# NDT Doubles---Open Source Document

## 1AC---No poach---NDT

### 1AC---Inequality

#### Antitrust enforcement has shifted to prioritize labor markets.

Karen M. Lent et al. 2/8/22. Partner, Antitrust/Competition; Sports; Complex Litigation and Trials at Skadden Arps. “Recent Antitrust Developments Underscore Administration’s Focus on Labor Markets.” https://www.lexology.com/library/detail.aspx?g=2beccf1e-762e-4573-b442-6721ef4c32ea

As the Biden Administration enters its second year, the White House and antitrust enforcers at the Department of Justice (DOJ) and the Federal Trade Commission (FTC) continue to focus on the intersection between antitrust and labor.

President Biden signaled that labor-related antitrust would be an administration priority in July 2021 when he issued a sweeping executive order, “Promoting Competition in the American Economy,” that urged the two antitrust agencies to consider, among other things: amending the merger guidelines to incorporate labor market harms; employing the FTC’s rulemaking authority to curtail the use of employment terms that may limit worker mobility; and revising the 2016 Antitrust Guidance for Human Resource Professionals (2016 HR Guidance) to better protect workers from wage collusion. Since then, antitrust enforcers have been advancing these priorities in both their policy and enforcement efforts.

In December 2021, the agencies hosted a virtual workshop where top officials addressed numerous labor-related antitrust topics. Meanwhile, high-profile indictments and recent pre-trial wins underscore DOJ’s targeting of criminal labor market misconduct. In all, these developments suggest that labor will remain top-of-mind for the antitrust agencies in 2022.

Key Administration Officials Outline Approach to Labor Market Issues

In the December 6-7, 2021, workshop, titled “Making Competition Work: Promoting Competition in Labor Markets,” DOJ, FTC and other administration officials offered a preview of their labor-oriented policy priorities.

In his first public appearance since his confirmation, Assistant Attorney General Jonathan Kanter, who heads DOJ’s Antitrust Division, emphasized his commitment to improving labor competition and noted that DOJ is already considering whether to update published guidance, including the 2016 HR Guidance, to better protect worker access to labor markets.

In her remarks, FTC Chair Lina Khan said that the FTC is redoubling its commitment to scrutinizing mergers that have anticompetitive effects on labor markets and is investigating the extent to which contractual terms such as noncompete provisions may violate existing law.

In his keynote address, Special Assistant to the President Tim Wu noted that Section 2 of the Sherman Act should be enforced against monopolies and monopsonies alike and that worker classification issues (e.g., whether firms use contracts to avoid classifying their workers as employees) should be scrutinized under antitrust law.

The workshop’s panel discussions among scholars, practitioners, government officials and policy experts also touched on potential reform efforts. For example, the first panel explored how merger reviews might inquire into labor markets. Another panel contemplated the legality of employment terms like noncompete agreements, training repayment agreements and nondisclosure agreements.

In other discussions, participants debated whether the agencies should abandon or adjust the safe harbor for information exchanges outlined in the 2016 HR Guidance, whether statutory antitrust exemptions may extend to gig-economy workers seeking to bargain collectively and whether the FTC may use its authority under Section 5 of the Federal Trade Commission Act to address worker “misclassification.”

An important theme that emerged throughout the two days of conversation was cross-agency collaboration. During the “Building a ‘Whole-of-Government’ Competition Policy” panel, policymakers and antitrust enforcers from across the federal government discussed the tools that government agencies may utilize to better coordinate on labor market issues. Likewise, both Assistant Attorney General Kanter and Chair Khan touted the importance of collaboration between the antitrust agencies. Chair Khan’s comments on collaboration built on the FTC’s November policy statement that outlined plans to expand the agency’s criminal referral program to further prevent and deter criminal antitrust misconduct, including cases involving wage-fixing and other labor-related conduct.

Labor Misconduct Continues To Be a Criminal Antitrust Enforcement Priority

On the criminal enforcement front, DOJ’s efforts to investigate and prosecute no-poach and wage-fixing agreements continue to ramp up, with notable pre-trial wins and new high-profile indictments recently.

In late November, a federal judge in the Eastern District of Texas denied a motion to dismiss by defendants facing criminal antitrust charges of (i) conspiring to fix wages for physical therapists and therapist assistants in the Dallas-Fort Worth area and (ii) obstructing an FTC investigation into their conduct. It is DOJ’s first criminal prosecution of a wage-fixing agreement and a prominent example of cross-agency collaboration in the criminal context.

In denying the defendants’ motion, the court confirmed that wage fixing is per se illegal under the Sherman Act, reasoning that wage fixing is tantamount to price fixing and that the antitrust laws fully apply to labor markets.1

Similarly, on January 28, 2022, a federal judge in the District of Colorado denied a motion to dismiss by defendants accused of entering into “no-poach” agreements concerning health care employees, reasoning that the alleged agreements can be subject to per se treatment as horizontal market allocation agreements.2

DOJ is also currently litigating motions to dismiss in a related Northern District of Texas case in which the defendants are accused of participating in the same no-poach scheme alleged in the Colorado action,3 and a District of Nevada case in which the defendants are accused of conspiring to suppress wages for Las Vegas school nurses.4

Separately, in mid-December, a federal grand jury in Connecticut indicted several high-ranking aerospace engineering employees — including a former director of global engineering services at a major aerospace company and executives at several outsource engineering suppliers — for allegedly engaging in a nearly decade-long “no-poach” scheme that affected thousands of engineers and other skilled workers in the aerospace industry.

In announcing the charges, DOJ stated that the indictment is the first in an ongoing investigation into labor market allocation in the aerospace engineering services industry. Numerous putative class action civil suits have since been filed by former employees, who generally allege that the companies’ alleged no-poach agreement deprived them of free and fair competition in the market for their services and thus both suppressed their wages and limited their mobility.

DOJ continues to pursue criminal wage-fixing and no-poach cases in 2022. On January 27, a federal grand jury in Maine returned an indictment charging four home health care agency managers with conspiring (i) to fix the wages of personal support specialist workers and (ii) not to hire each other’s workers during the COVID-19 pandemic. In its announcement of the charges, DOJ reported that its investigation into the personal support specialist industry is ongoing.

Key Takeaways for 2022

While the agencies have been promising increased antitrust enforcement in labor markets since at least 2016, their virtual workshop and recent criminal antitrust enforcement initiatives suggest that the regulation of competition in labor markets has in fact become a top priority for them 2022. On the policy front, the agencies seem ready to update antitrust guidance to reflect labor market considerations, and on the enforcement front, the agencies seem poised to continue aggressively pursuing labor misconduct criminally, particularly against those who engage in wage fixing and enter into no-poach agreements.

#### But, current efforts exclude franchise no-poach agreements---lack of consensus results in conflicting court rulings and uncertainty.

Jeffery Martino & Tyson Herrold 21. \*\*Partner at Baker McKenzie, formerly the chief of the DOJ’s New York Antitrust office. \*\*Counsel at BakerHostetler, focusing on antitrust. “Franchise No-Poach Agreements: Is Reform on The Horizon?” 1/7/21. https://www.antitrustadvocate.com/2021/01/06/franchise-no-poach-agreements-is-reform-on-the-horizon/

In 2016, the Department of Justice (DOJ) and the Federal Trade Commission (FTC) issued Joint Guidance for Human Resource Professionals warning that no-poach agreements restricting employee hiring may violate the antitrust laws.[1] That guidance, along with pre-guidance litigation, has established some clear ground rules. Naked no-poach agreements are per se illegal under §1 of the Sherman Act,[2] while ancillary no-poach agreements, those related to legitimate, procompetitive joint ventures[3] and corporate acquisitions,[4] are subject to the rule of reason, which considers whether the agreement is, on balance, anticompetitive.

Yet, four years later, there remain stubborn pockets of disagreement—for example, no-poach clauses in franchise agreements. Federal courts are struggling to reach a consensus on how to analyze them under the antitrust laws. And there’s a lot at stake. Statistics show more than 8 million Americans work in the franchise sector. The stakes are high for employers too. If the rule of reason applies, private litigation may be financially impractical; the necessity of proving a relevant geographic market in applying the rule of reason makes it difficult, if not impossible, to certify sizable class actions.[5] If the per se rule applies, the Sherman Act’s treble damages and attorneys’ fees provisions can prove disastrous.

The Current State of Confusion in the Federal Courts

Federal courts have taken at least four views on franchise no-poach agreements:

Franchisor-franchisee conspiracies are impossible: Courts in the Southern District of Florida, the Ninth Circuit[6] and the Western District of Washington[7] have held in no-poach cases that franchisors and franchisees are incapable of conspiring because they comprise a single corporate enterprise. In Arrington v. Burger King Worldwide, Inc., a Southern District of Florida case, the court cited the Supreme Court’s decision in Copperweld v. Independence Tube[8] and concluded: “Burger King’s relationship with its franchisees more closely resembles a corporation organized into divisions or de facto branches, or that of a parent-subsidiary, than the relationship between [competitors].”[9] In support, the court cited the franchisees’ “payment of royalties” to the franchisor, as well as their “joint advertising budget” and “uniform menu,” among other factors.[10] “The relationship here is more than symbiotic,” the court observed, “it is totally derivative.”[11] The ruling has been appealed to the Eleventh Circuit, where it is currently pending.[12]

The categorical per se rule applies: Courts in the Southern District of Illinois and the Eastern District of Pennsylvania[13] have concluded, at the motion to dismiss stage, that the per se rule may apply. In Butler v. Jimmy John’s Franchise, LLC, a Southern District of Illinois case, the franchise agreement provided, “franchisees are third-party beneficiaries of the no-hire provision” and therefore “enjoy[] an independent right to enforce the no-hire provision against another franchisee.”[14] Jimmy John’s franchise agreement also “g[a]ve . . . franchisees significant amounts of [operating] independence.”[15] As the court concluded, the plaintiff plausibly alleged Jimmy John’s had “orchestrated an agreement amongst the franchisees,” metaphorically dubbed a “hub-and-spoke conspiracy,” and, “while the contract in question may have been vertical, the effects are felt strictly at the horizontal level.”[16] Therefore, the court held: “[If after discovery] the evidence of franchisee independence is Herculean, then the per se rule might . . . apply.”[17]

The rule-of-reason balancing test applies: A number of courts have applied the rule of reason to franchise no-poach provisions. These decisions tend to conclude no-poach provisions are (1) ancillary to legitimate, pro-competitive franchise agreements and/or (2) vertically oriented, at least in part, and therefore unlikely to categorically pose a threat to competition. For example, in Ogden v. Little Caesar Enterprises, Inc., an Eastern District of Michigan case, the court rejected the per se rule and explained: “[T]he Sixth Circuit has an automatic presumption in favor of the rule of reason standard, while the per se rule is reserved only for those infrequent occasions of clear-cut cases in which the trade restraint is so unreasonably anticompetitive that they present straightforward questions for reviewing courts.”[18] The court concluded the no-poach provision was not a clear-cut case because it was vertical, at least in part, and was ancillary to the franchise agreement.[19]

The burden-shifting quick-look test applies: Courts in the Northern District of Illinois and the Western District of Washington[20] have turned to the quick-look test. In Deslandes v. McDonald’s USA, LLC, a Northern District of Illinois case, the court viewed the franchise no-poach clause at issue as a “horizontal restraint” that is nonetheless “ancillary” to a “procompetitive” franchise agreement.[21] It concluded, however, that the quick-look rule, rather than the rule of reason, applied because “even a person with a rudimentary understanding of economics would understand that if competitors agree not to hire each other’s employees, wages for employees will stagnate.”[22]

Adding to the confusion created by federal case law, antitrust enforcers also disagree about the appropriate test for analyzing franchise no-poach agreements. In Stigar v. Dough Dough, an Eastern District of Washington case, the DOJ argued that the rule of reason generally applies to franchise no-poach agreements unless (a) the franchisor itself competes with franchisees for employees or (b) franchisees directly agree not to hire employees.[23] Disagreeing with the DOJ, the Washington attorney general’s office filed an amicus brief arguing that, under Washington law, the per se rule should apply because there are horizontal aspects to franchise no-poach agreements.[24]

#### Franchise no poach agreements suppress economic growth---the plan is critical to wages and mobility.

Elizabeth Warren and Cory Booker 17. US Senators. “2017.11.21 Letter To Sessions On No-Poach Agreements”. https://www.scribd.com/document/365092277/2017-11-21-Letter-to-Sessions-on-No-Poach-Agreements

We write today regarding recent reports of collusion between franchise corporations and their subunits that may be suppressing workers' wages and job mobility. As you know, a competitive labor market is critical to the success of our economy. If our labor market is working efficiently, both workers and businesses benefit-workers from higher wages and businesses from more productive workers.

We are particularly concerned about the increasing use of collusive no-poach agreements between franchise companies (franchisors) and their franchise units (franchisees). In these agreements, franchisors prohibit franchisees from recruiting and hiring away workers currently employed by other franchisees affiliated with the franchisor. In some cases, they even preclude the hiring of individuals who have left the franchise for a period of time. 1 For example, as of 2016, none of the nearly 2,000 Jiffy Lube franchisees may hire an individual who is currently employed-or was employed less than six months ago at any other Jiffy Lube franchise. 2 These barriers serve to limit workers' ability to move freely among jobs and translate their productivity to higher wages and better benefits. More concerning, these agreements are forged between the franchisor and franchisee, meaning that workers are wholly unaware of the limits imposed on their mobility.

In a new study, economists at Princeton University examined the franchise agreements of all franchisors with at least 500 franchise units operating in the United States. They found that fully 58% of the156 largest franchisors operating around 340,000 franchise units used some form of anti-competitive no-poach agreements. These agreements were especially common in low-wage and high-turnover industries, such as fast food. 3

#### No poach agreements drive inequality and macroeconomic stagnation---antitrust competition is key.

Molly Edgar 21. J.D. Candidate 2021, University of California, Hastings College of the Law; Symposium Editor, Hastings Law Journal. “The DOJ's Role in the Franchise No-Poach Problem”. 72 Hastings L.J. 1573 (2021).

Although the dispute regarding the appropriate standard of review for nopoach agreements may seem like a mere nuance in antitrust law, the resolution of the dispute has important implications for workers in the United States. Courts must consider the ways in which the use of no-poach agreements in the franchise industry yields tangible effects on American workers and the economy in general. The courts are equipped to resolve the franchise no-poach problem; however, other non-judicial solutions may provide more immediate and effective results.

