## 1AC

### 1AC---Inequality

#### Employers are using anticompetitive tactics against workers---destroys wages.

Eduardo Porter 3/7/22. Economics reporter for The New York Times. "Employer Practices Limit Workers’ Choices and Wages, U.S. Study Argues". No Publication. 3-7-2022. https://www.nytimes.com/2022/03/07/business/economy/treasury-competition-report.html

The recent narrative is that there is a tight labor market that gives workers leverage. But a new report from the Biden administration argues that the deck is still stacked against workers, reducing their ability to move from one employer to another and hurting their pay.

The report, released Monday by the Treasury Department, contends that employers often face little competition for their workers, allowing them to pay substantially less than they would otherwise.

“There is a recognition that the idea of a competitive labor market is a fiction,” said Ben Harris, assistant Treasury secretary in the office of economic policy, which prepared the report. “This is a sea change in economics.”

The report follows up on a promise made by President Biden last summer when he issued an executive order directing his administration to address excessive concentration in the market for work.

Drawing from recent economic research, the report concludes that lack of competition in the job market costs workers, on average, 15 to 25 percent of what they might otherwise make. And it emphasizes that the administration will deploy the tools at its disposal to restore competition in the market for work.

“This is the administration declaring where it is on the enforcement of antitrust in labor markets,” Tim Wu, a special assistant to the president for technology and competition policy on the National Economic Council, said in an interview in which he laid out the report’s findings. “It is sending a strong signal about the direction in which antitrust enforcement and policy is going.”

Across the economy, wage gains generally come about when a worker changes jobs or has a credible offer from outside that will encourage the current employer to provide an increase, argues Betsey Stevenson, a professor of economics at the University of Michigan who was on President Barack Obama’s Council of Economic Advisers.

“Companies are well aware of this,” she said in an interview, so they rally around a simple solution: “If we just stop competing, it will be better for everybody.”

The Treasury report lays out the many ways in which employers do this. There are noncompete agreements that bar workers from moving to a competitor, and nondisclosure agreements that keep them from sharing information about wages and working conditions — critical information for workers to understand their options. Some companies make no-poaching deals.

“There is a long list of insidious efforts to take power out of the hands of workers and seize it for employers’ gain,” said Seth Harris, deputy director at the National Economic Council and deputy assistant to the president for labor and the economy.

#### Increased concentration of buyer power in labor markets drives inequality---only antitrust can address supply and demand

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

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

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

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

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

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

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

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

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

#### Monopsony power depresses growth---results in underemployment and decreases labor productivity

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In the United States, and much of the Western world, economic growth has slowed, inequality has risen, and wages have stagnated. Academic research has identified several possible causes, ranging from structural shifts in the economy to public policy failure. One possible cause that has received increasing attention from economists is labor market power, the ability of employers to set wages below workers’ marginal revenue product.1 New evidence suggests that many labor markets around the country are not competitive but instead exhibit considerable market power enjoyed by employers, who use their market power to suppress wages. This phenomenon—the power of employers to suppress wages below the competitive rate—is known among economists as labor monopsony, or simply labor market power. Wage suppression enhances income inequality because it creates a wedge between the incomes of people who work in concentrated and competitive labor markets. Wage suppression also reduces the incomes of workers relative to those of people who live off capital, and the latter are almost uniformly wealthier than the former. Wage suppression also interferes with economic growth since it results in underemployment of labor and, while it may seem to raise the return on capital, actually depresses it, as capital must lie idle to take advantage of monopsony power. With wages artificially suppressed, qualified workers decline to take jobs, and workers may underinvest in skills and schooling. Many workers exit the workforce and rely on government benefits, including disability benefits that have become a hidden welfare system.2 This in turn costs the government both in lost taxes and in greater expenditures. One estimate finds that monopsony power in the U.S. economy reduces overall output and employment by 13% and labor’s share of national output by 22%.3

The claim that labor market power raises inequality and reduces growth mirrors another claim that has received attention lately—that the product market power of firms has contributed to rising inequality and faltering growth.4 A product market is a collection of products defined by frequent consumer substitution. When a small number of sellers or one seller of these products exist, we say that each seller has product market power, which enables it to charge a price higher than marginal cost, or the price that would prevail in a competitive market. When a small number of employers hire from a pool of workers of a certain skill level within the geographic area in which workers commute, the employers have labor market power.

