling trend ranging from the decline of unions, to tighter monetary policy, to increased trade liberalization, and more.5 One explanation that has received attention in recent years is an apparent epidemic of market concentration and flagging competition.6 A growing body of evidence suggests that over time fewer and fewer firms have come to dominate sectors across the economy.7 One study found that from 1982 to 2012, the share of sales by the sectors’ top four firms increased in manufacturing, finance, services, utilities, retail trade, and wholesale trade.8 Average markups above cost—a manifestation of market power—rose from eighteen percent in 1980 to sixty-seven percent in 2014.9 This increase in concentration is due, in part, to a growing wave of mergers. By one count over 325,000 mergers have been announced since 1985.10 That year, around 2,000 mergers with a value of a little over $300 billion were announced.11 In 2018, 15,000 mergers occurred—valued at just under two trillion dollars.12

The ability of firms to charge prices for their products or services that exceed the competitive level harms workers in their role as consumers, and the reverberating inefficiencies have consequences for wages as well.13 Workers are harmed more directly, though by firms with buyer power in labor markets. Instead of enabling firms to charge high prices for the goods or services they sell, buyer power—also known as monopsony power—allows firms to push wages below the level workers would receive in competitive labor markets.

A recent study applied the Herfindahl-Hirschman Index (HHI), which is used to measure market concentration. The Department of Justice (DOJ) and the Federal Trade Commission (FTC) (“the agencies”) used HHI in merger review, and found that at least forty percent of job markets fell into the “highly concentrated” category, making them especially susceptible to anticompetitive behavior by employers.14 The hiring markets for the twenty-five percent most concentrated occupations in almost every commuting zone in the country have concentration levels nearly tripled the “highly concentrated” threshold.15 In commuting zones across middle America, the hiring market for nearly every occupation is highly concentrated.16 As discussed below, a concentrated labor market generally increases the buyer power of participants in that market. Recent research on labor supply elasticity, which is an indicator of vulnerability to employers’ market power, further challenges traditional assumptions of competitiveness in labor markets.17

Historically, antitrust enforcers have given far less attention to firms’ power as buyers than as sellers and have been particularly hesitant to check their power as buyers of labor. However, the tide may be beginning to change. Federal and state enforcers have begun to challenge anticompetitive labor contracts,18 and there is a small but growing body of precedent addressing increased buyer power in mergers.19 In 2016, the Obama Administration’s Council of Economic Advisors issued a report describing the problem of labor market power and encouraging greater attention to the issue by the antitrust enforcement agencies.20 Separately, then-Acting Assistant Attorney General Renata Hesse stated that antitrust enforcement efforts should not only be concerned with the welfare of consumers, but should “also benefit workers, whose wages won’t be driven down by dominant employers with the power to dictate terms of employment.”21 Nevertheless, to date, the agencies have never blocked a merger on the basis of harm to workers.

There are many reasons that may account for the dearth of enforcement, including misunderstandings of the relationship between labor and antitrust laws, the momentum of precedent focused on seller-side harms, and the resistance of some to increased antitrust enforcement as a general matter.22 In addition to these practical and ideological impediments, mistaken intuitions about the economics of buyer power create obstacles for enforcement. At first glance it would seem that if firms use their buyer power to lower their costs, downstream customers are ultimately benefitted. Therefore, the consumer welfare standard, which underpins modern antitrust enforcement, would seem to counsel against intervention contrary to buyer power. In most cases, though, this intuition is simply wrong.23 More competitive labor markets are not just good for workers; they are good for consumers too.

Clarifying the relevant interests at stake is crucial as policy reforms begin in earnest, and there is reason to believe that such reforms are on the horizon. Several politicians have recently advocated for greater antitrust scrutiny of labor markets. For example, in 2017 Senator Amy Klobuchar introduced a bill that would require the enforcement agencies to pay greater attention to buyer power in merger review.24 Senator Elizabeth Warren—who seeks more interventionist antitrust policy on many fronts25—and Senator Cory Booker—who in 2017 sent a letter to the DOJ and FTC citing concern with the failure of the agencies to address labor market power—have also taken up the cause.26

Labor market issues are also garnering increased attention from antitrust scholars.27 In an article published in 2018, C. Scott Hemphill and Nancy Rose argued for more interventionist merger policy directed at various forms of buyer market power.28 The same year, Suresh Naidu, Eric Posner and Glen Weyl published Antitrust Remedies for Labor Market Power, a sweeping analysis of the myriad options available to enforcers to promote more competitive labor markets.29 This legal analysis has been spurred by a growing body of empirical work on buyer power in labor markets.30 An array of scholars concluded that labor market power is a problem and one that antitrust institutions should do more to address.

This paper similarly argues that buyer power—and specifically buyer power in labor markets—deserves greater antitrust scrutiny and, to that end, develops a framework for systematically evaluating labor market power in merger analysis. The enthusiasm of some progressive politicians for more interventionist antitrust policy has drawn skepticism from many antitrust practitioners and scholars who worry that reforms will unmoor antitrust policy from its foundational principles and turn antitrust enforcement over to political whims.31 At least with respect to labor market power, however, economic theory and empirical evidence support increased enforcement without any reform of the basic legal framework and without deviating from substantial consensus about the proper role for antitrust in the economy.

#### Antitrust is key---permissive guidelines enabled the rise in monopsonies, expanding a worker welfare standard to labor markets is key to wage equality.

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Of course, this is not the world in which we live. Even the corner grocery store knows it can raise its prices a little bit without losing all of its customers, which is what the standard competitive theory suggests. More and more, firms have demonstrated high and increasing levels of market power (Philippon 2019; Stiglitz 2019). At the same time, the bargaining power of workers has weakened.

It was never an equal match. An employer typically can find an alternative worker far more easily than a worker can find an alternative employer. This is especially so during slack periods in the labor market, or in places where there has been persistent unemployment. Leaving or losing a job is often greatly disruptive to workers and their families. There are mortgages to pay, children to feed, bills coming due. From the perspective of workers, jobs are not easily substitutable.

As the chapters in this volume make abundantly clear, this imbalance of market power has consequences. It enables firms to raise prices for goods and services—lowering the real incomes of workers. It enables firms to suppress wages of workers below what they would be in a competitive marketplace—contributing to the inequality crisis facing the country. This economic inequality gets translated into political inequality, especially in our money-driven politics, resulting in rules that evermore favor big corporations at the expense of workers. The growing political inequality, in turn, hampers economic performance, and ensures that most of the benefits of our anemic economic growth go to those at the very top (Stiglitz 2012).

In the middle of the 20th century, John K. Galbraith (1952) described an economy based on countervailing power—where labor institutions and government checked the power of large corporations and financial institutions. But policy choices over the past half century have upset this balance in ways that have weakened not only the workers, but also the economy and the country. This volume explores what has happened by concentrating on one understudied part of the problem: the labor market.

Explaining the Weakening of Workers’ Bargaining Power

Multiple factors have contributed to the weakening of workers’ bargaining position. This volume focuses specifically on the ways that employers have increased their market power over workers.

Employer Concentration

Permissive antitrust enforcement has promoted concentration across industries, reducing the number of employers—particularly those in rural areas (Stiglitz 2016).1 With few alternatives, workers must accept the low wages that large local employers offer. More precisely, limited competition by buyers—in this case, employers who buy labor services—gives rise to monopsony power.2 Any firm with monopsony power knows that if it hires more workers, it will drive up the wage. The marginal cost of hiring an additional worker is thus greater than the wage. The result is lower employment and lower wages than if there were a competitive labor market. The chapter by Marinescu in this volume forcefully documents the degree of monopsony in labor markets across the United States, especially in rural areas—areas where, not surprisingly, wages lag behind the rest of the country.

Collusion

Typically there is some, but limited, competition in the labor market, but it is competition that is insufficient to achieve anything approximating what would emerge in a truly competitive marketplace. But employers often do not like even this limited competition, because even some competition means that wages are higher than they would be with no competition. Thus, firms sometimes collude to not compete; and that collusion drives down wages. The incentives for firms to do this—if they can get away with it—are obvious: collusion has been a feature of capitalism from the start. As Adam Smith observed in The Wealth of Nations, “Masters are always and everywhere in a sort of tacit, but constant and uniform, combination, not to raise the wages of labour above their actual rate. . . . Masters, too, sometimes enter into particular combinations to sink the wages of labour even below this rate. These are always conducted with the utmost silence and secrecy” (Smith 1776, book 1, chap. 8).

Even then, Smith had observed an asymmetry not only in bargaining power, but also in capitalists’ response to workers’ attempts to redress the balance. When workers combine their forces, “the masters . . . never cease to call aloud for the assistance of the civil magistrate, and the rigorous execution of those laws which have been enacted with so much severity against the combination of servants, labourers, and journeymen” (Smith 1776, book 1, chap. 8). This stance, of course, was markedly different from capitalists’ own behavior—not only in labor markets, but elsewhere, too. As Smith put it in one of his most famous statements, “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices” (book 1, chap. 10). This issue is central: to redress the natural imbalance of bargaining power, workers have to band together and engage in collective bargaining. Unions are critical. But it is precisely because unions have been somewhat successful in redressing the imbalance that employers have worked so hard to suppress them, as I comment later in this introduction.

Contracts

In multiple contexts, business enterprises have not been satisfied with the increased profits brought by greater market concentration and occasional collusion. Businesses have figured out how to sustain and amplify those profits by the clever design of contracts that are conceived to inhibit competition in the labor market. This is another method that enables them to drive down wages still further.3 The chapters by Evan Starr and Terri Gerstein (this volume) provide ample evidence of the harmful impact of the misuse of labor contracts, noting in particular that often-used ruses distort the true impact on workers. Noncompete agreements, by definition, reduce competition. There might be some justification for not allowing employees with knowledge of trade secrets to go to work for competitors, but that hardly applies to employees of fast-food chains.

Employers have also put into contracts provisions that weaken workers’ rights—and power—if a dispute arises. Inserting arbitration clauses into most contracts has moved dispute resolution out of the public domain— where it can be protected in the public interest, through transparency and basic standards—into private hands. This not only weakens workers’ position after a dispute arises, but also subtly changes the balance of power— making it easier for firms to take advantage of workers, knowing that their ability to get redress is so circumscribed. Making matters worse is a broader set of changes in legal frameworks that has hurt workers and consumers at the expense of corporations. For instance, the ability to bring class-action lawsuits, particularly in arbitration, has been greatly limited.

Asymmetric Information

The standard competitive theory assumes perfect information. Research over the past 50 years has explained how even a little information asymmetry can have a large impact. Employers have recognized this—they have figured out that such asymmetry can weaken workers’ position and lead to lower wages. They have responded by doing what they can to increase these asymmetries, sharing data with each other but insisting that workers keep their own compensation data confidential, and punishing employees who violate such confidentiality. The chapter by Harris in this volume describes the adverse effects of informational asymmetries, how firms have tried to increase these asymmetries, and what governments have done and can still do to promote transparency—and thus competition—in the labor market.

#### The plan solves inequality and wages.

Eric Posner 21. Professor at the University of Chicago Law School. “You Deserve a Bigger Paycheck. Here’s How You Might Get It.” https://www.nytimes.com/2021/09/23/opinion/antitrust-workers-employers.html

The spectacle of the antitrust challenge to Big Tech has been riveting. But a far more consequential transformation in antitrust law has largely escaped notice — the movement to use antitrust law to address wage suppression and inequality caused by the power of employers in labor markets.

Economic theory says that when a pool of workers has only one potential employer, or a small number of potential employers, those workers will be paid below-market wages. Without the credible threat to quit and work for a competitor, workers lack leverage that could allow them to secure a raise and better conditions. This situation is sometimes called monopsony, and it is similar to monopoly in the market for goods. When buyers have no choice among sellers, a monopolist can charge high prices; when workers have little choice among employers, the employer can “charge” low wages.

Monopolies result in sluggish economic growth as well as high prices because in order to raise prices, monopolists make fewer goods or provide less in services. Companies that use their market power to suppress wages do something similar: They hire fewer workers, and this leads to unemployment and low growth as well. And because employers push down wages by reducing employment, they supply fewer goods, causing higher prices to consumers even though labor costs are reduced. A business might have monopoly power (over goods it sells), monopsony power (over workers), both or neither. If a small town has one newspaper, the newspaper has both a monopoly over local news and a monopsony over journalists. If the town has a single automobile manufacturing plant, that business will have a monopsony over the relevant skilled workers but not a monopoly over cars, which are sold into a national market where there are competitors.

Economists have understood these things since Adam Smith, who famously called wage-fixing by employers “the natural state of things, which nobody ever hears of.” But economists did not take this risk very seriously until recently, instead usually assuming that employers compete vigorously for workers. As a result, though the logic for using antitrust law to address market power is the same for monopsony as it is for monopoly, the legal community did not embrace the possibility that antitrust law should be brought to bear against employers, except in unusual cases.

But in recent years, thanks to the remarkable work of a diverse group of mostly young economists, this conventional wisdom was shattered. Exploiting vast data sets of employment and wages that had become available, they discovered that concentrated labor markets — that is, with one or few employers — are ubiquitous. In one paper, José Azar, Ioana Marinescu, Marshall Steinbaum and Bledi Taska found that more than 60 percent of labor markets exceeded levels of concentration that are regarded as presumptive antitrust problems by the Department of Justice. Numerous papers have made similar findings.

In highly concentrated labor markets, wages fall — as economic theory would predict. For example, Elena Prager and Matt Schmitt examined hospital mergers and found that when hospitals expand through mergers and gain significant market power, the wage growth of employees declines. Notably, this decline affected skilled health care professionals like nurses — but not administrators and unskilled staff members like cafeteria workers, who could easily find jobs outside hospitals.

The work on labor market concentration has been supplemented by growing evidence that employers collude with one another and engage in other anticompetitive practices. Evan Starr and his co-authors have found that agreements not to compete — where employers block workers from moving to competitors — are extremely common (as many as nearly 40 percent of workers have been subject to one) and are associated with lower wages. Alan B. Krueger and Orley Ashenfelter found that nearly 60 percent of major brand-name franchises — companies like McDonald’s and Jiffy Lube — subjected franchise employees to no-poaching agreements, which prevented them, even within the same franchise system, from quitting one employer to join another.

As a result, many workers, especially in rural areas and small towns — areas subject to high unemployment and economic stagnation — are squeezed by employers and underpaid. For example, when farm equipment manufacturers merge, they close dealerships, and so a mechanic who used to be able to get a good job as several dealers competed for his work must accept a less-appealing job from the single place in the area or drop out of the labor market.

Antitrust law applies to “restraint of trade,” and courts agree that when employers enter cartels to suppress wages, they violate the law. Yet until a few years ago, there were hardly any antitrust cases against employers. The major exception was a 2010 case against Big Tech after Google, Apple and other companies agreed not to solicit one another’s software engineers. This was potentially criminal behavior, but the Justice Department slapped them on the wrist. (A subsequent lawsuit secured more than $400 million in damages for the workers.)

But it was the academic research, not the tech case, that finally woke the antitrust community from its torpor. In the past year, the Justice Department has brought several criminal indictments against employers for antitrust violations (the first ever). The Federal Trade Commission is pondering a rule to restrict noncompetes. State attorneys general brought cases against franchises and other employers that used no-poaching agreements and noncompetes. Congress is holding hearings next week on antitrust and the American worker. Private litigators have joined in as discoveries of abusive wage practices have piled up. For example, “Big Chicken” companies face lawsuits not only for fixing the prices of chicken but also for fixing the wages of their workers.

If the academic research on labor markets is correct, then millions of Americans are paid thousands or even tens of thousands of dollars less than they should be paid. Labor monopsony affects people at all income levels, but it is a particular problem for lower-income workers and people living in stagnant rural and semirural parts of the country. In his recent executive order on antitrust, President Biden became the first president to commit government resources to ensure that the antitrust laws are used to help workers. Let’s hope he follows through.

#### Worker welfare is key.

Suresh Naidu et al 18. \*Suresh Naidu is an Associate Professor of International and Public Affairs and Economics, Columbia University. \*\*Eric Posner is a Kirkland & Ellis Distinguished Service Professor of Law, University of Chicago Law School. \*\*\*E. Glen Weyl is a Principal Researcher, Microsoft Research New England and Visiting Senior Research Scholar, Yale University Department of Economics and Law School “**Antitrust Remedies for Labor Market Power**” University of Chicago Law School. 2018. <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=13776&context=journal_articles>

Most of the principles naturally carry over, in suitably modified form, to the analysis of merger effects on labor markets, though a few subtle issues arise. Many of the same factors that could act as efficiencies on the product side are also efficiencies on the labor side. By analogy to the “consumer welfare” standard, we believe that **mergers that trigger scrutiny by reducing** **labor market competition** should be subject to a “**worker welfare” standard**.213 The fact that the merger might raise firm profits more than it harms workers **should not be sufficient to excuse the merger**. Instead, the merger would be permitted if the merger sufficiently increases worker productivity (workers’ marginal revenue product) in a way that will not fully be absorbed by lower prices or increased employer profits. Thus, harms from reduced competition are more than fully offset, and **therefore workers’ wages, benefits, or conditions will improve because of the merger.** This is not to say that mergers that harm workers should never be approved. The losses to workers could be offset by gains elsewhere in the economy. Indeed, the merger of two firms that operate in a frictionless labor market should not greatly harm workers even if it does result in significant layoffs, because in a competitive labor market **the laid-off workers can easily find equally good jobs.**214 In contrast, a merger that does create competitive concern should not be excused simply on the basis that it **allows the firm to cut costs by destroying jobs**. In such cases, antitrust doctrine does not allow efficiency gains in other markets to offset losses in one market.215 Thus, typically, **the worker-surplus implications of a merger will indicate its competitive effects**, just as in product markets consumer surplus is a strong but not perfect proxy for competitive effects. In some cases, a merger may **prove overall competitively harmful in labor markets** (thus **reducing worker welfare**) and beneficial in product markets (thus increasing consumer welfare). Such cases should be treated roughly like ones where competitive harm occurs in one product market but there are competitive benefits in another product market. To the extent possible, antitrust authorities should try to find remedies that address the competitive harms while preserving the benefits, such as requiring the spinning off of critical units that would allow an increase in market power. However, **the frequency of such cases should not be exaggerated**; mergers that increase labor market power and thus raise effective costs will not usually bring lower prices to consumers, and mergers increasing product market power and thus reducing sales will not typically create great jobs. As we noted in section I.A.3, enforcers should **not believe** the canard that the monopsonist’s lower labor costs are **passed on to consumers as lower prices**.216 Monopsony power raises the effective marginal cost a firm faces and thus should almost always lead to increased prices. Similar analysis applies to the merger-specificity of the efficiency gains: productivity gains that could be achieved absent the anticompetitive effects of the merger should not play a role in merger analysis.

#### Growing economic inequality drives diversionary nationalism and makes war inevitable.

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One of the oldest theories of nationalism is that states instill the nationalist myth in their citizens to divert their attention from great economic inequality and so forestall pervasive unrest. Because the very concept of nationalism obscures the extent of inequality and is a potent tool for delegitimizing calls for redistribution, it is a perfect diversion, and states should be expected to engage in more nationalist mythmaking when inequality increases. The evidence presented by this study supports this theory: across the countries and over time, where economic inequality is greater, nationalist sentiments are substantially more widespread. This result adds considerably to our understanding of nationalism. To date, many scholars have focused on the international environment as the principal source of threats that prompt states to generate nationalism; the importance of the domestic threat posed by economic inequality has been largely overlooked. However, at least in recent years, domestic inequality is a far more important stimulus for the generation of nationalist sentiments than the international context. Given that nuclear weapons—either their own or their allies’—rather than the mass army now serve as the primary defense of many countries against being overrun by their enemies, perhaps this is not surprising: nationalism-inspired mass mobilization is simply no longer as necessary for protection as it once was (see Mearsheimer 1990, 21; Posen 1993, 122–24). Another important implication of the analyses presented above is that growing economic inequality may increase ethnic conflict. States may foment national pride to stem discontent with increasing inequality, but this pride can also lead to more hostility towards immigrants and minorities. Though pride in the nation is distinct from chauvinism and outgroup hostility, it is nevertheless closely related to these phenomena, and recent experimental research has shown that members of majority groups who express high levels of national pride can be nudged into intolerant and xenophobic responses quite easily (Li and Brewer 2004). This finding suggests that, by leading to the creation of more national pride, higher levels of inequality produce environments favorable to those who would inflame ethnic animosities. Another and perhaps even more worrisome implication regards the likelihood of war. Nationalism is frequently suggested as a cause of war, and more national pride has been found to result in a much greater demand for national security even at the expense of civil liberties (Davis and Silver 2004, 36–37) as well as preferences for “a more militaristic foreign affairs posture and a more interventionist role in world politics” (Conover and Feldman 1987, 3). To the extent that these preferences influence policymaking, the growth in economic inequality over the last quarter century should be expected to lead to more aggressive foreign policies and more international conflict. If economic inequality prompts states to generate diversionary nationalism as the results presented above suggest, then rising inequality could make for a more dangerous world. The results of this work also contribute to our still limited knowledge of the relationship between economic inequality and democratic politics. In particular, it helps explain the fact that, contrary to median-voter models of redistribution (e.g., Meltzer and Richard 1981), democracies with higher levels of inequality do not consistently respond with more redistribution (e.g., Bénabou 1996). Rather than allowing redistribution to be decided through the democratic process suggested by such models, this work suggests that states often respond to higher levels of inequality with more nationalism. Nationalism then works to divert attention from inequality, so many citizens neither realize the extent of inequality nor demand redistributive policies. By prompting states to promote nationalism, greater economic inequality removes the issue of redistribution from debate and therefore narrows the scope of democratic politics.

#### Labor market inequities create slow and unstable growth---COVID proves.

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Why It Matters

It should be fairly obvious why these imperfections in the labor market matter so much: one of the most disturbing aspects of growth in the United States in recent decades is the growing inequality (see, e.g., Ostry, Berg, and Tsangarides 2019; Stiglitz 2012, 2019; and a rash of other books on the topic). Most of the gains in the economy have gone to the top 10 percent, the top 1 percent, and the top 0.1 percent. Some of the growing inequality has to do with increases in wage disparity—known as labor market polarization. But much of it has to do with the decreasing share of national income going to workers.8 This is where the decreasing market power of workers and the increasing market power of corporations comes in. This decreasing market power is more than just changes in technology or even globalization: it is also the broader changes in our economy, society, and politics—and especially the changes described earlier in this introduction and elsewhere in this volume—that have led to this growing imbalance of market power.

Research at the International Monetary Fund (Ostry, Berg, and Tsangarides 2014) and elsewhere (Ostry, Berg, and Tsangarides 2019) has highlighted the broader consequences of this growing inequality, even on economic performance. Economies that are more unequal are less stable and grow more slowly. In The Price of Inequality I explain the reasons that we pay such a high price for inequality.

The COVID-19 crisis has provided a dramatic illustration: inequalities in income translate into inequalities in health, especially in a society, like that of the United States, that relies on markets to dispense healthcare. The virus is not an equal opportunity virus—it appears to have the most devastating effects on people who have underlying health conditions. Our health inequalities are undoubtedly one of the reasons that the United States led the world in COVID-19 deaths.

Short-sighted employers did not provide sick leave and government did not require it—even when Congress seemed to recognize that workers without sick leave, who live paycheck to paycheck with virtually no money in the bank, would go to work even when they were sick. They had to work in order to survive, but that meant they helped to spread the disease. After lobbying by the large corporations, Congress decided that employers with more than 500 employees—almost half of the private labor force— were exempt from providing sick leave. With so few workers unionized, employees simply did not have the bargaining power to demand paid sick leave, personal protective equipment, or COVID-19 tests. Government should have required all these things, of course, and it had the power to do so under OSHA, but chose not to. Workers were desperate for the protection, but lacked the bargaining power to get it.

#### Monopsonies are key---inequality hollows out economics resilience---shocks are inevitable, only worker stability makes recovery possible.

Kate Bahn 21. Washington Center for Equitable Growth Testimony before the Joint Economic Committee, "Kate Bahn testimony before the Joint Economic Committee on monopsony, workers, and corporate power". Equitable Growth. 7-14-2021. https://equitablegrowth.org/kate-bahn-testimony-before-the-joint-economic-committee-on-monopsony-workers-and-corporate-power/

Thank you Chair Beyer, Ranking Member Lee, and members of the Joint Economic Committee for inviting me to testify today. My name is Kate Bahn and I am the Director of Labor Market Policy and the interim Chief Economist at the Washington Center for Equitable Growth. We seek to advance evidence-backed ideas and policies that promote strong, stable and broad-based growth. Core to this mission is understanding the ways in which inequality has distorted, subverted and obstructed economic growth in recent decades.

Mounting evidence, which I will review today, demonstrates how the rising concentration of corporate power has increased economic inequality and made the U.S. economy less efficient. Reversing the trends that have led to a “second gilded age” is critical to encouraging a resilient economic recovery following the pandemic-induced economic crisis of 2020 and encouraging a healthy, competitive economy for the future.

Introduction

The United States boasts one of the wealthiest economies in the world, but decades of increasing income inequality, job polarization, and stagnant wages for most Americans has plagued our labor market and demonstrated that a rising tide does not lift all boats. Furthermore, economic evidence demonstrates how inequality results in an inefficient allocation of talent and resources while increasing corporate concentration that enriches the few while holding back the entire economy from its potential. Understanding the causes and consequences of the concentration of corporate power will guide policymaking in order to ensure that the economic recovery in the next phase of the pandemic will be broadly shared and ensure a more resilient economy.

“Monopsony” is a key economic concept to understand in this discussion. Monopsony is the labor market equivalent of the better-known phenomenon of “monopoly,” but instead of having only one producer of a good or service, there is effectively only one buyer of a good or service, such as only one employer hiring people’s labor in a company town. Like in monopoly, this phenomenon is not limited to when a firm is strictly the only buyer of labor. Today I will explain the circumstances and effects of employers having significant monopsony power over the market and over workers.

When employers have outsized power in employment relationships, they are able to set wages for their workers, rather than wages being determined by competitive market forces. Given this monopsony power, employers undercut workers. This means paying them less than the value they contribute to production. One recent survey of all the economic research on monopsony finds that, on average across studies, employers have the power to keep wages over one-third less than they would be in a perfectly competitive market. Put another way, in a theoretical competitive market, if an employer cut wages then all workers would quit. But in reality, these estimates are the equivalent of a firm cutting wages by 5 percent yet only losing 10 percent to 20 percent of their workers, thus growing their profits without significantly impacting their business.

It is not only important for workers to earn a fair share so they can support themselves and their families, but also critical to ensure that our economy rebuilds to be stronger and more resilient. Prior to the current public health crisis and resulting recession, earnings inequality had been growing since at least the 1980s while the labor share of national income has been declining in same period. This is cause for concern as recent evidence suggests that the labor share of income has a positive impact on GDP growth in the long-run.

The unprecedented economic shock caused by the coronavirus pandemic revealed how economic inequality leads to a fragile economy, where those with the least are hit the hardest, amplifying recessions since lower-income workers typically spend more of their income in the economy. But the crisis also demonstrated how economic policy targeted toward workers and families can provide a foundation for growth. This is because workers are the economy, and pushing back against the concentration corporate power by providing resources to workers is the foundation for strong, stable and broadly shared growth.

The Causes of Monopsony

The concept of monopsony was initially developed by the early 20th century economist Joan Robinson, who examined how lack of competition led to unfair and inefficient economic outcomes. The prototypical example of monopsony is a company town, where there is one very dominant employer and workers have no choice but to accept low wages since they have no outside options. This is the most extreme case, but it is important to note that firms have monopsony power in any circumstance where workers aren’t moving between jobs seamlessly in search of the highest wages they can get.