A. POLICY CONSIDERATIONS

When determining the appropriate standard under which franchise nopoach agreements should be reviewed, courts should account for the public policy implications of their decisions. The no-poach agreements at issue here harm employees by effectively suppressing wages, reducing their bargaining power, and restricting their mobility.209 Although protecting employees in the labor market is not the sole purpose of antitrust law, antitrust law is an important tool for ensuring healthy competition for American workers. 2 1o Antitrust law aims to encourage free markets with procompetitive benefits to both consumers and employees. 2 11 Its ultimate goal is to not only retroactively punish antitrust violations but to prevent them altogether.212 Using the per se standard to analyze no-poach agreements will prevent franchisors from using these agreements altogether and thus encourage robust competition in the labor market.

No-poach agreements expand the already existing problem with labor mobility in America. Over the past few decades, American employees were less likely "to move to new places and start new jobs." 213 One explanation for a lack of mobility in the labor market is a lack of competition. 214 When employees have more options for employment, employers will compete more effectively for their labor.215

No-poach agreements harm employees by tending to deprive them of better job growth or mobility opportunities.2 16 A franchisee employee may choose to seek employment at a different franchisee location for a variety of reasons. An employee may wish to move to a franchisee location at which he or she is scheduled to work more hours per week, is given a more flexible schedule, or offered promotional opportunities. 2 17 Additionally, depending on external factors, employees may need to work at a franchisee location that is geographically more convenient. The no-poach agreements restrict workers' outside options and thus limit their job growth and opportunities. 2 18

A lack of worker mobility is a contributing factor to the long-term macroeconomic trend of stagnant wages and rising inequality across the country.2 19 In 2017, the national unemployment rate reached a sixteen-year low and the number of available jobs reached an all-time high; however, wage growth has remained fairly stagnant. 220 When labor is "perfectly" mobile, the labor supply is elastic and thus low wages will prompt employee migration. 221 In a normal labor market without restraints like no-poach agreements, employees seeking higher wages will either solicit a raise from their employer or seek employment elsewhere. 222 The use of no-poach agreements, however, has distorted the price-setting mechanisms that would otherwise apply in a normal labor market. 223 Analogous to the way that price-fixing agreements produce higher prices for consumers, no-poach agreements produce lower wages for employees. 224 Just as decreased competition in a product market enables firms to raise prices without a decrease in demand, restricted competition in a labor market enables employers to suppress workers' wages without fear of them leaving. 225

No-poach agreements are especially problematic because they pose potential wage suppression for individuals who are already paid low wages. Nopoach agreements are common in the fast-food industry.226 The average fastfood worker earns $300 per week before taxes.227 According to a 2014 study, 12% of workers earning less than $40,000 annually with below-college-level education were restricted by non-compete or no-poach covenants. 228 No-poach agreements between franchisees also threaten wages by facilitating opportunities for additional collusion. 229 When no-poach agreements are in place, franchisees are in a stronger position to expressly fix wages. 230

In an already unequal power dynamic between an employer and employee, 23 1 no-poach agreements provide unfair bargaining power to employers at the expense of the employees. 232 In a labor market free from restraints, employees are generally free to seek new employment opportunities if they are dissatisfied at a current workplace. 23 3 If their wages are suppressed, employees can seek work with a higher-paying employer.234 If their hours are cut or if they are not offered adequate benefits, employees can seek work with an employer who offers a more attractive benefits package and a flexible schedule. 23 5 However, these no-poach agreements limit employees' ability to respond to inadequacies or changes in their workplace. Employers have unfair leverage over their employees because employees implicated by these provisions cannot easily transfer to a different location within the same franchise system. 236 The employers experience less pressure to offer competitive wages, benefits, or work schedules because the risk of losing a significant number of employees is low.237 The no-poach agreements allow employers to keep labor costs low at the expense of their employees. 238 Additionally, forces that impede labor mobility can contribute to the market power that some of the firms already have.2 39

#### Worker mobility increases productivity---wages, commerce, and innovation all grow the economy.

Noah Joshua Phillips 19. Commissioner of the Federal Trade Commission. “Antitrust and Economic Opportunity: Competition in Labor Markets.” Before the subcommittee on Antitrust, Commercial and Administrative Law Judiciary Committee U.S. House of Representatives. https://www.congress.gov/116/meeting/house/110152/witnesses/HHRG-116-JU05-Wstate-PhillipsN-20191029.pdf

This decline in American labor mobility is bad for workers, and the country as a whole. When Americans can move, they can adjust to changing economic or life circumstances—the prospect of opening a business, getting a better job at a new company, or moving to help a sick parent or a child with a new baby, if they can find work. Labor mobility isn’t just about leaving for the job you want tomorrow—it’s about making the job you have today better. When you can leave a job, you have greater leverage to improve conditions, including to demand a higher wage.

When workers cannot move, they have less leverage; so it is not surprising that scholars point to declining labor mobility as a culprit in slow wage growth.3 One important solution is competition—the more options workers have, the more firms effectively compete for their labor. Policies that favor labor mobility increase that competition; policies that inhibit it—including occupational licensing, no-poach agreements, and non-compete agreements (“non-competes”)— reduce it.

Labor mobility stokes commerce and innovation. It reduces inequality, as people who are less well-off can move to areas where the benefits of economic growth are being shared more broadly. It’s worth noting: evidence shows that people get bigger raises when they switch jobs than they do when they stay where they are.4 And, as Yale Law School professor David Schleicher describes in his article “Stuck!”, labor mobility allows the federal economic policies we choose—whatever they are—to work better, as it brings our national economy together.5 This isn’t about labor versus capital, splitting the pie a different way. It’s about matching workers with employers, increasing the productivity of businesses, empowering workers, and growing the pie for everyone.

All of that is why I am so eager to testify today about occupational licensing, no-poach agreements, and non-competes, the risks they pose, and how the FTC is approaching them.

#### They’re the main cause of wage stagnation.

John A. Capobianco 19. J.D. Candidate at Notre Dame Law School. “In Restraint of Wages: The Implications of “No-Poaching” Agreements.” 2019. Notre Dame Journal of Law, Ethics & Public Policy 33.2, 419-452.

No-poaching agreements reduce employee bargaining power in negotiating for higher wages with their present franchisee-employer by eliminating the 55 employee’s threat to take their training to another franchisee. First, the franchise's training must be sufficiently unique and uniform among its franchisees to justify inclusion of a no-poaching agreement in the franchise agreement. This is essentially implied in the pro-competitive argument.59 Such uniqueness and uniformity of training makes employees already trained by one franchisee more valuable to another franchisee within the same franchise chain that wants 60 to hire a worker. This is because the worker needs little to no retraining.

Without needing retraining, the worker's ability to take his training to another franchisee would place the worker in a more competitive position with regards to negotiating his or her salary. A hiring franchisee would likely be willing to pay that worker a higher wage because costs involved with training him or her are, at best, minimal. Simultaneously, the worker's original franchisee would likely be incentivized to raise that worker's wages to avoid losing money spent on that employee's training and the costs of hiring and training a new worker. As such, franchisees and franchisors have a strong incentive to prevent workers from having such leverage in salary negotiations.

This outcome, a more competitive labor market without no-poaching agreements, is buttressed by evidence that stagnant wages are not caused by other factors, such as, inter alia, too much competition 6 1 among workers. Professors Krueger and Ashenfelter looked at the effect that no-poaching agreements have on labor market elasticity. As a starting point, a given labor market is perfectly elastic where a potential wage reduction or perceived low salary causes an employee to quit and find work elsewhere. 63 While no labor market is perfectly elastic, a wage increase is usually expected when there is a "demand shock,"64 which, in 2016, resulted from unemployment being at a sixteen-year low. As the available labor market shrinks, employers should be willing to pay potential workers higher wages because companies have to compete for fewer workers. Similarly, workers should be more competitive in the labor market because there should be more employers vying for their services. Wage growth should occur, but in reality, it has not.

Instead, no-poaching agreements have made relevant labor market competition artificially imperfect. Professors Krueger and Ashenfelter have defined such artificially imperfect competition as being the result of what economists 6 70 71 term an oligopsony " or dynamic monopsony in labor markets. Regardless of whether one examines the effect based on an oligopsony or dynamic monopsony perspective, the results obtained are very similar. Artificial restraints of labor movement decrease worker competitiveness and very likely artificially suppress those workers' wages.7 Ultimately, while not necessarily the only cause, no-poaching agreements explain both a less competitive labor market and the corresponding lack of wage growth.

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

Frederick Solt 11. Ph.D. in Political Science from University of North Carolina at Chapel Hill, currently Associate Professor of Political Science at the University of Iowa, Assistant Professor, Departments of Political Science and Sociology, Southern Illinois at the time of publication. “Diversionary Nationalism: Economic Inequality and the Formation of National Pride.” The Journal of Politics, Vol. 73, No. 3, pgs. 821-830, July 2011.

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,t 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.

#### Inequality erodes institutional capacity---causes extinction.

Andreas T. Schmidt & Daan Juijn 21. \*\*Associate Professor of Political Theory at the Faculty of Philosophy and the PPE Centre at the University of Groningen. \*\*Researcher/consultant within the Economics department at CE Delft, an independent research and consultancy organization. “Economic inequality and the long-term future.” May 2021. GPI Working Paper No . 4-2021. Accessed 3/20/22. https://globalprioritiesinstitute.org/wp-content/uploads/Inequality-and-the-Long-Term-Future\_Andreas-Schmidt-and-Daan-Juijn-reupload.pdf

(ii) Institutional quality and conflict

It is often argued that a country’s long-term performance depends to a significant extent on the quality of its institutions, including its political and legal institutions (Acemoglu, Johnson, and Robinson 2005). Economic research mostly focuses on explaining long-term differences in growth rates. As seen above, some researchers argue that high inequality will reduce growth rates, among other things, because it can worsen institutional quality. However, besides facilitating economic growth, public institutions have other functions that matter from a long-term perspective. For example, disaster preparedness, education, public health, foreign policy, science policy, and many other areas could influence long-term trajectories. If such things go badly, they could increase existential risk. Conversely, good institutions will help reduce existential risk. For many existential risk reduction strategies likely require public goods and collective action, which in turn require good public institutions (among other reasons, because some such public goods are unlikely to be provided by markets). So, it seems reasonable to assume that, with most other societal goals, good institutions can help deliver existential risk reduction. Here is a cheesy analogy: targeted actions like washing your hands regularly or getting a flu shot can reduce your risk of dying from an infection. But you will also do well investing in a strong immune system, as that is an ‘all-purpose goods’ in lowering your risk of dying from any bacterium or virus. Investing in good institutions might similarly be an all-purpose-good: rather than tackling individual sources of existential risk directly, we improve conditions for tackling whatever existential risks may come our way.

There are at least two reasons why higher inequality could decrease institutional capacities for longtermist public goods.

First, there is some direct evidence that, whatever the causal pathway, inequality reduces institutional quality (which in turn typically leads to more inequality) (Chong and Gradstein 2007; Savoia, Easaw, and McKay 2010).

Second, high inequality can lead to elite capture. Empirical work on studying political and de facto legal power is difficult, yet there is a growing consensus that high levels of inequality can lead to elite capture and thereby reduce the long-term quality of legal and political institutions (Acemoglu and Robinson 2008; 2013; Bartels 2018; Bavel 2016; Chong and Gradstein 2007; Cummins and Rodriguez 2010; Savoia, Easaw, and McKay 2010). Further, if institutions are disproportionately geared towards elite interests, then they might be less likely to be geared towards positive longterm trajectories. We might see more rent-seeking and less investment in public goods. Moreover, if elite capture is strong enough, such capture, and the potential inequality that comes with it, can intensify going forward (Chong and Gradstein 2007).

Now, one might object and wonder whether elite interests and longtermist interests will necessarily be misaligned. Could an enlightened elite not even be more longtermist than a more democratic system? Here are two potential arguments. First, wealthy donors fund a significant part of research and direct action on existential risk and longtermism (the Open Philanthropy Project, for example). Indirectly, inequality might thus reduce existential risk through such funding. Second, rich people might have a lower rate of pure time preference than less well-off people, which would make them more naturally aligned with investing in long-term causes.

In response to the first argument, remember we here focus on income inequality reductions. Private funding only requires ‘enough’ wealth inequality going forward, it need not require elite capture. And reducing income inequality is unlikely to eradicate the required wealth inequality and the existence of big donors. In response to the second argument, we are somewhat sceptical that elite capture would translate a lower impatience rate into longtermist strategies in policy. A successful 14 transmission would require influence to be systematic and well-coordinated across time and, probably, across different elite actors. Yet lobbying and elite influence must often capitalise on shorter windows of opportunities, which makes well-coordinated intertemporal, and positive longtermist, policy capture less likely.

Of course, such considerations are speculative. But, in any case, we think that, on balance, there are stronger reasons to believe elite capture would increase – rather than decrease – existential risk. First, elite capture often comes with rent seeking, which lowers institutional quality (Chong and Gradstein 2007). Second, industries like oil, gas, weapons and others are often concentrated and well organised in exerting influence in law and legislation. Their interests and influence overall are likely to be more short-term than longtermist. Third, recent decades have seen a shift towards a stronger shareholder value orientation in corporate governance. A common criticism of this shift is that it incentivises more short-term decisions. Accordingly, corporate influence into public institutions will likely display short-termist bias too. Finally, we can of course imagine that ‘prolongtermist elite capture’ could happen and gamble on that possibility. However, if strong democratic and legal oversight and the power to check elite influence is lost, we might struggle to reverse our gamble.

Second, high inequality is likely to reduce social capital and trust (Alesina and La Ferrara 2002; Knack and Keefer 1997; Rothstein and Uslaner 2005). Social capital and trust in public institutions in turn are important for effective public goods provision (Knack and Keefer 1997; Beugelsdijk, Groot, and Schaik 2004). Effective public goods provision, in turn, is important for (some) effective measures to reduce existential risk (and, more generally, to coordinate towards more valuable long-term trajectories). Therefore, high inequality could reduce societies’ capacities to effectively respond to large-scale challenges like existential risk.

Finally, some limited direct evidence suggests societies with higher social capital and lower inequality exhibit better preventive and adaptive outcomes for environmental risks and can show greater resilience to external shocks (Bavel and Curtis 2019; Kahn 2005). For example, Matthew Kahn provides some evidence that more equal countries, when controlled for GDP, have significantly lower death rates in natural catastrophes (Kahn 2005). While smaller natural catastrophes are different from global catastrophic risk scenarios, resilience in such events might be somewhat indicative of societies’ resilience to catastrophic risks.