One major source of market power in both types of markets is thus concentration, where only a few firms operate in a given market. Imagine, for example, a small town with only a few gas stations. Each gas station sets the price of gas to compete with the prices of the other gas stations. When a gas station lowers its price, it may obtain greater market share from the other gas stations—which increases profits—but it also receives less revenue per sale. If only a single gas station exists, it will maximize profits by charging a high (“monopoly”) price because the gains from buyers willing to pay the price exceed the lost revenue from buyers who stay away. If only a few gas stations exist, they might illegally enter a cartel in which they charge an above-market price and divide the profits, or they might informally coordinate, which is generally not illegal, though the social harm is the same. In contrast, if many gas stations compete, prices will be bargained down to the efficient level—the marginal cost—resulting in low prices for consumers and high aggregate output of gasoline.

Labor market concentration creates monopsony (or, if more than one employer, oligopsony, but I use these terms interchangeably) where labor market power is exercised by the buyer rather than (as in the example of gas stations) the seller. Employers are buyers of labor who operate within a labor market. A labor market is a group of jobs (e.g., computer programmers, lawyers, or unskilled workers) within a geographic area where the holders of those jobs could with relative ease switch among the jobs. The geographic area is usually defined by the commuting distance of workers. A labor market is concentrated if only one or a few employers hire from this pool of workers. For example, imagine the gas stations employ specialist maintenance workers who monitor the gas-pumping equipment. If only a few gas stations exist in that area, and no other firms (e.g., oil refineries) hire from this pool of workers, then the labor market is concentrated, and the employers have market power in the labor market. To minimize labor costs, the employers will hold wages down below what the workers would be paid in a competitive labor market—their marginal revenue product. Faced with these low wages, some people qualified to work will refuse to. But the employers gain more from wage savings than they lose in lost output because of the small workforce they employ.

Antitrust law does not distinguish monopoly and monopsony (including labor monopsony): firms that achieve monopolies or monopsonies through anticompetitive behavior violate antitrust law. But product market concentration has received a huge amount of attention by courts, researchers, and regulators, while labor market concentration has received hardly any attention at all.5 The Department of Justice (DOJ) and Federal Trade Commission’s (FTC) Horizontal Merger Guidelines, which are used to screen potential mergers for antitrust violations, provide an elaborate analytic framework for evaluating the product market effects of mergers. Yet, while the Merger Guidelines state that there is no distinction between seller and buyer power,6 they say nothing about the possible adverse labor market effects of mergers. Similarly, while there are thousands of reported cases involving allegations that firms have illegally cartelized product markets, there are few cases involving allegations of illegally cartelized labor markets.7

This historic imbalance between what I will call product market antitrust and labor market antitrust has no basis in economic theory. From an economic standpoint, the dangers to public welfare posed by product market power and labor market power are the same. As Adam Smith recognized, businesses gain in the same way by exploiting product market power and labor market power—enabling them to increase profits by raising prices (in the first case) or by lowering costs (in the second case).8 For that reason, businesses have the same incentive to obtain product market power and labor market power. Hence the need—in both cases—for an antitrust regime to prevent businesses from obtaining product and labor market power except when there are offsetting social gains.

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

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

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

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

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

#### Antitrust is key---permissive guidelines enabled the rise in monopsonies---expanding the competition standard to labor markets is key to wage equality

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

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

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

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

Explaining the Weakening of Workers’ Bargaining Power

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

Employer Concentration

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

Collusion

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

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

Contracts

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

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

Asymmetric Information

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

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

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One of the oldest theories of nationalism is that states instill the nationalist myth in their citizens to divert their attention from great economic inequality and so forestall pervasive unrest. Because the very concept of nationalism obscures the extent of inequality and is a potent tool for delegitimizing calls for redistribution, it is a perfect diversion, and states should be expected to engage in more nationalist mythmaking when inequality increases. The evidence presented by this study supports this theory: across the countries and over time, where economic inequality is greater,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.

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

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(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: S.

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.