Firms can use monopsony power to lower workers’ wages any time workers:

* Have few potential employers
* Face job mobility constraints
* Can only gather imperfect information about employers and jobs
* Have divergent preferences for job attributes
* Lack the ability to bargain over those offers

I will go through each of these factors in turn and demonstrate how labor markets are unique compared to other markets in dealing with competitive forces.

While concentrated labor markets are not the norm, they are pervasive across the United States, especially within certain sectors or locations. When markets are very concentrated, employers can give workers smaller yearly raises or make working conditions worse, knowing that their workers have nowhere to go to find a better job with better pay. (See Figure 1.)

A study published in the journal Labour Economics by economists Jose Azar, Ioana Marinescu, and Marshall Steinbaum finds that 60 percent of U.S. local labor markets are highly concentrated as defined by U.S. antitrust authorities’ 2010 horizontal merger guidelines. This accounts for 20 percent of employment in the United States. Research by economists Gregor Schubert, Anna Stansbury, and Bledi Tsaka goes further by estimating workers’ outside options, or the likelihood a worker is able to change into a different occupation or industry. This study finds that even with a more expansive definition of job opportunities more than 10 percent of the U.S. workforce is in local labor markets where pay is being suppressed by employer concentration by at least 2 percent, and a significant proportion of these workers facing few outside options are facing pay suppression of 5 percent or more. As study co-author Anna Stansbury noted, “for a typical full-time workers making $50,000 a year, a 2 percent pay reduction is equivalent to losing $1,000 per year and a 5 percent pay reduction is equivalent to losing $2,500 per year.”

Certain sectors are now very concentrated, such as the healthcare industry. In a paper by the economists Elena Prager and Matt Schmitt, they find that hospital mergers led to negative wage growth among skilled workers such as nurses or pharmacy workers. Consolidation and outsized employer power, alongside other phenomenon such as the fissuring of the workplace, may have broader impacts on the structure of the U.S. labor market when it affects the overall structure of the labor market, including the hollowing out of middle class jobs that have historically been a pathway for upward mobility.

#### It’s the key internal link to growth---wage depression constrains worker supply, constrains output, and decreases investment.

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Intuitively, it seems likely that less expensive inputs or lower wages would mean savings for firms to pass on to the consumers. But it turns out that inefficiencies and lack of competition in upstream markets have ripple effects that can harm everyone. In a competitive market, employers pay the market wage; when there are vacancies, a marginal increase in pay will follow so employers can fill those vacancies. Labor monopsonists have different incentives. If they raise pay to fill a marginal vacancy, they might also have to raise pay for their existing employees. The small increase in pay needed to attract one more worker could mean a massive swing in overall labor cost (Krueger 2017). So even if growth would generally be good for the company, they might not be able to add the workers they need specifically because of the special dynamics of controlling too much of the market.

This is an extreme example, but the same general principle applies when employers have the market power to depress wages below competitive levels. When the marginal cost of filling vacancies and growing one’s business to efficient levels diverges from the firm’s individual incentives for doing so, firms are constricted and leave jobs unfilled. Constraining inputs like labor leads to constrained outputs, and if firms are producing less of the products that consumers want, then prices for those products go up. After all, supply constraints and price increases are two sides of the same coin, economically. Fewer workers ultimately means fewer goods, and fewer goods means higher prices for the limited amount of goods available.4 Over time, this problem is magnified because fewer workers are incentivized to enter the field at all. The supply of qualified workers will go down, further reducing the firm’s ultimate output below efficient levels. In the end, everyone suffers except the firm with market power, which captures outsized profits.

Think: Why does America have a chronic undersupply of nurses or teachers, as well as stagnant wages (Council of Economic Advisers 2016)? In a competitive market, undersupply would lead to higher wages and increased entry to the field. If wages are inefficiently underpriced, we end up without enough nurses and ballooning healthcare costs. (Not to mention that, in the case of nurses, we end up with worse health outcomes for consumers!) This is part of the reason it is so problematic to interpret the consumer welfare standard to mean that short-term consumer prices are increased: presumed price effects could be irrelevant or misleading as to the overall effect on consumers.

Antitrust enforcement is supposed to be dynamic and to be able to keep up with the state of economic theory.5 But this cross-pollination is not in evidence. For example, even though inefficiency anywhere in the supply chain leads to worse outcomes for consumers, product market cases outnumber labor market cases by a factor of nearly 15, and in mergers by closer to 35. Moreover, no recent merger has been blocked on the basis of labor market effects alone (Levi 1948, 540, fn10). A quick foray into how antitrust law has developed follows.

#### Slow growth collapses the liberal order AND causes global hotspot escalation---extinction.

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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 proTrump 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 preWorld 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. Multipolarity We can define multipolarity as a wide distribution of power among multiple independent states. Exact equivalence of material power is not implied. What is required is the possession by several states of the capacity to coerce others to act in ways they would otherwise not, through kinetic or other means (economic sanctions, political manipulation, denial of access to essential resources, etc.). Such a distribution of power presents inherently graver challenges to peace and stability than do unipolar or bipolar power configurations,22 though of course none are safe or permanent. In brief, the greater the number of consequential actors, the greater the challenge of coordinating actions to avoid, manage, or de-escalate conflicts. Multipolarity also entails a greater potential for sudden changes in the balance of power, as one state may defect to another coalition or opt out, and as a result, the greater the degree of uncertainty experienced by all states, and the greater the plausibility of downside assumptions about the intentions and capabilities of one’s adversaries. This psychology, always present in international politics but particularly powerful in multipolarity, heightens the potential for escalation of minor conflicts, and of states launching preventive or preemptive wars. In multipolarity, states are always on edge, entertaining worst-case scenarios about actual and potential enemies, and acting on these fears—expanding their armies, introducing new weapon systems, altering doctrine to relax constraints on the use of force—in ways that reinforce the worst fears of others. The risks inherent in multipolarity are heightened by the attendant weakening of global institutions. Even in a state-centric system, such institutions can facilitate communication and transparency, helping states to manage conflicts by reducing the potential for misperception and escalation toward war. But, as Waheguru Pal Singh Sidhu argues in his chapter on the United Nations, the influence of multilateral institutions as agent and actor is clearly in decline, a result of bottom-up populist/nationalist pressures experienced in many countries, as well as the coordination problems that increase in a system of multiple great powers. As conflict resolution institutions atrophy, great powers will find themselves in “security dilemmas”23 in which verification of a rival’s intentions is unavailable, and worst-case assumptions fill the gap created by uncertainty. And the supply of conflicts will expand as a result of growing nationalism and populism, which are premised on hostility, paranoia, and isolation, with governments seeking political legitimacy through external conflict, producing a siege mentality that deliberately cuts off communication with other states. Finally, the transition from unipolarity (roughly 1989–2007) to multipolarity is unregulated and hazardous, as the existing superpower fears and resists challenges to its primacy from a rising power or powers, while the rising power entertains new ambitions as entitlements now within its reach. Such a “power transition” and its dangers were identified by Thucydides in explaining the Peloponnesian Wars,24 by Organski (the “rear-end collision”)25 during the Cold War, and recently repopularized and brought up to date by Graham Allison in predicting conflict between the US and China.26 A useful, and consequential illustration of the inherent challenge of conflict management during a power transition toward multipolarity, is the weakening of the arms control regime negotiated by the US and the Soviet Union during the Cold War. Despite the existential, global conflict between two nuclear armed superpowers embracing diametrically opposed world views and operating in economic isolation from each other, the two managed to avoid worst-case outcomes. They accomplished this in part by institutionalizing verifiable limits on testing and deployment of both strategic and intermediate-range nuclear missiles. Yet as diplomatically and technically challenging as these achievements were, the introduction of a third great power, China, into this twocountry calculus has proven to be a deal breaker. Unconstrained by these bilateral agreements, China has been free to build up its capability, and has taken full advantage in ramping up production and deployment of intermediate-range ground-launched cruise missiles, thus challenging the US ability to credibly guarantee the security of its allies in Asia, and greatly increasing the costs of maintaining its Asian regional hegemony. As a result, the Intermediate Nuclear Force treaty is effectively dead, and the New Start Treaty, covering strategic missiles, is due to expire next year, with no indication of any US–Russian consensus to extend it. The US has with logic indicated its interest in making these agreements trilateral; but China, with its growing power and ambition, has also logically rejected these overtures. Thus, all three great powers are entering a period of nuclear weapons competition unconstrained by the major Cold War arms control regimes. In a period of rapid advances in technology and worsening great power relations, the nuclear competition will be a defining characteristic of the next decade and beyond. This dynamic will also complicate nuclear nonproliferation efforts, as both the demand for nuclear weapons (a consequence of rising regional and global insecurity), and supply of nuclear materials and technology (a result of the weakening of the nonproliferation regime and deteriorating great power relations) will increase. Will deterrence prevent war in a world of several nuclear weapons states, (the current nuclear powers plus South Korea, Iran, Saudi Arabia, Japan, Turkey), as it helped to do during the bipolar Cold War? Some neorealist observers view nuclear weapons proliferation as stabilizing, extending the balance of terror, and the imperative of restraint, to new nuclear weapons states with much to fight over (Saudi Arabia and Iran, for example).27 Others,28 examining issues of command and control of nuclear weapons deployment and use by newly acquiring states, asymmetries in doctrines, force structures, and capabilities between rivals, the perils of variable rates in transition to weapons deployment, problems of communication between states with deep mutual grievances, the heightened risk of transfer of such weapons to non-state actors, have grave doubts about the safety of a multipolar, nuclear-armed world.29 We can at least conclude that prudence dictates heightened efforts to slow the pace of proliferation, while realism requires that we face a proliferated future with eyes wide open. The current distribution of power is not perfectly multipolar. The US still commands the world’s largest economy, and its military power is unrivaled by any state or combination of states. Its population is still growing, despite a recent decline in birth rates. It enjoys extraordinary geographic advantages over its rivals, who are distant and live in far worse neighborhoods. Its economy is less dependent on foreign markets or resources. Its political system has proven—up to now—to be resilient and adaptable. Its global alliance system greatly extends its capacity to defend itself and shape the world to its liking and is still intact, despite growing doubts about America’s reliability as a security guarantor. Based on these mostly material and historical criteria, continued American primacy would seem to be a good bet, if it chooses to use its power in this way.30 So why multipolarity? The clearest and most frequently cited evidence for a widening distribution of global power away from American unipolarity is the narrowing gap in GDP between the US and China. The IMF’s World Economic Outlook forecasts a $0.9 trillion increase in US GDP for 2019–2020, and a $1.3 trillion increase for China in the same period.31 Many who support the American primacy case argue that GDP is an imperfect measure of power, that Chinese GDP data is inflated, that its growth rates are in decline while Chinese debt is rapidly increasing, and that China does poorly on other factors that contribute to power—its low per capita GDP, its political succession challenges, its environmental crisis, its absence of any external alliance system. Yet GDP is a good place to start, as the single most useful measure and long-term predictor of power. It is from the overall economy that states extract and apply material power to leverage desired behavior from other states. It is true that robust future Chinese growth is not guaranteed, nor is its capacity to convert its wealth to power, which is a function of how well its political system works over time. But this is equally the case for the US, and considering recent political developments is not a given for either country. As an alternative to measuring inputs—economic size, political legitimacy, technological innovation, population growth—in assessing relative power and the nature of global power distribution, we should consider outputs: what are states doing with their power? The input measures are useful, possibly predictive, but are usually deployed in the course of making a foreign policy argument, sometimes on behalf of a reassertion of American primacy, sometimes on behalf of retrenchment. As such, their objectivity (despite their generous deployment of “data”) is open to question. What is undeniable, to any clear-eyed observer, is a real decline in American influence in the world, and a rise in the influence of other powers, which predates the Trump administration but has accelerated into America’s free fall over the last four years. This has produced a de facto multipolarity, whether explainable in the various measures of power—actual and latent—or not. This decline results in part from policy mistakes: a reckless squandering of material power and legitimacy in Iraq, an overabundance of caution in Syria, and now pure impulsivity. But more fundamentally, it is a product of relative decline in American capacity—political and economic—to which American leadership is adjusting haphazardly, but in the direction of retrenchment/restraint. It is highly revealing that the last two American presidents, polar opposites in intellect, temperament and values, agreed on one fundamental point: the US is overextended, and needs to retrench. The fact that neither Obama nor Trump (up to this point in his presidency) believed they had the power at their disposal to do anything else, tells us far more about the future of American power and policy—and about the emerging shape of international relations—than the power measures and comparisons made by foreign policy advocates. Observation of recent trends in US versus Russian relative influence prompts another question: do we understand the emerging characteristics of power? Rigorously measuring and comparing the wrong parameters will get us nowhere at best and mislead us into misguided policies at worst. How often have we heard, with puzzlement, that Putin punches far above his weight? Could it be that we misunderstand what constitutes “weight” in the contemporary and emerging world? Putin may be on a high wire, and bound to come crashing down; but the fact is that Russian influence, leveraging sophisticated communications/social media/influence operations, a strong military, an agile (Putin-dominated) decision process, and taking advantage of the egregious mistakes by the West, has been advancing for over a decade, shows no sign of slowing down, and has created additional opportunities for itself in the Middle East, Europe, Asia, Latin America, the Arctic. It has done this with an economy roughly the size of Italy’s. There are few signs of a domestic political challenge to Putin. His external opponents are in disarray, and Russia’s main adversary is politically disabled from confronting the problem. He has established Russia as the Middle East power broker. He has reached into the internal politics of his Western adversaries and influenced their leadership choices. He has invaded and absorbed the territory of neighboring states. His actions have produced deep divisions within NATO. Again, simple observation suggests multipolarity in fact, and a full explanation for this power shift awaiting future historians able to look with more objectivity at twenty-first-century elements of power. When that history is written, surely it will emphasize the extraordinary polarization in American politics. Was multipolarity a case of others finding leverage in new sources of power, or the US underutilizing its own? The material measures suggest sufficient capacity for sustained American primacy, but with this latent capacity unavailable (as perceived, I believe correctly, by political leadership) by virtue of weakening institutions: two major parties in separate universes; a winnertake-all political mentality; deep polarization between the parties’ popular bases of support; divided government, with the Presidency and the Congress often in separate and antagonistic hands; diminishing trust in the permanent government, and in the knowledge it brings to important decisions, and deepening distrust between the intelligence community and policymakers; and, in Trump’s case, a chaotic policy process that lacks any strategic reference points, mis-communicates the Administration’s intentions, and has proven incapable of sustained, coherent diplomacy on behalf of any explicit and consistent set of policy goals. Rising Nationalism/Populism/Authoritarianism The evidence for these trends is clear. Freedom House, the go-to authority on the state of global democracy, just published its annual assessment for 2020, and recorded the fourteenth consecutive year of global democratic decline and advancing authoritarianism. This dramatic deterioration includes both a weakening in democratic practice within states still deemed on balance democratic, and a shift from weak democracies to authoritarianism in others. Commitment to democratic norms and practices—freedom of speech and of the press, independent judiciaries, protection of minority rights—is in decline. The decline is evident across the global system and encompasses all major powers, from India and China, to Europe, to the US. Right-wing populist parties have assumed power, or constitute a politically significant minority, in a lengthening list of democratic states, including both new (Hungary, Poland) and established (India, the US, the UK) democracies. Nationalism, frequently dismissed by liberal globalization advocates as a weak force when confronted by market democracies’ presumed inherent superiority, has experienced a resurgence in Russia, China, the Middle East, and at home. Given the breadth and depth of right-wing populism, the raw power that promotes it—mainly Russian and American—and the disarray of its liberal opponents, this factor will weigh heavily on the future. The major factors contributing to right-wing populism and its global spread is the subject of much discussion.32 The most straightforward explanation is rising inequality and diminished intergenerational mobility, particularly in developed countries whose labor-intensive manufacturing has been hit hardest by the globalization of capital combined with the immobility of labor. Jobs, wages, economic security, a reasonable hope that one’s offspring has a shot at a better life than one’s own, the erosion of social capital within economically marginalized communities, government failure to provide a decent safety net and job retraining for those battered by globalization: all have contributed to a sense of desperation and raw anger in the hollowed-out communities of formerly prosperous industrial areas. The declining life expectancy numbers33 tell a story of immiseration: drug addition, suicide, poor health care, and gun violence. The political expression of such conditions of life should not be surprising. Simple, extremist “solutions” become irresistible. Sectarian, racial, regional divides are strengthened, and exclusive identities are sharpened. Political entrepreneurs offering to blow up the system blamed for such conditions become credible. Those who are perceived as having benefited from the corrupt system—long-standing institutions of government, foreign countries and populations, immigrants, minorities getting a “free ride,” elites—become targets of recrimination and violence. The simple solutions of course, don’t work, deepening the underlying crisis, but in the process politics is poisoned. If this sounds like the US, it should, but it also describes major European countries (the UK, France, Italy, Germany, Poland, Hungary, the Czech Republic), and could be an indication of things to come for non-Western democracies like India. We have emphasized throughout this chapter the interaction of four structural forces in shaping the future, and this interaction is evident here as well. Is it merely coincidence that the period of democratic decline documented by Freedom House, coincides precisely with the global financial and economic crisis? Lower growth, increasing joblessness, wage stagnation, superimposed on longer-term widening of inequality and declining mobility, constitute a forbidding stress test for democratic systems, and many continue to fail. And if we are correct about secular stagnation, the stress will continue, and authoritarianism’s fourteen-year run will not be over for some time. The antidemocratic trend will gain additional impetus from the illiberal direction of globalization, with its growth suppressing protectionism, weaponization of global economic exchange, and weakening global economic institutions. Multipolarity also contributes, in several ways. The former hegemon and author of globalization’s liberal structure has lost its appetite, and arguably its capacity, for leadership, and indeed has become part of the problem, succumbing to and promoting the global right-wing populist surge. It is suffering an unprecedented decline in life expectancy, and recently a decline in the birth rate, signaling a degree of rot commonly associated with a collapsing Soviet Union. While American politics may once again cohere around its liberal values and interests, the time when American leadership had the self-confidence to shape the global system in its liberal image is gone. It may build coalitions of the like-minded to launch liberal projects, but there will be too much power outside these coalitions to permit liberal globalization of the sort imagined at the end of the Cold War. In multipolarity, the values around which global politics revolve will reflect the diversity of major powers, their interests, and the norms they embrace. Convergence of norms, practices, policies is out of the question. Global collective action, even in the face of global crises, will be a long shot. To expect anything else is fantasy Unbrave New World and Future Challenges At the outset of this chapter we described these structural forces as interacting to produce more conflict and diminished prosperity. We also predicted a world with shrinking collective capacity to address new challenges as they arise. What specifically will such a world look like? We address below three principal challenges to global problem solving over the next decade. Interstate Conflict In the world experienced by most readers of this volume, conflict is observed within weak states, sometimes promoted by regional competitors, by terrorist groups, or by great powers, acting through surrogates or by indirect means. Sometimes, as in Syria, this conflict spills over to contiguous states and contributes to regional instability, and challenges other regions to respond effectively, a challenge that Europe has not met. Much of this will continue, but the global significance of such local conflicts will be greatly magnified by increasing great power conflict, which will feed—rather than manage or resolve—local instabilities and will in turn be exacerbated by them. Great powers will jockey for advantage, support their local partners, escalate preemptively. Conflicts initially confined to failing states or unstable regions will be redefined by great powers as global in scope and significance. This tendency of states to view local conflicts in the context of a zero-sum, global struggle for power is familiar to students of the Cold War, but now with the additional challenges to collective action, expanded uncertainty and worst-case thinking associated with the power transition to multipolarity. We can easily observe increased conflict in US–China relations, as we will in US–Russia relations as future US administrations try to make up for ground lost during the Trump presidency, especially in the Middle East. We can observe it among powerful states with mutual historical grievances, now with a weakening presence of the hegemonic security guarantor and having to consider the renationalization of their defense: Japan-South Korea, Germany-France. We can observe it among historical rivals operating in rapidly changing security landscapes: India-China. We can observe it within the Middle East, as internal rivalries are appropriated by regional powers in a contest for regional dominance. We can observe it clearly in Syria, where the regime’s violent suppression of Arab Spring resistance led to all-out civil war, attracted outside support to proxy forces by aspiring regional hegemons Saudi Arabia and Iran, enabled the rise of ISIS, and eventually to great power intervention, principally by Russia. In a world of effective great power collaboration or American primacy, the Syrian civil war might have been settled through power sharing or partition, or if not, contained within Syria. The collapse of Yugoslavia, occurring during a period of US “unipolarity” and managed effectively, demonstrates the possibilities. Instead, with the US retrenching, Middle East rivals unconstrained by great powers, and great power competition rising, the Syria civil war was fed by outside powers, then metastasized into the region, and—in the form of refugee flows—into Europe, fundamentally altering European politics. Libya may be at the early stages of this scenario. This is not the end of the Syria story. Russia has established itself as a major player in Syria and the Middle East’s power broker, the indispensable country with leverage throughout the region. China is poised to reap the financial and power benefits of Syrian reconstruction. The US has just demonstrated, in its act of war against the Iranian regime, its willingness, without consultation, to put its allies’ security in further jeopardy, accentuating the risks of security ties with Washington and generating added opportunities for Russia and China. The purpose here is not to critique US policy, but to point out the dramatically shifting power balance in a critical region, toward multipolarity. The dangers of such a shift will become apparent as some future US president attempts to reassert US influence in the region and finds a crowded playing field. Can a multipolar distribution of power among several states whose interests, values, and political practices are divergent, all experiencing bottom-up nationalist pressures, all seeking advantages in the oversupply of regional instability, be made to work? I think not. Will this more dangerous world descend into direct military confrontation between great powers, and could such confrontation lead to use of nuclear weapons? Here the question becomes, what will this more dangerous world actually look like; what instruments of coercion will be available to states as technology change accelerates; how will states employ these instruments; how will deterrence work (if at all) among several states with large but unequal levels of destructive capacity, weak command, and control, disparate— or opaque—strategies and simmering rivalries; can conflict management work in a world of weak institutions? The collapse of the Cold War era nuclear arms control regime, the threat to the Non-Proliferation Treaty represented by the demise of the JCPOA, and multiple indications of an accelerating nuclear arms race among the three principle powers, augurs badly. Given the structural forces at play, and without predicting the worst, we are indeed entering perilous times. Global Poverty and Inequality Despite the challenges of volatility and disruptive change inherent in globalization, the world under American liberal leadership has managed a dramatic reduction of extreme poverty. According to World Bank estimates, in 2015, 10 percent of the world’s population lived on less than $1.90 a day, down from nearly 36 percent in 1990.34 In fact, as of September 2018, half the world is now middle class or wealthier.35 The uneven success of the UN Millennium Development Goals (MDGs) exemplifies this achievement, and demonstrates what is possible when open markets are managed through strong global institutions, effective leadership and interstate collaboration. What this liberal hegemonic system did not achieve, however, was a fair distribution of the gains from globalization within states, and among those states that for various reasons were not full participants in this system. This record of partial achievement leaves us with a full agenda for the next fifteen years, but without the hegemonic leadership, strong institutions, ascendant liberalism or robust global growth that enabled previous gains. There are powerful reasons to question the sustainability of these poverty reduction gains, leading to doubts about the realization of the Sustainable Development Goals, which have replaced the MDGs as global development targets.36 (See Jens Rudbeck’s chapter and Sidhu’s UN chapter for SDGs). Skeptics have pointed to slowing global growth, specifically in China, whose demand for imported commodities was a major factor in developing country growth and job creation; growing protectionism in developed country markets, fueled by bottom-up forces of nationalism, and from top-down by a weakened global trading regime and increased geopolitical rivalry; the effects of accelerating climate change on agriculture, migration and communal conflict in poor countries; and the growth burst among poor countries from the rapid transition to more efficient use of resources, a transition that is now slowing down.37 Perhaps the greatest concern in this scenario is a general deterioration in the developing country foreign investment climate. Foreign direct investment (FDI) has been a major contributor to growth, job creation, and poverty alleviation among poor countries. It has incentivized growthfriendly policies, reduced corruption, introduced technology and effective management practices, and linked poor countries to foreign markets through global supply chains.38 It has stimulated growth of indigenous manufacturing and service companies to supply new foreign investments. It has been the major cause of economic convergence between rich and poor countries. From 2000 to 2009, developing economies’ growth rates were more than four percentage points higher than those of rich countries, pushing their share of global output from just over a third to nearly half.39 However, FDI flows into poor countries are imperiled by the structural forces discussed here. Political instability arising from slower growth and environmental stress will increase investors’ perception of higher risk, reinforcing their developed country bias. Protectionism among developed countries will threaten the global market access upon which manufacturing investment in developing countries is premised, causing firms to pare back their global supply chains. As companies retrench from direct investment in poor countries, the appeal to those countries of Chinese debt financed infrastructure projects, under the Belt-Road Initiative with little or no conditionality, but at the risk of “debt traps,” will increase. Global Warming The question posed at the beginning of this section is whether the international system, evolving toward multipolarity and rising nationalism, will find the collective political capital to confront challenges as they arise. Global warming is the mother of all challenges, and the weakness in the system’s capacity to respond is clear. With the two major political/economic powers and greenhouse gas emitters locked in deepening geopolitical conflict (and with one of them locked in climate change denial, possibly through 2024), the chances of significantly slowing global warming or even ameliorating its effects are very slim. We are reduced to the default option, nation-specific adaptation to climate change, which will impose rising human, political and economic costs on all, and will widen the gap between rich countries with adaptive capacity (of varying degrees), and the poor, who will suffer deteriorating economic, political, and social conditions. (For a contrary, optimistic view see Michael Shank’s chapter, which credits new actors—like cities—as playing a more constructive role in climate mitigation.) This would bring to a close liberal globalization’s greatest achievement; the raising of 1.1 billion people out of extreme poverty since 1990,40 with all its associated gains in quality of life (in the WHO Africa region, for example, life expectancy rose by 10.3 years between 2000 and 2016, driven mainly by improvements in child survival and expanded access to antiretrovirals for treatment of HIV).41 Several forces are at work here. The problem itself is graver—in magnitude and in rate of worsening—than predicted by climate scientists. The UN Intergovernmental Panel on Climate Change (IPCC), the major source of information on global warming, has consistently underpredicted the rate of climate deterioration. This holds true even for its “worst-case scenarios,” meaning that what was meant as a wake-up call has in fact reinforced complacency.42 (see Michael Shank’s chapter for further discussion of climate change). The IPCC, in its 2019 report, has tried to undo the damage by emphasizing the acceleration in the rate of warming and its effects, the only partially understood dynamic of climate change, and—given wide uncertainty—the possibility of unpleasant surprises yet to come. This strengthens the scientific case for urgency—to both severely limit greenhouse gas emissions, and to increase investment in ameliorating the effects. Unfortunately, the crisis comes at a moment when the climate for collective action is ice cold. Geopolitical competition incentivizes states to out produce each other, regardless of the environmental effects. Multipolarity complicates collective action. Economic stagnation mandates job creation, making regulation politically toxic. Bottom-up nationalism/populism causes states to pursue “relative gains,” meaning that if the nation is seen as gaining in a no-holds-barred economic competition with others, the negative environmental effects can be tolerated. A post-Trump presidency would help, with the US rejoining the Paris Agreement, and lending its weight to tighter regulation, increased R and D, and stronger economic incentives to reduce carbon emissions. Keep in mind, however, that President Obama was fully behind such efforts, but in a deeply polarized America was unable to implement measures needed to fulfill the Paris obligations through legislation, and his executive orders to do this were swiftly overturned by Trump. Conclusion It may be tempting to hope that post-Trump, the US can regain its global leadership and exert its considerable power in a liberal direction, but with enough self-awareness of its relative decline to share responsibility with others. This was, I believe, the broad direction of the Obama strategy, evidenced by the JCPOA and the Trans-Pacific Partnership: liberal, collective solutions to global problems, as US dominance receded. This would constitute an optimistic scenario, and it confronts two major problems: can US internal politics support it (can, for example, the country legislate controls on carbon, essential for the global credibility and durability of such commitments); and is the world ready to reengage with American leadership, given the damage to its reputation and the structural forces discussed in this chapter? My educated guess is no, on both counts. The rot within is extensive, the concrete evidence clear in the economic inequality/immobility numbers, the life expectancy numbers, the deep political polarization, between the two major parties, between regions, between cities and rural areas. We are in fact a long way from fitness for global leadership, and the recognition of this by others will accelerate the decline of American influence. The rest of the world is well on its way toward adjusting to post-American hegemony, some by renationalizing their defense, or by cutting deals with adversaries, by building new alliances or by seizing new opportunities for influence in the vacuum left by American retrenchment. The evidence for this will accumulate. Observe the current and emerging Middle East, where all these post-hegemonic strategies are visible.