So, good social and institutional conditions could help reduce existential risk. Consider next how, conversely, bad conditions might increase existential risk. A key driver of existential risk is conflict, both between and within nation-states (or what (Ord 2020, 175–79) calls a ‘risk factor’). Conflicts and arms races raise human-induced existential risks such as nuclear war, the outbreak of a bioengineered virus or the launch of misaligned artificial intelligence. Note that an existential catastrophe could be set in motion either purposefully or accidentally. Both are more likely during conflict. Nuclear warheads, cyberweapons, and bioweapons could all be used purposefully to attack enemy states, leading to potential global escalation. But as past nuclear incidents and close calls during the Cold War show, arms races also increase the probability of accidental catastrophes (Schlosser 2013).

Esteban and Schneider find that formal and empirical evidence suggests that political and social polarization increases the risk of violent conflict, both intra-nationally and internationally (Esteban and Schneider 2008). If income inequality increases polarization, inequality may indirectly drive existential risk. Indeed, recent evidence suggests that income inequality can increase the degree of polarization between groups of citizens. Bonica et al. find that the degree of polarization within the US House of Representatives, for example, is accurately tracked by domestic income inequality, with correlation coefficients rising up to 0.95 depending on the chosen time-period (Bonica et al. 2013, 105–8). Of course, correlation does not imply causation and the correlation is likely at least partially the result of reverse causation or a confounding variable. That said, we should assign a non-negligible credence to inequality partially causing polarization. Moreover, inequality and polarisation might also play some role in getting polarising and populist candidates elected (Piketty 2018). In a preliminary analysis of US election data, Darvas and Efstathiou find that more unequal states were more likely to vote for Donald Trump, after controlling for variables such as income, race and education (Darvas and Efstathiou 2016). Populist politicians – like Trump, Bolsonaro and others – are likely bad news for existential risk reduction. They are less cooperative in delivering regional and global public goods and typically prefer riskier, and more conflictual and nationalistic policy styles.

#### Inequality is the biggest internal link to growth.

Joseph E. Stiglitz 14. University Professor, Columbia University. “The Price of Inequality: How Today’s Divided Society Endangers our Future.” http://www.pas.va/content/dam/accademia/pdf/es41/es41-stiglitz.pdf

2. The second observation entails looking at the current levels of inequality in a historical context. While I have emphasized the growth of inequality in the last third of a century, Thomas Piketty in his recent book notes that the preceding four decades should perhaps be viewed as an historical anomaly: we are returning to the high levels of inequality that prevailed in the 19th century and in the 20th in the years before the Great Depression. Piketty concludes that inequality is likely to get worse.13 I will comment on this forecast later. But his analysis has some profound implications: it means that Kuznets’s optimism that increasing inequality in the initial process of development gives way to a decrease (an idea referred to as the Kuznets curve),14 may well be wrong. Countries should not accept increasing inequality today, in the blind faith that it will eventually be reversed.

3. The third observation is that much of the inequality at the top cannot be justified as “just deserts” for the large contributions that these individuals have made. If we look at those at the top, they are not those who have made the major innovations that have transformed our economies and societies; they are not the discoverers of DNA, the laser, the transistor; not the brilliant individuals who made the discoveries without which we would not have had the modern computer. Disproportionately, they are those who have excelled in rent seeking, in wealth appropriation, in figuring out how to get a larger share of the nation’s pie, rather than enhancing the size of that pie. (Such rent seeking activity typically actually results in the size of the economic pie shrinking from what it otherwise would be). Among the most notable of these are, of course, those in the financial sector, some of whom made their wealth by market manipulation, by engaging in abusive credit card practices, predatory lending, moving money from the bottom and middle of the income pyramid to the top. So too, a monopolist makes his money by contracting output from what it otherwise would be, not by expanding it.

The inaptness of the “just deserts” argument was shown by the Great Recession, a recession which in no small measure was caused by the financial sector, which itself is responsible for so much of the inequality today. Even as they were bringing their firms and the global economy to the brink of ruin, the managers of these firms walked off with multimillion dollar bonuses.

The notion that large fractions of today’s inequality are associated with rent seeking is supported by a look at the composition of the wealthiest and top income earners. But there is additional evidence. Three striking aspects of the evolution of the American economy (and the economies of other wealthy countries) in the last 35 years are (a) the increase in the wealth-to-income ratio; (b) the stagnation of median wages; and (c) the failure of the return to capital to decline. Standard neoclassical theories, in which “wealth” is equated with “capital”, would suggest that the increase in capital should be associated with a decline in the return to capital and an increase in wages. The failure of wages to increase has been attributed by some (especially in the 1990s) to skill-biased technological change, which increased the premium put by the market on skills. Hence, those with skills saw their wages rise, and those without skills saw them fall. But recent years have seen a decline in the wages paid even to skilled workers. Something else must be going on. While in production functions with multiple inputs (say multiple kinds of labor), an increase in capital does not necessarily increase the wages of each type of labor (capital and unskilled labor can be substitutes rather than complements), if the production function exhibits constant returns to scale (a standard assumption in neoclassical theory), then the average wage must increase.15This does not seem to be happening.

There are two alternative explanations. The first is that rents are increasing (the fraction of income that is appropriated by monopolists and by other forms of exploitation). These rents are captured by (large) owners of capital, and since they are, at least in part, marketable, the present discounted value of these rents themselves become part of “wealth”. But an increase in this form of wealth does not lead to an increase in the productivity of the economy – or to an increase in the average wage of workers; to the contrary, it reduces the amounts received.

The second is that there may be other assets – like land – that can increase in value. These assets may not be very directly related to the production of goods and services,16 and indeed, with more wealth invested in these assets, there may be less invested in real productive capital. (A disproportionate part of America’s savings in the years before the crisis went into the purchase of housing, which did not increase the productivity of the “real” sectors of the economy).

Monetary policies that lead to low interest rates can increase the present value of these fixed assets – an increase in the value of wealth that is unaccompanied by any increase in the flow of goods and services. By the same token, a bubble can lead to an increase in wealth – for an extended period of time – again with possibly adverse effects on the stock of “real” capital. Indeed, it is easy for capitalist economies to generate such bubbles (a fact that should be obvious from the historical record,17 but which has been confirmed in theoretical models).18There has been a “correction” in the housing bubble (and in the underlying price of land); but we should not be confident that there has been a full correction. We still may be on a “bubble” trajectory.

Still another piece of evidence supporting the importance of rent-seeking is that showing that increases in taxes at the very top do not result in decreases in growth rates. If these incomes were a result of their efforts, we might have expected those at the top to respond by working less hard, with adverse effects on GDP.19 Piketty’s recent research has emphasized a different aspect of the “just deserts” argument: the increasing fraction of inequality arising from inheritance.

4. The idea that one shouldn’t worry about inequality – because everyone will benefit as money trickles down – has been thoroughly discredited. In some ways, it would be nice if it were true, because it would mean that the average American would be doing very well today, since the country has been thrown so much money at the top. But the statistics show that trickle-down is a fallacy: while the top has been doing very well, the rest has been stagnating.

In the absence of a change in the degree of inequality, if mean income (GDP) increases, everyone can benefit. But I emphasized above that there has been a large increase in inequality, and this gives rise to an increasing disparity between the mean and the median, between what is happening on average, and what is happening to the typical individual. Those at the very top, in the 1% or the .1%, can see their income increase; while incomes for the bottom 99% (or the bottom 99.9%) can actually decrease. That is what has been happening. An economic system that only delivers for the very top is a failed economic system. If the failures were of a short duration, that would be one thing. But they have been persistent – and there is no evidence of a turnaround.

5. Some go further: it is not just that everyone will benefit from trickledown, but inequality is actually necessary for growth. One of the popular misconceptions is that those at the top are the job creators; and giving more money to them will thus create more jobs – and indeed this is the only way by which jobs can be created. This view, I believe, is fundamentally wrong: America and other countries are full of creative entrepreneurial people throughout the income distribution. What creates jobs is demand: when there is demand, firms (especially if the financial system could be made work in the way it should, providing credit to small and medium-sized enterprises) will create the jobs to satisfy that demand. But in the United States, for example, the distorted tax system provides incentives for those at the top to destroy jobs by moving them abroad.

6. In contrast to those who believe that inequality is necessary for good economic performance, recent research has shown that inequality – when it gets to the level that characterizes the US and some other countries and when it is generated in the manner that it is created in the US and some other countries – is bad for growth, stability, and economic efficiency. This was the central thrust of my book The Price of Inequality, where I argued that inequality was not just a moral issue, but an economic one – we were paying a high price for our inequality. This view has now become mainstream, and the IMF has produced research supporting it, and endorsed it. Thus, the IMF finds that countries with greater inequality tend to be marked by lower growth and greater instability.20

Economists used to think of there being a trade-off: we could achieve more equality, but only at the expense of giving up on overall economic performance. Now we realize that, especially given the extremes of inequality achieved in the United States and the manner in which inequality is generated, greater equality and improved economic performance are complements. By the same token, one of the reasons for the poor economic performance in many countries in recent years is the high and growing level of inequality.

This is especially true if we focus on appropriate measures of growth. If we use the wrong metrics, we will strive for the wrong things. Economic growth as measured by GDP is not enough – there is a growing global consensus that GDP does not provide a good measure of overall economic performance. What matters is whether growth is sustainable, and whether most citizens see their living standards rising year after year. This is the central message of the International Commission on the Measurement of Economic Performance and Social Progress, which I chaired.21 Economists and policymakers need to focus not on what is happening on average, or to those at the top, but how the economy is performing for the typical citizen, reflected for instance in median income. We value opportunity directly, not just for the benefits which it might bring to conventionally measured GDP. And as inequality increases, so does insecurity. Everyone, even those higher up the rungs in the ladder, worry about slipping down: they know the consequences. Once this is taken into account, the surge in inequality looks every worse.

7. One of the reasons that inequality is bad for economic performance is that this growing inequality is weakening demand. The reason that inequality leads to weak demand is easy to understand: those at the bottom spend a larger fraction of their income (they need to, just to get by) than those at the top.

The problem of weak demand is compounded by the flawed responses to this weak demand by monetary authorities, by lowering interest rates, which can easily give rise to a bubble, the bursting of which leads in turn to recessions. This indeed describes what has happened in recent years. (This is not the only possible response: fiscal authorities could lower taxes on say the middle class, or increase government investments in infrastructure, technology and education. But the Bush administration took exactly the opposite strategy – lowering taxes on the rich. These responses are perhaps not a surprise: as I emphasize below, economic inequality translates into political inequality, and those at the top have a tendency to seek their own advantage).

8. There are still other reasons that inequality is bad for the economy and growth. One of the reasons is that today, inequality is associated with rent seeking, and rent seeking distorts the economy. Another is the observation made earlier that inequality of outcomes is associated with inequality of opportunity, and that means that those unfortunate enough to be born at the bottom of the income distribution are at great risk of not living up to their potential. We thus pay a price not only in terms of a weak economy today, but lower growth in the future. With nearly one in four American children growing up in poverty,22 many of whom face a lack of access to adequate nutrition and education, the country’s long-term prospects are being put into jeopardy.

A third is related to the corrosive effect of inequality on morale, especially when it cannot be well-justified (and as I have noted, the inequality evidenced in the United States and elsewhere cannot be justified). There is a widespread understanding of the adverse effects of corruption on morale, societal solidarity, and the functioning of the economy. But increasingly, inequality in the US is viewed as unfair, arising out of a corrupt political and economic system.

MARKED

Still two further reasons are related to the political economy of inequality: societies with greater inequality are less likely to make investments in the common good, in say public transportation, infrastructure, technology, and education. The rich don’t need these public facilities, and they worry that a strong government which could increase the efficiency of the economy might at the same time use its powers to redistribute. Moreover, with so many at the top making their money from financial market shenanigans and rent-seeking, we wind up with tax and other economic policies that encourage these kinds of activities rather than more productive activities. When we tax speculators at less than half the rate that we tax workers, and when we give speculative derivatives priority in bankruptcy over workers, and when we have tax laws that encourage job creation abroad rather than at home, we wind up with a weaker and more unstable economy.

9. The ninth observation is that the weaknesses in the economy (partly caused by the high levels of inequality) have important budgetary implications. Deficits have become a central focus of policymakers in many countries. But worries about the deficit are exacerbating the real inequalities in our society; it is those at the bottom and middle that suffer the most from government cutbacks in expenditures.

The budget deficits of recent years are a result of the weak economy, not the other way around. If we had more robust growth, the budgetary situation would be far improved. That’s why investments in decreasing inequality and increasing equality of opportunity make sense not only for the economy, but for the budget. When we invest in our children, the asset side of our country’s balance sheet goes up, even more than the liability side: any business would see that its net worth is increased. In the long run, even looking narrowly at the liability side of the balance sheet, it will be improved, as these young people earn higher incomes and contribute more to the tax base. But if we look at these issues the wrong way, the budgetary weaknesses will lead to cutbacks in public investments – including those that help ameliorate inequality – and we reinforce the vicious circle, with lower investment in the public sector (including education) leading to a weaker economy and more inequality, and leading in turn to still lower investments and growth.

10. Countries also pay a high price for this inequality in terms of their democracy and the nature of their societies. A divided society is different – it doesn’t function as well. Democracy is undermined, as economic inequality inevitably translates into political inequality. I describe in my book how the outcomes of America’s politics are increasingly better described as the result of a system not of one person, one vote but of one dollar, one vote. 23 And just as we described earlier how the rules of the economic game affect the outcomes, so too in the realm of politics: with the rich having more and more influence, they write the rules of the political game to give them more power and influence, which means economic inequality gets even more translated into political inequality, and the political inequality gets translated into ever more economic inequality, in a vicious circle. The same process is occurring in other countries where the wealth and income have become stubbornly concentrated.

11. There are further adverse effects of this economic/political inequality as we view societal well-being from the broader perspective that I argued for earlier. Special interests have incentives and scope to shape our society – in their interests. Even when most citizens care about the environment, they see actions to protect the environment as costing them profits, and they use their economic and political power resist such actions. This has proved to be a major impediment to dealing with the challenges of global warming. But as I comment on more extensively in the second part of this paper, the costs of failing to deal with climate change and other environmental hazards are borne disproportionately by the poor.

12. With extreme inequality, the nature of society changes in fundamental ways. Those at the top come to believe that they are entitled to what they have. And this can lead to behaviors which themselves undermine the cohesiveness of society. Those excluded from prosperity begin to expect the worst from their governments and leaders. Trust is eroded, along with civic engagement and a sense of common purpose.

13. For those who believe we would have a better world were more countries to become committed to market economies with democracy, there are further adverse effects: Will other countries want to emulate an economic system in which most individuals’ incomes are simply stagnating? A political system which seems to be captured by the wealthy?