#### Decline overcomes traditional barriers to conflict

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Economic recovery efforts since the 2008-2009 global financial crisis have mainly depended on unconventional monetary policies. As fears rise of yet another international financial crisis, there are growing concerns about the increased possibility of large-scale military conflict.

More worryingly, in the current political landscape, prolonged economic crisis, combined with rising economic inequality, chauvinistic ethno-populism as well as aggressive jingoist rhetoric, including threats, could easily spin out of control and ‘morph’ into military conflict, and worse, world war.

Crisis responses limited

The 2008-2009 global financial crisis almost ‘bankrupted’ governments and caused systemic collapse. Policymakers managed to pull the world economy from the brink, but soon switched from counter-cyclical fiscal efforts to unconventional monetary measures, primarily ‘quantitative easing’ and very low, if not negative real interest rates.

But while these monetary interventions averted realization of the worst fears at the time by turning the US economy around, they did little to address underlying economic weaknesses, largely due to the ascendance of finance in recent decades at the expense of the real economy. Since then, despite promising to do so, policymakers have not seriously pursued, let alone achieved, such needed reforms.

Instead, ostensible structural reformers have taken advantage of the crisis to pursue largely irrelevant efforts to further ‘casualize’ labour markets. This lack of structural reform has meant that the unprecedented liquidity central banks injected into economies has not been well allocated to stimulate resurgence of the real economy.

From bust to bubble

Instead, easy credit raised asset prices to levels even higher than those prevailing before 2008. US house prices are now 8% more than at the peak of the property bubble in 2006, while its price-to-earnings ratio in late 2018 was even higher than in 2008 and in 1929, when the Wall Street Crash precipitated the Great Depression.

As monetary tightening checks asset price bubbles, another economic crisis — possibly more severe than the last, as the economy has become less responsive to such blunt monetary interventions — is considered likely. A decade of such unconventional monetary policies, with very low interest rates, has greatly depleted their ability to revive the economy.

The implications beyond the economy of such developments and policy responses are already being seen. Prolonged economic distress has worsened public antipathy towards the culturally alien — not only abroad, but also within. Thus, another round of economic stress is deemed likely to foment unrest, conflict, even war as it is blamed on the foreign.

International trade shrank by two-thirds within half a decade after the US passed the Smoot-Hawley Tariff Act in 1930, at the start of the Great Depression, ostensibly to protect American workers and farmers from foreign competition!

Liberalization’s discontents

Rising economic insecurity, inequalities and deprivation are expected to strengthen ethno-populist and jingoistic nationalist sentiments, and increase social tensions and turmoil, especially among the growing precariat and others who feel vulnerable or threatened.

Thus, ethno-populist inspired chauvinistic nationalism may exacerbate tensions, leading to conflicts and tensions among countries, as in the 1930s. Opportunistic leaders have been blaming such misfortunes on outsiders and may seek to reverse policies associated with the perceived causes, such as ‘globalist’ economic liberalization.

Policies which successfully check such problems may reduce social tensions, as well as the likelihood of social turmoil and conflict, including among countries. However, these may also inadvertently exacerbate problems. The recent spread of anti-globalization sentiment appears correlated to slow, if not negative per capita income growth and increased economic inequality.

To be sure, globalization and liberalization are statistically associated with growing economic inequality and rising ethno-populism. Declining real incomes and growing economic insecurity have apparently strengthened ethno-populism and nationalistic chauvinism, threatening economic liberalization itself, both within and among countries.

Insecurity, populism, conflict

Thomas Piketty has argued that a sudden increase in income inequality is often followed by a great crisis. Although causality is difficult to prove, with wealth and income inequality now at historical highs, this should give cause for concern.

Of course, other factors also contribute to or exacerbate civil and international tensions, with some due to policies intended for other purposes. Nevertheless, even if unintended, such developments could inadvertently catalyse future crises and conflicts.

Publics often have good reason to be restless, if not angry, but the emotional appeals of ethno-populism and jingoistic nationalism are leading to chauvinistic policy measures which only make things worse.

At the international level, despite the world’s unprecedented and still growing interconnectedness, multilateralism is increasingly being eschewed as the US increasingly resorts to unilateral, sovereigntist policies without bothering to even build coalitions with its usual allies.