#### Decline overcomes traditional barriers to conflict.

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Economic recovery efforts since the 2008-2009 global financial crisis have mainly depended on unconventional monetary policies. As fears rise of yet another international financial crisis, there are growing concerns about the increased possibility of large-scale military conflict. More worryingly, in the current political landscape, prolonged economic crisis, combined with rising economic inequality, chauvinistic ethno-populism as well as aggressive jingoist rhetoric, including threats, could easily spin out of control and ‘morph’ into military conflict, and worse, world war. Crisis responses limited The 2008-2009 global financial crisis almost ‘bankrupted’ governments and caused systemic collapse. Policymakers managed to pull the world economy from the brink, but soon switched from counter-cyclical fiscal efforts to unconventional monetary measures, primarily ‘quantitative easing’ and very low, if not negative real interest rates. But while these monetary interventions averted realization of the worst fears at the time by turning the US economy around, they did little to address underlying economic weaknesses, largely due to the ascendance of finance in recent decades at the expense of the real economy. Since then, despite promising to do so, policymakers have not seriously pursued, let alone achieved, such needed reforms. Instead, ostensible structural reformers have taken advantage of the crisis to pursue largely irrelevant efforts to further ‘casualize’ labour markets. This lack of structural reform has meant that the unprecedented liquidity central banks injected into economies has not been well allocated to stimulate resurgence of the real economy. From bust to bubble Instead, easy credit raised asset prices to levels even higher than those prevailing before 2008. US house prices are now 8% more than at the peak of the property bubble in 2006, while its price-to-earnings ratio in late 2018 was even higher than in 2008 and in 1929, when the Wall Street Crash precipitated the Great Depression. As monetary tightening checks asset price bubbles, another economic crisis — possibly more severe than the last, as the economy has become less responsive to such blunt monetary interventions — is considered likely. A decade of such unconventional monetary policies, with very low interest rates, has greatly depleted their ability to revive the economy. The implications beyond the economy of such developments and policy responses are already being seen. Prolonged economic distress has worsened public antipathy towards the culturally alien — not only abroad, but also within. Thus, another round of economic stress is deemed likely to foment unrest, conflict, even war as it is blamed on the foreign. International trade shrank by two-thirds within half a decade after the US passed the Smoot-Hawley Tariff Act in 1930, at the start of the Great Depression, ostensibly to protect American workers and farmers from foreign competition! Liberalization’s discontents Rising economic insecurity, inequalities and deprivation are expected to strengthen ethno-populist and jingoistic nationalist sentiments, and increase social tensions and turmoil, especially among the growing precariat and others who feel vulnerable or threatened.Thus, ethno-populist inspired chauvinistic nationalism may exacerbate tensions, leading to conflicts and tensions among countries, as in the 1930s. Opportunistic leaders have been blaming such misfortunes on outsiders and may seek to reverse policies associated with the perceived causes, such as ‘globalist’ economic liberalization. Policies which successfully check such problems may reduce social tensions, as well as the likelihood of social turmoil and conflict, including among countries. However, these may also inadvertently exacerbate problems. The recent spread of anti-globalization sentiment appears correlated to slow, if not negative per capita income growth and increased economic inequality. To be sure, globalization and liberalization are statistically associated with growing economic inequality and rising ethno-populism. Declining real incomes and growing economic insecurity have apparently strengthened ethno-populism and nationalistic chauvinism, threatening economic liberalization itself, both within and among countries. Insecurity, populism, conflict Thomas Piketty has argued that a sudden increase in income inequality is often followed by a great crisis. Although causality is difficult to prove, with wealth and income inequality now at historical highs, this should give cause for concern. Of course, other factors also contribute to or exacerbate civil and international tensions, with some due to policies intended for other purposes. Nevertheless, even if unintended, such developments could inadvertently catalyse future crises and conflicts. Publics often have good reason to be restless, if not angry, but the emotional appeals of ethno-populism and jingoistic nationalism are leading to chauvinistic policy measures which only make things worse. At the international level, despite the world’s unprecedented and still growing interconnectedness, multilateralism is increasingly being eschewed as the US increasingly resorts to unilateral, sovereigntist policies without bothering to even build coalitions with its usual allies. Avoiding Thucydides’ iceberg Thus, protracted economic distress, economic conflicts or another financial crisis could lead to military confrontation by the protagonists, even if unintended. Less than a decade after the Great Depression started, the Second World War had begun as the Axis powers challenged the earlier entrenched colonial powers. They patently ignored Thucydides’ warning, in chronicling the Peloponnesian wars over two millennia before, when the rise of Athens threatened the established dominance of Sparta! Anticipating and addressing such possibilities may well serve to help avoid otherwise imminent disasters by undertaking pre-emptive collective action, as difficult as that may be.

### FTC---1AC

#### Advantage 2 is FTC Credibility.

#### FTC promised labor protection---they’ll lose now but the plan makes them win.

Nicolás Rivero 21. NU Graduate. "Biden’s antitrust crusaders can’t crusade without Congress". Quartz. 3-11-2021. https://qz.com/1982437/lina-khan-and-tim-wu-need-congress-to-push-their-antitrust-agenda/amp/

US president Joe Biden is poised to promote two of the country’s most prominent anti-monopoly crusaders to top jobs in his administration. The moves signal that Biden is serious about cracking down on dominant companies that include Facebook, Google, Amazon, and Apple. But for the president’s trustbusting champions to make a real impact, they’ll need support from Congress.

Biden appointed Columbia law professor Tim Wu to the National Economic Council (NEC) as his top advisor on technology and competition on March 5. Politico reports that Biden will soon follow up by nominating Lina Khan, also a Columbia law professor, to the Federal Trade Commission (FTC). (Before she can take her seat as one of the antitrust agency’s five commissioners, Khan must be confirmed by the Senate.)

Khan and Wu are two of the leading voices in a new movement of legal thought that argues the US should fundamentally overhaul the way it approaches antitrust. The crux of their argument is that courts should broaden the values they consider when deciding whether to block a merger or break up a dominant company. Rather than focus narrowly on the impact a company has on consumer prices, they argue that judges should also think about a company’s impact on small businesses, labor rights, and the health of democracy.

Khan and Wu have already secured a win for their cause just by being appointed—essentially a White House stamp of approval on their viewpoints. But despite much handwringing from industry groups, neither appointee will be able to single-handedly remake American antitrust in their image.

How the FTC can tackle antitrust

To be sure, Wu can advocate loudly for his preferred policies from his perch at the NEC, which advises the president on economic policy. And if Khan makes it to the FTC, which is the top US antitrust enforcement agency, she’ll have direct influence over which investigations the agency prioritizes, which lawsuits it brings, and whether its prosecutors will ask judges to impose fines, break up dominant firms, or require them to change their business practices.

But there are clear limits to their power. The most the FTC can do is bring more antitrust cases that ask courts for more aggressive remedies, like breakups. That would allow the agency to make a point about what it considers acceptable business behavior. But many of those lawsuits would be bound to lose in front of judges who have grown far more skeptical of antitrust cases over the past four decades and far more conservative over the past four years.

A larger caseload would also require Congress to approve more funding for the cash-strapped agency, which is already struggling to pay for its current docket. “The agencies have been asked on many occasions to do a lot with relatively little…but it’s not for free,” says former FTC chair and George Washington University law professor Bill Kovacic. If the FTC wants to pursue more large cases without a bigger budget, “they’ll have to make choices, and those choices will involve backing off of other areas of enforcement.”

The FTC could also decide to dust off its rarely used rule-making power and declare certain anticompetitive business practices illegal. But any new rule would almost certainly trigger legal challenges, which would spark a long, expensive court battle in front of judges who aren’t likely to be sympathetic. Kovacic estimates the process could take four or five years—and in the end, judges might just strike the rule down.

How Congress can tackle antitrust

The best hope for stricter antitrust enforcement lies in Congress. Lawmakers could pass bills, like one recently proposed by Minnesota senator Amy Klobuchar, that would make it easier for enforcement agencies to challenge mergers and acquisitions. They could even go a step further and draft an updated set of antitrust laws, perhaps following the blueprint laid out in last year’s antitrust report from the House of Representatives (which was co-authored by Khan). Armed with new laws clearly banning specific behaviors, prosecutors at the Department of Justice and the FTC would stand a better chance winning cases against well-funded adversaries like Facebook and Google.

Those steps wouldn’t hinge on heroics from antitrust hardliners like Khan and Wu. Instead, their success would depend on the whims of Senate centrists like West Virginia’s Joe Manchin, who has lately been flexing his power to derail the chamber’s democratic majority in opposition to left-wing priorities like a $15 minimum wage.

Ultimately, Congress should be the body that sets US antitrust policy. It has the clearest authority to ban the bullying business tactics for which Big Tech firms have been criticized. Legislative fixes are likely to be quicker and less vulnerable to court challenges—not to mention more democratic—than changing FTC rules. And it has traditionally been Congress’s prerogative to keep the country’s antitrust policy up to date: Legislators updated the monopoly laws every two decades or so between 1890 and 1950 to respond to new threats. They’ve just neglected that tradition for the past 70 years.

#### Khan is advocating for the plan but constrained by the existing body of antitrust law---only adopting a new standard solves.

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In a September 22, 2021, memorandum to staff, Federal Trade Commission (FTC) Chair Lina Khan formally laid out her “Vision and Priorities for the FTC,” reaffirming her calls for broad antitrust enforcement organized around three key policy priorities: merger enforcement, dominant intermediaries and restrictive contract terms. The memo further describes her vision for the agency’s strategic approach and operational objectives to support those priorities. Like her prior calls for antitrust reform and aggressive enforcement,1 the policy priorities outlined by Chair Khan are somewhat abstract and do not specify concrete actions the agency will take to achieve them. However, a close review of these high-level priorities, approach and objectives reveals some **practical obstacles to implementation**, including limitations **imposed by resource constraints and the existing body of antitrust law.** Policy Priorities: Merger Enforcement, Dominant Intermediaries and Restrictive Contract Terms Chair Khan listed three policy priorities for the agency going forward. First, she identified a need to strengthen the agency’s merger enforcement work to combat what she described as rampant consolidation and the market dominance she believes that consolidation has enabled. In particular, she expressed a concern that markets “will only become more consolidated” absent FTC vigilance and assertive action. She noted that revising the merger guidelines will be important to achieve merger reform, characterizing prior iterations of the guidelines as a “somewhat narrow and outdated framework for assessing mergers.” She also highlighted a need to find ways to deter unlawful transactions, including “facially illegal deals.” Second, Ms. Khan indicated her desire to focus enforcement on “dominant intermediaries and extractive business models.” After suggesting that market power is an increasingly systemic problem in the economy, and that the FTC should devote resources to regulating the most significant actors — with “next-generation technologies, innovations, and nascent industries” requiring particular vigilance, she focused specifically on the market position of “gatekeeper” companies and “dominant middlemen.” Such entities, according to Chair Khan, have been able to “hike fees, dictate terms, and protect and extend their market power.” She also posited that the involvement of private equity and other investment vehicles may strip such businesses of productive capacity and harm consumers. In discussing the agency’s strategic approach to address these issues, Chair Khan noted her intention to “focus[] on structural incentives that enable unlawful conduct,” and to “look[] upstream at the firms that are enabling and profiting from this conduct.” Third, Ms. Khan discussed certain contract terms, including **noncompete provisions**, repair restrictions and exclusionary clauses, that she believes could constitute unfair methods of competition or unfair or deceptive trade practices. She also **advocated for a “holistic” approach to identifying harms to account for effects on workers** and independent businesses. Describing this holistic approach in broad terms, she indicated that the agency would **focus on “power asymmetries** and the unlawful practices those imbalances enable,” and the effects such conduct has, for example, on **marginalized communities**. In sharing her hopes to “further democratize the agency,” Chair Khan similarly expressed that the FTC’s work should help “shape[] the **distribution of power and opportunity** across our economy.” More generally, the memo identifies areas of investment for the agency to help achieve these priorities. This includes incorporating a greater range of analytical tools and skillsets into the agency’s work, and expanding the agency’s regional footprint to grow its ranks, including by hiring additional technologists, data analysts, financial analysts and experts from outside disciplines. Chair Khan also announced that she will name Holly Vedova and Samuel Levine, both career FTC staff (as opposed to political appointees), as the director of the Bureau of Competition and the director of the Bureau of Consumer Protection, respectively. Practical Limitations on Implementation of Chair Khan’s Policy Priorities Chair Khan describes the antitrust agenda outlined in her memorandum as “robust,” and the memo communicates her intention to attempt to reshape antitrust policy and enforcement. However, a revolutionary shift in antitrust enforcement by the FTC will **face substantial practical challenges.** Most significantly, the path to reshaping antitrust enforcement will be constrained by the substantial body of existing antitrust law and the need to convince a federal judge that the **conduct in question is unlawful**. Chair Khan’s memo generally advocates for a new, more expansive and holistic approach to identifying antitrust harms **beyond the traditional focus on consumer welfare** and price effects. However, **courts have — and will likely continue to — rely on existing standards developed** in the case law over many decades. Those standards focus on consumer welfare and predominantly price effects. **Absent legislative change**, then, a **practical gap** will persist between Chair Khan’s **vision of refocused and more assertive antitrust enforcement**, on the one hand, and **the law that would apply** to any FTC enforcement action, on the other.2

#### That decimates the FTC---losses threaten the institution.

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But the current FTC leadership seems to have overlooked the agency’s history. As such, it has already promised to produce different policy outcomes and noted that the Section 5 Policy Guidelines were shortsighted. As a result, the current FTC has decided, with the support of the other two Democratic Commissioners, to rescind the Policy Guidelines.

It is unknown whether the current FTC will try to adopt different guidelines or whether it will start opening more cases under Section 5 of the FTC Act. Furthermore, it is less clear whether the new FTC leadership currently counts with the sufficient and aligned Neo-Brandeisian human talent to bring solid cases that are not based on the consumer welfare standard or to litigate before judges that support the Neo-Brandeisian vision of antitrust.

What seems clear is that the new agency’s leader might find it hard to bring all Commissioners to an agreement with respect to what the agency can do with Section 5 of the FTC Act, and this situation, in and of itself, puts the agency in peril.

The FTC’s Rulemaking Authority

Another important policy change that may be detrimental to the FTC is its expressed willingness to expand the agency’s rulemaking authority under, e.g., Section 18 of the FTC Act. It is well known that in addition to its authority to investigate law violations by individuals and businesses, the FTC also has federal rulemaking authority to issue industry-wide regulations.

However, the agency’s rulemaking authority has been self-limited since the 80s in an effort to ensure the institution doesn’t overuse its capacity to adopt industry-wide regulations and raise concerns with those policy makers that are against the legislature deferring its core mandate to an independent agency that doesn’t represent the people.

Traditionally the legislature has the constitutional mandate to create laws affecting different sectors of the economy. Whereas it is legally accepted to design independent agencies with constrained mandates to adopt regulations, such powers are not necessarily understood to construe independent agencies as substitutes for the legislature’s powers. It is a basic tenet of administrative law, that agencies are constrained by the enabling statute that gives them authority to promulgate regulations in the first place.

Against this background, it seems risky for the new leadership to engage in broad rulemaking endeavors that might raise concerns from an institution legitimacy perspective. In the long term, it is predictable that many policymakers might not be supportive of an agency that implements its rulemaking authority in its broadest sense. As a result, some degree of political backlash against the agency might not help the agency’s lifecycle, especially if the agency is not granted with specific legislative guidance in the form of new legislation.

The Future of the FTC

One of the most challenging matters to tackle when it comes to leadership of antitrust authorities, or administrative agency for that matter, is legacy and the impact for the future of the agency. To put it simply, while antitrust leaders leave agencies, the side effects of leadership’s successes and failures condition the future of the agencies. Their leadership has consequences and sets precedent which will bind the agency well into the future.

Under the current political context, it would not be surprising if the current Neo-Brandeisian FTC enjoyed political support and success with its decision to bring big cases, especially against leading tech companies. In the short term, if the FTC makes headlines for opening cases against “Big Tech”, policymakers pushing for antitrust reforms will surely applaud the new changes as they would reflect a commitment to enhanced enforcement outcomes notwithstanding the strength of the cases.

However, in the mid-and long-term, if the FTC loses the big cases, the commitment to policy outcomes won’t be met. And then, it is unlikely that the question would be whether the antitrust norms are fit for today’s economy, but rather if the agency is capable of executing its mandate effectively. The recent decision in the FTC v. Facebook case is a good example of this paradigm, where the Judge expressed that the FTC had not carried out a sufficiently robust analysis supported by evidence, and therefore dismissed the case.

Eventually, the agency’s short-term reputational gains could quickly turn into a debacle for the institution itself with the caveat that by then, most probably, Neo-Brandeisian leadership will be long gone. Unfortunately then, the U.S. antitrust system — which is the only one to keep two federal antitrust agencies, bringing about positive outcomes for consumers — might be at risk. Political support to merge these two institutions could gain even more support, as has happened in the past, to the detriment of consumers.

#### Trust solves scams and privacy violation---it’s a prerequisite to all reforms.

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.

#### Scamming causes extinction.

Casey Newton 20. Verge contributing editor. "The massive Twitter hack could be a global security crisis". Verge. 7-15-2020. https://www.theverge.com/interface/2020/7/15/21325708/twitter-hack-global-security-crisis-nuclear-war-bitcoin-scam

Beginning in the spring of 2018, scammers began to impersonate noted cryptocurrency enthusiast Elon Musk. They would use his profile photo, select a user name similar to his, and tweet out an offer that was effective despite being too good to be true: send him a little cryptocurrency, and he’ll send you a lot back. Sometimes the scammer would reply to a connected, verified account — Musk-owned SpaceX, for example — giving it additional legitimacy. Scammers would also amplify the fake tweet via bot networks, for the same purpose.

The events of 2018 showed us three things. One, at least some people fell for the scam, every single time — certainly enough to incentivize further attempts. Two, Twitter was slow to respond to the threat, which persisted well beyond the company’s initial comments that it was taking the issue seriously. And three, the demand from scammers coupled with Twitter’s initial measures to fight back set up a cat-and-mouse game that incentivized bad actors to take more drastic measures to wreak havoc.

That brings us to today. The story picks up with Nick Statt in The Verge:

The Twitter accounts of major companies and individuals have been compromised in one of the most widespread and confounding hacks the platform has ever seen, all in service of promoting a bitcoin scam that appears to be earning its creator quite a bit of money.

We don’t know how it’s happened or even to what extent Twitter’s own systems may have been compromised. The hack appears to have subsided, but new scam tweets were posting to verified accounts on a regular basis starting shortly after 4PM ET and lasting more than two hours. Twitter acknowledged the situation after more than an hour of silence, writing on its support account at 5:45PM ET, “We are aware of a security incident impacting accounts on Twitter. We are investigating and taking steps to fix it. We will update everyone shortly.”

Among the hacked accounts were President Barack Obama, Joe Biden, Amazon CEO Jeff Bezos, Bill Gates, the Apple and Uber corporate accounts, and pop star Kanye West.

But they came later. The first prominent individual account to be compromised? Elon Musk, of course.

Within the first hours of the attack, people were duped into sending more than $118,000 to the hackers. It also seems possible that a great number of sensitive direct messages could have been accessed by the attackers. Of even greater concern, though, is the speed and scale at which the attack unfolded — and the national security concerns it raises, which are profound.

The first and most obvious question is, of course, who did this and how? And at press time, we don’t know. At Vice, Joseph Cox, one of the best security reporters I know, reported that members of the underground hacking community are sharing screenshots suggesting someone gained access to an internal Twitter tool used for account management. Cox writes:

Two sources close to or inside the underground hacking community provided Motherboard with screenshots of an internal panel they claim is used by Twitter workers to interact with user accounts. One source said the Twitter panel was also used to change ownership of some so-called OG accounts—accounts that have a handle consisting of only one or two characters—as well as facilitating the tweeting of the cryptocurrency scams from the high profile accounts.

Twitter has been deleting screenshots of the panel and has suspended users who have tweeted the screenshots, claiming that the tweets violate its rules.

To speculate much further would be irresponsible, but Cox’s reporting suggests that this is not a garden-variety hack in which a bunch of people reused their passwords, or a hacker used social engineering to convince AT&T to swap a SIM card. One possibility is that hackers accessed internal Twitter tools; another that Cox raises is that a Twitter employee was involved in the incident — which, if true, would make this the second inside job revealed at Twitter this year.

In any case, Twitter’s response to the incident offered further cause for distress. The company’s initial tweet on the subject said almost nothing, and two hours later it had followed only to say what many users were forced to discover for themselves: that Twitter had disabled the ability of many verified users to tweet or reset their passwords while it worked to resolve the hack’s underlying cause.

The near-silencing of politicians, celebrities, and the national press corps led to much merriment on the service — see this, along with Those good tweets below, for some fun — but the move had other, darker implications. Twitter is, for better and worse, one of the world’s most important communications systems, and among its users are accounts linked to emergency medical services. The National Weather Service in Lincoln, IL, for example, had just tweeted a tornado warning before suddenly going dark. To the extent that anyone was relying on that account for further information about those tornadoes, they were out of luck.

Of course, Twitter’s move to stop verified accounts from tweeting represents a difficult balancing on equities. You would probably rather the National Weather Service not tweet than a hacker sell the account to a bad actor who logs in and falsely suggests that tornadoes are sweeping through every city in America. But the ham-fisted approach to resolving the issue — banning a huge portion of 359,000 verified accounts — reflects the staggering scale of the breach. This is as close to pulling the plug on Twitter as Twitter itself has ever come.

And that makes you wonder what contingencies the company has put into place in the event that it is someday taken over not by greedy Bitcoin con artists, but state-level actors or psychopaths. After today it is no longer unthinkable, if it ever truly was, that someone take over the account of a world leader and attempt to start a nuclear war. (A report on that subject from King’s College London came out just last week.)

It is in such a world that I find myself in the unusual position of agreeing with Sen. Josh Hawley, the Missouri Republican who among other things wants to end content moderation. He wrote a letter to Twitter CEO Jack Dorsey, and I found myself agreeing with all of it:

“I am concerned that this event may represent not merely a coordinated set of separate hacking incidents but rather a successful attack on the security of Twitter itself. As you know, millions of your users rely on your service not just to tweet publicly but also to communicate privately through your direct message service. A successful attack on your system’s servers represents a threat to all of your users’ privacy and data security.”

And yet even Hawley doesn’t go far enough. The threat here is not simply user privacy and data security, though those threats are real and substantial. It is about the striking potential of Twitter to incite real-world chaos through impersonation and fraud. As of today, that potential has been realized. And I can only worry about how, with a presidential election now less than four months away, it might be realized further.

Twitter will likely spend the next several days investigating how this incident took place. A criminal investigation seems likely, during which the company may not be able to fully describe Wednesday’s events to our satisfaction. But it is vital that as soon as possible, Twitter share as much about what happened today as it can — and, just as importantly, what it will do to ensure that it never happens again.

After Wednesday’s catastrophe, it hardly seems like hyperbole to suggest that our world could hang in the balance.

#### AND fraud funds terrorists.

Frank S. Perri 10. Frank S. Perri, J.D., CFE, CPA. "The Fraud-Terror Link:". No Publication. xx-xx-xxxx. https://www.fraud-magazine.com/article.aspx?id=4294967888

The threat of terrorism has become the principal security concern in the United States since 9/11. Some might perceive that fraud isn’t linked to terrorism because white-collar crime issues are more the province of organized crime, but that perception is misguided. Terrorists derive funding from a variety of criminal activities ranging in scale and sophistication – from low-level crime to organized narcotics smuggling and fraud. CFEs need to know the latest links between fraud and terror.

Credit card fraud, wire fraud, mortgage fraud, charitable donation fraud, insurance fraud, identity theft, money laundering, immigration fraud, and tax evasion are just some of the types of fraud commonly used to fund terrorist cells. Such groups will also use shell companies to receive and distribute illicit funds. On the surface, these companies might engage in legitimate activities to establish a positive reputation in the business community.

Financing is required not just to fund specific terrorist operations but to meet the broader organizational costs of developing and maintaining a terrorist organization and to create an enabling environment necessary to sustain their activities. The direct costs of mounting individual attacks have been relatively low considering the damage they can yield.