#### Decline causes war---overcomes traditional barriers to conflict.

Jomo Kwame Sundaram & Vladimir Popov 19. Former economics professor, was United Nations Assistant Secretary-General for Economic Development, and received the Wassily Leontief Prize for Advancing the Frontiers of Economic Thought in 2007. Former senior economics researcher in the Soviet Union, Russia and the United Nations Secretariat, is now Research Director at the Dialogue of Civilizations Research Institute in Berlin “Economic Crisis Can Trigger World War.” <http://www.ipsnews.net/2019/02/economic-crisis-can-trigger-world-war/>.

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.

#### Data proves the link between economic decline and war.

Tania Lațici and Elena Lazarou 21. Tania Lațici is a Non-resident Fellow with the Transatlantic Leadership Program at the Center for European Policy Analysis. Elena Lazarou is the Head of the External Policies Unit of the European Parliamentary Research Service. “Peace and Security in 2021”. https://www.europarl.europa.eu/RegData/etudes/STUD/2021/690669/EPRS\_STU(2021)690669\_EN.pdf

The link between financial crises and a deterioration in democracy, peace and security has been highlighted by several studies. As noted by Matthias Goldmann, 'in recent years, more and more data has become available which reveals a correlation between sovereign debt crises and the outbreak of civil wars. 225 Thomas Piketty and Branko Milanović have stressed the link between financial crisis, inequality and social collapse. 226 In addition to economic recession and falling trade volumes, global economies are strongly affected by chronic deflation. Historically, there is a correlation between inflation-deflation cycles and the debt cycles: deflationary pressure increases during peace years, and inflationary, during war years. 227 Writing for The Economist, Qian Liu has warned that the next economic crisis could cause a 'global conflict'.228 This is concerning, particularly in the context of the current debate on a new 'cold war' brewing between the US and China, in the paradigm of a 'Thucydides's trap'.229

The combination of global social risks, increased international tensions due to rising protectionism and the Covid-19 pandemic, has raised some concerns regarding the risk of a repetition of the 1930s scenario, which eventually led to World War II. 230 The US 'America first' protectionist trade policy developed under former president Donald Trump could reignite under Joe Biden's stimulus package. Under the Biden administration, protectionism may be more targeted and subtle, but it is not going to disappear. Furthermore, high rates of unemployment, and unconventional monetary policy measures, including possible 'modernisation' of the main central banks' legal mandates and their impact on debt cycles and inequality, have all been cited as causes for concern. 231 The dangerous link between the state of the global economy and peace has, once more, come to the fore – this time as a result of the 21st century's gravest health crisis. Massive stimuli by central banks and governments, such as US$120billion in monthly bond purchases by the US Federal Reserve, or the $1.9 trillion stimulus bill adopted by US Congress (American Rescue Plan Act of 2021) awoke, in January 2021, not only hope of economic growth but also fears of rising inflation. The US Treasury yield curve has steepened to four-year high and, as noted by Standard & Poor's Global Market Intelligence Unit, 'A steep yield curve – when there is a large spread in interest rates between shorter-term Treasury bonds to longer-term bonds – often precedes a period of economic expansion, as investors bet that a central bank will be forced to raise rates in the future to tamp down higher inflation'.

#### The plan eliminates franchise exemptions---key to employment competition.

Catherine E. Schaefer 19. J.D. Candidate, 2020, Fordham University School of Law; M.P.S., 2017, Cornell University; B.A., 2009, Wellesley College. “Disagreeing over Agreements: A Cross-Sectional Analysis of No-Poaching Agreements in the Franchise Sector”. 87 FORDHAM L. REV. 2285 (2019).

IV. A PROPOSAL FOR CURRENT AND FUTURE FRANCHISE CASES

Labor economics principles, along with no-poaching antitrust precedent and the current state of the single-entity doctrine, support the conclusion that no-poaching agreements in franchise systems operate in the same way as agreements in unfranchised systems. Namely, no-poaching agreements in franchises similarly stagnate wages and restrict worker mobility. 228 Based on the current state of the single-entity doctrine, this Part proposes that nopoaching agreements in the franchise sector should be considered per se illegal. In other words, regardless of categorization, no-poaching agreements should be banned entirely.

American Needle challenges the Copperweld 29 analysis employed in Williams and leaves the door open for litigation in the franchise sector.2 30 The Supreme Court has defined single entities as a parent company together with its wholly owned subsidiaries or, at a minimum, companies with "a complete unity ofinterest."23 1 Franchises, like NFL football teams, are fully capable of conspiring with one another. 23 2 Likewise, co-franchisees exist in a competitive relationship with each other for some purposes, including the hiring of employees.2 33 American Needle does not clarify whether Williams remains good law after the Supreme Court narrowed the definition of a "single economic entity," which suggests that franchises may be viewed as independent companies that can conspire in violation of the Sherman Act.234

The FTC and DOJ's October 2016 guidance makes clear that companies that "compete to hire or retain employees are competitors in the employment marketplace, regardless of whether the firms make the same products or compete to provide the same services." 235 It is therefore unlawful for competitors to expressly or implicitly agree not to compete with one another.2 36 As noted, individual franchises compete with one another both for employees and customers.2 37 Following this line of analysis, economists have proposed that no-poaching agreements be uniformly banned regardless of whether they are used outside or within franchises.2 3 8 These proponents believe that a per se approach is appropriate because a franchise model can operate just as efficiently without imposing these types of hiring restrictions.2 39 From an economic point of view, no-poaching agreements violate section 1 of the Sherman Act regardless of the circumstances surrounding their use. 240 Much like the agreements the Silicon Valley technology companies made, the no-poaching agreements in a franchise system harm workers by restricting their mobility across the labor market and preventing them from receiving higher wages and potentially better working conditions.2 4 1 As such, a per se rule against these agreements is appropriate.

#### Per se illegality is key to clarity--- saves resources and cause companies to change behavior.

Molly Edgar 21. J.D. Candidate 2021, University of California, Hastings College of the Law; Symposium Editor, Hastings Law Journal. “The DOJ's Role in the Franchise No-Poach Problem”. 72 Hastings L.J. 1573 (2021).

The per se rule allows courts and victims to preserve resources and avoid complicated and expensive litigation. When the per se rule applies, plaintiffs do not have to conduct a costly economic investigation into the industry in order to demonstrate that a particular restraint is unreasonable.245 The per se standard achieves a judicial economy by allowing courts, drawing on their experience, to predict with confidence that the restraint will produce anticompetitive effects. 246 If the courts take a clear stance on the issue of franchise no-poach agreements, franchise systems can modify their franchise agreements and practices accordingly.

#### That’s key to the success of national class action lawsuits.

Ian T. Hampton & Jaikaran Singh 21. \*\*Senior counsel and litigation lawyer with Foley & Lardner LLP. \*\*Partner and litigation attorney with Foley & Lardner LLP, Vice-Chair of the firm’s Consumer Law, Finance & Class Action Practice. “Vice-Chair of the firm’s Consumer Law, Finance & Class Action Practice.” 11/11/21. https://www.foley.com/en/insights/publications/2021/11/applying-the-rule-of-reason-district-courts

Two recent district court decisions out of the Seventh Circuit illustrate the difficulty of maintaining antitrust class actions that seek to challenge employer “no-poach” agreements. In DeSlandes v. McDonald’s USA, LLC, No. 17-C-4857, 2021 WL 3187668 (N.D. Ill. Jul. 28, 2021), the court denied plaintiff’s motion to certify a nationwide class of fast-food workers alleging that a no-poach provision in their employers’ franchise agreements violated Section 1 of the Sherman Act. The provision barred McDonald’s franchises from employing or soliciting each other’s workers for up to six months after the worker left the company, which plaintiff alleged decreased workers’ mobility and suppressed their wages. The court denied certification based on a finding that plaintiff failed to satisfy the predominance requirement of Rule 23(b)(3). Days later, another district court in the same circuit followed suit, refusing to certify a nationwide class of Jimmy John’s restaurant workers making substantially the same allegations. See Conrad v. Jimmy John’s Franchise, LLC, No. 18-cv-00133, 2021 WL 3268339 (S.D. Ill. Jul. 30, 2021).

Relying on the United States Supreme Court’s recent decision in NCAA v. Alston, U.S. , 141 S. Ct. 2141 (2021),both courts held that the rule of reason applies to no-poach provisions in franchise agreements. The rule of reason is one of three standards of review (the per se rule and the quick look test being the others) used by courts to analyze whether any particular restraint on trade is unreasonable under federal antitrust law. Under the rule of reason test, the fact finder must weigh all of the circumstances of the case to decide whether the questioned practice imposes an unreasonable restraint on competition. The courts rejected plaintiffs’ arguments that the agreements should be subject to more abbreviated forms of review and either declared per se illegal or rejected after only a quick look. In Alston, the Supreme Court observed that such blanket condemnations of industry practices should be rare, noting that “we take special care not to deploy these condemnatory tools until we have amassed ‘considerable experience with the type of restraint at issue[.]’” Id. at 2156 (citation omitted). The McDonald’s court found that it did not have enough experience with no-poach provisions in franchise agreements to condemn them without undertaking the fuller review offered by the rule of reason. For its part, the Jimmy John’s court held that the rule of reason applied because a nationwide franchise’s use of “intrabrand restraints,” such as no-poach provisions, arguably helps the company compete with other brands by ensuring cooperation among the franchisees.

Having determined the rule of reason applies, both district courts found that the analysis required under the rule raised individual issues precluding class certification. In McDonald’s, the court focused on the rule of reason’s requirement that plaintiffs show a substantial anticompetitive effect in the relevant market. The court rejected plaintiff’s theory that McDonald’s workers sell their labor in one national market, finding instead that the relevant market for each plaintiff’s labor is “a small, geographic area” and there are likely “hundreds or thousands of relevant markets among the class members.” McDonald’s, 2021 WL 3187668, at \*13. The court found that in some of those markets, McDonald’s restaurants will have so many competitors that a no-poach agreement is unlikely to have anticompetitive effects. However, the court found that, in markets with little outside competition, a no-poach agreement restricting the movement of workers between franchises could lead to wage suppression and other harms. Because the effects on each market will have to be judged separately, the court concluded that individualized questions predominate over common ones. Echoing that same reasoning, the Jimmy John’s court found that “individualized inquiries would . . . be needed to determine whether a given Jimmy John’s employee could have been injured given the varied and dynamic labor markets across the country.” Jimmy John’s, 2021 WL 3268339, at \*11.

The Jimmy John’s decision also underlines other difficulties plaintiffs may face in certifying a class in this area. The court there held that because franchises unevenly enforced the no-poach provision, with some ignoring it outright and others granting waivers to select employees, individual proof would be needed to establish which franchises were involved in the alleged conspiracy. The court also found that individual inquiries arose from the fact that different franchise agreements incorporated different no-poach language, with some barring the hiring of managers (but not workers) and others prohibiting the solicitation of workers alone. In addition, the court found that the testimony of Jimmy John’s damages expert showed that while some workers saw lower wages as a result of the no-poach provision, others suffered no wage suppression at all. The court found these individual issues “overwhelm[ed]” the questions common to the proposed class. Id. at \*9.

The Jimmy John’s court separately found that the named plaintiff was atypical of the class under Rule 23(a)(3) because he did not try and thus was never denied the opportunity to move from one franchise to another. The court also found that he was not an adequate class representative pursuant to Rule 23(a)(4) because, as a manager charged with enforcing the no-poach provision, his interests conflicted with those of rank-and-file employees.

While the McDonald’s decision may be appealed to the Seventh Circuit (the Jimmy John’s case has since settled), the decisions call into question whether a nationwide class can be certified in no-poach cases, where individual issues related to hundreds of local labor markets are likely to predominate. More broadly, the cases illustrate the potential roadblocks facing plaintiffs who seek to challenge restraints scrutinized under the rule of reason, as the individual inquiries that rule entails may frustrate plaintiffs’ ability to show predominance.

#### Antitrust class actions are the only way to compensate workers for losses and deter exploitation.

Robert H. Lande 16. Venable Professor of Law at the University of Baltimore School of Law, Director of the American Antitrust Institute. “Class Warfare: Why Antitrust Class Actions are Essential for Compensation and Deterrence.” Spring 2016. https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2019&context=all\_fac

Class Actions Are Virtually the Only Way for Most Victims of Federal Antitrust Violations to Receive Compensation

The antitrust statutes provide that violations result in automatic treble damages for the victims.2 The legislative history 3 and case law indicate that compensation of victims is a goal, perhaps the dominant goal, of antitrust law’s damages remedy.4 Class actions play an essential role in ensuring that the treble damages remedy serves its intended function of “protecting consumers from overcharges resulting from price fixing.”5 As the Supreme Court noted, “[C]lass actions . . . may enhance the efficacy of private [antitrust] actions by permitting citizens to combine their limited resources to achieve a more powerful litigation posture.”6 Accordingly, “courts have repeatedly found antitrust claims to be particularly well suited for class actions . . . .”7

Without class actions, cartels and other antitrust violators that inflict widespread economic harm would have little to fear from the treble damages remedy. This is because, as a practical matter, class action cases are virtually the only way for most victims of anticompetitive behavior to receive compensation.8 A 2013 study that Professor Joshua Davis and I conducted documents the benefits of private enforcement by analyzing 60 of the largest recent successful private U.S. antitrust cases (defined as suits resolved since 1990 that recovered at least $50 million in cash for the victims9 ). These actions returned a total of $33.8–$35.8 billion in cash to victims of anticompetitive behavior.10 These figures do not include products, discounts, coupons, or the value of injunctive relief or precedent—only cash.11 Consequently, these totals significantly understate the actual benefits of this litigation to the victims involved. And, of course, this study covered only 60 suits (albeit 60 of the largest private recoveries) out of the many hundreds of private cases filed in the United States during this period.

Of these 60 large private cases, 49 were class action suits.12 These cases recovered a total of $19.4–$21.0 billion—the majority of the amount analyzed in our study.13 Since these were among the largest private actions ever filed, specific conclusions based upon these results may not generalize perfectly to all class action cases. They do suggest, however, that without class action cases, effective and significant victim compensation would be reduced dramatically.

### 1AC---Plan

#### The United States federal government should substantially increase prohibitions on franchise no-poach agreements.

### 1AC---DOJ Credibility

#### The DOJ promised to prosecute of no-poach but has failed in bringing criminal cases and getting per se rulings---increased scrutiny means expanding the scope of antitrust is key to preserve DOJ credibility and resources.

Lisa Phelan et al. 21. Partner at Morrison & Foerster LLP, where she is co-Chair of the Global Antitrust Law Practice Group. Ms. Phelan spent 31 years at the U.S. Department of Justice, serving for 16 years as Chief of the National Criminal Enforcement and Washington Criminal I Sections. AND Joseph Folio is of counsel at Morrison & Foerster in the Global Antitrust Law Practice Group, and he previously served as a trial attorney in the Washington Criminal I section. AND Hannah Elson is an associate at Morrison & Foerster in the Global Antitrust Law Practice Group. “Where Have we Been, and Where are we Going? The Criminal Prosecution of Buyer Cartels.” https://www.competitionpolicyinternational.com/wp-content/uploads/2021/06/AC-June-II.pdf

The Division claimed that it would criminally prosecute naked wage-fixing or no-poaching agreements because they “eliminate competition in the same irredeemable way as agreements to fix produce prices or allocate customers.”51 But unlike seller cartels that the Division almost uniformly seeks to prosecute in all forms, the Division has long tolerated certain forms of buyer arrangements. Additionally, even for the buyer arrangements it could not tolerate, the Division has historically pursued most of those — the primary exception being collusion during auctions — in civil actions. As the Division starts to re-think how it treats different types of buyer arrangements, and especially as it starts to prosecute some criminally, the focus on the differences between them will intensify. That focus may well reveal that the line between legal and illegal buyer arrangements may not be as clear as the Division and others suggest.

V. WHERE DO WE GO FROM HERE?

The Division’s focus on bringing wage-fixing and no-poach cases, which it re-emphasized as recently as March 2021 in both speeches and charges filed, is likely to consume a significant amount of its time for the foreseeable future. The Division spent more than four years laying the groundwork for execution on this shift in enforcement, and now, having finally brought cases, cartel prosecutors are going to work hard to ensure that those cases are successful.

It will be an uphill battle. Case in point, on March 26, 2021, former solicitor general Paul Clement filed a motion to dismiss the indictment against Surgical Care Affiliates LLC — the first company the Division charged with a no-poach violation — that raised several constitutional challenges, some of which were based on the Division’s historical treatment of this type of conduct.52

In additional to historical treatment, the Division continues to treat different types of buyer cartels differently — ranging from acceptance, to civil enforcement, to criminal enforcement — despite material similarities in the economic harm they cause. These differences are invitations for defendants to challenge how they are charged, how the case is tried, or otherwise to provide justifications for their conduct. It is not the type of clarity upon which criminal law thrives.53

But, in a world in which the Division successfully expands its prosecution of buyer cartels, it may be increasingly willing to consider stricter enforcement, including criminal prosecution, for other types of buyer arrangements. As explained previously, joint purchasing agreements have long been accepted in some form, but the underlying economics shows that the government could argue that they pose similar and possibly more risk of harm.54

This is a pivotal moment for enforcement against buyer cartels, and for businesses trying to understand and follow shifting policies in both the buying, labor, and human resources spaces. By expanding the scope of its prosecutorial gaze, the Division is inviting companies and courts to examine these issues more closely than they have in the past. In so doing, this extra scrutiny may have drastic consequences, not only for the future of Division’s enforcement efforts in this area, but also for the companies and individuals the Division is seeking to hold criminally liable for their conduct. However, until the courts have spoken about whether this conduct is rightly the subject of criminal cartel enforcement, companies would be wise to err on the side of caution.

#### Current DOJ enforcement contradicts previous guidance and legal consensus---backlash politicizes the department and undermines credibility.

Molly Edgar 21. J.D. Candidate 2021, University of California, Hastings College of the Law; Symposium Editor, Hastings Law Journal. “The DOJ's Role in the Franchise No-Poach Problem”. 72 Hastings L.J. 1573 (2021).

In tension with its previous civil enforcements and official policy statements, the DOJ recently argued that some well-established antitrust principles regarding the use of no-poach agreements do not apply in the franchise sector. 5 5 This position, albeit flawed, now forms one of the bases of the franchise defendants' arguments in no-poach litigation.1 56 In 2016, the DOJ seemed to clearly articulate its position regarding enforcement of no-poach agreements in the labor market.15 7 Three years later, in three private civil cases, the DOJ filed a statement of interest in which it advocated for a different approach to examine no-poach agreements when they are used in the franchise sector.1 58 In its Statement of Interest, the DOJ argued that a court must examine each franchisor-franchisee relationship on a case-by-case basis in order to determine which legal standard should apply. 159 The DOJ's argument relies upon the ancillary restraint doctrine, which, as previously discussed, should not apply to the use of no-poach agreements in the franchise sector.

The DOJ's Statement of Interest received the attention and criticism of other key players in antitrust law, signaling a disagreement regarding the appropriate standard under which franchise no-poach agreements should be analyzed. Due in part to this disagreement in the antitrust community, courts have relucted to issue broad pronouncements regarding the appropriate standard of review for franchise no-poach agreements.

1. Responses to the DOJ's Statement of Interest

In response to the DOJ's Statement of Interest, the American Antitrust Institute expressed its concern that the DOJ's position will misguide district courts and discourage antitrust plaintiffs from challenging these no-poach agreements.1 60 It communicated its position that no-poach agreements in the franchise industry will inevitably harm labor market competition and have no identifiable efficiencies that would warrant the application of the rule of reason standard. 161

The DOJ's statement also prompted criticism from the antitrust subcommittee of the United States House of Representatives. In a letter sent to Makan Delrahim, then-chief of the DOJ's Antitrust Division, subcommittee chairman Representative David Cicilline expressed concern regarding the division's increased involvement, by way of amicus briefs and statements of interests, in cases where the United States is not a party. 6 2 The letter noted that the "Division's decision to intervene has risked undermining enforcement efforts by state attorneys general and the Federal Trade Commission, raising serious questions about the Division's motives and judgment."163 The letter singled out the DOJ's Statement of Interest with regard to no-poach agreements in franchising contracts and cited to "numerous experts and scholars" who have rejected the DOJ's position, while also acknowleding its contradiction with previous statements the DOJ made regarding labor market restraints.1 64 Finally, the subcommittee argued that the DOJ's "decision to interfere in order to win greater protection for corporate franchisors that restrict labor market competition . . .reflects grossly misshapen priorities. "165

#### DOJ legitimacy is the foundation of liberal democratic governance.

Claire O. Finkelstein & Richard W. Painter 22. \*\*Algernon Biddle Professor of Law and Professor of Philosophy at the University of Pennsylvania Law School, Director of the University of Pennsylvania Law School’s Center for Ethics and the Rule of Law. \*\*S. Walter Richey Professor of Corporate Law at the University of Minnesota Law School. “Restoring the Rule of Law through Department of Justice Reform.” 2/16/22. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=4036891

As the nation’s principal law enforcement agency, the Department of Justice (DOJ) plays a unique role in protecting rule of law and, therefore, U.S. democracy. Despite the fact that the attorney general is appointed by the president and serves at the president’s pleasure, a recognition of the comparable independence of the DOJ from the political priorities of the rest of the executive branch has been critical for maintaining the department’s integrity and credibility over the course of its roughly 150-year history. To assure the American public that the actions of the DOJ are based on legitimate prosecutorial discretion rather than on political favoritism or electoral politics, prosecutions must be politically neutral and motivated only by the goal of evenhanded enforcement of the law, without prejudice produced by presidential political aims. The DOJ articulates its mission as to “enforce the law and defend the interests of the United States according to the law,”1 an aim that, when fulfilled, allows the department to serve as the guardian of the rule of law for the country as a whole. When the DOJ faithfully conforms to both law and ethics, it powerfully reinforces the foundations of democratic governance.

But the flip side is also true: the DOJ is particularly well situated to corrupt the rule of law.2 When the department treats legal compliance as a creative exercise in public relations and political manipulation, it leads to the disintegration of rule of law values, not just in the DOJ but also in government as a whole. In that case, it threatens the very foundations of democratic governance. In short, any attempt to justify distortions of law by claiming the authority of law does disproportionate damage, given that such distortions strike at the very concept of legality itself.

#### Democracy solves great power war.

Larry Diamond 19. PhD in Sociology, professor of Sociology and Political Science at Stanford University. “Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition and American Complacency,” Kindle Edition

In such a near future, my fellow experts would no longer talk of “democratic erosion.” We would be spiraling downward into a time of democratic despair, recalling Daniel Patrick Moynihan’s grim observation from the 1970s that liberal democracy “is where the world was, not where it is going.” 5 The world pulled out of that downward spiral—but it took new, more purposeful American leadership. The planet was not so lucky in the 1930s, when the global implosion of democracy led to a catastrophic world war, between a rising axis of emboldened dictatorships and a shaken and economically depressed collection of selfdoubting democracies. These are the stakes. Expanding democracy—with its liberal norms and constitutional commitments—is a crucial foundation for world peace and security. Knock that away, and our most basic hopes and assumptions will be imperiled. The problem is not just that the ground is slipping. It is that we are perched on a global precipice. That ledge has been gradually giving way for a decade. If the erosion continues, we may well reach a tipping point where democracy goes bankrupt suddenly—plunging the world into depths of oppression and aggression that we have not seen since the end of World War II. As a political scientist, I know that our theories and tools are not nearly good enough to tell us just how close we are getting to that point—until it happens.

#### It solves every impact---it’s comparatively more stable than autocracies.

Kroenig 20 Matt. 4/3. Professor of government and foreign service at Georgetown University – you know who he is. “Why the U.S. Will Outcompete China” <https://www.theatlantic.com/ideas/archive/2020/04/why-china-ill-equipped-great-power-rivalry/609364/>) 1/20/2021

National-security analysts see China as one of the greatest threats facing the United States and its allies. According to an emerging conventional wisdom, China has the leg up on the U.S. in part because its authoritarian government can strategically plan for the long term, unencumbered by competing branches of government, regular elections, and public opinion. Yet this faith in autocratic ascendance and democratic decline is contrary to historical fact. China may be able to put forth big, bold plans—the kinds of projects that analysts think of as long term—but the visionary projects of autocrats don’t usually pan out. Watch White Noise, the inside story of the alt-right The Atlantic’s first feature documentary ventures into the underbelly of the far-right movement to explore the seductive power of extremism. Stream Now Yes, democratic governments are obligated to answer to their citizens on regular intervals and are sensitive to public opinion—that’s actually democracies’ greatest source of strength. Democratic leaders have a harder time advancing big, bold agendas, but the upside of that difficulty is that the plans that do make it through the system have been carefully considered and enjoy domestic support. Historically speaking, once a democracy comes up with a successful strategy, it sticks with the plan, even through a succession of leadership. Washington has arguably followed the same basic, three-step geopolitical plan since 1945. First, the United States built the current, rules-based international system by providing security in important geopolitical regions, constructing international institutions, and promoting free markets and democratic politics within its sphere of influence. Second, it welcomed into the club any country that played by the rules, even former adversaries, like Germany and Japan. And, third, the U.S. worked with its allies to defend the system from those countries or groups that would challenge it, including competitors such as Russia and China, rogue states such as Iran and North Korea, and terrorist networks. America can pursue long-term strategy in part because it enjoys domestic political stability. While new politicians seek to improve on their predecessor’s policies, the United States is unlikely to see the drastic shifts in strategy that come from the fall of one political system and the rise of another. Democratic elections may be messy, but they’re not as messy as coups or civil wars. Daniel Blumenthal: The Unpredictable Rise of China Open societies have many other advantages as well. They facilitate innovation, trust in financial markets, and economic growth. Because democracies tend to be more reliable partners, they are typically skillful alliance builders, and they can accumulate resources without frightening their neighbors. They tend to make thoughtful, informed decisions on matters of war and peace, and to focus their security forces on external enemies, not their own populations. Autocratic systems simply cannot match this impressive array of economic, diplomatic, and military attributes. David Leonhardt recently wrote in The New York Times, “Chinese leaders stretching back to Deng Xiaoping have often thought in terms of decades.” Commonly cited examples of that long-term thinking include the Belt and Road Initiative, a program that invests in infrastructure overseas; Made in China 2025, an effort to subsidize China’s giant tech companies to become world leaders in 21st-century technologies, such as artificial intelligence; and Beijing’s promise to be a global superpower by 2049. Since putting in place sound economic reforms in the 1970s, China has seen its economy expand at eye-popping rates, to become the world’s second largest. Many economists predict that China could even surpass the United States within the decade, and some have suggested that China’s model of state-led capitalism will prove more successful, in terms of economic growth, than the U.S. template of free markets and open politics. I doubt these predictions. Because autocratic leaders are unconstrained and do not have to contend with a legislature or courts, they have an easier time taking their countries in new and radically different directions. Then, when the dictator changes his mind, he can do it again. Mao’s autocratic China ricocheted from one failed policy to another: the Great Leap Forward, then the Hundred Flowers Campaign, then the Cultural Revolution. Mao aligned with the Soviet Union in 1950 only to nearly fight a nuclear war with Moscow in the next decade. Beginning in the time of Deng Xiaoping, China pursued a fairly constant strategy of liberalizing its economy at home and “hiding its capabilities and biding its time” abroad. But President Xi Jinping abandoned these dictums when he took over. As the most powerful leader since Mao—he has changed China’s constitution to set himself up as dictator for life—he could once again jerk China in several new directions, according to his whims, and back again. According to the Asia Society, he has stalled or reversed course on eight of 10 categories of economic reform promised by the Chinese Communist Party (CCP) itself. Moreover, Xi is baring China’s teeth militarily, taking contested territory from neighbors in the South China Sea and conducting military exercises with Russia in Europe. The problem for Beijing is that stalled reforms will stymie its economic potential and its confrontational policies are provoking an international coalition to contain them. The 2017 U.S. National Security Strategy declared great-power competition with China the foremost security threat to the U.S.; the European Union labeled China a “systemic rival”; and Japan, Australia, India, and the United States have formed a new “quad” of powers to balance China in the Pacific. Furthermore, the plans often cited as evidence of China’s farsighted vision, the Belt and Road Initiative and Made in China 2025, were announced by Xi only in 2013 and 2015, respectively. Both are way too recent to be celebrated as brilliant examples of successful, long-term strategic planning. A certain level of domestic political stability is a prerequisite for charting a steady strategic course in foreign and domestic affairs. But autocratic regimes are notoriously brittle. While institutionalized political successions in democracies typically lead to changes of policy, political successions in autocracies are likely to result in regime collapse and war. China’s “5,000 years of history” were pockmarked by rebellion, revolution, and new dynasties. Fearing internal threats to domestic political stability—consider the protests this year in Hong Kong and Xinjiang—the CCP spends more on domestic security than on its national defense. If you follow the money, the CCP is demonstrating that the government is more afraid of its own people than of the Pentagon. This domestic fragility will frustrate China’s efforts to design and execute farsighted plans. If threats to Chinese domestic stability were to materialize and the CCP were to collapse tomorrow, for example, Chinese grand strategy could undergo another seismic shift, including possibly opting out of competition with the United States altogether. Shadi Hamid: China Is Avoiding Blame by Trolling the World Autocracies have other vulnerabilities as well. State-led planning has never produced high rates of economic growth over the long term. Autocrats are poor alliance builders who fight with their supposed allies more than with their enemies. And the highest priority of autocratic security forces is repressing their own people, not defending the country. The world has undergone drastic changes in just the past few years, but these enduring patterns of international affairs have not. Some fear that Trump’s nationalist tendencies will erode the U.S. position, but the momentum of America’s successful grand strategy has kept the country on a fairly steady course. Despite Trump’s criticism of NATO, for example, two new countries have joined the alliance on his watch, including North Macedonia this week. The coronavirus has upended a sense of security in the U.S., leading many people into the familiar trap of lauding autocratic China’s firm response in contrast to the halting and patchwork measures in the United States. But there is good reason to believe that this assessment will be updated in America’s favor with the benefit of hindsight. Already we are seeing evidence that conditions are much worse in China than CCP officials are letting on and that China’s attempts at international “disaster diplomacy” are backfiring. It has been revealed that the CCP has continually misrepresented the numbers of COVID-19 infections and deaths in China, and European nations have rejected and returned faulty Chinese coronavirus testing kits.