“Part of the problem is that it takes so little to finance an operation,” said Gary LaFree, director of the University of Maryland’s National Consortium for the Study of Terrorism and Responses to Terrorism.2 For example, the 2005 London bombings cost about $15,600.3 The 2000 bombing of the USS Cole is estimated to have cost between $5,000 and $10,000.4 Al-Qaida’s entire 9/11 operation cost between $400,000 and $500,000, according to the final report of the National Commission on Terrorist Attacks Upon the United States.5

Terrorist groups require significant funds to create and maintain an infrastructure of organizational support, sustain an ideology of terrorism through propaganda, and finance the ostensibly legitimate activities needed to provide a veil of legitimacy for their shell companies.6 However, don’t think that only large operations are needed for terrorists to carry out attacks; small semi-autonomous cells in many countries are often just as capable of conducting disruptive activities without extensive outside financial help – they just conduct smaller-scale frauds.7

Even though the nexus between fraud and terrorism is undisputed, there’s concern at state and local levels that law enforcement professionals lack specialized knowledge on how to detect the fraud-terror link because they’re more apt to investigate and prosecute violent crimes.8

A critical lack of awareness about terrorists’ links to fraud schemes is undermining the fight against terrorism. Fraud analysis must be central, not peripheral, in understanding the patterns of terrorist behavior.9

#### Causes extinction---nuclear escalation.

Matthew Bunn & Nickolas Roth 17. \*Professor of practice at the Harvard Kennedy School. \*\*Research associate at the Belfer Center’s Project on Managing the Atom at Harvard University and research fellow at the Center for International and Security Studies at the University of Maryland. “The effects of a single terrorist nuclear bomb.” Bulletin of the Atomic Scientists, http://thebulletin.org/effects-single-terrorist-nuclear-bomb11150

The escalating threats between North Korea and the United States make it easy to forget the “nuclear nightmare,” as former US Secretary of Defense William J. Perry put it, that could result even from the use of just a single terrorist nuclear bomb in the heart of a major city. At the risk of repeating the vast literature on the tragedies of Hiroshima and Nagasaki—and the substantial literature surrounding nuclear tests and simulations since then—we attempt to spell out here the likely consequences of the explosion of a single terrorist nuclear bomb on a major city, and its subsequent ripple effects on the rest of the planet. Depending on where and when it was detonated, the blast, fire, initial radiation, and long-term radioactive fallout from such a bomb could leave the heart of a major city a smoldering radioactive ruin, killing tens or hundreds of thousands of people and wounding hundreds of thousands more. Vast areas would have to be evacuated and might be uninhabitable for years. Economic, political, and social aftershocks would ripple throughout the world. A single terrorist nuclear bomb would change history. The country attacked—and the world—would never be the same. The idea of terrorists accomplishing such a thing is, unfortunately, not out of the question; it is far easier to make a crude, unsafe, unreliable nuclear explosive that might fit in the back of a truck than it is to make a safe, reliable weapon of known yield that can be delivered by missile or combat aircraft. Numerous government studies have concluded that it is plausible that a sophisticated terrorist group could make a crude bomb if they got the needed nuclear material. And in the last quarter century, there have been some 20 seizures of stolen, weapons-usable nuclear material, and at least two terrorist groups have made significant efforts to acquire nuclear bombs. Terrorist use of an actual nuclear bomb is a low-probability event—but the immensity of the consequences means that even a small chance is enough to justify an intensive effort to reduce the risk. Fortunately, since the early 1990s, countries around the world have significantly reduced the danger—but it remains very real, and there is more to do to ensure this nightmare never becomes reality. Brighter than a thousand suns. Imagine a crude terrorist nuclear bomb—containing a chunk of highly enriched uranium just under the size of a regulation bowling ball, or a much smaller chunk of plutonium—suddenly detonating inside a delivery van parked in the heart of a major city. Such a terrorist bomb would release as much as 10 kilotons of explosive energy, or the equivalent of 10,000 tons of conventional explosives, a volume of explosives large enough to fill all the cars of a mile-long train. In a millionth of a second, all of that energy would be released inside that small ball of nuclear material, creating temperatures and pressures as high as those at the center of the sun. That furious energy would explode outward, releasing its energy in three main ways: a powerful blast wave; intense heat; and deadly radiation. The ball would expand almost instantly into a fireball the width of four football fields, incinerating essentially everything and everyone within. The heated fireball would rise, sucking in air from below and expanding above, creating the mushroom cloud that has become the symbol of the terror of the nuclear age. The ionized plasma in the fireball would create a localized electromagnetic pulse more powerful than lightning, shorting out communications and electronics nearby—though most would be destroyed by the bomb’s other effects in any case. (Estimates of heat, blast, and radiation effects in this article are drawn primarily from Alex Wellerstein’s “Nukemap,” which itself comes from declassified US government data, such as the 660-page government textbook The Effects of Nuclear Weapons.) At the instant of its detonation, the bomb would also release an intense burst of gamma and neutron radiation which would be lethal for nearly everyone directly exposed within about two-thirds of a mile from the center of the blast. (Those who happened to be shielded by being inside, or having buildings between them and the bomb, would be partly protected—in some cases, reducing their doses by ten times or more.) The nuclear flash from the heat of the fireball would radiate in both visible light and the infrared; it would be “brighter than a thousand suns,” in the words of the title of a book describing the development of nuclear weapons—adapting a phrase from the Hindu epic the Bhagavad-Gita. Anyone who looked directly at the blast would be blinded. The heat from the fireball would ignite fires and horribly burn everyone exposed outside at distances of nearly a mile away. (In the Nagasaki Atomic Bomb Museum, visitors gaze in horror at the bones of a human hand embedded in glass melted by the bomb.) No one has burned a city on that scale in the decades since World War II, so it is difficult to predict the full extent of the fire damage that would occur from the explosion of a nuclear bomb in one of today’s cities. Modern glass, steel, and concrete buildings would presumably be less flammable than the wood-and-rice-paper housing of Hiroshima or Nagasaki in the 1940s—but many questions remain, including exactly how thousands of broken gas lines might contribute to fire damage (as they did in Dresden during World War II). On 9/11, the buildings of the World Trade Center proved to be much more vulnerable to fire damage than had been expected. Ultimately, even a crude terrorist nuclear bomb would carry the possibility that the countless fires touched off by the explosion would coalesce into a devastating firestorm, as occurred at Hiroshima. In a firestorm, the rising column of hot air from the massive fire sucks in the air from all around, creating hurricane-force winds; everything flammable and everything alive within the firestorm would be consumed. The fires and the dust from the blast would make it extremely difficult for either rescuers or survivors to see. The explosion would create a powerful blast wave rushing out in every direction. For more than a quarter-mile all around the blast, the pulse of pressure would be over 20 pounds per square inch above atmospheric pressure (known as “overpressure”), destroying or severely damaging even sturdy buildings. The combination of blast, heat, and radiation would kill virtually everyone in this zone. The blast would be accompanied by winds of many hundreds of miles per hour. The damage from the explosion would extend far beyond this inner zone of almost total death. Out to more than half a mile, the blast would be strong enough to collapse most residential buildings and create a serious danger that office buildings would topple over, killing those inside and those in the path of the rubble. (On the other hand, the office towers of a modern city would tend to block the blast wave in some areas, providing partial protection from the blast, as well as from the heat and radiation.) In that zone, almost anything made of wood would be destroyed: Roofs would cave in, windows would shatter, gas lines would rupture. Telephone poles, street lamps, and utility lines would be severely damaged. Many roads would be blocked by mountains of wreckage. In this zone, many people would be killed or injured in building collapses, or trapped under the rubble; many more would be burned, blinded, or injured by flying debris. In many cases, their charred skin would become ragged and fall off in sheets. The effects of the detonation would act in deadly synergy. The smashed materials of buildings broken by the blast would be far easier for the fires to ignite than intact structures. The effects of radiation would make it far more difficult for burned and injured people to recover. The combination of burns, radiation, and physical injuries would cause far more death and suffering than any one of them would alone. The silent killer. The bomb’s immediate effects would be followed by a slow, lingering killer: radioactive fallout. A bomb detonated at ground level would dig a huge crater, hurling tons of earth and debris thousands of feet into the sky. Sucked into the rising fireball, these particles would mix with the radioactive remainders of the bomb, and over the next few hours or days, the debris would rain down for miles downwind. Depending on weather and wind patterns, the fallout could actually be deadlier and make a far larger area unusable than the blast itself. Acute radiation sickness from the initial radiation pulse and the fallout would likely affect tens of thousands of people. Depending on the dose, they might suffer from vomiting, watery diarrhea, fever, sores, loss of hair, and bone marrow depletion. Some would survive; some would die within days; some would take months to die. Cancer rates among the survivors would rise. Women would be more vulnerable than men—children and infants especially so. Much of the radiation from a nuclear blast is short-lived; radiation levels even a few days after the blast would be far below those in the first hours. For those not killed or terribly wounded by the initial explosion, the best advice would be to take shelter in a basement for at least several days. But many would be too terrified to stay. Thousands of panic-stricken people might receive deadly doses of radiation as they fled from their homes. Some of the radiation will be longer-lived; areas most severely affected would have to be abandoned for many years after the attack. The combination of radioactive fallout and the devastation of nearly all life-sustaining infrastructure over a vast area would mean that hundreds of thousands of people would have to evacuate. Ambulances to nowhere. The explosion would also destroy much of the city’s ability to respond. Hospitals would be leveled, doctors and nurses killed and wounded, ambulances destroyed. (In Hiroshima, 42 of 45 hospitals were destroyed or severely damaged, and 270 of 300 doctors were killed.) Resources that survived outside the zone of destruction would be utterly overwhelmed. Hospitals have no ability to cope with tens or hundreds of thousands of terribly burned and injured people all at once; the United States, for example, has 1,760 burn beds in hospitals nationwide, of which a third are available on any given day. And the problem would not be limited to hospitals; firefighters, for example, would have little ability to cope with thousands of fires raging out of control at once. Fire stations and equipment would be destroyed in the affected area, and firemen killed, along with police and other emergency responders. Some of the first responders may become casualties themselves, from radioactive fallout, fire, and collapsing buildings. Over much of the affected area, communications would be destroyed, by both the physical effects and the electromagnetic pulse from the explosion. Better preparation for such a disaster could save thousands of lives—but ultimately, there is no way any city can genuinely be prepared for a catastrophe on such a historic scale, occurring in a flash, with zero warning. Rescue and recovery attempts would be impeded by the destruction of most of the needed personnel and equipment, and by fire, debris, radiation, fear, lack of communications, and the immense scale of the disaster. The US military and the national guard could provide critically important capabilities—but federal plans assume that “no significant federal response” would be available for 24-to-72 hours. Many of those burned and injured would wait in vain for help, food, or water, perhaps for days. The scale of death and suffering. How many would die in such an event, and how many would be terribly wounded, would depend on where and when the bomb was detonated, what the weather conditions were at the time, how successful the response was in helping the wounded survivors, and more. Many estimates of casualties are based on census data, which reflect where people sleep at night; if the attack occurred in the middle of a workday, the numbers of people crowded into the office towers at the heart of many modern cities would be far higher. The daytime population of Manhattan, for example, is roughly twice its nighttime population; in Midtown on a typical workday, there are an estimated 980,000 people per square mile. A 10-kiloton weapon detonated there might well kill half a million people—not counting those who might die of radiation sickness from the fallout. (These effects were analyzed in great detail in the Rand Corporation’s Considering the Effects of a Catastrophic Terrorist Attack and the British Medical Journal’s “Nuclear terrorism.”) On a typical day, the wind would blow the fallout north, seriously contaminating virtually all of Manhattan above Gramercy Park; people living as far away as Stamford, Connecticut would likely have to evacuate. Seriously injured survivors would greatly outnumber the dead, their suffering magnified by the complete inadequacy of available help. The psychological and social effects—overwhelming sadness, depression, post-traumatic stress disorder, myriad forms of anxiety—would be profound and long-lasting. The scenario we have been describing is a groundburst. An airburst—such as might occur, for example, if terrorists put their bomb in a small aircraft they had purchased or rented—would extend the blast and fire effects over a wider area, killing and injuring even larger numbers of people immediately. But an airburst would not have the same lingering effects from fallout as a groundburst, because the rock and dirt would not be sucked up into the fireball and contaminated. The 10-kiloton blast we have been discussing is likely toward the high end of what terrorists could plausibly achieve with a crude, improvised bomb, but even a 1-kiloton blast would be a catastrophic event, having a deadly radius between one-third and one-half that of a 10-kiloton blast. These hundreds of thousands of people would not be mere statistics, but countless individual stories of loss—parents, children, entire families; all religions; rich and poor alike—killed or horribly mutilated. Human suffering and tragedy on this scale does not have to be imagined; it can be remembered through the stories of the survivors of the US atomic bombings of Hiroshima and Nagasaki, the only times in history when nuclear weapons have been used intentionally against human beings. The pain and suffering caused by those bombings are almost beyond human comprehension; the eloquent testimony of the Hibakusha—the survivors who passed through the atomic fire—should stand as an eternal reminder of the need to prevent nuclear weapons from ever being used in anger again. Global economic disaster. The economic impact of such an attack would be enormous. The effects would reverberate for so far and so long that they are difficult to estimate in all their complexity. Hundreds of thousands of people would be too injured or sick to work for weeks or months. Hundreds of thousands more would evacuate to locations far from their jobs. Many places of employment would have to be abandoned because of the radioactive fallout. Insurance companies would reel under the losses; but at the same time, many insurance policies exclude the effects of nuclear attacks—an item insurers considered beyond their ability to cover—so the owners of thousands of buildings would not have the insurance payments needed to cover the cost of fixing them, thousands of companies would go bankrupt, and banks would be left holding an immense number of mortgages that would never be repaid. Consumer and investor confidence would likely be dramatically affected, as worried people slowed their spending. Enormous new homeland security and military investments would be very likely. If the bomb had come in a shipping container, the targeted country—and possibly others—might stop all containers from entering until it could devise a system for ensuring they could never again be used for such a purpose, throwing a wrench into the gears of global trade for an extended period. (And this might well occur even if a shipping container had not been the means of delivery.) Even the far smaller 9/11 attacks are estimated to have caused economic aftershocks costing almost $1 trillion even excluding the multi-trillion-dollar costs of the wars that ensued. The cost of a terrorist nuclear attack in a major city would likely be many times higher. The most severe effects would be local, but the effects of trade disruptions, reduced economic activity, and more would reverberate around the world. Consequently, while some countries may feel that nuclear terrorism is only a concern for the countries most likely to be targeted—such as the United States—in reality it is a threat to everyone, everywhere. In 2005, then-UN Secretary-General Kofi Annan warned that these global effects would push “tens of millions of people into dire poverty,” creating “a second death toll throughout the developing world.” One recent estimate suggested that a nuclear attack in an urban area would cause a global recession, cutting global Gross Domestic Product by some two percent, and pushing an additional 30 million people in the developing world into extreme poverty. Desperate dilemmas. In short, an act of nuclear terrorism could rip the heart out of a major city, and cause ripple effects throughout the world. The government of the country attacked would face desperate decisions: How to help the city attacked? How to prevent further attacks? How to respond or retaliate? Terrorists—either those who committed the attack or others—would probably claim they had more bombs already hidden in other cities (whether they did or not), and threaten to detonate them unless their demands were met. The fear that this might be true could lead people to flee major cities in a large-scale, uncontrolled evacuation. There is very little ability to support the population of major cities in the surrounding countryside. The potential for widespread havoc and economic chaos is very real. If the detonation took place in the capital of the nation attacked, much of the government might be destroyed. A bomb in Washington, D.C., for example, might kill the President, the Vice President, and many of the members of Congress and the Supreme Court. (Having some plausible national leader survive is a key reason why one cabinet member is always elsewhere on the night of the State of the Union address.) Elaborate, classified plans for “continuity of government” have already been drawn up in a number of countries, but the potential for chaos and confusion—if almost all of a country’s top leaders were killed—would still be enormous. Who, for example, could address the public on what the government would do, and what the public should do, to respond? Could anyone honestly assure the public there would be no further attacks? If they did, who would believe them? In the United States, given the practical impossibility of passing major legislation with Congress in ruins and most of its members dead or seriously injured, some have argued for passing legislation in advance giving the government emergency powers to act—and creating procedures, for example, for legitimately replacing most of the House of Representatives. But to date, no such legislative preparations have been made. In what would inevitably be a desperate effort to prevent further attacks, traditional standards of civil liberties might be jettisoned, at least for a time—particularly when people realized that the fuel for the bomb that had done such damage would easily have fit in a suitcase. Old rules limiting search and surveillance could be among the first to go. The government might well impose martial law as it sought to control the situation, hunt for the perpetrators, and find any additional weapons or nuclear materials they might have. Even the far smaller attacks of 9/11 saw the US government authorizing torture of prisoners and mass electronic surveillance. And what standards of international order and law would still hold sway? The country attacked might well lash out militarily at whatever countries it thought might bear a portion of responsibility. (A terrifying description of the kinds of discussions that might occur appeared in Brian Jenkins’ book, Will Terrorists Go Nuclear?) With the nuclear threshold already crossed in this scenario—at least by terrorists—it is conceivable that some of the resulting conflicts might escalate to nuclear use. International politics could become more brutish and violent, with powerful states taking unilateral action, by force if necessary, in an effort to ensure their security. After 9/11, the United States led the invasions of two sovereign nations, in wars that have since cost hundreds of thousands of lives and trillions of dollars, while plunging a region into chaos. Would the reaction after a far more devastating nuclear attack be any less?

#### FTC’s enforcement reputation solves global emerging tech---leadership and legitimacy are key.

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Despite these limitations, the FTC has a formidable reputation as an enforcement authority, and commercial entities, and their lawyers, pay close attention to its orders and decisions.248 For example, when the FTC issues a complaint, it is published on the FTC’s website, which often generates significant attention in the privacy community.249 One reason for this is the fear firms have of the FTC’s auditing process, which not only is “exhaustive and demanding,” but can last for as long as 20 years.250 As such, the FTC settles most of the enforcement actions it initiates.251 Firms are motivated to settle with the FTC because they can avoid having to admit any wrongdoing in exchange for taking remedial measures, and thus they also avoid the costs to their reputation from apologizing.252

Though done by necessity, the rule-making process the FTC engages in with its consent orders and settlement agreements can be of benefit when regulating emerging technologies. 253 For one, it allows the flexibility needed to adapt to new and rapidly changing situations.254 Further, the FTC can wait and see if an industry consensus develops around a particular standard before codifying that rule through its enforcement actions.255 As with the common law, which has long demonstrated the ability to adjust to technological changes iteratively, the FTC’s incremental case-bycase approach can help minimize the risks of producing incorrect or inappropriate regulatory policy outcomes.256

In addition to its use of consent orders and settlement agreements, the FTC has created a type of “soft law” by issuing guidelines, press releases, workshops, and white papers.257 Unlike in enforcement actions, where the FTC looks at a company’s conduct and sees how its behavior compares to industry standards, the FTC arrives at the best practices it develops for guidance purposes through a “deep and ongoing engagement with all stakeholders.”258 As such, not only is the FTC’s authority broad enough to regulate the use of emerging technologies such as AI in commerce, but the FTC’s enforcement actions also constitute a body of jurisprudence the FTC can rely on to address the real and potential harms that stem from the deployment of consumeroriented AI.259

Given its broad grant of authority, the regulatory tools at its disposal, and its experience dealing with emerging technologies, the FTC is currently in the best position to take the lead in regulating AI. The FTC’s leadership is sorely needed to fill in the remaining – and quite large – gaps in those few sectoral laws that specifically address AI and algorithmic decision-making.260 Several factors make the FTC the ideal agency for this role. First, the FTC can use its broad Section 5 powers to respond rapidly and nimbly to the types of unanticipated regulatory issues AI is likely to create.261

Second, the FTC has an established history of approaching emerging technologies with “a light regulatory touch” during their beginning stages, waiting to increase its regulatory efforts only once the technology has become more established.262 This approach provides the innovative space needed for new technologies such as AI to develop to their full potential. Thus, as it has in the past, the FTC would focus on disclosure requirements rather than conduct prohibition, and take a case-by-case approach rather than rely on rulemaking.263 Also, as it has traditionally done, the FTC can hold public events on consumer-related AI and issue reports and white papers to guide industry.264

In other words, the FTC has long taken a co-regulatory approach to regulation, which it can and should proceed to do with AI. As in other emerging technology areas, this will help industry continue to grow and innovate, while allowing for the calibration among all relevant stakeholders of the “appropriate expectations” concerning the use and deployment of AI decision-making systems.265 At the same time, the FTC should use its regulatory powers to nudge, and when necessary, push companies to refrain from engaging in unfair and deceptive trade practices in the design and deployment of AI systems.266 The FTC should also place the onus on firms that design and implement those systems to ensure misplaced or unrealistic consumer expectations about AI are corrected.267

By nudging (or pushing) firms in this way, the FTC can “gradually impose a set of sticky default practices that companies can only deviate from if they very explicitly notify consumers.”268 In terms of disclosure requirements, as it has done in other contexts, the FTC can develop rules and guidelines for “when and how a company must disclose information to avoid deception and protect a consumer from harm,” which can include requiring firms to adopt the equivalent of a privacy policy. 269 Given the black box like nature of most algorithmic decision-making processes, there is much that AI developers might have to disclose to prevent those processes from being deemed unfair or deceptive.270

In addition, given its broad authority under Section 5, the FTC is able to address small, nuanced changes in AI design that could adversely affect consumers, but that other areas of law, such as tort, may not be able to adequately handle.271 Again, this is important because AI and algorithmic decision-making can pose profound and systemic risks of harm, even though the actual harm to individual consumers may be small or hard to quantify. And as it has done in the area of privacy, the FTC can become the de facto federal agency authority charged with protecting consumers from harms caused by AI systems and other algorithmic decisionmaking processes.272

The FTC also can, and should, seek to work with other agencies to address AI-related harms, given that the regulatory efforts of other agencies will still occur and be needed in specific sectors or industries, which would impact and be relevant to the FTC’s efforts as well.273 Agency cooperation is essential to ensuring regulatory consistency, accuracy, and efficiency in the type of complex, varied technological landscape that AI presents.274 This should not be a problem as the FTC’s Section 5 authority overlaps regularly with the authority of other agencies, and the FTC itself has a history of cooperating with those agencies.275 Further, the FTC can use its experience working with other agencies to build standards and policy consensus within the regulatory community and among stakeholders. 276

The overarching role the FTC has played in protecting consumer privacy within the United States also has given it legitimacy within the wider privacy community. The FTC has been pivotal over time in promoting international confidence in the United States’ ability to regulate privacy by for example acting as the essential mechanism for enforcing the Safe Harbor Agreement with the European Union.277 As it takes on a similar overarching regulatory role for AI and algorithmic decision-making processes in this country, the FTC should gain a similar level of legitimacy internationally. This is important given the increasingly cross border nature of AI research and development.

#### Unregulated emerging tech cause extinction---outweighs nuclear war.

Anders Sandberg et al. 08. Anders Sandberg is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University. Jason G. Matheny is a PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health. Milan M. Ćirković is senior research associate at the Astronomical Observatory of Belgrade. "How can we reduce the risk of human extinction?". Bulletin of the Atomic Scientists. 9-9-2008. https://thebulletin.org/2008/09/how-can-we-reduce-the-risk-of-human-extinction/

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics “fade out” by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore’s Law.

Farther out in time are technologies that remain theoretical but might be developed this century. Molecular nanotechnology could allow the creation of self-replicating machines capable of destroying the ecosystem. And advances in neuroscience and computation might enable improvements in cognition that accelerate the invention of new weapons. A survey at the Oxford conference found that concerns about human extinction were dominated by fears that new technologies would be misused. These emerging threats are especially challenging as they could become dangerous more quickly than past technologies, outpacing society’s ability to control them. As H.G. Wells noted, “Human history becomes more and more a race between education and catastrophe.”

Such remote risks may seem academic in a world plagued by immediate problems, such as global poverty, HIV, and climate change. But as intimidating as these problems are, they do not threaten human existence. In discussing the risk of nuclear winter, Carl Sagan emphasized the astronomical toll of human extinction:

A nuclear war imperils all of our descendants, for as long as there will be humans. Even if the population remains static, with an average lifetime of the order of 100 years, over a typical time period for the biological evolution of a successful species (roughly ten million years), we are talking about some 500 trillion people yet to come. By this criterion, the stakes are one million times greater for extinction than for the more modest nuclear wars that kill “only” hundreds of millions of people. There are many other possible measures of the potential loss–including culture and science, the evolutionary history of the planet, and the significance of the lives of all of our ancestors who contributed to the future of their descendants. Extinction is the undoing of the human enterprise.

There is a discontinuity between risks that threaten 10 percent or even 99 percent of humanity and those that threaten 100 percent. For disasters killing less than all humanity, there is a good chance that the species could recover. If we value future human generations, then reducing extinction risks should dominate our considerations. Fortunately, most measures to reduce these risks also improve global security against a range of lesser catastrophes, and thus deserve support regardless of how much one worries about extinction. These measures include:

### Solvency---1AC

#### Contention 3 is Solvency.

#### Replacing consumer welfare with worker considerations lets labor win---alternatives legalize exploitation and ban collective bargaining.

Firat Cengiz 20. School of Law and Social Justice, University of Liverpool. "The conflict between market competition and worker solidarity: moving from consumer to a citizen welfare standard in competition law". Cambridge Core. 10-8-2020. https://www.cambridge.org/core/journals/legal-studies/article/conflict-between-market-competition-and-worker-solidarity-moving-from-consumer-to-a-citizen-welfare-standard-in-competition-law/6E783D1FC4BAB5605DFABCD17FBE3F35

Introduction

This paper offers a critical investigation of the law and economics of competition law enforcement in conflicts between workers and employers in the European Union (hereinafter EU) and the US. In such cases competition law comes into direct conflict with the principle of worker solidarity: according to the principle of market competition individuals are expected to take independent economic decisions and actions, whereas workers need to take collective economic actions and decisions to protect their interests. This conflict is particularly obvious in the context of the so-called gig economy,1 in which employers keep casualised workers at legal arms’ length to reduce labour and regulatory costs.2 If gig workers take collective action against their working conditions, they might face attack from competition law, because legally they might be considered independent service providers, rather than workers.3

The legal conundrum facing gig workers has become an increasingly popular subject in the law and economics literature.4 Nevertheless, the more fundamental question of how the enforcement of competition rules affects the overall position of workers beyond the limited case of the gig economy remains largely unexplored. This paper aims to investigate this broader and more fundamental question. In order to provide a sufficiently global answer, the paper focuses on the legal positions of the EU and US, as the leading competition law jurisdictions and primary competition policy exporters.5 The EU–US comparison shows that despite the slightly different legal tests applied in these polities, competition rules constitute nearly equally disciplining mechanisms against collective worker action on either side of the Atlantic.

This paper also makes an original contribution to the emerging debate on whether and how competition law can contribute to wealth equality between citizens in the post-2008 crisis economy. The existing debate on the competition law–equality relationship takes the ‘consumer welfare’ standard as its main reference point: it focuses exclusively on the distribution of wealth between consumers and producers; as a result, it overlooks the production process that takes place before consumers meet products and services, and the position of workers within it.6 This is a natural result of competition law's reliance on a limited area of neoclassical economics called ‘equilibrium economics’ that understands efficiency exclusively as a market mechanism in which the price manifests itself where supply meets demand.7 Departing from the mainstream competition law and economics methodology, this paper builds its investigation on a holistic theoretical foundation, looking beyond equilibrium economics at labour exploitation theory as established in neoclassical as well as Marxian models. This analysis shows that despite standing at opposing ends of the political spectrum and whilst having some fundamental differences, Marxist and neoclassical models agree that collective worker action is economically beneficial and socially necessary. As a result, a critical analysis of the current legal situation on both sides of the Atlantic in light of this holistic framework illustrates how competition law's hostility towards collective worker action is not only unjust but also economically unsound.

This paper demonstrates that the key problem in competition law's treatment of labour stems from the application of the consumer welfare standard in cases involving the competition–solidarity conflict without paying any attention to the idiosyncratic qualities of labour that render it naturally open to exploitation. Similarly, the consumer welfare standard overlooks the fact that consumers and workers are essentially the same group of people and one's welfare cannot be increased or decreased without affecting the other's.8 Even if worker exploitation could result in reduced labour costs and decreased prices, this cannot be deemed efficient as it reduces the workers’ welfare and results in broader negative socio-economic effects. Similarly, collective worker action resulting in higher labour costs and potentially higher prices cannot automatically be deemed inefficient, because although this might increase the prices consumers pay, they benefit from higher wages and better working conditions in their position as workers. As a result of this critical analysis, the paper proposes an original and more inclusive ‘citizen welfare’ standard that takes into account the economic effects of anti-competitive behaviour on workers as well as consumers. The citizen welfare standard could also potentially be applied in other contexts to solve long-standing conflicts between competition and other policy objectives, such as industrial, environmental and social policy objectives,9 although this paper primarily focuses on the application of citizen welfare to the competition–solidarity conflict.

The structure of the paper is as follows: the next section provides an opening discussion of competition law, consumer welfare and equality. This is followed by a discussion of the economic theory of labour exploitation. Then, the paper investigates how competition law approaches the competition–solidarity conflict in the EU and the US. The fourth section critically discusses the EU and US legal positions in light of economic theory. This section also develops the citizen welfare approach as an alternative to consumer welfare for the resolution of the competition–solidarity conflict. This is finally followed with conclusions. Regarding terminology, this paper uses the term ‘worker’ (rather than employee) as a non-legal, generic term encompassing all individuals who make a living by providing labour power as a production factor in the production process of goods and services. Similarly, the term ‘labour’ is used to refer to the contribution of the workers to the production process as an abstract human factor. However, if the courts or authorities in question use a different term (such as employee) in a specific case, the paper uses the same term in the discussion of that specific case.

# 2AC

## Inequality Advantage

## FTC Advantage

#### Zero link uniqueness---aggressive antitrust enforcement is back.

E. Steele Clayton, IV, 8/10/21 – Bass, Berry & Sims PLC, “Be Prepared: Aggressive Antitrust Enforcement Is Back.” https://www.jdsupra.com/legalnews/be-prepared-aggressive-antitrust-8939761/

This summer has seen a flurry of bold antitrust announcements from the Biden administration. By issuing a sweeping executive order calling for numerous changes to antitrust enforcement and by naming progressive favorites and prominent Big Tech critics to head the Federal Trade Commission (FTC) and the Antitrust Division of the U.S. Department of Justice (DOJ), President Biden has signaled that federal antitrust policy is entering a new era.