#### Democratic backsliding in the US spills over.

Larry Diamond 21. Senior Fellow at the Hoover Institution and the Freeman Spogli Institute for International Studies at Stanford University. "A World Without American Democracy?". Foreign Affairs. 7-2-2021. https://www.foreignaffairs.com/articles/americas/2021-07-02/world-without-american-democracy?utm\_medium=referral&utm\_source=www-foreignaffairs-com.cdn.ampproject.org&utm\_campaign=amp\_kickers

Aprolonged global democratic recession has, in recent years, morphed into something even more troubling: the “third reverse wave” of democratic breakdowns that the political scientist Samuel Huntington warned could follow the remarkable burst of “third wave” democratic progress in the 1980s and the 1990s. Every year for the past 15 years, according to Freedom House, significantly more countries have seen declines in political rights and civil liberties than have seen gains. But since 2015, that already ominous trend has turned sharply worse: 2015–19 was the first five-year period since the beginning of the third wave in 1974 when more countries abandoned democracy—twelve—than transitioned to it—seven. And the trend continues. Illiberal populist leaders are degrading democracy in countries including Brazil, India, Mexico, and Poland, and creeping authoritarianism has already moved Hungary, the Philippines, Turkey, and Venezuela out of the category of democracies altogether. In Georgia, the dominance of the Georgian Dream Party has led to the steady decline of electoral processes and a breakdown in the rule of law. In Myanmar, the military overthrew the elected government of Aung San Suu Kyi, ending an experiment in partial democracy. In El Salvador, president Nayib Bukele staged an executive coup by removing the attorney general and Supreme Court justices who were obstacles to his consolidation of power. In Peru, democracy hangs from a thread as the right-wing autocrat Keiko Fujimori advances vague claims of election fraud in a bid to overturn her narrow electoral defeat to left-wing opponent Pedro Castillo. What is especially striking about this last case is that Fujimori’s gambit bears a grim resemblance to the lie perpetuated by former U.S. President Donald Trump and his followers about the 2020 presidential election. This is no coincidence. As the journalist and historian Anne Applebaum has observed, fictitious claims of fraud and “stop the steal” tactics are becoming a common means by which autocratic populists try to obstruct democracy. Such tactics have long been a source of instability in countries struggling to develop democracy. But the fact that the most recent iteration of the antidemocrat’s playbook draws heavily on precedents in the world’s most important and powerful democracy marks the start of a dangerous new era. Today, the United States confronts a growing antidemocratic movement, not just from the ranks of fringe extremists but also from a substantial group of officeholders—a movement that is challenging the very foundations of electoral democracy. Should this effort succeed, the United States could become the first ever advanced industrial democracy to fail—that is, to no longer meet the minimum conditions for free and fair elections as political scientists and other scholars of democracy define them. The failure of American democracy would be catastrophic not only for the United States; it would also have profound global consequences at a time when freedom and democracy are already under siege. As Huntington noted, the diffusion of democratic movements and ideas from one country to another has helped drive positive democratic change. Antidemocratic norms and practices can spread in a similar fashion—especially when they emanate from powerful countries. That is why the acceleration of a democratic recession into a democratic depression happened largely on Trump’s watch. And it is why no development would more gravely damage the global democratic cause than the democratic backsliding of its most important champion.

#### Global democratic modeling solves war---the alternative is global authoritarianism.

Kelly Magsamen 18. \*Vice president for National Security and International Policy at the Center for American Progress. \*\*Max Bergmann and \*\*\*Michael Fuchs are senior fellows at the Center. \*\*\*\*Trevor Sutton is a fellow at the Center. “Securing a Democratic World: The Case for a Democratic Values-Based U.S. Foreign Policy”. 9-5-2018. <https://www.americanprogress.org/issues/security/reports/2018/09/05/457451/securing-democratic-world/>

Donald Trump is hardly the only skeptic of a democratic values-based foreign policy. A range of policymakers and scholars of foreign policy, including some progressives, have argued that the United States should de-prioritize the promotion of democratic values in its foreign policy. Some make the argument that the United States needs to take a more hardheaded and transactional approach to advance its security and economic interests. However, this report argues that not only are these false choices but that the United States should see democratic values as a U.S. comparative advantage—and not a weakness—in global competition. America’s liberal democratic values have been key to building, enhancing, and sustaining America’s geopolitical power. With the global backsliding of democracy and the rise of alternative authoritarian models, it is ever more urgent to rediscover the power of core American values to secure U.S. interests in the long term.

A democratic values-based foreign policy is worth pursuing for three key reasons.

First, it will advance long-term U.S. economic and security interests abroad and create a safer and more prosperous world. Compared with authoritarian regimes, democracies are less likely to go to war against each other, less likely to ally against the United States, less likely to sponsor terrorism, less likely to experience famine or produce refugees, and more likely to adopt market economies and form economic partnerships with other democracies.35 Since liberal democracies tend to share values rooted in rule of law, fair competition, and transparency, they are natural partners in promoting the stable, prosperous, open, and peaceful international environment that the United States ought to cultivate through its foreign policy.

It is true that the process of democratization can be long and uneven and can sometimes produce destabilizing and aggressive state behavior. However, mature and established democracies are more stable, peaceful, and prosperous, and more full-fledged democracies mean more economic and security benefits for the United States.36 Furthermore, the global system of democratic alliances, institutions, and norms the United States helped create and lead after World War II has improved material conditions and brought peace and prosperity to hundreds of millions of people across the world. Bolstering that democratic system and the democratic values that underpin it will ensure that future generations can also enjoy the fruits of democracy and a liberal world.

Second, this kind of foreign policy will help secure an American advantage in great power competition by advancing a compelling alternative and strengthening the global democratic bulwark. Although the challenge posed by illiberal regimes today has evolved since the Cold War, there are still lessons to be drawn from that era. One of the most significant factors in the collapse of the Soviet Union was the powerful example and contrast set by flourishing democratic societies in the United States and Europe. Today, one of America’s greatest strategic assets is its global network of democratic allies and partners. The power of that democratic network, even underutilized as it is today, stands in stark contrast to what today’s illiberal and authoritarian regimes can offer: namely, political order purchased at the cost of extreme corruption, xenophobia, oligarchy, and arbitrary use of state power. To succeed, any approach to countering the authoritarian playbook must present a compelling alternative. This means that the United States, alongside its democratic allies and partners, must demonstrate that liberal democracy represents the best path to deliver inclusive prosperity, rule of law, and a just and equal society to a country’s citizens.

Third, it is the right thing to do. For more than a century, U.S. support for global democracy promotion has rested in part on the sincere conviction that all people deserve to have a say in how they are governed and enjoy the freedoms afforded people in liberal democracies. Although the United States has at many junctures acted in ways that undermined the expansion of democracy and democratic freedoms, that failure does not make democracy promotion any less worthy a goal for U.S. foreign policy. Put simply, there is intrinsic moral value in using the immense influence and capabilities of the United States to empower ordinary people across the globe.

## 2AC

#### Debates about antitrust broadly are good---it matters for every aspect of our lives.

Bryce Covert 20. Contributor at The Nation and a contributing op-ed writer at The New York Times, 11/30/20. “The Visible Hand.” https://www.thenation.com/article/culture/david-dayen-monopolized-review/

In the morning, I shower right after I wake up. I choose from a number of products to clean myself, yet they are made by just two companies: Unilever and Johnson & Johnson. I brush my teeth with a toothbrush and toothpaste made by Procter & Gamble but sold under the separate brands Oral-B and Crest. Before I eat breakfast, because I have Type 1 diabetes, I take insulin, a drug that, because of pharmaceutical consolidation and anticompetitive patent hoarding allowed to run amok, cost about $20 for a vial in 1996 but now costs $275. Lunch isn’t any better. The peanut butter for my sandwich almost certainly comes from one of three companies; same with the jelly. We all have “choices,” but do we really get to choose?

Once you put on your “monopoly decoder ring,” David Dayen writes in his new book Monopolized: Life in the Age of Corporate Power, you start to see how this power influences every part of our lives. There’s a baby formula monopoly: Three companies—Abbott Laboratories (which makes Similac), Reckitt Benckiser (which makes Enfamil), and Nestlé—control about 95 percent of the US market. It even follows us after our deaths: Service Corporation International keeps buying up funeral homes and now earns more than $1 out of every $5 in profit from funeral services, and two companies, Hillenbrand and Matthews, make 82 percent of the country’s coffins and caskets.

Some monopolies have become so obvious that everyone can spot them. If you want to fly anywhere in the United States, you basically have four choices, all of which offer increasingly bad service. If you want cable and Internet, you usually have only one or two high-cost options and no power to fight back when the company tells you a technician will be coming anywhere between 8 am and 8 pm to set it up. If you want to search for information or buy something on the Internet, there’s one choice for each that dominates all the rest: Google and Amazon.

But monopolies crop up in all sorts of unexpected places. Match Group, the parent company that owns Match.com, also owns OkCupid, Tinder, and Hinge. Berkshire Hathaway, the holding company empire of billionaire Warren Buffett, owns brands as diverse as Duracell, Dairy Queen, Benjamin Moore, and Fruit of the Loom. The coffee brands Caribou, Peet’s, Intelligentsia, and Stumptown are all owned or partly controlled by the European firm JAB.

Our country is saturated with monopolies, but some might ask, does it matter? As Dayen shows, monopolies make it harder for workers to wield power when there are fewer and fewer employers to choose from. They make the economy less dynamic and innovative. They make society less equal, and by amassing so many resources, they are able to amass power to protect those resources. Monopolies are even a threat to our very democracy, drowning out the voices of the people.

Worries about monopolies date as far back as AD 483. At the beginning of his book, Dayen quotes Emperor Zeno decreeing, “No one may presume to exercise a monopoly of any kind.” Going as far back as the railroad barons of the 19th century, Americans have worried about the ill effects of economic consolidation. Theodore Roosevelt famously took them on as a populist trustbuster. The Granger farmers’ movement and Progressive era activists fought monopolies.

Dayen mentions much of this history, but his aim is not simply to recount it or engage in the contemporary debates over the ways monopolies warp our economy and our society; instead, he wants to spark a modern movement through real, human stories. Corporate concentration and antitrust regulation can sound like dry issues. Dayen seeks to remind us of the very real consequences they have in our everyday lives.

The stories he tells can often be heartbreaking. There’s Travis Bornstein, whose son, Tyler Bornstein, died of a heroin overdose at 23 after getting hooked on opioids that were prescribed for his elbow surgery when he was 18. Rather than call an ambulance or take him to a hospital, the friend Tyler Bornstein was with when he overdosed dumped him in a vacant lot in Akron, Ohio, and fled. “You can’t prepare to lose a child,” Travis Bornstein tells Dayen. “I felt like I failed as a father.” But the Bornsteins were failed by the rampant cartelization and concentration in the pharmaceutical industry: Tyler Bornstein’s death is one of over 200,000 related to opioids since OxyContin, manufactured by one of the Big Pharma companies, was introduced in 1996.

OxyContin, Dayen insists, is just one stark example of the dangers in an industry in which, as he puts it, “monopolies at every stage of the supply chain placed their bottom lines ahead of the health of the recipients of those drugs.” For example, “If you have glaucoma, the reason liquid from your eye drops constantly rolls down your cheeks is that companies deliberately make the drop larger than the human eye can hold. Every milliliter that falls out of your eye represents a tiny profit, and it adds up.”

Dayen also introduces us to Chris Petersen, a third-generation hog farmer in Iowa whose farm has been so battered by agricultural monopolies that his daughter, who grew up aspiring to join the family business, had to find work at a hotel instead. After several generations of farmers, “I’m it,” he tells Dayen. “This is the dead end. You know, it’s sad.” It’s hard for Petersen to compete with concentrated animal feeding operations, which shove thousands of hogs into giant feedlots without sunlight and with scant room to move, whose cost cutting has sent hog prices plummeting. As Dayen notes, four hog firms control two-thirds of today’s market.

We also meet Kate Hanni, who, with her husband and two children, was stuck on a grounded American Airlines flight in 2006 for nine hours without food or water, watching mothers use barf bags for diapers and others puke into them as the smell of overflowing bathrooms wafted through the cabin. The airline refused to let passengers off because doing so would have cost it money through mandated refunds. One claustrophobic traveler even tried to flash SOS signs through the window with his cell phone.

One might wonder if this is an isolated incident. But the entire industry is dominated by just four major airlines, and as Dayen writes, “as long as passengers have nowhere else to go, there’s no incentive to fix a perpetually broken system,” one in which long flight delays are frequent and the service gets worse and worse.

In Dana Chisholm’s quest for an affordable rental house in Southern California, Dayen gives us a story of how monopolization in real estate is running rampant: Chisholm eventually rented from the private-equity-backed landlord Starwood Waypoint, one of several Wall Street real estate companies that have become huge players in the rental market. In 2017, Starwood Waypoint merged with Invitation Homes and is now the nation’s largest rental landlord. More than 240,000 US homes are now in the hands of investors, mostly private equity firms. Because they own so many properties, these companies can jack up rents and fees while slow-walking upkeep and repairs. For Chisholm, that meant appliances that didn’t work, no running water in the sink, and a building infested with rats and roaches. When she contacted the management company, she had to wait months for repairs before getting a Zillow alert for her own house: The management company had listed it for rent even though she had just paid up.

While the stories Dayen offers take place all across the country, from rural areas to Los Angeles’s urban sprawl, and involve people in very different communities and careers, they have the same nugget of truth at their heart: When companies are allowed to keep consolidating, people lose. Without robust regulation that keeps consolidation in check, corporations will keep laying waste to our economy and our lives.

Dayen wrote his book before the current health crisis but in many ways anticipated it. Concentrated supply chains are brittle and unable to cope with major disruptions, such as a pandemic that spikes demand for toilet paper and nose swabs alike. Meat-processing giants that squeeze out smaller players through aggressive line speeds and cost cutting are now major Covid-19 hot spots, thanks to a focus on the bottom line instead of higher safety standards and humane worker treatment. “Amazingly,” Dayen writes, “news deserts correlate with the spread of infectious diseases, as epidemiologists rely on local articles to track outbreaks.”

As Dayen convincingly shows, monopolies are so interwoven in our economy and our lives that there is no escape from them. But his book also highlights some of the challenges faced by a politics that is primarily focused on monopoly. If you see it everywhere without pausing to clarify what is anticompetitive behavior and what is just plain old greed, you risk having the concept lose its specific meaning.

Dayen points a finger at the tech monopolies Google and Facebook, for example, for ravaging the media industry by bleeding advertising dollars dry through their dominance of the market. But there are also other forces pummeling the industry: Wall Street ownership, fickle billionaire backers, and smaller publications’ struggle to find new sources of revenue. Meanwhile, the media industry itself is dotted with monopolies, such as News Corp, which owns The Wall Street Journal and the New York Post and dozens of other properties; TV conglomerates that control local news; and dominant talk radio brands. Later, in a chapter on private equity, we begin to see how the problem with its quest for acquisitions is not only that it shrinks competition but also that it shifts companies’ focus from the production and distribution of goods to the maximization of money for investors. Private equity has, for example, fed upon the retail sector and spit out discarded brands like Sears and Toys “R” Us. This parasitic relationship seems to be less about monopoly power than avarice and a lack of regulation. Certainly, private equity funds have bought up companies in a number of sectors, leading to consolidation. But that’s not what happened to these retailers: The hedge funds came in, loaded the companies with debt, got fat off the fees, and then let the companies fail.

Dayen says that his book’s ambition is not to rehash economic arguments made elsewhere but to turn those arguments into a movement. But a call to action has to be clearly defined. Likewise, as liberal and left politics in the past demonstrated, alongside anti-monopolist politics must be a program of strong social policies. Breaking up health insurance cartels, for example, will help lower costs, but it won’t ensure health care for all. Anti-monopolism must define its potential and its limits and be married to other policy interventions.

There is a compelling reason to focus on anti-monopolist politics, which has garnered bipartisan support over the years. In Tennessee, Republican and Democratic lawmakers alike have tried to get rid of state limitations on municipal broadband service that were imposed at the behest of telecom giants. “We’re aligned on this issue, because it’s not theoretical, it’s practical,” says Chattanooga Mayor Andy Berke, a Democrat. “I’m a small-c conservative,” Christopher Mitchell, a researcher at the Institute for Local Self Reliance, tells Dayen. “The idea of a family moving because they lack broadband is devastating.” Representatives Alexandria Ocasio-Cortez and Rashida Tlaib stood with Freedom Caucus leaders Jim Jordan and Mark Meadows in demanding that a military contract monopolist return over $16 million in excess funds that it was able to squeeze out of the government. But it is where bipartisan support ends—on matters of redistribution and universal programs—that the lines are drawn between those seeking economic justice for all and those seeking merely a less tilted field.

One reason anti-monopolism is so popular among a certain set is that the solutions to monopoly power are easy to find. In fact, we often don’t need anything new. “We know how to handle monopolies,” Dayen points out, citing existing laws that can protect us against antitrust abuses but that have been misinterpreted or watered down. To him, this should be at the center of any anti-monopolist movement: restoring these laws with their original power and using them to break up monopolies, block mergers that create future ones, and regulate any that remain as public utilities. That’s all “entirely possible under existing law,” he adds.

The institutions are also in place, and not just in the Department of Justice and the Federal Trade Commission (which are supposed to police monopolies and bust trusts). The Federal Communications Commission is supposed to ensure universal, high-speed Internet access under the Telecommunications Act of 1996. The Civil Aeronautics Board, created in 1938, used to keep airlines from getting concentrated while ensuring widespread access to travel.

But if this is all a matter of laws and regulatory bodies doing the jobs they were given, then why aren’t they? Here Dayen looks to the underlying politics of monopolization. “The mechanisms are clear,” he writes, but “getting the political class to enforce them is the stumbling block.”

#### Automatic deferral to the neg is worse for all of the impacts they cite---it reifies spirit murder, undermines community building, and marginalizes those who were never here to defer to in the first place, which causes elite capture

Olúfémi Táíwò 20. Assistant professor of philosophy at Georgetown University, “Being-in-the-Room Privilege: Elite Capture and Epistemic Deference,” The Philosopher, vol. 108, no. 4.

I think it’s less about the core ideas and more about the prevailing norms that convert them into practice. The call to “listen to the most affected” or “centre the most marginalized” is ubiquitous in many academic and activist circles. But it’s never sat well with me. In my experience, when people say they need to “listen to the most affected”, it isn’t because they intend to set up Skype calls to refugee camps or to collaborate with houseless people. Instead, it has more often meant handing conversational authority and attentional goods to those who most snugly fit into the social categories associated with these ills – regardless of what they actually do or do not know, or what they have or have not personally experienced. In the case of my conversation with Helen, my racial category tied me more “authentically” to an experience that neither of us had had. She was called to defer to me by the rules of the game as we understood it. Even where stakes are high – where potential researchers are discussing how to understand a social phenomenon, where activists are deciding what to target – these rules often prevail.

The trap wasn’t that standpoint epistemology was affecting the conversation, but how. Broadly, the norms of putting standpoint epistemology into practice call for practices of deference: giving offerings, passing the mic, believing. These are good ideas in many cases, and the norms that ask us to be ready to do them stem from admirable motivations: a desire to increase the social power of marginalized people identified as sources of knowledge and rightful targets of deferential behaviour. But deferring in this way as a rule or default political orientation can actually work counter to marginalized groups’ interests, especially in elite spaces.

Some rooms have outsize power and influence: the Situation Room, the newsroom, the bargaining table, the conference room. Being in these rooms means being in a position to affect institutions and broader social dynamics by way of deciding what one is to say and do. Access to these rooms is itself a kind of social advantage, and one often gained through some prior social advantage. From a societal standpoint, the “most affected” by the social injustices we associate with politically important identities like gender, class, race, and nationality are disproportionately likely to be incarcerated, underemployed, or part of the 44 percent of the world’s population without internet access – and thus both left out of the rooms of power and largely ignored by the people in the rooms of power. Individuals who make it past the various social selection pressures that filter out those social identities associated with these negative outcomes are most likely to be in the room. That is, they are most likely to be in the room precisely because of ways in which they are systematically different from (and thus potentially unrepresentative of) the very people they are then asked to represent in the room.

I suspected that Helen’s offer was a trap. She was not the one who set it, but it threatened to ensnare us both all the same. Broader cultural norms – the sort set in motion by prefacing statements with “As a Black man…” – cued up a set of standpoint-respecting practices that many of us know consciously or unconsciously by rote. However, the forms of deference that often follow are ultimately self-undermining and only reliably serve “elite capture”: the control over political agendas and resources by a group’s most advantaged people. If we want to use standpoint epistemology to challenge unjust power arrangements, it’s hard to imagine how we could do worse.

To say what’s wrong with the popular, deferential applications of standpoint epistemology, we need to understand what makes it popular. A number of cynical answers present themselves: some (especially the more socially advantaged) don’t genuinely want social change – they just want the appearance of it. Alternatively, deference to figures from oppressed communities is a performance that sanitizes, apologizes for, or simply distracts from the fact that the deferrer has enough “in the room” privilege for their “lifting up” of a perspective to be of consequence.

I suspect there is some truth to these views, but I am unsatisfied. Many of the people who support and enact these deferential norms are rather like Helen: motivated by the right reasons, but trusting people they share such rooms with to help them find the proper practical expression of their joint moral commitments. We don’t need to attribute bad faith to all or even most of those who interpret standpoint epistemology deferentially to explain the phenomenon, and it’s not even clear it would help. Bad “roommates” aren’t the problem for the same reason that Helen being a good roommate wasn’t the solution: the problem emerges from how the rooms themselves are constructed and managed.

To return to the initial example with Helen, the issue wasn’t merely that I hadn’t grown up in the kind of low-income, redlined community she was imagining. The epistemic situation was much worse than this. Many of the facts about me that made my life chances different from those of the people she was imagining were the very same facts that made me likely to be offered things on their behalf. If I had grown up in such a community, we probably wouldn’t have been on the phone together.

Many aspects of our social system serve as filtering mechanisms, determining which interactions happen and between whom, and thus which social patterns people are in a position to observe. For the majority of the 20th century, the U.S. quota system of immigration made legal immigration with a path to citizenship almost exclusively available to Europeans (earning Hitler’s regard as the obvious “leader in developing explicitly racist policies of nationality and immigration”). But the 1965 Immigration and Nationality Act opened up immigration possibilities, with a preference for “skilled labour”.

My parents’ qualification as skilled labourers does much to explain their entry into the country and the subsequent class advantages and monetary resources (such as wealth) that I was born into. We are not atypical: the Nigerian-American population is one of the country’s most successful immigrant populations (what no one mentions, of course, is that the 112,000 or so Nigerian-Americans with advanced degrees is utterly dwarfed by the 82 million Nigerians who live on less than a dollar a day, or how the former fact intersects with the latter). The selectivity of immigration law helps explain the rates of educational attainment of the Nigerian diasporic community that raised me, which in turn helps explain my entry into the exclusive Advanced Placement and Honours classes in high school, which in turn helps explain my access to higher education...and so on, and so on.

It is easy, then, to see how this deferential form of standpoint epistemology contributes to elite capture at scale. The rooms of power and influence are at the end of causal chains that have selection effects. As you get higher and higher forms of education, social experiences narrow – some students are pipelined to PhDs and others to prisons. Deferential ways of dealing with identity can inherit the distortions caused by these selection processes.

​But it’s equally easy to see locally – in this room, in this academic literature or field, in this conversation – why this deference seems to make sense. It is often an improvement on the epistemic procedure that preceded it: the person deferred to may well be better epistemically positioned than the others in the room. It may well be the best we can do while holding fixed most of the facts about the rooms themselves: what power resides in them, who is admitted.

But these are the last facts we should want to hold fixed. Doing better than the epistemic norms we’ve inherited from a history of explicit global apartheid is an awfully low bar to set. The facts that explain who ends up in which room shape our world much more powerfully than the squabbles for comparative prestige between people who have already made it into the rooms. And when the conversation is about social justice, the mechanisms of the social system that determine who gets into which room often just are the parts of society we aim to address. For example, the fact that incarcerated people cannot participate in academic discussions about freedom that physically take place on campus is intimately related to the fact that they are locked in cages.

Deference epistemology marks itself as a solution to an epistemic and political problem. But not only does it fail to solve these problems, it adds new ones. One might think questions of justice ought to be primarily concerned with fixing disparities around health care, working conditions, and basic material and interpersonal security. Yet conversations about justice have come to be shaped by people who have ever more specific practical advice about fixing the distribution of attention and conversational power. Deference practices that serve attention-focused campaigns (e.g. we’ve read too many white men, let’s now read some people of colour) can fail on their own highly questionable terms: attention to spokespeople from marginalized groups could, for example, direct attention away from the need to change the social system that marginalizes them.

Elites from marginalized groups can benefit from this arrangement in ways that are compatible with social progress. But treating group elites’ interests as necessarily or even presumptively aligned with full group interests involves a political naiveté we cannot afford. Such treatment of elite interests functions as a racial Reaganomics: a strategy reliant on fantasies about the exchange rate between the attention economy and the material economy.

Perhaps the lucky few who get jobs finding the most culturally authentic and cosmetically radical description of the continuing carnage are really winning one for the culture. Then, after we in the chattering class get the clout we deserve and secure the bag, its contents will eventually trickle down to the workers who clean up after our conferences, to slums of the Global South’s megacities, to its countryside.

But probably not.

A fuller and fairer assessment of what is going on with deference and standpoint epistemology would go beyond technical argument, and contend with the emotional appeals of this strategy of deference. Those in powerful rooms may be “elites” relative to the larger group they represent, but this guarantees nothing about how they are treated in the rooms they are in. After all, a person privileged in an absolute sense (a person belonging to, say, the half of the world that has secure access to “basic needs”) may nevertheless feel themselves to be consistently on the low end of the power dynamics they actually experience. Deference epistemology responds to real, morally weighty experiences of being put down, ignored, sidelined, or silenced. It thus has an important non-epistemic appeal to members of stigmatized or marginalized groups: it intervenes directly in morally consequential practices of giving attention and respect.

The social dynamics we experience have an outsize role in developing and refining our political subjectivity, and our sense of ourselves. But this very strength of standpoint epistemology – its recognition of the importance of perspective – becomes its weakness when combined with deferential practical norms. Emphasis on the ways we are marginalized often matches the world as we have experienced it. But, from a structural perspective, the rooms we never needed to enter (and the explanations of why we can avoid these rooms) might have more to teach us about the world and our place in it. If so, the deferential approach to standpoint epistemology actually prevents “centring” or even hearing from the most marginalized; it focuses us on the interaction of the rooms we occupy, rather than calling us to account for the interactions we don’t experience. This fact about who is in the room, combined with the fact that speaking for others generates its own set of important problems (particularly when they are not there to advocate for themselves), eliminates pressures that might otherwise trouble the centrality of our own suffering – and of the suffering of the marginalized people that do happen to make it into rooms with us.

The dangers with this feature of deference politics are grave, as are the risks for those outside of the most powerful rooms. For those who are deferred to, it can supercharge group-undermining norms. In Conflict is Not Abuse, Sarah Schulman makes a provocative observation about the psychological effects of both trauma and felt superiority: while these often come about for different reasons and have very different moral statuses, they result in similar behavioural patterns. Chief among these are misrepresenting the stakes of conflict (often by overstating harm) or representing others’ independence as a hostile threat (such as failures to “centre” the right topics or people). These behaviours, whatever their causal history, have corrosive effects on individuals who perform them as well as the groups around them, especially when a community’s norms magnify or multiply these behaviours rather than constraining or metabolizing them.

For those who defer, the habit can supercharge moral cowardice. The norms provide social cover for the abdication of responsibility: it displaces onto individual heroes, a hero class, or a mythicized past the work that is ours to do now in the present. Their perspective may be clearer on this or that specific matter, but their overall point of view isn’t any less particular or constrained by history than ours. More importantly, deference places the accountability that is all of ours to bear onto select people – and, more often than not, a hyper-sanitized and thoroughly fictional caricature of them.