The FTC has already begun carrying out its mandate to reshape antitrust policy. Under the leadership of new Chairwoman Lina Khan, the FTC has moved quickly to eliminate checks on its antitrust enforcement powers. A majority of the FTC’s commissioners have expressly disavowed the agency’s longstanding approaches to policing antitrust violations and have given the new chair unprecedented authority over investigations and rulemakings.

Collectively, the Biden administration and the FTC have sent a clear message to the business community: aggressive antitrust enforcement is back. Companies should expect to see an increase in antitrust investigations, stiffer penalties for violations, more burdensome merger reviews, and new rules targeting a range of industry practices. In this environment, effective antitrust counseling and compliance programs are more important than ever.

#### FTC overstretch inevitable BUT the plan fiats they legislative backing and court victory---key to legitimacy and funding.

Marianela Lopez-Galdos 7-28-21. Global Competition Counsel at the Computer& Communications Industry Association, previously served as Director of Competition & Regulatory Policy, and is a professor at George Washington University Competition Law Center and at the University of Melbourne Law School. “Policy Decisions of Antitrust Institutions Series: The Future of the FTC and Its Perils”. Disruptive Competition Project. https://www.project-disco.org/competition/072821-policy-decisions-of-antitrust-institutions-series-the-future-of-the-ftc-and-its-perils/

But the current FTC leadership seems to have overlooked the agency’s history. As such, it has already promised to produce different policy outcomes and noted that the Section 5 Policy Guidelines were shortsighted. As a result, the current FTC has decided, with the support of the other two Democratic Commissioners, to rescind the Policy Guidelines.

It is unknown whether the current FTC will try to adopt different guidelines or whether it will start opening more cases under Section 5 of the FTC Act. Furthermore, it is less clear whether the new FTC leadership currently counts with the sufficient and aligned Neo-Brandeisian human talent to bring solid cases that are not based on the consumer welfare standard or to litigate before judges that support the Neo-Brandeisian vision of antitrust.

What seems clear is that the new agency’s leader might find it hard to bring all Commissioners to an agreement with respect to what the agency can do with Section 5 of the FTC Act, and this situation, in and of itself, puts the agency in peril.

The FTC’s Rulemaking Authority

Another important policy change that may be detrimental to the FTC is its expressed willingness to expand the agency’s rulemaking authority under, e.g., Section 18 of the FTC Act. It is well known that in addition to its authority to investigate law violations by individuals and businesses, the FTC also has federal rulemaking authority to issue industry-wide regulations.

However, the agency’s rulemaking authority has been self-limited since the 80s in an effort to ensure the institution doesn’t overuse its capacity to adopt industry-wide regulations and raise concerns with those policy makers that are against the legislature deferring its core mandate to an independent agency that doesn’t represent the people.

Traditionally the legislature has the constitutional mandate to create laws affecting different sectors of the economy. Whereas it is legally accepted to design independent agencies with constrained mandates to adopt regulations, such powers are not necessarily understood to construe independent agencies as substitutes for the legislature’s powers. It is a basic tenet of administrative law, that agencies are constrained by the enabling statute that gives them authority to promulgate regulations in the first place.

Against this background, it seems risky for the new leadership to engage in broad rulemaking endeavors that might raise concerns from an institution legitimacy perspective. In the long term, it is predictable that many policymakers might not be supportive of an agency that implements its rulemaking authority in its broadest sense. As a result, some degree of political backlash against the agency might not help the agency’s lifecycle, especially if the agency is not granted with specific legislative guidance in the form of new legislation.

The Future of the FTC

One of the most challenging matters to tackle when it comes to leadership of antitrust authorities, or administrative agency for that matter, is legacy and the impact for the future of the agency. To put it simply, while antitrust leaders leave agencies, the side effects of leadership’s successes and failures condition the future of the agencies. Their leadership has consequences and sets precedent which will bind the agency well into the future.

Under the current political context, it would not be surprising if the current Neo-Brandeisian FTC enjoyed political support and success with its decision to bring big cases, especially against leading tech companies. In the short term, if the FTC makes headlines for opening cases against “Big Tech”, policymakers pushing for antitrust reforms will surely applaud the new changes as they would reflect a commitment to enhanced enforcement outcomes notwithstanding the strength of the cases.

However, in the mid-and long-term, if the FTC loses the big cases, the commitment to policy outcomes won’t be met. And then, it is unlikely that the question would be whether the antitrust norms are fit for today’s economy, but rather if the agency is capable of executing its mandate effectively. The recent decision in the FTC v. Facebook case is a good example of this paradigm, where the Judge expressed that the FTC had not carried out a sufficiently robust analysis supported by evidence, and therefore dismissed the case.

Eventually, the agency’s short-term reputational gains could quickly turn into a debacle for the institution itself with the caveat that by then, most probably, Neo-Brandeisian leadership will be long gone. Unfortunately then, the U.S. antitrust system — which is the only one to keep two federal antitrust agencies, bringing about positive outcomes for consumers — might be at risk. Political support to merge these two institutions could gain even more support, as has happened in the past, to the detriment of consumers.

#### Eliminating the CWS is key.

Open Market 19. “The FTC’s Crisis of Legitimacy: Comment from the Open Markets Institute on the FTC’s 3-2 clearance of the Staples-Essendant Merger”. https://www.openmarketsinstitute.org/publications/ftcs-crisis-legitimacy-comment-open-markets-institute-ftcs-3-2-clearance-staples-essendant-merger

The Open Markets Institute encourages the commission to follow the consequences of the merger in the office supply market, and to take remedial actions if necessary to ensure that competition can thrive. We have little hope that the FTC can restore its legitimacy as an enforcement or regulatory body until it gives up the highly politicized, unreliable, and dangerous pro-monopoly philosophy entrenched by Bork.

The FTC must return to its roots as the policeman of fair markets, not the government sword useful to the giant monopolist.

#### Losers lose---defeats crush authority and demoralize staff.

David Mclaughlin 21. Reporter @ Bloomberg "Antitrust Crusader Lina Khan Faces a Big Obstacle: The Courts". Bloomberg. 6-23-2021. https://www.bloomberg.com/news/articles/2021-06-23/tech-antitrust-lina-khan-faces-courts-as-challenge-to-ftc-s-progressive-agenda

Once considered on the fringes of antitrust thinking, Khan and her acolytes—often dubbed the New Brandeis School, after Supreme Court Justice Louis Brandeis—are now firmly mainstream with Khan’s appointment as FTC chairwoman.

The FTC has suffered some stinging defeats recently. Last year, the agency lost a major monopoly case filed against chipmaker Qualcomm. In April, a unanimous Supreme Court eliminated a tool used by the FTC to recover money for defrauded consumers. Later this month, a federal judge in Washington is expected to rule on whether the agency’s monopoly lawsuit against Facebook can proceed.

Still, there’s widespread agreement that the status quo is no longer tenable. Over the last two decades, concentration has risen in industries across the economy. Some economists say dominant companies can use their market power to suppress wages, for example, exacerbating inequality. The worries are bipartisan. Republicans and Democrats alike are pushing for antitrust reforms to rein in the biggest tech platforms, and Khan was confirmed by the Senate with significant Republican support.

Big losses in the courts would eventually hurt Khan’s authority and demoralize her staff, says William Kovacic, a former FTC chairman who now teaches at George Washington University Law School. “You become like a sports team that is known to its opponents as unable to win,” he says. But defeats also could provide the foundation for the kind of sweeping antitrust legislation that Khan and her supporters want.

## States CP

#### State labor actions get pre-empted under the NLRA---thousands of empirics.

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.

#### The DOJ and FTC undermine states.

The Open Markets Institute and Service Employees International Union 19. “How the Antitrust Agencies Can Help—Instead of Hurt—Workers”. https://www.justice.gov/atr/page/file/1217856/download

The DOJ and the FTC have largely failed American workers today by allowing a concentration crisis in scores of industries to weaken competition for labor. Instead of actively policing mergers for harms to workers, they have let employer-side concentration reach very high levels. Troublingly, when the FTC and DOJ have acted against practices in labor markets, the two agencies often have used antitrust laws to either undermine efforts by employees and states to challenge abusive behavior by employers or actually targeted efforts by workers or professional to work together. The FTC, for instance, has filed numerous complaints against workers for engaging in collective bargaining and other joint action. Furthermore, the FTC has campaigned against state and local occupational licensing rules that can enhance the bargaining power and earnings of workers, professionals, and independent entrepreneurs. The DOJ meanwhile has endorsed legal standards that would empower franchisees to collude against workers.

The DOJ’s and FTC’s general inactivity against employers and activity against workers reinforce and deepen inequality between the individual and the corporation. The agencies should reorient their enforcement priorities and focus on protecting workers from employers rather than on interfering with the basic rights of workers, professionals, and independent entrepreneurs to organize.2

#### Even with fiat, states lack enforcement mechanisms and administrative infrastructures to protect workers’ rights.

Bourree Lam 17. former staff writer at The Atlantic. She was previously the editor of Freakonomics.com. “Will States Take Up the Mantle of Worker Protection?” The Atlantic. 1/17/2017. <https://www.theatlantic.com/business/archive/2017/01/worker-protection-schneiderman/513182/>

But it’s not as though states took a backseat during the Obama administration. Some states took on an increased role in handling wage and labor practices, with a growing number of have passed their own minimum wage and paid-leave laws. Seven states—California, Connecticut, Massachusetts, Oregon, Vermont, and most recently Arizona and Washington—now have laws requiring paid sick leave. Minimum wage went up in 21 states and 22 cities at the start of this year. For labor advocates, the concern about this approach is what happens to people in states that are less adamant about enforcement. While workers in states that have been active on these issues in the past—such as California, Connecticut, Illinois, and Massachusetts to name a few—will likely continue to be protected by their state agencies, states without established resources in place will **have a harder time stepping up in the same way**. In Georgia, for example, there is no state-level enforcement process, and wage claims are **filed directly to the Department of Labor**. “It’s far from ideal, if this ends up happening,” says Tsedeye Gebreselassie, an attorney at the National Employment Law Project. “The way that this should be done is that the federal Department of Labor remains an effective recourse for workers whose rights have been violated, not just on minimum wage but all the federal laws that the Department of Labor enforces. But then you also have states there too as another avenue through which workers can recover their unpaid wages.” Additionally, though states can play a key role on some employment issues, there are workplace issues that **require federal enforcement**. "States can play a tremendously important role in combating wage theft, but in other critical areas, like workplace safety and health or workers' right to organize, states may have a harder time filling in the gap because they are often preempted by federal law from directly enforcing these laws," says Gerstein. “To me, there’s no question that it’s federalism from below,” says Janice Fine, an associate professor and labor expert at Rutgers University’s School of Management and Labor Relations. Fine has been studying how states and localities think about enforcement, and while she’s concerned about states with less enforcement, she’s found that there can be see creative solutions. She cites the example of the Fair Food Standards Council in Florida, a labor group which won over companies on fair work conditions and now acts as a private enforcement agency to protect farmers on health, safety and wage issues, as well as the work of the Workers Defense Project in Texas, which has notably pushed through a bill that makes it easier for police departments across Texas to arrest employers engaging in wage theft. A state-by-state approach means that worker protection becomes less an American project, and more a feature of the particular place one lives. And for workers who don’t live in the states that will fill in where the federal government leaves off, that could mean many American workers not getting paid what they’re owed.

## Multilat CP

#### Countries won’t take sovereignty losses---even if the counterplan isn’t binding.

Bruno Bastos Becker 16. Associate of the Competition Practice at Barbosa, Müssnich & Aragão Advogados. Revista Do Ibrac Volume 22 - Número 1- 2016 Prêmio Ibrac - Tim 2015 “Decentralized Globalization: Possible Solutions for Multiple Merger Control Regimes in Cross-Border Transactions”. https://d1wqtxts1xzle7.cloudfront.net/52329387/SSRN-id2926207.pdf?1490635488=&response-content-disposition=inline%3B+filename%3DDecentralized\_Globalization\_Possible\_Sol.pdf&Expires=1633221921&Signature=AdZzigmFmDWzAJDsFfwmed9N0wgp7JMqh1Z7XUAIxb2ocUtkMJLFCwRj4NslBFsxzWeYwJ~gkHQm0Zb22NuvJwQzbnHnUMGlXzDXdujTXsxQFyE4fSapKDT9lbk2uWrYgrCBMfw0sli1tKJPOQsVlVyeKiSWoFIfkj5M9wQaGyLoucnRYm~66PajYX~ureUvwk~kMFcr4wNpXWCO~reag8ObhcgUhRDwNB34iNJF4Z08o4VGIOwP4CqvSs1VV3gIY4-rLKazwWkwkWHj1hK11yy3~HRWtDevXLzli8qGpvvc7Z8KKEA~nj-6HTtMX7Ps9nHZZJZVQW-lNK4fXHrCow\_\_&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA

Over the last decade, several scholars have proposed different solutions for the problem of the decentralized globalization. However, none of the efforts resulted in a cohesive merger control system41. One of the main reasons is that merger policy is strongly related to industrial policy and, therefore, countries have rejected the possible loss of sovereignty42

---FOOTNOTE 42 STARTS, MIDPARAGRAPH---

42 “Because merger policy is usually closely linked to industrial policy, nowadays most countries are not ready to relinquish part of their sovereign rights in this area in order to support some sort of international merger policy, negotiated and implemented at a multilateral level. Therefore, absolutely no agreement on substantive rules to tackle mergers, not even in the form of «rule of reason» guidelines, seems to be foreseeable at international level in the near future”. (MONTINI, Massimiliano. Globalization and International Antitrust Cooperation. International Conference Trade and Competition in the WTO and Beyond. 1999. p. 18 Available at: http://www.feem.it/userfiles/attach/Publication/NDL1999/NDL1999-069.pdf)

---FOOTNOTE 42 ENDS, PARAGRAPH CONTINUES---

that is part of the main proposals so far. Furthermore, as pointed out by Jörg Terhechte, there are many differences between authorities that must be taken into account for the designing of a possible solution, like financial and personal resources, composition at the decisional level, independence, accountability43

#### Perm do the plan and establish a framework for contingent international cooperation over enforcement.

Bruno Bastos Becker 16. Associate of the Competition Practice at Barbosa, Müssnich & Aragão Advogados. Revista Do Ibrac Volume 22 - Número 1- 2016 Prêmio Ibrac - Tim 2015 “Decentralized Globalization: Possible Solutions for Multiple Merger Control Regimes in Cross-Border Transactions”. https://d1wqtxts1xzle7.cloudfront.net/52329387/SSRN-id2926207.pdf?1490635488=&response-content-disposition=inline%3B+filename%3DDecentralized\_Globalization\_Possible\_Sol.pdf&Expires=1633221921&Signature=AdZzigmFmDWzAJDsFfwmed9N0wgp7JMqh1Z7XUAIxb2ocUtkMJLFCwRj4NslBFsxzWeYwJ~gkHQm0Zb22NuvJwQzbnHnUMGlXzDXdujTXsxQFyE4fSapKDT9lbk2uWrYgrCBMfw0sli1tKJPOQsVlVyeKiSWoFIfkj5M9wQaGyLoucnRYm~66PajYX~ureUvwk~kMFcr4wNpXWCO~reag8ObhcgUhRDwNB34iNJF4Z08o4VGIOwP4CqvSs1VV3gIY4-rLKazwWkwkWHj1hK11yy3~HRWtDevXLzli8qGpvvc7Z8KKEA~nj-6HTtMX7Ps9nHZZJZVQW-lNK4fXHrCow\_\_&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA

As seen above, none of the proposed solutions is able to thoroughly address both costs, procedural issues and different outcome problems described in this paper. On the one hand, the difficulties to establish a unified supranational authority faces the problem of loss of sovereignty, and on the other hand, the partiality of bilateral agreements and soft law make the proposed solutions insufficient in the current antitrust development scenario. Therefore, a more suitable solution for the “decentralized globalization” should involve the maintenance of the countries’ sovereignty and the freedom for the authorities to participate in this process: a case-by-case cooperation among authorities.

In this model, there would be no need for an ex-ante multilateral agreement among the authorities, since it would be defined on a case-by-case basis. The involved authorities (i.e., authorities of the countries affected by the transaction according to the effects doctrine) would jointly analyze cross-border transactions but without strict bindingness, and thus, leaving it possible an individual (traditional) assessment.

In this case, the involved authorities would sign a commitment whereby they would delegate case handlers in order to form an international group (“Comission”) – similar to an arbitral tribunal 67 - which would be comprised of members of all authorities of the countries affected by the transaction. Applying the notion of “enhanced comity”, “the state whose competition regime is best equipped to enforce any sanctions or remedies” would lead this commission68. Taking into account different internal procedures among the authorities, each one would determine the selection procedural for the case-handler in charge of the transaction. This person would be responsible for the thorough assessment of the transaction and the negotiation of remedies inside their institutions.

Once established, the Commission would also jointly define procedural issues (i.e., forms, deadlines, fees) and information required for the case assessment. Finally, the Commission would be in charge of discussing the assessment (i.e., definition of relevant markets, methodology and eventual remedies). Eventual disagreements would be discussed by the Commission and the divergent authority is able to issue a dissent decision, applying or not its own restrictions.

On the authorities’ perspective, and taking into account the already mentioned solutions (i.e., supranational agency, harmonization through soft law, bilateral agreements and multilevel system), this new alternative would possibly be more acceptable, since it would not require loss of sovereignty or impose substantial transaction costs to the authorities, like bilateral agreements or other costly adjustments. It would work as a sort of regulatory dualism in this international antitrust field69 , leaving it open to each authority (and every case) its adoption, depending on strategic and internal policy issues.

#### Only the plan solves the current meaninglessness of US international negotiations---demonstrates the US will deliver.

Stephen M. Walt 19. A columnist at Foreign Policy and the Robert and Renée Belfer professor of international relations at Harvard University. “America’s Polarization Is a Foreign Policy Problem, Too” Foreign Policy. 03-11-19. https://foreignpolicy.com/2019/03/11/americas-polarization-is-a-foreign-policy-problem-too/

Partisan politics, one sometimes still hears, are supposed to “stop at the water’s edge.” Domestic political quarrels might be intense and occasionally personal, but Americans are supposed to temper their disagreements and link arms when dealing with the outside world. This notion was always a bit of an exaggeration—if not an outright myth—even in the heyday of the fabled “Cold War consensus.” The supposed need to suppress partisan differences didn’t prevent nasty accusations about “who lost China?” in the 1940s and early 1950s, along with angry debates over the war in Korea, the broader phenomenon of McCarthyism, the supposed “missile gap” of the late 1950s, or the deep divisions that emerged during the Vietnam War. Nor do I recall a lot of bipartisan restraint in the late 1970s—when Republicans attacked former President Jimmy Carter over everything from Iran to the Panama Canal—or the 1980s, when Democrats accused former President Ronald Reagan’s administration of a cavalier approach toward nuclear war and giving illegal support to right-wing death squads in Central America. Moreover, too much consensus can be as harmful as deep disagreement. If the foreign-policy elite becomes wedded to a bunch of bad ideas and to a flawed grand strategy, the result is likely to be a protracted series of failures. You know: like the past 25 years. That said, there’s no question that the United States is at a level of political polarization unseen for many decades. Most of the attention to this phenomenon has focused on its effects on America’s internal politics, and some observers are clearly worried that the core institutions of the country might be at risk—understandable, given President Donald Trump’s open hostility towards some of these institutions, his apparent fondness for authoritarians, and the emergence of something resembling “state media” (i.e., Fox News). Less attention has been paid, however, to the impact that hyperpolarization could have on U.S. foreign policy. Apart from an excellent essay by Ken Schultz of Stanford University, this topic just hasn’t received a lot of attention. But it should. How might **excessive polarization**—where members of a society increasingly cluster into separate “tribes” sharing political beliefs with each other, but not with members of the opposing group—**undermine foreign policy?** Granting that a degree of disagreement is both unavoidable and often desirable, how might such divisions get out of hand and begin to damage America’s ability to interact with the outside world sensibly and successfully? We should begin by recognizing that today’s level of polarization may be partly a reflection of America’s privileged international position. Once the Soviet Union collapsed and left the United States at the pinnacle of power, the need for national unity declined and ambitious politicians had less need to show restraint in attacking their political rivals. As Michael Desch argued in a seminal article, states facing serious national-security challenges tend to be stronger and more unified, whereas those in a benign international environment are prone to grow more fractious. America’s trajectory since 1992 fits Desch’s argument quite well, notwithstanding the brief surge of patriotic feeling that followed the 9/11 terrorist attacks. To put it bluntly: Because the United States was now so safe and secure, politicians felt they could sow division at home without worrying too much about weakening the country abroad. Unfortunately, one negative impact of excessive polarization is a decreased ability to do the things that can keep the country on top for a long time. If polarization prevents the federal government from taking effective action on climate change, decaying infrastructure, the opioid epidemic, primary education, financial regulation, the deficit, or any number of other problems, America’s long-term position of power could erode and leave the country less able to handle future foreign-policy challenges. Morever, as Schultz notes, polarization leaves the country more vulnerable to outside interference, as Russia’s efforts to interfere in the 2016 election illustrate. We still don’t know exactly what Moscow did and what effects it ultimately had, but it is clear that at a minimum, Russia sought to exploit and exacerbate internal divisions that already existed. And this sort of thing can rapidly become self-reinforcing, as opposing sides leap to accuse each other not just of bad judgment but of being actively disloyal. This sort of thing is not unprecedented in U.S. political history: In the early days of the republic, Hamiltonians accused Thomas Jefferson of being overly sympathetic to revolutionary France, while Jeffersonians believed Hamilton to be a closet monarchist with a poorly disguised sympathy for Great Britain. It did not take much for either group to see the other as more than misguided. Schultz also points out that **polarization threatens a nation’s ability to reach agreements with other countries.** It is no accident that presidents have come to rely more and more on executive agreements rather than formal, ratified treaties: It has become increasingly difficult to get the latter through a divided Congress. Of equal concern is the possibility that other states will be wary of making mutually beneficial agreements with the United States, simply because they have no way to be sure whether an agreement reached this year will survive the next election. People who think U.S. interests are best served by avoiding international agreements and maximizing the country’s freedom of action (e.g., John Bolton) might welcome such a situation, but this view is dangerously shortsighted. The United States has benefited greatly from a host of past agreements of various types, and it makes no sense to encourage other states to have less and less confidence in the value of U.S. pledges. Nobody expects the United States to act contrary to its interests, but **how can it expect other countries to do something** it wants in exchange for something they want, **if they have no way of knowing whether it will deliver?** Indeed, the problem of inconstancy may be even worse than Schultz suggests. Once foreign policy begins to oscillate between two increasingly divided factions, each of the groups has an incentive to pursue its most **ambitious, controversial, or extreme projects** whenever it happens to be in a position of power. Not only does the pendulum oscillate with greater frequency, the swings themselves become more extreme. Another cost of polarization is the **erosion of America’s broader image** for competence and **good sense**. The more bitter, divided, gridlocked, venal, and downright stupid American politics become, the less appealing the American system of government is to outside observers. When that happens, the country’s moral voice—already compromised by foreign-policy excesses—gets reduced to a whisper. I mean, seriously: What sensible foreign country would listen to an American telling it how to organize a government, write a constitution, root out political corruption, or hold officials accountable, when the U.S. system itself seems increasingly broken and the political ecosystem is populated by unprincipled popinjays, corrupt con men, habitual liars, and senior officials whose chief skill is failing upward? When a nation’s politics are sufficiently polarized, the worst people can still find safe sinecures within their tribe. Yeats got it exactly right: “The best lack all conviction, / While the worst are full of passionate intensity.”

#### Unilateral application is better than multilateral agreement---counterplan leads to sub-optimal application.

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III ADVANTAGES OF APPLYING COMPETITION LAWS EXTRATERRITORIALLY There are three **principal advantages** in applying domestic competition laws extraterritorially. First, there are advantages to the **state itself**; second, there are advantages to **other states** (spill-over effects); and third, applying domestic competition laws extraterritorially **reduces incentives for a ‘race to the bottom’.** A Advantages to the State Applying Its Competition Law Extraterritorially In the absence of a global competition agreement or a successful positive comity request, where a state suffers a loss of competition and a consequent loss of welfare from foreign conduct (such as a foreign price fixing cartel or foreign anti-competitive distribution practices), it may very well have something to gain by applying its laws extraterritorially, simply because **the alternative — failing to apply its law extraterritorially — is to accept the loss.** Extraterritoriality also has **advantages** to the state when **compared** to some notional global competition agreement. Where a state is able to impose its law extraterritorially, the outcome is optimal for that state because it has not had to **bargain away any elements of its preferred model.** For example, one of the basic reasons for the strong US reaction against a global competition agreement was the fear that any agreement must derogate from the optimum US model.[32] There are at least two aspects to this advantage of extraterritorialism. First, the state that is applying its law extraterritorially **determines** the substantive and remedial rules to be applied. This is important because **states differ considerably** in their estimation of the optimal shape of many competition rules, including vertical restraints, single firm conduct and mergers.[33] Even where competition rules are textually similar or even identical, their application may be quite different. There is a growing tendency in competition law to rely on open-ended, flexible standards such as ‘market dominance’, ‘market power’ and ‘substantial lessening of competition’.[34] In turn, these standards rely on concepts, such as ‘market’ and ‘competition’, which are notoriously open to differences in definition and application.[35] Where no fixed or universal meaning exists, the interpretation of juridical standards is open to local cultural, political and economic factors. Extraterritoriality reduces some of the uncertainty associated with a competitive effects test because the state will have precedent to guide it. The US, for example, has developed its complex and highly nuanced interpretation of the broadly worded provisions of the Sherman Act[36] over a period of more than 100 years.[37] Global rules will lack that historical perspective. Second, by applying its competition law extraterritorially, the **state can rely on its own procedures.** Procedural systems are **important** in most competition regimes because enforcement decisions are left neither entirely to the court system nor to a government agency. Rather, enforcement decision-making is shared and the manner of the sharing depends on local constitutional, historical and social features of the jurisdiction.[38] For example, US antitrust law relies heavily on private actions conducted through normal judicial processes.[39] US antitrust authorities are not expected to shoulder the entire responsibility for enforcement. As a result, US authorities tend to have less overt power than their counterparts elsewhere, except perhaps in the area of mergers.[40] The US system of antitrust enforcement undoubtedly reflects a **broader US preference** for individual responsibility and reservations about centralised power.[41] The European tradition is more **accepting of centralist** bureaucratic involvement.[42] Consequently, the European Commission has a significant quasi-judicial role as well as its administrative functions. In Australia, the Australian Competition and Consumer Commission (‘ACCC’), through management of the authorisation process, has a broader role in shaping national competitive processes than does the US Department of Justice or the Federal Trade Commission (‘FTC’).[43] The authorisation system enables the ACCC to declare conduct lawful that would otherwise be unlawful.[44] This bureaucratic tendency has been particularly noticeable in Japan where the JFTC has had a significant role in determining the practice of competition law, including deciding which suits, both public and private, may be brought under the Antimonopoly Law.[45] The JFTC itself has traditionally been a minor player in a broader administrative culture.[46] Through the mechanism of administrative guidance and its power to grant exemptions from the Antimonopoly Law, the Ministry of International Trade and Industry[47] controlled economic activities in Japan, including competition policy and practice, whatever the views of the JFTC.[48] This culture is changing as Japan adapts to a more deregulated system.[49

#### International “soft law” links to the net benefit.

Bruno Bastos Becker 16. Associate of the Competition Practice at Barbosa, Müssnich & Aragão Advogados. Revista Do Ibrac Volume 22 - Número 1- 2016 Prêmio Ibrac - Tim 2015 “Decentralized Globalization: Possible Solutions for Multiple Merger Control Regimes in Cross-Border Transactions”. https://d1wqtxts1xzle7.cloudfront.net/52329387/SSRN-id2926207.pdf?1490635488=&response-content-disposition=inline%3B+filename%3DDecentralized\_Globalization\_Possible\_Sol.pdf&Expires=1633221921&Signature=AdZzigmFmDWzAJDsFfwmed9N0wgp7JMqh1Z7XUAIxb2ocUtkMJLFCwRj4NslBFsxzWeYwJ~gkHQm0Zb22NuvJwQzbnHnUMGlXzDXdujTXsxQFyE4fSapKDT9lbk2uWrYgrCBMfw0sli1tKJPOQsVlVyeKiSWoFIfkj5M9wQaGyLoucnRYm~66PajYX~ureUvwk~kMFcr4wNpXWCO~reag8ObhcgUhRDwNB34iNJF4Z08o4VGIOwP4CqvSs1VV3gIY4-rLKazwWkwkWHj1hK11yy3~HRWtDevXLzli8qGpvvc7Z8KKEA~nj-6HTtMX7Ps9nHZZJZVQW-lNK4fXHrCow\_\_&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA

3.2. Harmonization through “Soft Law”

The harmonization through “soft law” seems to be the most acceptable way to promote an at least coherent worldwide merger system51. Responding to this issue, Claire Cuttler states that “soft law, in contrast, is cheaper and easier to achieve, but is easier to breach with impunity”52 .

Considering the international aspect of antitrust laws, there are several organizations that promote convergence 53 and harmonization among domestic antitrust regulations. Most relevant examples are the ICN and the OECD. There are also private organizations that foster the development of antitrust rules, as the American Bar Association (“ABA”), the Fordham Corporate Law Institute,54 the American Antitrust Institute, the CUTS Center for Competition, Investment & Economic Regulation, and the Institute for Consumer Antitrust Studies.

According to Alexandr Svetlicinii, the proposed recommendations from ICN are commonly adopted by the participating authorities (the participating member are the authorities, not the countries’ governments)55. The author indicates that a 2004 ICN Report indicated that the recommendations of ICN’s working groups were adopted by 90% of the involved jurisdictions. Simon Evenett and Alexander Hijzen identified several characteristics of countries and authorities that may shape the susceptibility of conformity of national merger control regimes with ICN recommendations 56

However, even though such a harmonization could be a good alternative to the problem of different outcomes from the different authorities’ assessment, it does not address the criticism regarding different procedural issues and the costs involved in multi-jurisdictional transactions57. This is so because, even if the authorities adopted same criteria, methodology and standards of analysis, the involved parties would still need to file the transaction in each of the applicable jurisdictions. Therefore, costs related to filing fees, external expenses with lawyers and economists in each country and the amount of information needed to each authority would probably not be reduced.

## Cap K

#### Growth is sustainable and solves a laundry list of threats.

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Discourse on food ethics often advocates the anti-capitalist idea that we need less capitalism, less growth, and less globalization if we want to make the world a better and more equitable place, with arguments focused on applications to food, globalization, and a just society. For example, arguments for this anti-capitalist view are at the core of some chapters in nearly every handbook and edited volume in the rapidly expanding subdiscipline of food ethics. None of these volumes (or any article published in this subdiscipline broadly construed) focuses on a defense of globalized capitalism.1

More generally, discourse on global ethics, environment, and political theory in much of academia—and in society—increasingly features this anti-capitalist idea as well.2 The idea is especially prominent in discourse surrounding the environment, climate, and global poverty, where we face a nexus of problems of which capitalism is a key driver, including climate change, air and water pollution, the challenge of feeding the world, ensuring sustainable development for the world's poorest, and other interrelated challenges.

It is therefore important to ask whether this anti-capitalist idea is justified by reason and evidence that is as strong as the degree of confidence placed in it by activists and many commentators on food ethics, global ethics, and political theory, more generally.

In fact, many experts argue that this anti-capitalist idea is not supported by reason and argument and is actually wrong. The main contribution of this essay is to explain the structure of the leading arguments against the anti-capitalist idea, and in favor of the opposite conclusion. I begin by focusing on the general argument in favor of well-regulated globalized capitalism as the key to a just, flourishing, and environmentally healthy world. This is the most important of all of the arguments in terms of its consequences for health, wellbeing, and justice, and it is endorsed by experts in the empirically minded disciplines best placed to analyze the issue, including experts in long-run global development, human health, wellbeing, economics, law, public policy, and other related disciplines. On the basis of the arguments outlined below, well-regulated capitalism has been endorsed by recent Democratic presidents of the United States such as Barack Obama, and by progressive Nobel laureates who have devoted their lives to human development and more equitable societies, as well as by a wide range of experts in government and leading nongovernmental organizations.

The goal of this essay is to make the structure and importance of these arguments clear, and thereby highlight that discourse on global ethics and political theory should engage carefully with them. The goal is not to endorse them as necessarily sound and correct. The essay will begin by examining general arguments for and against capitalism, and then turn to implications for food, the environment, climate change, and beyond.

Arguments for and against Forms of Capitalism

The Argument against Capitalism

Capitalism is often argued to be a key driver of many of society's ills: inequalities, pollution, land use changes, and incentives that cause people to live differently than in their ideal dreams. Capitalism can sometimes deepen injustices. These negative consequences are easy to see—resting, as they do, at the center of many of society's greatest challenges.3

And at the same time, it is often difficult to see the positive consequences of capitalism.4 What are the positive consequences of allowing private interests to clear-cut forests and plant crops, especially if those private interests are rich multinational corporations and the forests are in poor, developing countries whose citizens do not receive the profits from deforestation? Why give private companies the right to exploit resources at all, since exploitation almost always has some negative consequences such as those listed above? These are the right questions to ask, and they highlight genuine challenges to capitalism. And in light of these challenges, it is reasonable to consider the possibility that perhaps a different economic system altogether would be more equitable and beneficial to the global population.

The Argument for Well-Regulated Capitalism

However, things are more complicated than the arguments above would suggest, and the benefits of capitalism, especially for the world's poorest and most vulnerable people, are in fact myriad and significant. In addition, as we will see in this section, many experts argue that capitalism is not the fundamental cause of the previously described problems but rather an essential component of the best solutions to them and of the best methods for promoting our goals of health, well-being, and justice.

To see where the defenders of capitalism are coming from, consider an analogy involving a response to a pandemic: if a country administered a rushed and untested vaccine to its population that ended up killing people, we would not say that vaccines were the problem. Instead, the problem would be the flawed and sloppy policies of vaccine implementation. Vaccines might easily remain absolutely essential to the correct response to such a pandemic and could also be essential to promoting health and flourishing, more generally.

The argument is similar with capitalism according to the leading mainstream arguments in favor of it: Capitalism is an essential part of the best society we could have, just like vaccines are an essential part of the best response to a pandemic such as COVID-19. But of course both capitalism and vaccines can be implemented poorly, and can even do harm, especially when combined with other incorrect policy decisions. But that does not mean that we should turn against them—quite the opposite. Instead, we should embrace them as essential to the best and most just outcomes for society, and educate ourselves and others on their importance and on how they must be properly designed and implemented with other policies in order to best help us all. In fact, the argument in favor of capitalism is even more dramatic because it claims that much more is at stake than even what is at stake in response to a global pandemic—what is at stake with capitalism is nothing less than whether the world's poorest and most vulnerable billion people will remain in conditions of poverty and oppression, or if they will instead finally gain access to what is minimally necessary for basic health and wellbeing and become increasingly affluent and empowered. The argument in favor of capitalism proceeds as follows:

Premise 1. Development and the past. Over the course of recorded human history, the majority of historical increases in health, wellbeing, and justice have occurred in the last two centuries, largely as a result of societies adopting or moving toward capitalism. Capitalism is a relevant cause of these improvements, in the sense that they could not have happened to such a degree if it were not for capitalism and would not have happened to the same degree under any alternative noncapitalist approach to structuring society. The argument in support of this premise relies on observed relationships across societies and centuries between indicators of degree of capitalism, wealth, investments in public goods, and outcomes for health, wellbeing, and justice, together with econometric analysis in support of the conclusion that the best explanation of these correlations and the underlying mechanism is that large increases in health, wellbeing, and justice are largely driven by increasing investments in public goods. The scale of increased wealth necessary to maximize these investments requires capitalism. Thus, as capitalist societies have become dramatically wealthier over the past hundred years (and wealthier than societies with alternative systems), this has allowed larger investments in public goods, which simply has not been possible in a sustained way in societies without the greater wealth that capitalism makes possible. Important investments in public goods include investments in basic medical knowledge, in health and nutrition programs, and in the institutional capacity and know-how to regulate society and capitalism itself. As a result, capitalism is a primary driver of positive outcomes in health and wellbeing (such as increased life expectancy, lowered child and maternal mortality, adequate calories per day, minimized infectious disease rates, a lower percentage and number of people in poverty, and more reported happiness);5 and in justice (such as reduced deaths from war and homicide; higher rankings in human rights indices; the reduced prevalence of racist, sexist, homophobic opinions in surveys; and higher literacy rates).6 These quantifiable positive consequences of global capitalism dramatically outweigh the negative consequences (such as deaths from pollution in the course of development), with the result that the net benefits from capitalism in terms of health, wellbeing, and justice have been greater than they would have been under any known noncapitalist approach to structuring society.7

Premise 2. Economics, ethics, and policy. Although capitalism has often been ill-regulated and therefore failed to maximize net benefits for health, wellbeing, and justice, it can become well-regulated so that it maximizes these societal goals, by including mechanisms identified by economists and other policy experts that do the following:

* optimally8 regulate negative effects such as pollution and monopoly power, and invest in public goods such as education, basic healthcare, and fundamental research including biomedical knowledge (more generally, policies that correct the failures of free markets that economists have long recognized will arise from “externalities” in the absence of regulation);9
* ensure equity and distributive justice (for example, via wealth redistribution);10
* ensure basic rights, justice, and the rule of law independent of the market (for example, by an independent judiciary, bill of rights, property rights, and redistribution and other legislation to correct historical injustices due to colonialism, racism, and correct current and historical distortions that have prevented markets from being fair);11 and
* ensure that there is no alternative way of structuring society that is more efficient or better promotes the equity, justice, and fairness goals outlined above (by allowing free exchange given the regulations mentioned).12

To summarize the implication of the first two premises, well-regulated capitalism is essential to best achieving our ethical goals—which is true even though capitalism has certainly not always been well regulated historically. Society can still do much better and remove the large deficits in terms of health, wellbeing, and justice that exist under the current inferior and imperfect versions of capitalism.

Premise 3. Development and the future. If the global spread of capitalism is allowed to continue, desperate poverty can be essentially eliminated in our lifetimes. Furthermore, this can be accomplished faster and in a more just way via well-regulated global capitalism than by any alternatives. If we instead opt for less capitalism, less growth, and less globalization, then desperate poverty will continue to exist for a significant portion of the world's population into the further future, and the world will be a worse and less equitable place than it would have been with more capitalism. For example, in a world with less capitalism, there would be more overpopulation, food insecurity, air pollution, ill health, injustice, and other problems. In part, this is because of the factors identified by premise 1, which connect a turn away from capitalism with a turn away from continuing improvements in health, wellbeing, and justice, especially for the developing world. In addition, fertility declines are also a consequence of increased wealth, and the size of the population is a primary determinant of food demand and other environmental stressors.13 Finally, as discussed at length in the next section of the essay, capitalism can be naturally combined with optimal environmental regulations.14 Even bracketing anything like optimal regulation, it remains true that sufficiently wealthy nations reduce environmental degradation as they become wealthier, whereas developing nations that are nearing peak degradation will remain stuck at the worst levels of degradation if we stall growth, rather than allowing them to transition to less and less degradation in the future via capitalism and economic growth.15 In contrast, well-regulated capitalism is a key part of the best way of coping with these problems, as well as a key part of dealing with climate change, global food production, and other specific challenges, as argued at length in the next section. Here it is important to stress that we should favor well-regulated capitalism that includes correct investments in public goods over other capitalist systems such as the neoliberalism of the recent past that promoted inadequately regulated capitalism with inadequate concern for externalities, equity, and background distortions and injustices.16

Conclusion. Therefore, we should be in favor of capitalism over noncapitalism, and we should especially favor well-regulated capitalism, which is the ethically optimal economic system and is essential to any just basic structure for society.

This argument is impressive because, as stated earlier in the essay, it is based on evidence that is so striking that it leads a bipartisan range of open-minded thinkers and activists to endorse well-regulated capitalism, including many of those who were not initially attracted to the view because of a reasonable concern for the societal ills with which we began. To better understand why such a range of thinkers could agree that well-regulated capitalism is best, it may help to clarify some things that are not assumed or implied by the argument for it, which could be invoked by other bad arguments for capitalism.

One thing the argument above does not assume is that health, wellbeing, or justice are the same thing as wealth, because, in fact, they are not. Instead, the argument above relies on well-accepted, measurable indicators of health and wellbeing, such as increased lifespan; decreased early childhood mortality; adequate nutrition; and other empirically measurable leading indicators of health, wellbeing, and justice.17 Similarly, the argument that capitalism promotes justice, peace, freedom, human rights, and tolerance relies on empirical metrics for each of these.18

Furthermore, the argument does not assume that because these indicators of health, wellbeing, and justice are highly correlated with high degrees of capitalism, that therefore capitalism is the direct cause of these good outcomes. Rather, the analyses suggest instead that something other than capitalism is the direct cause of societal improvements (such as improvements in knowledge and technology, public infrastructure, and good governance), and that capitalism is simply a necessary condition for these improvements to happen.19 In other words, the richer a society is, the more it is able to invest in all of these and other things that are the direct causes of health, wellbeing, and justice. But, to maximize investment in these things societies need well-regulated capitalism.

As part of these analyses, it is often stressed that current forms of capitalism around the world are highly defective and must be reformed in the direction of well-regulated capitalism because they lack investments in public goods, such as basic knowledge, healthcare, nutrition, other safety nets, and good governance.20 In this way, an argument for a particular kind of progressive reformism is an essential part of the analyses that lead many to endorse the more general argument for well-regulated capitalism.

Although these analyses are nuanced, and appropriately so, it remains the case that the things that directly lead to health, wellbeing, and justice require resources, and the best path toward generating those resources is well-regulated capitalism. And on the flip side, according to the analyses behind premise 1 described above, an anti-capitalist system would not produce the resources that are needed, and would thus be a disaster, especially for the poorest billion people who are most desperately in need of the resources that capitalism can create and direct, to escape from extreme poverty.21

#### Past the tipping point and the alt is dictatorship and genocide---only tech can solve.

Eric Levitz 5/17/21. Senior Writer at New York Magazine. MA Johns Hopkins. "We’ll Innovate Our Way Out of the Climate Crisis or Die Trying". Intelligencer. 5-17-2021. https://nymag.com/intelligencer/2021/05/climate-biden-green-tech-innovation.html

Today’s best-case ecological scenario was a horror story just three decades ago. In 1993, Bill Clinton declared that global warming presented such a profound threat to civilization that the U.S. would have to bring its “emissions of greenhouse gases to their 1990 levels by the year 2000.” Instead, we waited until 2020 to do so; in the interim, humanity burned more carbon than it had since the advent of agriculture. Now, it will take a historically unprecedented, worldwide economic transformation to freeze warming at “only” 2 degrees — a level of temperature rise that will turn “once in a century” storms into annual events, drown entire island nations, and render major cities in the Middle East uninhabitable in summertime (at least for those whose lifestyles involve “walking outdoors without dying of heatstroke”). This is what passes for a utopian vision in 2021. If we confine ourselves to mere optimism — and assume that every Paris Agreement signatory meets its current pledged target for decarbonization — then warming will hit 2.4 degrees by century’s end.

The reality of our ecological predicament invites denial of our political one. Put simply, it is hard to reconcile the scale of the climate crisis with the limits of contemporary American politics. Delusions rush in to fill the gap. Among these is the fantasy of national autonomy; the notion that the United States can save the planet or destroy it, depending on the precise timeline of its domestic decarbonization. A rapid energy transition in the U.S. is a vital cause, not least for its potential to expedite similar transformations abroad. But the battle for a sustainable planet will be won or lost in the developing world. Although American consumption played a central role in the history of the climate crisis, it is peripheral to the planet’s future: Over the coming century, U.S. emissions are expected to account for only 5 percent of the global total.

There is also the delusion of “de-growth’s” viability. The fact that there is no plausible path for global economic expansion that won’t entail climate-induced death and displacement has led some environmentalists to insist on global stagnation. Yet there is neither a mass constituency for this project, nor any reason to believe that there will be any time soon. Freeze the status-quo economy in amber, and you’ll condemn nearly half of humanity to permanent poverty. Divide existing GDP into perfectly even slices, and every person on the planet will live on about $5,500 a year. American voters may express a generalized concern about the climate in surveys, but they don’t seem willing to accept even a modest rise in gas prices — let alone a total collapse in living standards — to address the issue. Meanwhile, any Chinese or Indian leader who attempted to stymy income growth in the name of sustainability would be ousted in short order. It’s conceivable that one could radically reorder advanced economies in a manner that enabled living standards to rise even as GDP fell; Americans might well find themselves happier and more secure in an ultra-low-carbon communal economy in which individual car ownership is heavily restricted, and housing, healthcare, and myriad low-carbon leisure activities are social rights. But nothing short of an absolute dictatorship could affect such a transformation at the necessary speed. And the specter of eco-Bolshevism does not haunt the Global North. Humanity is going to find a way to get rich sustainably, or die trying.

Thus, the chasm between the ecologically necessary and the politically possible can only be bridged by technological advance. And on that front, the U.S. actually has the resources to make a decisive contribution to global decarbonization — and some political will to leverage those resources. Unfortunately, due to some combination of fiscal superstitions and misplaced priorities, the Biden administration’s proposed investments in green innovation remain paltry. An American Jobs Plan with much higher funding for green R&D is both imminently winnable and environmentally imperative. U.S. climate hawks should make securing such legislation a top priority.

The choice before us is techno-optimism or barbarism.

If governments are forced to choose between increasing income growth in the present, and mitigating temperature rise in the future, they are going to pick the former. We’ll get cheap, lab-grown Kobe beef before we get a U.S. Senate willing to tax meat, and steel plants powered by “green hydrogen” before we get anarcho-primitivism with Chinese characteristics.

The question is whether we’ll get such breakthroughs before it’s too late.

Techno-optimism has its hazards, but the progress we’ve made toward decarbonization has come largely through technological innovation. When India canceled plans to construct 14 gigawatts of new coal-fired power stations in 2019, it did not do so in deference to international pressure or domestic environmental movements, but rather to the cost-competitiveness of solar energy. The same story holds across Asia’s developing countries: Thanks to a ninefold reduction in the cost of solar energy over the past decade, the number of new coal plants slated for construction in the region has fallen by 80 percent. Meanwhile, the road to an electric-car revolution was cleared by a collapse in the cost of lithium batteries, the challenge of powering cities with solar energy on cloudy days was eased by a 70 percent drop in the price of utility-scale batteries, and wind power grew 40 percent cheaper. Our species remains lackluster at solidarity and self-government, but we’ve got a real knack for building cool shit.

The technological progress of the past decade was not sufficient to compensate for tepid climate policy. But real techno-utopianism has never been tried: As of 2019, global spending on clean energy R&D totaled $22 billion a year, or 3 percent of the Pentagon’s annual budget. Increasing spending on such research — while expediting cost-reductions in existing technologies by deploying them en masse — should be twin priorities of American climate policy.

The preconditions for green industrialization can be made in America.

The United States has more fiscal capacity and better-financed research universities than any nation on the planet. And, for all the pathologies of our politics, public investment in green tech inspires far weaker opposition than many less-indispensable climate policies. In fact, late last year, with Republicans controlling the Senate and Donald Trump in the White House, the U.S. increased funding for zero-emission technology R&D by $35 billion. America does not have sovereignty over enough humans to save the planet by slashing our domestic emissions. But we just might have the resources and political economy necessary to help the developing world save us all.

Although progress on renewables has exceeded optimistic expectations, the technical obstacles to global decarbonization remain immense. In the most optimistic scenario, scaling up existing, cost-competitive technologies can get us about 16 percent of the emissions reductions necessary for achieving net-zero by 2050, according to the International Energy Agency. Driving down the price of tech we already have will get us another 39 percent. The rest must come from technologies that have yet to be fully developed. We need electrified cement, hydrogen-powered steel plants, and evaporative cooling. We need utility-scale energy storage, electric airplanes, and ultra-high voltage transmission lines. And we’d be remiss to not toss a bit of our collective wealth at game-changing hail marys like nuclear fusion.

#### But it doesn’t cause extinction.

Zeke Hausfather & Glen P. Peters 20. \*Director of climate and energy at the Breakthrough Institute in Oakland, California. \*\*Research director at the CICERO Center for International Climate Research in Oslo, Norway. "Emissions – the ‘business as usual’ story is misleading". Nature. 1-29-2020. https://www.nature.com/articles/d41586-020-00177-3

In the lead-up to the 2014 IPCC Fifth Assessment Report (AR5), researchers developed four scenarios for what might happen to greenhouse-gas emissions and climate warming by 2100. They gave these scenarios a catchy title: Representative Concentration Pathways (RCPs)1. One describes a world in which global warming is kept well below 2 °C relative to pre-industrial temperatures (as nations later pledged to do under the Paris climate agreement in 2015); it is called RCP2.6. Another paints a dystopian future that is fossil-fuel intensive and excludes any climate mitigation policies, leading to nearly 5 °C of warming by the end of the century2,3. That one is named RCP8.5.

RCP8.5 was intended to explore an unlikely high-risk future2. But it has been widely used by some experts, policymakers and the media as something else entirely: as a likely ‘business as usual’ outcome. A sizeable portion of the literature on climate impacts refers to RCP8.5 as business as usual, implying that it is probable in the absence of stringent climate mitigation. The media then often amplifies this message, sometimes without communicating the nuances. This results in further confusion regarding probable emissions outcomes, because many climate researchers are not familiar with the details of these scenarios in the energy-modelling literature.

This is particularly problematic when the worst-case scenario is contrasted with the most optimistic one, especially in high-profile scholarly work. This includes studies by the IPCC, such as AR5 and last year’s special report on the impact of climate change on the ocean and cryosphere4. The focus becomes the extremes, rather than the multitude of more likely pathways in between.

Happily — and that’s a word we climatologists rarely get to use — the world imagined in RCP8.5 is one that, in our view, becomes increasingly implausible with every passing year5. Emission pathways to get to RCP8.5 generally require an unprecedented fivefold increase in coal use by the end of the century, an amount larger than some estimates of recoverable coal reserves6. It is thought that global coal use peaked in 2013, and although increases are still possible, many energy forecasts expect it to flatline over the next few decades7. Furthermore, the falling cost of clean energy sources is a trend that is unlikely to reverse, even in the absence of new climate policies7.

Assessment of current policies suggests that the world is on course for around 3 °C of warming above pre-industrial levels by the end of the century — still a catastrophic outcome, but a long way from 5 °C7,8. We cannot settle for 3 °C; nor should we dismiss progress.

Plan for progress

Some researchers argue that RCP8.5 could be more likely than was originally proposed. This is because some important feedback effects — such as the release of greenhouse gases from thawing permafrost9,10 — might be much larger than has been estimated by current climate models. These researchers point out that current emissions are in line with such a worst-case scenario11. Yet, in our view, reports of emissions over the past decade suggest that they are actually closer to those in the median scenarios7. We contend that these critics are looking at the extremes and assuming that all the dice are loaded with the worst outcomes.

Asking ‘what’s the worst that could happen?’ is a helpful exercise. It flags potential risks that emerge only at the extremes. RCP8.5 was a useful way to benchmark climate models over an extended period of time, by keeping future scenarios consistent. Perhaps it is for these reasons that the climate-modelling community suggested RCP8.5 “should be considered the highest priority”12.

We must all — from physical scientists and climate-impact modellers to communicators and policymakers — stop presenting the worst-case scenario as the most likely one. Overstating the likelihood of extreme climate impacts can make mitigation seem harder than it actually is. This could lead to defeatism, because the problem is perceived as being out of control and unsolvable. Pressingly, it might result in poor planning, whereas a more realistic range of baseline scenarios will strengthen the assessment of climate risk.

#### Rose cites Dardot and Laval's thesis of revolution. Emory = blue.

**Rose, Activist and Legal Scholar, 21**

(Nick, with PhD at [Australian Food Sovereignty Alliance](http://www.australianfoodsovereigntyalliance.org/), 03/31/21, “From the Cancer Stage of Capitalism to the Political Principle of the Common: The Social Immune Response of “Food as Commons,”” [https://www.ijhpm.com/article\_4024\_b7f8c373a358a4342eaaf84313d4064c.pdf accessed 10/09/21](https://www.ijhpm.com/article_4024_b7f8c373a358a4342eaaf84313d4064c.pdf%20accessed%2010/09/21)) JPR

Silvia Federici provides a longer historical perspective, noting that **‘commoning is the principle by which human beings have organised their existence for thousands of years;’** and that to ‘speak of the principle of the common’ is to speak ‘not only of small-scale experiments [but] of large-scale social formations that in the past were continent-wide.’87 Hence **a commons-based society is neither a utopia or reducible to fringe projects**, and the commons have persisted despite the many and continuing enclosures, ‘feeding the radical imagination as well as the bodies of many commoners.’87 Federici acknowledges that commons and practices of commoning are diverse, that many are susceptible to cooptation and many are consistent with the persistence of capitalism; indeed some, such as charities providing social services (including foodbanks) during the years of austerity budgets in the United Kingdom (2010-2015), reinforce and stabilise capitalism.87 What matters to Federici is the character and intentionality of the commons as anti-capitalist, as ‘a means to the creation of an egalitarian and cooperative society…no longer built on a competitive principle, but on the principle of collective solidarity [and commitments] to the creation of collective subjects [and] fostering common interests in every aspect of our lives.’87 Federici’s analysis resonates with the political thought and proposals developed by Dardot and Laval in their 2018 work, ‘On Common: Revolution in the 21st century.’11 For Dardot and Laval, the common is likewise understood as a **principle of political struggle, a demand for ‘real democracy**’ and a major driving force behind the emerging articulation of a political vision and programme that transcends and **overcomes** the straitjacket logic of **neoliberal** ideological hegemony and its ‘policy grammar’ which appears to **foreclose all alternatives** and lock us forever into a capitalist realism in which ‘it is easier to imagine the end of the world than it is to imagine the end of capitalism.’89 Eschewing Bollier’s ‘triarchy’ of a market/state/ commons coexistence, Dardot and Laval argue for a politics of the common based on an engaged citizenry that directly participates and deliberates in all decisions which impact it, and in the process not merely transforms the institutions responsible for the management of services and allocation of resources, but creates new institutions and new ways of being in the world.11 Dardot and Laval describe this form of politics as ‘instituent praxis’: the common, they argue, is ‘not produced but instituted.’11 This acknowledges the conventional understanding of Ostrom, Bollier and others of ‘the commons’ as residing in the rules – the laws – that a community establishes for the collective management and use of shared resources, but extends it much further and in a more radical direction. The essence of the commons, they argue, is not in the goods per se such as land or a forest or a seed bank ‘held in common,’ but rather in the process of their establishment as well as the ongoing negotiation that will surround their use and governance. Hence, Dardot and Laval distinguish the commons from the ‘rights’ tradition of property, arguing that ‘the commons are above all else matters of institution and government…the use of the commons is inseparable from the right of deciding and governing. The practice that institutes the commons is the practice that maintains them and keeps them alive and takes full responsibility for their conflictuality through the coproduction of rules.’90 To ‘institute’ in this context should not be misunderstood as ‘to institutionalise [or] render official;’ rather it is ‘to recreate with, or on the basis of, what already exists.’ 90 This messy, conflictual and evolving process is what Dardot and Laval insist will ultimately bring about a **revolution**, not in the form of a violent uprising or insurrection, but rather **through the ‘reinstitution of society’** via the transformation of politics and economy from its current state of ‘representative oligarchy’ to full participatory and deliberative democracy.11 Such a vision is premised on a mass politicisation of society; in effect a return of mass popular political contestation and a turn away from the postpolitical era of the neoliberal consumer.91-92

#### State obliterates that and their authors concede it fails.

Barker **‘**20 [Kye Anderson; January 2020; Ph.D. from the Department of Political Science at UCLA, Lecturer in political theory at UCLA; "A Revolution without Revolution: Dardot and Laval's Common," Theory & Event, Vol. 23, No. 1, p. 297-299]

Curiously, it is not until the postscript that this book—ostensibly on revolution—discusses its concept of revolution. Dardot and Laval define the concept as "the moment when instituent praxis, through a process of "self-instituting," becomes the institutional framework of society itself" (401).5 In other words, revolution to Dardot and Laval is the moment at which revolution becomes permanent and all solid, inert institutions melt into air. Yet, Dardot and Laval include in their book on revolution the following claim: "at the moment, there is simply no room for a full-fledged alternative to the market and the state" (344). The state will be necessary for public interventions which foster democratic associationism in and among firms. Shockingly, the alternative force of cooperative [End Page 298] firms organized by the principle of the common does not imply the "abolition of private property nor, a fortiori, the abolition of the market" (406). Rather, the principle of the common is meant to limit the excesses of private ownership of property. The revolution aims not at the seizure of state power, or of private property, but an endless generation of alternatives to them. But how does one physically pose an alternative to an institution with "a monopoly of legitimate physical violence?"6

This question returns us to the solution to the problem of power sought by revolutionaries of past generations. In the eighteenth century, the animating institution of revolution was the republic, which could only be achieved by the seizure of power by revolutionaries. This meant, for better and worse, violence—if not in the seizure of power, then at least in the defense of it. One thinks here of Niccolò Machiavelli's instructions regarding Lucius Junius Brutus's sons, who posed a threat to the new republican order of ancient Rome, or of Jacques-Louis David's solemn and sorrowful 1789 painting which followed the conclusion of Machiavelli's advice, The Lictors Bring to Brutus the Bodies of His Sons. Subsequently, the cry of the nineteenth century, according to Proud-hon, was for "the Democratic and Social Republic" (9).7 To Marx, the name "social republic" signaled the "general content of modern revolution."8 The revolution of the twenty-first century, however, is separated from the nineteenth by the rock of the twentieth, upon which the republican dreams of the Left capsized. The state terrors of "actually existing socialism" in the twentieth century have led some revolutionaries, such as the authors of the present book, to try to forget the mechanisms of power. But, if history has taught us anything, the mechanisms of power will not forget about them.