The same tactics of deference that insulate us from criticism also insulate us from connection and transformation. They prevent us from engaging empathetically and authentically with the struggles of other people – prerequisites of coalitional politics. As identities become more and more fine-grained and disagreements sharper, we come to realize that “coalitional politics” (understood as struggle across difference) is, simply, politics. Thus, the deferential orientation, like that fragmentation of political collectivity it enables, is ultimately anti-political.

Deference rather than interdependence may soothe short-term psychological wounds. But it does so at a steep cost: it can undermine the epistemic goals that motivate the project, and it entrenches a politics unbefitting of anyone fighting for freedom rather than for privilege, for collective liberation rather than mere parochial advantage.

How would a constructive approach to putting standpoint epistemology into practice differ from a deferential approach? A constructive approach would focus on the pursuit of specific goals or end results rather than avoiding “complicity” in injustice or adhering to moral principles. It would be concerned primarily with building institutions and cultivating practices of information-gathering rather than helping. It would focus on accountability rather than conformity. It would calibrate itself directly to the task of redistributing social resources and power rather than to intermediary goals cashed out in terms of pedestals or symbolism. It would focus on building and rebuilding rooms, not regulating traffic within and between them – it would be a world-making project: aimed at building and rebuilding actual structures of social connection and movement, rather than mere critique of the ones we already have.

The water crisis in Flint, Michigan presents a clear example of both the possibilities and limitations of refining our epistemic politics in this way. Michigan’s Department of Environmental Quality (MDEQ), a government body tasked with the support of “healthy communities”, with a team of fifty trained scientists at its disposal, was complicit in covering up the scale and gravity of the public health crisis from the beginning of the crisis in 2014 until it garnered national attention in 2015.

The MDEQ, speaking from a position of epistemic and political authority, defended the status quo in Flint. They claimed that “Flint water is safe to drink”, and were cited in Flint Mayor Dayne Walling’s statement aiming to “dispel myths and promote the truth about the Flint River” during the April 2014 transition to the Flint River water source. That transition was spearheaded under the tenure of the city’s emergency manager Darnell Earley (an African-American, like many of the city residents he helped to poison). After the American Civil Liberties Union (ACLU) circulated a leaked internal memo from the federal Environmental Protection Agency (EPA) in July of 2014 expressing concern about lead in Flint water, the MDEQ produced a doctored report that put the overall measure of lead levels within federally mandated levels by mysteriously failing to count two contaminated samples.

The reaction from residents was immediate. The month after the switch in water source, residents reported that their tap water was discoloured and gave off an alarming odour. They didn’t need their oppression to be “celebrated”, “centred”, or narrated in the newest academic parlance. They didn’t need someone to understand what it felt like to be poisoned. What they needed was the lead out of their water. So they got to work.

The first step was to develop epistemic authority. To achieve this they built a new room: one that put Flint residents and activists in active collaboration with scientists who had the laboratories that could run the relevant tests and prove the MDEQ’s report to be fraudulent. Flint residents’ outcry recruited scientists to their cause and led a “citizen science” campaign, further raising the alarm about the water quality and distributing sample kits to neighbours to submit for testing. In this stage, the alliance of residents and scientists won, and the poisoning of the children of Flint emerged as a national scandal.

But this was not enough. The second step – cleaning the water – required more than state acknowledgement: it required apportioning labour and resources to fix the water and address the continuing health concerns. What Flint residents received, initially, was a mix of platitudes and mockery from the ruling elite (some of this personally committed by a President that shared a racial identity with many of them). This year, however, it looks as though the tireless activism of Flint residents and their expanding list of teammates has won additional and more meaningful victories: the ongoing campaign is pushing the replacements of the problematic service lines to their final stage and is forcing the state of Michigan to agree to a settlement of $600 million for affected families.

This outcome is in no way a wholesale victory: not only will attorney fees cut a substantial portion of payouts, but the settlement cannot undo the damage that was caused to the residents. A constructive epistemology cannot guarantee full victory over an oppressive system by itself. No epistemic orientation can by itself undo the various power asymmetries between the people and the imperial state system. But it can help make the game a little more competitive – and deference epistemology isn’t even playing.

The biggest threats to social justice attention and informational economies are not the absence of yet more jargon to describe, ever more precisely or incisively, the epistemic, attentional, or interpersonal afflictions of the disempowered. The biggest threats are the erosion of the practical and material bases for popular power over knowledge production and distribution, particularly that which could aid effective political action and constrain or eliminate predation by elites. The capture and corruption of these bases by well-positioned elites, especially tech corporations, goes on unabated and largely unchallenged, including: the corporate monopolization of local news, the ongoing destruction and looting of the journalistic profession, the interference of corporations and governments in key democratic processes, and the domination of elite interests in the production of knowledge by research universities and the circulation of the output of these distorted processes by established media organizations.

Confronting these threats requires leaving some rooms – and building new ones.

The constructive approach to standpoint epistemology is demanding. It asks that we swim upstream: to be accountable and responsive to people who aren’t yet in the room, to build the kinds of rooms we could sit in together, rather than merely judiciously navigating the rooms history has built for us. But this weighty demand is par for the course when it comes to the politics of knowledge: the American philosopher Sandra Harding famously pointed out that standpoint epistemology, properly understood, demands more rigour from science and knowledge production processes generally, not less.

But one important topic stands unaddressed. The deferential approach to standpoint epistemology often comes packaged with concern and attention to the importance of lived experience. Among these, traumatic experiences are especially foregrounded.

At this juncture, scholarly analysis and argument fail me. The remainder of what I have to say skews more towards conviction than contention. But the life of books has taught me that conviction has just as much to teach, however differently posed or processed, and so I press on.

I take concerns about trauma especially seriously. I grew up in the United States, a nation structured by settler colonialism, racial slavery, and their aftermath, with enough collective and historical trauma to go round. I also grew up in a Nigerian diasporic community, populated by many who had genocide in living memory. At the national and community level, I have seen a lot of traits of norms, personality, quirks of habit and action that I’ve suspected were downstream of these facts. At the level of individual experience, I’ve watched and felt myself change in reaction to fearing for my dignity or life, to crushing pain and humiliation. I reflect on these traumatic moments often, and very seldom think: “That was educational”.

These experiences can be, if we are very fortunate, building blocks. What comes of them depends on how the blocks are put together: what standpoint epistemologists call the “achievement thesis”. Briana Toole clarifies that, by itself, one’s social location only puts a person in a position to know. “Epistemic privilege” or advantage is achieved only through deliberate, concerted struggle from that position.

I concede outright that this is certainly one possible result of the experience of oppression: have no doubt that humiliation, deprivation, and suffering can build (especially in the context of the deliberate, structured effort of “consciousness raising”, as Toole specifically highlights). But these same experiences can also destroy, and if I had to bet on which effect would win most often, it would be the latter. As Agnes Callard rightly notes, trauma (and even the righteous, well-deserved anger that often accompanies it) can corrupt as readily as it can ennoble. Perhaps more so.

Contra the old expression, pain – whether borne of oppression or not – is a poor teacher. Suffering is partial, short-sighted, and self-absorbed. We shouldn’t have a politics that expects different: oppression is not a prep school.

When it comes down to it, the thing I believe most deeply about deference epistemology is that it asks something of trauma that it cannot give. Demanding as the constructive approach may be, the deferential approach is far more demanding and in a far more unfair way: it asks the traumatized to shoulder burdens alone that we ought to share collectively. When I think about my trauma, I don’t think about grand lessons. I think about the quiet nobility of survival. The very fact that those chapters weren’t the final ones of my story is powerful enough writing all on its own. It is enough to ask of those experiences that I am still here to remember them.

Deference epistemology asks us to be less than we are – and not even for our own benefit. As Nick Estes explains in the context of Indigenous politics: “The cunning of trauma politics is that it turns actual people and struggles, whether racial or Indigenous citizenship and belonging, into matters of injury. It defines an entire people mostly on their trauma and not by their aspirations or sheer humanity”. This performance is not for the benefit of Indigenous people, but “for white audiences or institutions of power”.

I also think about James Baldwin’s realization that the things that tormented him the most were “the very things that connected me with all the people who were alive, who had ever been alive”. That I have survived abuse of various kinds, have faced near-death from both accidental circumstance and violence (different as the particulars of these may be from those around me) is not a card to play in gamified social interaction or a weapon to wield in battles over prestige. It is not what gives me a special right to speak, to evaluate, or to decide for a group. It is a concrete, experiential manifestation of the vulnerability that connects me to most of the people on this Earth. It comes between me and other people not as a wall, but as a bridge.

#### The idea that we should only focus on the things that directly affect our lives ignores multipolar global politics, economic instability, and climate change---all necessitate a collective response which requires conceptualization beyond the individual

Nick Srnicek and Alex Williams 15. \*\*Lecturer at City University London and a PhD from the London School of Economics. \*\*Lecturer at City University London. *Inventing the Future: Postcapitalism and a World Without Work*. Verso Books. 34-40.

OVERWHELMED

Why did folk politics arise in the first place? Why is it that folk political tendencies, for all their manifest flaws, are so seductive and appealing to the movements of today? At least three answers present themselves. The first explanation is to see folk politics as a response to the problem of how to interpret and act within an ever more complex world. The second, related explanation involves situating folk politics as a reaction to the historical experiences of the communist and social democratic left. Finally, folk politics is a more immediate response to the empty spectacle of contemporary party politics.

Increasingly, multipolar global politics, economic instability, and anthropogenic climate change outpace the narratives we use to structure and make sense of our lives. Each of these is an example of what is termed a complex system, which features nonlinear dynamics, where marginally different inputs can cause dramatically divergent outputs, intricate sets of causes feedback on one another in unexpected ways, and which characteristically operates on scales of space and time that go far beyond any individual’s unaided perception.23 Globalisation, international politics, and climate change: each of these systems shapes our world, but their effects are so extensive and complicated that it is difficult to place our own experience within them. The global economy is a good example of this. In simple terms, the economy is not an object amenable to direct perception; it is distributed across time and space (you will never meet ‘the economy’ in person); it incorporates a wide array of elements, from property laws to biological needs, natural resources to technological infrastructures, market stalls and supercomputers; and it involves an enormous and intricately interacting set of feedback loops, all of which produce emergent effects that are irreducible to its individual components.24 In other words, the interaction of an economy’s parts produces effects that cannot be understood just by knowing how those parts work in isolation – it is only in grasping the relations between them that the economy can be made sense of. While we might have an idea of what an economy consists of, we will never be able to experience it directly in the same way as other phenomena. It can only be observed symptomatically through key statistical indexes (charting changes in inflation or interest rates, stock indexes, GDP, and so on), but can never be seen, heard or touched in its totality.

As a result, despite everything that has been written about capitalism, we still struggle to understand its dynamics and its mechanisms. Most importantly, we lack a ‘cognitive map’ of our socioeconomic system: a mental picture of how individual and collective human action can be situated within the unimaginable vastness of the global economy.25 Recent decades have seen an increasing complexity in the dynamics that impinge upon politics. We might consider the imminent threat of anthropogenic climate change as a new kind of problem – one that is unamenable to any simple solution and that involves such intricately woven effects that it is hard to even know where to intervene. Equally, the global economy today appears significantly more complex in terms of the mobility of capital, the intricacies of global finance and the multiplicity of actors involved. How well do our traditional political images of the world map onto these changes? For the left at least, an analysis premised on the industrial working class was a powerful way to interpret the totality of social and economic relations in the nineteenth and early twentieth centuries, thereby articulating clear strategic objectives. Yet the history of the global left over the course of the twentieth century attests to the ways in which this analysis failed to attend to both the range of possible liberating struggles (based in gender, race or sexuality) and the ability of capitalism to restructure itself – through the creation of the welfare state, or the neoliberal transformations of the global economy. Today, the old models often falter in the face of new problems; we lose the capacity to understand our position in history and in the world at large.

This separation between everyday experience and the system we live within results in increased alienation: we feel adrift in a world we do not understand. The cultural theorist Fredric Jameson notes that the proliferation of conspiracy theories is partly a response to this situation.26 Conspiracy theories act by narrowing the agency behind our world to a single figure of power (the Bilderberg Group, the Freemasons or some other convenient scapegoat). Despite the extraordinary complexity of some of these theories, they nevertheless provide a reassuringly simple answer to ‘who is behind it all’, and what our own role is in the situation. In other words, they act precisely as a (faulty) cognitive map.

Folk politics presents itself as another possible response to the problems of overwhelming complexity. If we do not understand how the world operates, the folk-political injunction is to reduce complexity down to a human scale. Indeed, folk-political writing is saturated with calls for a return to authenticity, to immediacy, to a world that is ‘transparent’, ‘human-scaled’, ‘tangible’, ‘slow’, ‘harmonious’, ‘simple’, and ‘everyday’.27 Such thinking rejects the complexity of the contemporary world, and thereby rejects the possibility of a truly postcapitalist world. It attempts to give a human face to power; whereas what is truly terrifying is the generally asubjective nature of the system. The faces are interchangeable; the power remains the same. The turn towards localism, temporary moments of resistance, and the intuitive practices of direct action all effectively attempt to condense the problems of global capitalism into concrete figures and moments.

In this process, folk politics often reduces politics to an ethical and individual struggle. There is a tendency sometimes to imagine that we simply need ‘good’ capitalists, or a ‘responsible’ capitalism. At the same time, the imperative to ‘make it local’ leads folk politics to fetishise immediate results and the concrete appearance of action. Delaying a corporate attack on the environment, for instance, is lauded as a success – even if the company simply waits out public attention before returning once again. Moreover, as Rosa Luxemburg pointed out long ago, the fetishisation of ‘immediate results’ leads to an empty pragmatism that struggles to maintain the present balance of power, rather than seeking to change structural conditions.28 Without the necessary abstraction of strategic thought, tactics are ultimately fleeting gestures. Finally, the abjuring of complexity dovetails with the neoliberal case for markets. One of the primary arguments made against planning has been that the economy is simply too complex to be guided.29 The only alternative is therefore to leave the distribution of resources to the market and reject any attempt to guide it rationally.30 Considered in all these ways, folk politics appears as an attempt to make global capitalism small enough to be thinkable – and at the same time, to articulate how to act upon this restricted image of capitalism. By contrast, the argument of this book is that folk-political tendencies are mistaken. If complexity presently outstrips humanity’s capacities to think and control, there are two options: one is to reduce complexity down to a human scale; the other is to expand humanity’s capacities. We endorse the latter position. Any postcapitalist project will necessarily require the creation of new cognitive maps, political narratives, technological interfaces, economic models, and mechanisms of collective control to be able to marshal complex phenomena for the betterment of humanity.