#### System changes are infeasible---can’t get governmental or international buy-in---reform is comparatively quicker.

Ezra Klein 8/31/21. American journalist, political analyst, New York Times columnist, and the host of The Ezra Klein Show podcast. "Transcript: Ezra Klein Answers Listener Questions". No Publication. 8-31-2021. https://www.nytimes.com/2021/08/31/podcasts/transcript-ezra-klein-ask-me-anything.html

EZRA KLEIN: Yeah. And maybe we should do an episode on this. I have very complicated feelings about degrowth. So one is that it is tricky to talk about, as you say, because I find its advocates will continue to say that you’re defining it wrong. So let me use a definition from Hickel, which is, and I’m quoting him here, “Degrowth is a planned reduction of energy and resource throughput designed to bring the economy back into balance with the living world in a way that reduces inequality and improves human well-being.”

And so I’d note two things here. One is “designed.” Degrowth is, as its advocates understand it, a act of global economic planning really without equal anywhere in human history. It is an act of extraordinary central planning. So that’s one thing that is going to become important in my answer.

I’d say there’s part of this vision I’m sympathetic to, and then part of it that I just don’t think holds together. I would distinguish a critique of want and a critique of growth. And the way I would do that is that, as you hear if you listen to the show, I’m pretty critical of a lot of the ways capitalism generates desire.

Desire is something we build through advertising, through social mimicry. This is a show that is supported by advertising. This is part of the desire- generation complex in its business model. And we are told and taught to want a lot of things, not only that we don’t need, but that don’t make us happier. And so not all growth as measured by G.D.P. is good growth.

But a lot of what people want is fine, or great, or whatever. It’s their desire, and it’s not for me to tell them the jeans they’re interested in are incorrect. And a lot of it I don’t think is under the power of policymakers to control. I don’t think it’s all advertising. I don’t know that if you cut down advertising, the amount people would spend on consumption would go way down. They might simply consume other things.

And so I want people to have rich, materially fulfilling lives. And I think it’ll be a very hard piece to change. So in terms of having a counterweight to the materialism, the ideology of materialism in modern society, that’s a part of degrowth that I’m very open to.

But now let me talk about degrowth more in the terms of it is a direct political project, which is as an answer to climate change. I would cut this into a few pieces. Is degrowth necessary for addressing climate change? Is it the fastest way to address climate change? And is it desirable? It has to be at least one of those things to be the strategy you’d want to take.

And I don’t think it is. Let’s start with necessary. Many countries in Europe, even the United States, are growing while reducing their carbon footprint. Now, you could say they’re not doing so fast enough depending on the country. But they could all do so much faster if there was enough political will to deploy more renewable technology, to tax carbon, to do a bunch of things that we have not been able to pass. So it is clearly true that we can decouple growth and energy usage.

Hickel, to be fair, will say that that may be true. But given the speed at which we need to act, we can’t just be deploying renewable energy technology. It would also help the situation if we stopped using as much through material consumption. That is, I think, conceptually true and politically false.

I mean, let’s just state that speed is, first and foremost, a political problem. There is a delta between where we are right now in terms of what we are doing on climate change and where we could be. That delta is big, and that delta gets bigger every year because it gets harder every year. And the time we have to act before we start getting some of the really truly catastrophic feedback loops in play is shortening. So you’re now talking here about the speed at which you can move politics.

So for something to be faster, it doesn’t just need to be faster if you implemented it. It needs to be something you can implement such it accelerates the politics of radical climate action. And that’s where I think degrowth completely falls apart. And I have tried to look for the answer people give on this, and I’ve never found one that is convincing.

So again, I’ll quote Hickel on this: “Degrowth has a discriminating approach to reducing economic activity. It seeks to scale down ecologically destructive and socially less necessary production, i.e., the production of S.U.V.s, arms, beef, private transportation, advertising and planned obsolescence” — by which he means there, the fact that expiration dates are built into a lot of our electronics — “while expanding socially important sectors like health care, education, care and conviviality.”

And I’d urge people to think about that for a minute. I mean, you can listen to that and you will assume correctly that I am sympathetic to the idea that a lot of those goods are not great. I’m a vegan. I don’t eat beef. I would like nobody else to eat beef.

I think that if the political demand of the climate movement becomes you don’t get to eat beef, you will set climate politics back so far, so fast, it would be disastrous. Same thing with S.U.V.s. I don’t like S.U.V.s. I don’t drive one. But if you are telling people in rich countries that the climate movement is for them not having the cars they want to have, you are just going to lose. You are going to lose fast.

We watched this happen for years before Elon Musk and some others began inventing cars that were both electrified and were actually cool cars. You weren’t going to get everybody in a Prius. You might, over time, get them into the post-Tesla generations of electronic vehicles.

This is where the politics of it for me fall apart. I’d at least like to see some empirical evidence for the claim that degrowthers are right, and that their appeal will speed the politics of doing hard things on climate change. Because I think it will do the opposite. And I don’t see politicians winning in the countries they would need to win on anything like this platform. Quite the contrary.

I watched the most effective attack against Joe Biden’s climate policies. It dominated the news for a day or two. It was Fox News just making up — just completely making up — a false claim that Biden was going to limit or restrict red meat.

ANNIE GALVIN: Right. [LAUGHS]

EZRA KLEIN: So my worry with degrowth is that it is trying to take the politics out of politics. It is attacking the flaws of the current strategy as not moving fast enough when the impediments are political, but then not accepting the impediments to its own political path forward.

I will say, because I think it’ll be weird to people if I don’t mention this, that there is the big problem, of course, that the rising generation of emissions is coming from China, from India. I think it’s something like ⅔ of emissions are now from middle income countries. That is only going up.

Hickel and other degrowthers will say that, yes, the point of this is that the rich countries, which have already used more than their fair share of the carbon budget, should cut their carbon usage so poor countries can grow. I cannot imagine how you are going to enforce this as a political and economic planning regime. How you will get rich countries to agree to do less so poor countries can have more. I mean, look at what has happened with vaccine hoarding.

I don’t want to say that this isn’t a good moral weight on the conversation or, in the long term, a good push for people to think about different ways of having growth, different ways of human flourishing. But the entirety — as the degrowth people will agree — the entire question of the climate change conversation is speed. And I just don’t see the argument for degrowth as being anything but an extraordinarily slower way of approaching the politics, probably counterproductive compared to what we’re doing, which is I think you can make tremendous strides on climate change by deploying renewable energy technologies and giving people the opportunity to have a more materially fulfilling life atop those technologies.

And by the way, when that happens in rich countries, as we have seen, it ends up subsidizing these renewable energy technological advances for poorer countries. So it is a fact that Germany and other countries did so much to subsidize solar for themselves, it has also made it possible for countries like China and India to have such a rapid advance in solar technology that it’s affordable for them to do a lot of their growth on that platform.

So I also think there are cross-subsidies in rich countries trying to maintain growth renewable energy deployment that end up helping poor countries change what they’re doing in a useful way, too. So that’s my take on degrowth. But I understand its appeal. I just don’t understand its politics.

## Court Clog DA

#### COVID means no catching up with the backlog.

Jenna Kurzyna, 7-16. “Guilford County District Attorney discusses impacts COVID-19 had on our court system.” July 16, 2021. https://www.wfmynews2.com/article/news/crime/guilford-county-district-attorney-discusses-impacts-covid-19-had-on-our-court-system/83-fa56fdb0-4180-4725-a355-758b12355b73

"It's a hard cycle right now," Crump said. "You're never going to get back to where you were. It's kind of impossible at this point."

Crump said the pandemic impacted the courts in a big way. She also said Guilford County isn't the only courthouse dealing with a big backlog.

"It was devastating, I mean it was horrible," Crump said. "We were doing what we could do, but you have to remember that Guilford County is the third-largest county in the state. And we normally deal with a lot of cases."

Crump said at first, they were only allowed to do 100 cases a day.

"On an average day we could have anything in criminal district courts, we could have anything, from 400 to 600 defendants," Crump said. "So, when you have to modify that down to 100 cases, that's not doing a lot. Please understand that doesn’t mean 100 individuals or defendants, but 100 cases, meaning that one person could have 10 cases.”

Crump said because of the modifications, she doesn't know if they will ever catch up with their backlog.

"Realistically, we'll try to make a dent but it's impossible because we're still not even at 50% and cases are still coming in," Crump said.

Crump said explaining to those still waiting for their day in court, is frustrating all around. And when it comes to new cases, it might be a while before they are heard.

"We've had people waiting for trial since 2019, 2018, and as you know the homicide rate is going on up," Crump said. "Well those new cases, they are going to have to wait years because you still have to get through the old cases."

Crump said they are only working 200 cases a day because the courts are still not operating at 100% yet.

“I can’t tell you when we’re going to get up to 100% and we probably never will," Crump said. "Unless you have extra judges and extra courtrooms, which we don’t have, then you still can’t move all of those cases."

Even though Crump doesn't think they will be able to catch back up with the backlog, they are trying.

"We're trying to do everything that we can to make sure people have their day in court," Crump said. "Not just the individual that are charged but also your victims."

Another challenge was trying not to overcrowd the jails while people waited for a court date. One way Crump tried to handle that was consenting to an unsecured bond for non-violent offenders.

"If a magistrate set a bond for $1,000 or less than we consented to that bond being unsecured because we didn't want the jails to pile up and have COVID run rampant through the jails," Crump said.

One thing Crump wants the community to know is they never stopped working even when the courts weren't in session.

“I want the community to know that the DA's Office, we have been working tirelessly to move these cases," Crump said. "We had two shutdowns when the courthouse was shut down, that is the only time my office was shut down, otherwise, we were open we were working."

#### Capitol riots thump.

Katie Benner 21. Katie Benner covers the Justice Department. She was part of a team that won a Pulitzer Prize in 2018 for public service for reporting on workplace sexual harassment issues.," Justice Dept. Confronts Increasingly Complex Capitol Riot Inquiry." New York Times. 2-19-2021. https://www.nytimes.com/2021/02/19/us/politics/capitol-riot-investigation.html

Justice Department officials are adding prosecutors and agents to their sprawling investigation into the Jan. 6 assault on the Capitol as **it moves into a more complicated phase and they strategize about how to handle the large caseload, including trying to stave off a potential backlog in the courts**, according to law enforcement officials.

Their effort to charge more complex cases was evident on Friday when prosecutors secured an indictment [expanding an existing conspiracy case](https://www.nytimes.com/2021/02/19/us/politics/oath-keepers-capitol-riot-plot.html) against the right-wing militia group the Oath Keepers, accusing six more suspected members of the group of organizing a military-style attack on the Capitol to help President Donald. J. Trump overturn the 2020 election results and remain in power.

The investigation has already resulted in charges against more than 230 people and in scores of subpoenas. More than a dozen federal prosecutors from around the country have been assigned to work with the U.S. attorney’s office in Washington, which is leading the investigation, and it could lead to 400 to 500 criminal cases in total, according to a law enforcement official.

Michael R. Sherwin, the acting U.S. attorney in Washington who has been overseeing the inquiry, will soon step down from his appointed post. But officials are planning to keep him on to continue to oversee the investigation from Justice Department headquarters, according to people familiar with the leadership discussions.

The F.B.I.’s Washington Field Office, which moved quickly in the days after the attack to handle a voluminous amount of tips, digital clues and interviews, will see more of that work farmed out to field offices around the country. The bureau’s Domestic Terrorism Operations Section, which has long overseen the investigation from F.B.I. headquarters, will coordinate that work.

In the weeks immediately after the siege on Congress, the speed of the F.B.I.’s investigation provided a glimmer of hope that the rioters would be held accountable, as the government grappled with security failures that allowed the pro-Trump mob to breach one of the most fortified buildings in one of the most secure cities in the nation.

But the investigation has now hit an inflection point, where the easy cases have mostly been made and more complex ones loom.

Mr. Sherwin signaled the shift last month at a news conference, saying the pace of arrests would plateau as prosecutors focused on building “the more complicated conspiracy cases related to possible coordination among militia groups.”

Now federal prosecutors are discussing obtaining guilty pleas from defendants and trying to secure suspects’ cooperation, according to a law enforcement official.

Major criminal investigations often depend on intelligence from informants and cooperating witnesses, current and former prosecutors say. **But the riot investigation, which has been highly unusual in many respects, has resulted in hundreds of charges with little cooperation** from people involved and has instead been based almost entirely on evidence gathered from social media and tips from family members and acquaintances.

#### Major antitrust cases settle quickly, the court cases won’t last long/clog the courts.

William Berkowitz et. al, 21. Berkowitz is Partner and National Chair, Antitrust & Competition Practice Group. Brandon Bigelow is Partner and National Co-Chair, Antitrust & Competition Practice Group and Alison Eggers is Partner, Antitrust & Competition and Franchise & Distribution Practice Groups. “Key Trends in Commercial Litigation: Antitrust.” Commercial Litigation Outlook 2021, p. 8, https://www.seyfarth.com/dir\_docs/publications/Commercial-Litigation-Outlook-2021-Edition.pdf

Companies in all sectors should expect that the FTC and DOJ may give more scrutiny to transactions that in the past might have easily cleared HSR review. Finally, the parties in a number of major antitrust class action litigation matters reached settlements in 2020, including matters involving alleged price fixing in the packaged seafood market and collusion among various Blue Cross/Blue Shield insurance providers to suppress competition between those plans. Businesses are often members of these certified classes, and given the volume of their purchases in these markets, often can recover substantial sums from these settlement funds. Businesses should be on the lookout for court-ordered notices concerning these settlements to make sure they do not waive any rights. Businesses also should be skeptical of companies that offer to “assist” with the submission of claims; these companies often demand a substantial percentage of any recovery for their work, even though settlements are typically designed to make claims submission easy.

#### The plan solves.

Daniel A. Crane 21. Frederick Paul Furth, Sr. Professor of Law, University of Michigan. "Antitrust Antitextualism " Notre Dame Law Review. 1-28-2021. https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlr

3. Implications for Interpretation

The phenomenon of antitrust antitextualism is important for understanding the U.S. antitrust system, its history, and the possibilities for its reform, but it also has significance for more general understandings of how statutes are written and how their interpretation functions or should function. Scholars have argued that Congress sometimes means statutory language to be purely expressive, indeed that it means for the courts not to give that language legal effect.262 But the story of antitrust antitextualism goes far beyond judicial excision of stray words or phrases from the antitrust statutes. In important instances, particularly with respect to the FTC and Robinson-Patman Acts, the courts have entirely rewritten the textual meaning and legislative purpose of the statute.263 Through a chronic cycle of legislative enactment, judicial disregard, and implicit legislative acquiescence, Congress and the courts have constituted the common-law system that judges and scholars across the political spectrum now consider normalized and perhaps even inevitable.

This pattern of judicial/legislative engagement (with the executive playing an enabling role) raises both analytical and normative questions for the jurisprudence of statutory interpretation. Analytically and descriptively, is antitrust law sui generis, or do other statutory domains exhibit a similar, but perhaps unrecognized, dynamic? Do the antitrust laws idiosyncratically operate in a space of equipoise between Jeffersonian idealism and Hamiltonian pragmatism, with Congress implicitly assigning itself the role of idealist orator while acquiescing as the courts provide pragmatic counterbalance? Or is this yin and yang phenomenon, disguised in the interpretive rhetoric of broad delegations and common-law method, a more general one, in maybe unappreciated ways? Once a pattern is observed in one legal domain, it tends to be observed soon in others as well. Finding a recurrence of the antitrust pattern elsewhere could provide new insights on statutory interpretation, separation of powers, and the de facto institutional roles of the legislative and judicial branches.

Normatively, there is much to question about the democratic legitimacy of the implicit system of legislative declaration and judicial reformation described in this Article. There seems little in it that either a committed textualist or a committed purposivist could defend, since the system entails the courts honoring neither what Congress wrote nor what it meant. To rehabilitate the system’s democratic legitimacy, a subtle purposivist might say that what Congress actually meant—in a deep sense—must be gathered from the norms of the system itself rather than from conventional evidence such as floor statements by members of Congress, committee reports, or other contemporaneous sources of public meaning. Perhaps members of Congress legislate against a backdrop of expectation that the courts will continue to read down new statutes to accommodate pragmatic efficiency interests, and consenting to this implicit system, the members feel liberated to express more in the statute than they actually mean as prescriptive. But if that is wholesome democratic practice, that case is yet to be made.

## Politics DA

#### Won’t pass.

Heather Caygle et al 10-29-2021, with SARAH FERRIS and OLIVIA BEAVERS "Weary Dems keep reliving Infrastructure Week," POLITICO, https://www.politico.com/news/2021/10/29/democrats-infrastructure-week-517487

House liberals left the Capitol triumphant on Thursday night after once again scuttling a major vote. Every other Democrat was fuming. For the second time in less than a month, Speaker Nancy Pelosi and her leadership team had to delay a vote on Senate-passed infrastructure bill amid progressive opposition, denying President Joe Biden a much-need win as Democrats’ bigger, $1.75 trillion social spending plan also remains in limbo. “I think it’s wholly apparent that today was not a success,” said Virginia Rep. Abigail Spanberger, whose state has a high-stakes gubernatorial showdown Tuesday that Democrats were hoping to boost with the infrastructure vote. “Because people choose to be obstructionists, we’re not delivering these things to my state or to the rest of the country,” the swing-district Democrat added. “I guess we’ll just wait because apparently failing roads and bridges can just wait in the minds of some people.” Democrats slunk out of the House chamber embarrassed — furious at the liberals who dug in and a White House that refused to pressure them to relent — and openly fretting about the long-term repercussions, given the tough climb they face in the midterms. Progressive leaders are predicting the party will work out its differences and pass both bills in the House within days. But it’s a far cry from what top Democrats had hoped to deliver ahead of a critical week for the party. “If I'm going to be honest, yeah, I’m worried about it,” said Rep. Gregory Meeks (D-N.Y.). “There’s a lot on the line here — a lot on the line. … We fill our cup up by getting stuff done. It’s not over.” The party started with a clear plan for this week: send a $550 billion infrastructure bill to Biden’s desk that would start his foreign trip with a marketable victory and offer a much-needed boost to Virginia Democratic candidate Terry McAuliffe ahead of a nail-biter gubernatorial election Tuesday. Instead Democrats are going home with nothing to show but a short-term extension of highway and transit programs and promises to reconvene next week and try again. Senior party members insist they had good reason to believe this week would be different from late September, when another wall of liberal opposition forced Pelosi to punt an infrastructure vote. This time they had a Biden-blessed deal, a chunk of legislative text and a full-throttle whipping operation. They still couldn’t overcome the trust gap between the party’s liberals and their moderate colleagues across the Capitol: Sens. Kyrsten Sinema (D-Ariz.) and Joe Manchin (D-W.Va.). “All they need to do is one simple thing, which is to affirm they are in agreement with the framework. They just need to publicly announce it. Clearly they aren’t willing to do that, which is saying a lot,” said Rep. Ruben Gallego (D-Ariz.), who has not ruled out a primary challenge to Sinema. The House’s departure Thursday night virtually guaranteed there would be no major vote on Biden’s agenda ahead of McAuliffe’s election on Tuesday. If he loses, many Democrats worry that could spell doom for their already-teetering domestic agenda as the party’s two wings continue to bicker over the contours of their $1.75 trillion spending package. “Our whole argument as Democrats is premised on the idea that we're going to make things better in real life. As opposed to the other side, which just constantly lies and seems to live in a world of misinformation and fantasy,” said Rep. Conor Lamb (D-Pa.). “But if we're going to win that argument," he added, "we actually have to do the things we said we're going to do.” While the rest of the caucus seethed, progressives defended their refusal to support the infrastructure bill amid lingering uncertainty about Sinema and Manchin's commitment to the social spending framework Biden unveiled Thursday morning. “I told anybody that would listen that we did not have the votes for [an infrastructure] vote tonight,” said Congressional Progressive Caucus Chair Rep. Pramila Jayapal (D-Wash.). Jayapal went on to say that Biden did not explicitly ask for a vote on the infrastructure bill when he visited the Hill Thursday morning — which many on the left took as a tacit green light to continue opposing Democratic leadership’s push for a vote until they were ready. Biden’s lack of a clear demand for a Thursday vote may have had the unintended effect of emboldening liberals, giving them political cover to tank an infrastructure bill that Pelosi and other leaders were whipping. “The speaker did, but the president did not” ask for Democrats' infrastructure vote, Jayapal said. “The president said he wants us to pass both bills and that this coming week was going to be critical for that. We will deliver both these bills to him, from the House, next week.” Senior Democrats were privately frustrated at Biden’s lack of direct call to action, and some sought to convince the White House to further clarify his position throughout the day, with no success. “Had the president led us down that hallway to the House floor this morning ... I think it would have been close,” said Rep. Dean Phillips (D-Minn.). “If the vote was kept open a long time, I think with Republican votes it would have passed.”

#### Biden bungled negotiations.

Cristina Marcos, et al 10-28-2021, withSCOTT WONG AND MIKE LILLIS "Progressives win again: No infrastructure vote Thursday," TheHill, https://thehill.com/homenews/house/579030-progressives-win-again-no-infrastructure-vote-tonight

House Democratic leaders abandoned a third attempt on Thursday to clear a Senate-passed bipartisan infrastructure bill, as progressives held firmly opposed without deeper assurances that a larger package of social benefits is a slam dunk. The third punt in a month came after President Biden made a rare visit to the Capitol to beseech House Democrats to help him advance his agenda as a matter of demonstrating that American democracy can still function. The visit was hailed by lawmakers of all stripes, but it did little to convince the liberals to vote immediately on the infrastructure bill. And the delay has sparked a new round of finger-pointing from lawmakers already frustrated with the months-long impasse and Biden’s sinking approval numbers. “Not good optics. It’s terrible optics,” conceded Rep. Alan Lowenthal (D-Calif.), who wanted the House to pass the infrastructure bill on Thursday. “People are frustrated right now,” added Rep. Jim Costa (D-Calif.), a moderate Blue Dog. “There’s a lack of trust, and you got a lot of members here that have been here four years or less and they don’t seem to understand how you get things done.” One of the Blue Dog Coalition leaders, Rep. Stephanie Murphy (D-Fla.), later issued a statement, saying the group is “extremely frustrated that legislative obstruction of the [infrastructure bill] continues — not based on the bill’s merits, but because of a misguided strategy to use the bill as leverage on separate legislation.” Some of the frustration was also directed toward the Senate centrist holdouts — Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) — who have resisted large parts of Biden’s agenda and forced him to settle far below his initial request of $3.5 trillion in new spending. “Basically it’s the [dis]trust of Manchin and Sinema,” said Rep. Steve Cohen (D-Tenn.). “That’s the problem.” But there was also grumbling that Biden and his administration have bungled the negotiations from the start by focusing initially on the Senate and leaving House members feeling left out. "Even in the beginning of the summer, this was about the White House and the Senate, and the House was excluded," said Rep. Alexandria Ocasio-Cortez (D-N.Y.). "This is, I think, the result of that omission."

#### Winner’s win---Biden passing tough bills expands his political capital.

Stankiewicz 1/20/21 (Kevin - associate reporter for *CNBC.com*, “Sen. Chris Coons says Biden has ‘practical’ bent, hopes for cooperation in Congress,” https://www.cnbc.com/2021/01/20/biden-inauguration-day-live-updates-stream.html)

Democratic Sen. Chris Coons told CNBC he is hopeful President Joe Biden’s plans to address the Covid-19 crisis could set the tone for bipartisan cooperation in Washington. “I think it’s possible for Joe Biden, by responding to this pandemic in a competent and caring way, to actually build his political capital, to surprise the American people by showing that he and [GOP Sen.] Mitch McConnell, that the leaders in the House and the Senate, can actually work together to solve problems,” said Coons, a close ally to Biden and his fellow Delawarean. In an interview on “Power Lunch,” Coons said most Americans are fed up by inaction and partisan bickering from Congress. “Joe is someone who has never forgotten where he’s from, who has a practical, common-sense bent and who sees the suffering of the American people.” “He’s going to give us a chance to move forward, boldly, together, and I pray that the Congress takes him up on it,” Coons said.

#### There’s been no progress.

Niall Stanage, 10-29-2021, "The Memo: Democrats stall out on brink of victory," TheHill, https://thehill.com/homenews/administration/579042-the-memo-democrats-stall-out-on-brink-of-victory

But even if that proves true, it doesn’t change the fact that the party’s roiling internal tensions are causing serious problems here and now. Speaker Nancy Pelosi (D-Calif.) early Thursday evening delayed a vote on a separate $1 trillion infrastructure measure, despite having pushed hard to pass the measure earlier in the day. The delay — the second postponement for the bill — was a rare exhibition of weakness from the Speaker, who prides herself on both her vote-counting abilities and her capacity to sway recalcitrant members of her caucus. The reasons for the impasse are numerous, but none of them are good for Democrats. Progressives are dismayed by the scale of the cuts to the social spending bill, which have seen cherished objectives like paid family leave, tuition-free community college and a clean electricity program stricken. At the same time, the two Democratic senators who have extracted concessions in scaling back the original proposal — Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) — are still vague about whether they are committed to supporting the framework that Biden has outlined. Anger from more progressive Democrats has been simmering at Manchin and Sinema throughout the process, with some on the left openly accusing them of bad faith. The left is not about to extend the benefit of the doubt to the duo now. The upshot is that progressives were in no mood to back down from their position that they would not vote on the infrastructure package until they got more concrete assurances on the social spending bill. Rep. Pramila Jayapal (D-Wash.), the head of the Congressional Progressive Caucus, reiterated in a Thursday afternoon statement that members of her group would not back one bill without the other. Rep. Rashida Tlaib (D-Mich.), a member of the so-called "squad," told reporters she was “a ‘hell no’” to advancing infrastructure without certainty on the social spending bill. Another "squad" member, Rep. Ayanna Pressley (D-Mass.), tweeted: “A deal is a deal. These bills move together.” The vote delay amounted to another moral victory for the left. But it also came as unwelcome news to Biden, who had wanted to shepherd a confirmed agreement home before departing for a transatlantic trip that will include a meeting with Pope Francis, a Group of 20 summit in Rome and a climate change conference in Glasgow, Scotland. Biden will not return to Washington until next Wednesday. Pelosi was reported to have earlier told her caucus not to “embarrass” the president by rejecting the infrastructure bill. But the delay of the vote affirms that progressives were willing to do just that. Biden himself had reportedly told Democrats on Capitol Hill that it was not “hyperbole to say that the House and Senate majorities, and my presidency, will be determined by what happens in the next week.” Given the stakes involved, the lack of action is frustrating to many in the Democratic Party — even as they acknowledge the misgivings about the cuts to the big bill. “The biggest obstacle that Democrats are facing right now is the lack of progress,” said Tad Devine, a strategist who held a senior role on Sen. Bernie Sanders’s (I-Vt.) 2016 presidential bid. “If they make progress, they can begin to tell a story. The Republicans have a well-developed story, and the Democrats are negotiating something that nobody seems to understand. That’s a loser.”

#### Manchin won’t let anything pass that will target fossil fuels.

Jonathan Weisman & Emily Cochrane, 9-30-2021, "House Delays Vote on Infrastructure Bill as Democrats Feud," New York Times, https://www.nytimes.com/2021/09/30/us/politics/infrastructure-democrats-pelosi.html

Conservative-leaning Democrats made it even clearer on Thursday that they could never support a package anywhere near as large as Mr. Biden had proposed. Senator Joe Manchin III of West Virginia told reporters that he wanted a bill that spent no more than $1.5 trillion, less than half the size of the package that Democrats envisioned in their budget blueprint.

“I’m trying to make sure they understand that I’m at 1.5 trillion,” Mr. Manchin told reporters late Thursday night, emerging from the office of Senator Chuck Schumer, Democrat of New York and the majority leader, where he had been meeting with White House officials. “I don’t see a deal tonight — I really don’t.”

Shortly afterward, House leaders put out word that plans for the infrastructure vote, which Ms. Pelosi had insisted all day was still on track, would wait.

Mr. Manchin spoke out about his position after a memo detailing it was published in Politico on Thursday.

The document was instructive in ways well beyond the spending total. His bottom-line demands included means-testing any new social programs to keep them targeted at the poor; a major initiative on the treatment of opioid addictions that have ravaged his state; control of shaping a clean energy provision that, by definition, was aimed at coal, a mainstay of West Virginia; and assurances that nothing in the bill would eliminate the production and burning of fossil fuels — a demand sure to enrage advocates of combating climate change.

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## Cap K

#### 1. Trainer agree’s no mindset shift

Trainer 16

Ted Trainer, Ted Trainer is an Australian academic, and an advocate of economic de-growth, simple living, and 'conserver' lifestyles with a PHD from the University of Sydney and is a prolific author of several novels, 2/26/2016 (<http://thesimplerway.info/TRANSITION.htm>, “HOW MIGHT WE MAKE THE TRANSITION TO THE SIMPLER WAY?”, Accessed 7/21/17)//DG

As local economic self-sufficiency develops communities will become more aware of their limits, especially their need for inputs from the global economy. Towns will need chicken wire, polypipe, 12 volt pumps, shovels, which they cannot produce in their towns. This will prompt the realization that the wider national economy must be massively restructured so that its function becomes providing all towns and suburbs with the inputs they need. This is the crucial mechanism that will generate the mass pressure for transition to a very different kind of national economy and a very different kind of “state”, i.e., one that isunder the control of local assemblies. It can only come into existence after a long period in which local economies develop. The order of events here is crucial; change at the level of the state cannot come first, and it is the development of localism which will build support for change at the wider level. (Discussed further below re “eco-anarchism”.)

This means that the last thing we want is a sudden collapse of the economy. If that happens all is lost because our capacity to build the new communities depends on being able to get crucial inputs from the existing economy for the purpose. It will be an extremely difficult and uncertain process like stepping from a sinking boat onto another being built from planks taken from the one going down. We can’t built the new without drawing from the old one, but that will damage the old one because the more that people move out of the old economy the lower demand and economic activity within it will become and the more it will lurch into depression, paralysis and chaos. Will firms producing chicken wire and watering cans be able to survive as sales of most of their output decrease markedly? Will we be able to create enough alternative settlements and sources of livelihood as the numbers coming across from the shrinking old economy rise?

But we will probably not get to Stage 2 for a long time. The main implication is that here and now it is a mistake to concern ourselves with directly fighting against the system or trying to get control of the state. What matters is developing the widespread awareness that will in time lead to demand for Stage 2 changes, and this is best done by plunging into the kinds of activities going on in Transition Towns … in order to try to get people there to see that eventually we must deal with the Stage 2 problem. The revolution cannot get anywhere until there is widespread demand for it so our task for a long time yet will be to build that radically critical support, and the argument here is that the best arena in which to work for that is within current localism initiatives. (There are other things to do, especially writing and distributing critical analyses.)

#### 2. Revolution in economics now.

The Economist 10/23/21. "A real-time revolution will up-end the practice of macroeconomics". Economist. https://www.economist.com/leaders/2021/10/23/a-real-time-revolution-will-up-end-the-practice-of-macroeconomics?utm\_campaign=the-economist-this-week&utm\_medium=newsletter&utm\_source=salesforce-marketing-cloud&utm\_term=2021-10-21&utm\_content=ed-picks-article-link-1&etear=nl\_weekly\_1

Yet, as we report this week, the age of bewilderment is starting to give way to greater enlightenment. The world is on the brink of a real-time revolution in economics, as the quality and timeliness of information are transformed. Big firms from Amazon to Netflix already use instant data to monitor grocery deliveries and how many people are glued to “Squid Game”. The pandemic has led governments and central banks to experiment, from monitoring restaurant bookings to tracking card payments. The results are still rudimentary, but as digital devices, sensors and fast payments become ubiquitous, the ability to observe the economy accurately and speedily will improve. That holds open the promise of better public-sector decision-making—as well as the temptation for governments to meddle.

The desire for better economic data is hardly new. America’s gnp estimates date to 1934 and initially came with a 13-month time lag. In the 1950s a young Alan Greenspan monitored freight-car traffic to arrive at early estimates of steel production. Ever since Walmart pioneered supply-chain management in the 1980s private-sector bosses have seen timely data as a source of competitive advantage. But the public sector has been slow to reform how it works. The official figures that economists track—think of gdp or employment—come with lags of weeks or months and are often revised dramatically. Productivity takes years to calculate accurately. It is only a slight exaggeration to say that central banks are flying blind.

Bad and late data can lead to policy errors that cost millions of jobs and trillions of dollars in lost output. The financial crisis would have been a lot less harmful had the Federal Reserve cut interest rates to near zero in December 2007, when America entered recession, rather than in December 2008, when economists at last saw it in the numbers. Patchy data about a vast informal economy and rotten banks have made it harder for India’s policymakers to end their country’s lost decade of low growth. The European Central Bank wrongly raised interest rates in 2011 amid a temporary burst of inflation, sending the euro area back into recession. The Bank of England may be about to make a similar mistake today.

The pandemic has, however, become a catalyst for change. Without the time to wait for official surveys to reveal the effects of the virus or lockdowns, governments and central banks have experimented, tracking mobile phones, contactless payments and the real-time use of aircraft engines. Instead of locking themselves in their studies for years writing the next “General Theory”, today’s star economists, such as Raj Chetty at Harvard University, run well-staffed labs that crunch numbers. Firms such as JPMorgan Chase have opened up treasure chests of data on bank balances and credit-card bills, helping reveal whether people are spending cash or hoarding it.

These trends will intensify as technology permeates the economy. A larger share of spending is shifting online and transactions are being processed faster. Real-time payments grew by 41% in 2020, according to McKinsey, a consultancy (India registered 25.6bn such transactions). More machines and objects are being fitted with sensors, including individual shipping containers that could make sense of supply-chain blockages. Govcoins, or central-bank digital currencies (cbdcs), which China is already piloting and over 50 other countries are considering, might soon provide a goldmine of real-time detail about how the economy works.

Timely data would cut the risk of policy cock-ups—it would be easier to judge, say, if a dip in activity was becoming a slump. And the levers governments can pull will improve, too. Central bankers reckon it takes 18 months or more for a change in interest rates to take full effect. But Hong Kong is trying out cash handouts in digital wallets that expire if they are not spent quickly. cbdcs might allow interest rates to fall deeply negative. Good data during crises could let support be precisely targeted; imagine loans only for firms with robust balance-sheets but a temporary liquidity problem. Instead of wasteful universal welfare payments made through social-security bureaucracies, the poor could enjoy instant income top-ups if they lost their job, paid into digital wallets without any paperwork.

The real-time revolution promises to make economic decisions more accurate, transparent and rules-based. But it also brings dangers. New indicators may be misinterpreted: is a global recession starting or is Uber just losing market share? They are not as representative or free from bias as the painstaking surveys by statistical agencies. Big firms could hoard data, giving them an undue advantage. Private firms such as Facebook, which launched a digital wallet this week, may one day have more insight into consumer spending than the Fed does.

Know thyself

The biggest danger is hubris. With a panopticon of the economy, it will be tempting for politicians and officials to imagine they can see far into the future, or to mould society according to their preferences and favour particular groups. This is the dream of the Chinese Communist Party, which seeks to engage in a form of digital central planning.

In fact no amount of data can reliably predict the future. Unfathomably complex, dynamic economies rely not on Big Brother but on the spontaneous behaviour of millions of independent firms and consumers. Instant economics isn’t about clairvoyance or omniscience. Instead its promise is prosaic but transformative: better, timelier and more rational decision-making. ■

#### 2. Peak petroleum is wrong.

Lynch 17 — Michael Lynch, (MasterResource —a blog dedicated to analysis and commentary about energy markets and public policy), 3-29-17. “Peak Oil: Not Just Wrong but Invalid” <https://www.masterresource.org/peak-oil-fixitydepletion/peak-oil-invalid/> Accessed 7/9/18 //WR-NCP

The original claim underlying peak oil was that resource scarcity would cause oil production to decline in the near future and that nothing could be done to alter that trajectory. Two retired oil geologists—Colin Campbell and Jean Laherrère—justified this idea by making their estimates of recoverable resources using a private database of oil field sizes fitted to the so-called Hubbert curve, a bell curve said to represent production for a region. Their theory was that since production followed a bell curve, fitting production data for a country or region to a curve would demonstrate the entire trajectory of supply and yield an estimate of the total resource. Also, once half the resource was produced, production would decline; and conversely, if production was declining, then the peak had been reached and half the resource produced. Actually, though, production in a region rarely follows a bell curve nor do regions necessarily experience a single peak. As a result, this method repeatedly predicted premature peaks for many countries and for the world itself. Laherrère attempted to reinforce his claims by the use of so-called creaming curves, ordering discoveries by date to show how their sizes decline over time; the asymptote of the curve would then represent the total resource. This method is employed by conventional petroleum geologists, but with this understanding: It works only for a given basin, not a combination of them; it cannot predict the discovery of new basins; and it requires stable estimates of field size. The peak-oil theorists ignored the first argument, insisted both that no new basins remain to be discovered and that their field size data was stable. (However, they elsewhere chided economists for not recognizing that field size data was often revised upwards.) The shortcoming was made worse by the insistence that the results were robust, which they were not; as regards the Middle East, for example, creaming curves yielded an estimate that was revised upwards three times. It was simply asserted that the final estimate was correct, and earlier ones not, without recognizing the implication that the method did not yield a stable estimate but one which evolved over time. Another freshman mistake was to rely on graphs of cumulative data, specifically discoveries and production, which Laherrère noted seem to resemble each other. The first thing taught in freshman statistics is that cumulative numbers are meaningless: next year’s GDP may change substantially compared to this year’s, but if you put a century’s cumulative GDP on a graph you can see no difference. However, Laherrère in particular believed he has created a ‘model’ whereby he could predict a country’s production by looking at its cumulative discovery trend, although his graphs showing individual discoveries in a country made it clear that they were highly variable and related poorly to subsequent production trends. The one thing in common with these methods was that they represented curve-fitting, just extrapolating discovery and production trends (and sometimes not accurately). Because some of the proponents are geologists, they claimed that the work was “scientific” and derided their opponents as economists, even though many petroleum engineers and geologists disagreed with their work. Kjell Aleklett, who took over the leadership of the Association for the Study of Peak Oil despite having little experience in the analysis of resources, insists that his work is “natural science” even though there is no real scientific content: he and his colleagues observe trends and assume they are determined by physical factors. Which is obviously wrong, given that the so-called scientific behavior is often violated. As mentioned, few countries exhibit a bell-curve shaped production trend, and many of the fields that are said to follow a mathematically precise behavior later violate it. Laherrère has noted that the Forties field production followed a declining trend for years, suggesting that the field’s total resource could be estimated by extrapolating it to the intersection with the x-axis. The addition of gas-lift caused production to differ from the trend briefly, but then the trend resumed to his great delight—proving, he insisted, that geology determined the profile of a field’s production. Nonsense. Since he published his graphs, the Forties oil production trend has changed, going flat instead of declining for roughly ten years, with an increase in the field’s proved reserves of 150 million barrels. Production patterns are determined by the geology and chemistry of the deposit, plus the engineering decisions on how to produce it, plus the fiscal regime in place. The latter two can change, as was the case with the Forties field and many others. New investment regularly adds reserves to mature fields, and the trade press is full of articles describing such additions. More Peak Oil Fallacy A certain amount of circular, reality-defying logic was also employed in peak-oil theory. Aside from the bizarre suggestion that only geology affected supply, not politics or economics, the insistence that estimates of field sizes did not change and that technology could not increase the recoverable portion of oil was nonsensical from the beginning. Recovery rates have been growing gradually over time, and numerous new methods and inventions have greatly increased the amount of oil that can be extracted. But for the creaming-curve method to function this had not to be so to function, and in response, peak oil advocates like Jean Laherrère would claim that overall field size increases occurred only in the United States, owing to its industry’s reliance on a more restrictive and conservative definition of reserves. Yet various other sources all noted field size increases in other international settings. And when asked about new technologies, peak-oil theorists claimed that they only increased production rates, not recovery. Again, all the evidence is to the contrary.

#### 3. Only carbon capture solves warming.

Adele Peters 20. Staff writer. Citing Jorgen Randers, professor emeritus of climate strategy at BI Norwegian Business School. "We’re already past critical climate tipping points. Here’s why we still need to cut emissions now". Fast Company. 11-12-2020. https://www.fastcompany.com/90574545/were-already-past-critical-climate-tipping-points-heres-why-we-still-need-to-cut-emissions-now

If every country in the world cuts global greenhouse gas emissions to zero by the end of the century—or even if they managed to do it by the end 2020—the planet would still keep warming for hundreds of years, says a new study. Researchers found that humans would have had to stop all emissions sometime between 1960 and 1970 to stop the global temperature and sea levels from continuing to rise.

The study, published in Scientific Reports, modeled the global climate from 1850 to the year 2500, and found that we’ve already passed critical tipping points. The permafrost in the Arctic—which holds nearly twice as much carbon as the atmosphere now—is starting to melt, releasing both CO2 and methane, locking it into a cycle of warming even if emissions stop. As snow and ice melt, the surface of the Earth is getting darker, making it warmer, and triggering more melting. Water vapor is also keeping temperatures high. If human-caused emissions peak in the 2030s and reach zero by the end of the century, the study found, global temperatures will be 3 degrees Celsius hotter by 2500 than they were in 1850. The sea level will be more than 8 feet higher, putting current coastlines underwater.

That doesn’t mean, however, that it’s too late to act. In fact, it’s even more urgent to act quickly to cut emissions, and to take the additional step of large-scale carbon removal, using technology such as machines that can pull carbon from the atmosphere so it can be stored underground. If we suck 33 gigatons of CO2 from the atmosphere every year, warming could still stop. And the impacts of climate change get far worse by each half-degree the planet warms; the more we can slow the process down, the better. If the planet’s temperature is as low as possible when some of these warming cycles begin, it can mitigate some of their effects. If we do nothing now, they’ll be much more deadly.

#### 4. Tech is key to solve resource scarcity and climate change.

Rainer Zitelmann 21. German historian and author of “The Rich in Public Opinion.” "Consumption Presumption: Are Human Beings Destroying the World?" National Interest. 2-12-2021. https://nationalinterest.org/feature/consumption-presumption-are-human-beings-destroying-world-178114

Some people claim that we need to cut our consumption or there will be no hope for the planet. Such claims are based on the thesis that continued growth increases the rate at which the earth’s finite resources are consumed and, moreover, leads to irreversible climate change. And such warnings are by no means new. In 1970, for instance, the Club of Rome attracted a great deal of attention with the publication of The Limits to Growth. A Report for the Club of Rome’s Project on the Predicament of Mankind, which has to date sold more than thirty million copies in thirty languages. The book warned people to change their ways and had a clear message: the world’s raw materials, and in particular, oil would soon be used up. In twenty years, the scientists predicted, we would have used the very last drop of oil. Of course, the Club of Rome’s models for the depletion of oil—and almost all other major raw materials—were wrong. According to the scenarios presented in The Limits to Growth, we should now be living on a planet that has been devoid of natural gas, copper, lead, aluminum and tungsten for decades. And we were supposed to have run out of silver in 1985. Despite the bleak forecasts, as of January 2020, the United States Geological Survey estimated silver reserves worldwide at 560,000 tons.

More from Less

Employing an extensive array of data, the American scientist Andrew McAfee proves in his book More from Less that economic growth is no longer coupled to the consumption of raw materials. Data for the United States, for example, show that of seventy-two resources, from aluminum to zinc, only six are not yet post-peak. Nevertheless, despite the fact that the U.S. economy has grown strongly in recent years, consumption of many commodities is actually decreasing.

Back in 2015, the American environmental scientist Jesse Ausubel wrote an essay, “The Return of Nature: How Technology Liberates the Environment,” showing that Americans are consuming fewer and fewer raw materials per capita. Total consumption of steel, copper, fertilizer, wood and paper, which had previously always risen in line with economic growth, had plateaued and was now in constant decline.

Such across-the-board reductions in natural resource consumption are only possible because of much-maligned capitalism: companies are constantly developing more efficient production methods and reducing the amount of raw materials they consume. Of course, they are not doing this primarily to protect the environment but to cut costs.

What's more, a constant stream of innovations has promoted the trend of miniaturization or dematerialization. Just think of your smartphone. How many devices has your smartphone replaced and how many raw materials did they use to consume?

Calculator

Telephone

Video camera

Alarm clock

Voice recorder

Navigation system

Camera

CD-player/radio

Compass

Nowadays, many people no longer have a fax machine or street atlas because they have everything they need on their smartphone. Some even use their phones instead of a wristwatch. You used to need four separate microphones in your telephone, cassette recorder, Dictaphone and video camera, today you just need one—in your smartphone.

Fighting climate change with nuclear energy

The finite nature of the world’s natural resources is one argument against growth, climate change is another. Let’s take China as an example: China currently emits more CO2 than any other country in the world and is building a number of new nuclear power plants in order to achieve carbon neutrality by 2060. With the new build program well underway, China’s first new-generation nuclear power plant recently went into operation.

In the very near future, China intends to start exporting power plants. The latest generation of nuclear power plants is much safer than earlier models—and can play a pivotal role in the fight against climate change. In the United States, Joe Biden is already evaluating the advantages of small modular reactor (SMR) nuclear power plants. As the name suggests, SMRs are smaller than traditional nuclear fission reactors and offer a maximum capacity of three hundred megawatts. In the United Kingdom, for example, a consortium led by Rolls-Royce has announced plans to build up to sixteen SMR power plants.

So far, two reactors of this type are in operation, both onboard the floating nuclear power plant  “\Akademik Lomonosov, which supplies heat and electricity to the Siberian city of Pevec and its one hundred thousand inhabitants.

Anticapitalists blame capitalism for resource consumption and climate change. But political decisions—such as Germany’s decision to phase out nuclear energy—frequently have a negative impact on climate change.

Telling people to cut their consumption must seem like pure mockery to the hundreds of millions of people around the world who are still living in extreme poverty. What they need is more capitalism and economic growth. Just like in China, where the number of people living in extreme poverty has fallen from 88 percent in 1981 to less than 1 percent today. Andrew McAfee’s book has an optimistic message about how we don't have to turn back the clocks and cut our consumption: capitalism and technological progress are allowing us to steward the world’s resources, rather than stripping them bare.

#### 4. Alternative assumes magic.

Branko Milanovic 2/3/21. Visiting Presidential Professor at the Graduate Center City University of New York and Senior Scholar at the Stone Center for Socio-economic Inequality. "Degrowth: Solving the Impasse by Magical Thinking". No Publication. 2-23-2021. https://www.globalpolicyjournal.com/blog/23/02/2021/degrowth-solving-impasse-magical-thinking

The difficulty of discussion with degrowers comes from the fact that they and the rest of us live in two different ideological worlds. Degrowers live in a world of magic, where merely by listing the names of desirable ends they are supposed to somehow happen. In that world, one does not need to bother with numbers or facts, trade-offs, first or second bests; one merely needs to conjure up what he/she desires and it will be there.

Now degrowers are not irrational people. The reason why they are pushed in this magical corner is because when they try to “do the numbers” they are led to an impasse. They do not want to allow for significant increase in world GDP because it will, even if decoupling (of which they are skeptical) happens, drive energy emissions too high. If one wants to keep world GDP more or less as now one must (A) “freeze” today’s global income distributions so that some 10-15% of the world population continue to live below the absolute poverty line, and one-half of the world population below $PPP 7 dollars per day (which is, by the way, significantly below Western poverty lines). This is however unacceptable to the poor people, to the poor countries, and even to degrowers themselves.

Thus they must try something else: introduce a different distribution (B) where everybody who is above the current mean world income ($PPP 16 per day) is driven down to this mean, and the poor countries and people are, at least for a while, allowed to continue growing until they too achieve the level of $PPP 16 per day. But the problem with that approach is that one would have to engage in a massive reduction of incomes for all those who make more than $PPP 16 which is practically all of the Western population. Only 14% of the population in Western countries live at the level of income less than the global mean. This is probably the most important statistic that one should keep in mind. Degrowers thus need to convince 86% of the population living in rich countries that their incomes are too high and need to be reduced. They would have to preside over economic depressions for about a decade, and then let the new real income stay at that level indefinitely. (Even that would not quite solve the problem because in the meantime, many poor countries would have reached the level of $PPP 16 per day and they too would have to be prevented from growing further.) It is quite obvious that such a proposition is a political suicide. Thus degrowers do not wish to spell it out.

#### 5. Industrial ag feeds billions and degrowth won’t persuade anybody.

Collin Chambers 21. Writer for the Liberation School. "Degrowth: An environmental ideology with good intentions, bad politics." Liberation School. 7-20-2021. https://liberationschool.org/degrowth-a-politics-for-which-class/

Proponents of degrowth argue that there are absolute “planetary limits” and a fixed “carrying capacity” that cannot be surpassed by humans if we want to avoid ecological collapse. This is not only pessimistic in that it dismisses the idea that, under socialism, we could figure out new sustainable ways to grow, but it’s also completely devoid of class analysis. There’s no distinction between socially-produced limits and natural limits.

Degrowth is anti-modern, anti-technological, and anti-large scale production and infrastructure. Kallis argues that “only social systems of limited size and complexity can be governed directly rather than by technocratic elites acting on behalf of the populace… Many degrowth advocates, therefore, oppose even ‘green’ megastructures like high-speed trains or industrial-scale wind farms[!]” [13].

The same can be said about degrowth solutions to the problems the capitalist agricultural system creates. Proponents of degrowth propose small scale (both urban and rural) methods of agriculture production to replace industrial-scale agriculture. They, in fact, glorify and romanticize “peasant economies.”

Despite the problems of capitalist industrial agriculture, there are two main benefits of industrial-scale agriculture. First, it has drastically increased yields. At the present moment, there is enough food produced to feed 11 billion people. Second, industrial farming has thoroughly decreased the backbreaking labor needed for agricultural and food production. In 1790, 90 percent of the U.S. workforce labored on farms. In 1900, it was 35 percent[.] At the present moment, only one percent of the U.S. workforce works on farms [14].

Certainly, in any just society we would want to spread out food production more evenly amongst the population. But getting rid of industrial-scale agriculture and reverting to small-scale peasant and small landowner agriculture would require massive numbers of workers to go back to the land and perform backbreaking agricultural work. Such a transformation would inevitably reduce agricultural yield substantially, increasing the possibility of food insecurity and hunger among vast swathes of the population. And what would we do with the commodities and infrastructure we’d have to destroy to create such plots of land? Moreover, such a vision necessitates the redistribution of land from private ownership of large landholders. Is this achieved through revolution or through governmental reforms? In either case, if we’re struggling to reclaim land then why not broaden our horizons and redistribute land in the interests of the environment and the people, including Indigenous and other oppressed nations in the U.S.?

Degrowth is, furthermore, idealist and divorced from the material reality within which U.S. workers currently live. Matt Huber, a Marxist environmental geographer, argues that a “truly humane society must commit to relieving the masses from agricultural labor,” and that we cannot act as if “small-scale agricultural systems are much of a ‘material basis’ for a society beyond industrial capitalism” [15]. This is not to say that small-scale and urban farming are undesirable, but that they’re insufficient in a country like the U.S. The Cuban model of urban farming and agriculture–which is a heroic achievement of the Cuban Revolution–can’t simply be mapped onto this country or the rest of the world.

Additionally, we shouldn’t forgo modern technologies that already exist just because they are “large scale” or because they currently contribute to environmental degradation within capitalist society. Doing so would in effect produce more ecological waste!

In an important piece on capitalism and ecology, Ernest Mandel writes: “it is simply not true that modern industrial technology is inevitably geared towards destroying the environmental balance. The progress of the exact sciences opens up a very wide range of technical possibilities” [16]. Increased rates of pollution and environmental degradation occur because capitalists pursue profits at the expense of the environment, not because of the technologies themselves. Socialists have to distinguish between instruments of production and their use under capitalism.

Degrowth and building the class struggle

In the U.S., degrowth remains an ideology that is relatively socially isolated but gaining influence among environmentalists and some on the left. It’s an ideology of guilt rather than revolutionary action. The ideas from degrowth will not appeal to masses of exploited and oppressed people who actually need more, not less. Imagine, for example, canvassing and talking to people in working-class neighborhoods, trying to get them on board with a degrowth political platform. How do degrowth proponents think workers in oppressed neighborhoods respond if they were told they needed to consume less to fight climate change? Many of us already wait as long as possible in the winter to turn on our heat! As organizers, we would not get the time of day, and we wouldn’t even believe ourselves. Can you imagine organizing homeless and unemployed workers around a program of less consumption? Degrowth is an ideology fit for the privileged, and if they want to consume less, they should.

From the perspective of the practical class struggle, degrowth is particularly problematic. Degrowth has a rhetorical strategy problem. In an unequal country such as the U.S., is the discourse of less and “self-limitation” realistic and inspiring? Is this tactic energizing, does it speak to the needs of the exploited and oppressed, can it mobilize people into action?