Avoiding Thucydides’ iceberg

Thus, protracted economic distress, economic conflicts or another financial crisis could lead to military confrontation by the protagonists, even if unintended. Less than a decade after the Great Depression started, the Second World War had begun as the Axis powers challenged the earlier entrenched colonial powers.

They patently ignored Thucydides’ warning, in chronicling the Peloponnesian wars over two millennia before, when the rise of Athens threatened the established dominance of Sparta!

Anticipating and addressing such possibilities may well serve to help avoid otherwise imminent disasters by undertaking pre-emptive collective action, as difficult as that may be.

#### Data proves the link between decline or inequality and war

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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'.

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

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

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

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

Introduction

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

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

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

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

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

The Causes of Monopsony

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

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

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

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

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

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

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

#### Antitrust key---monopsony effect is ubiquitous and statistically significant

Eric Posner 11/29/21. Kirkland & Ellis Distinguished Service Professor of Law, Arthur and Esther Kane Research Chair at the University of Chicago. "The Rise of the Labor-Antitrust Movement Competition Policy International". Competition Policy International. https://www.competitionpolicyinternational.com/the-rise-of-the-labor-antitrust-movement/

British economist Alan Manning, who wrote an influential book on labor monopsony in 2003,11 is one such exception. Manning’s insights had to await empirical validation, and the necessary data would not become available for many years. Finally, in 2017, a paper arrived that reported results of a survey of labor markets across the United States, based on a new dataset (the paper was published in 2020).12 The authors found that more than 60 percent of labor markets exceeded levels of concentration that set off alarm bells under American merger law.13 Later that year, another paper found similar numbers using a different dataset.14 The significance of these papers lay in their demonstration that concentration in labor markets was not anomalous but ubiquitous, not a theoretical curiosity but a major problem for public policy. Since then, numerous papers have confirmed that U.S. labor markets are extremely concentrated. A meta-analysis by Sokolova & Sorenson, published in 2021, identified 53 studies on monopsony of labor markets, and found a statistically significant negative correlation between concentration and wages.15

It is possible that a negative correlation between concentration and wages could arise if larger firms employ workers more productively than smaller firms do. If so, concentration would not be an antitrust problem. A number of papers have tackled this ambiguity. In a study of hospital mergers, for example, Prager & Schmitt found that when hospital mergers substantially increased labor market concentration, wage growth declined for employees whose skills were tied to the medical profession (e.g. nurses) but not for those with options to work at other kinds of employers (e.g. cafeteria workers), as one would predict.16 Because these patterns occurred after mergers concentrated health-related labor markets, they went some distance to showing that causation moves from concentration to wages. But even if productivity differences account for some of the empirical results in the studies, the issue can be directly addressed in antitrust litigation.

### 1AC---FTC Credibility

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

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

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

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

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

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

How the FTC can tackle antitrust

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

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

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

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

How Congress can tackle antitrust

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

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

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

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

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

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

Marianela Lopez-Galdos 21. Global Competition Counsel at the Computer& Communications Industry Association, previously served as Director of Competition & Regulatory Policy, and is a professor at George Washington University Competition Law Center and at the University of Melbourne Law School. “Policy Decisions of Antitrust Institutions Series: The Future of the FTC and Its Perils”. 7-28-2021. Disruptive Competition Project. https://www.project-disco.org/competition/072821-policy-decisions-of-antitrust-institutions-series-the-future-of-the-ftc-and-its-perils/

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

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

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

The FTC’s Rulemaking Authority

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

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

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

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

The Future of the FTC

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

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

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

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

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

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

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

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

IV. Conclusion

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

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

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

#### Scamming causes extinction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Unregulated emerging tech cause extinction

Anders Sandberg et al. 8. Anders Sandberg is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University. Jason G. Matheny is a PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health. Milan M. Ćirković is senior research associate at the Astronomical Observatory of Belgrade. "How can we reduce the risk of human extinction?". Bulletin of the Atomic Scientists. 9-9-2008. https://thebulletin.org/2008/09/how-can-we-reduce-the-risk-of-human-extinction/

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

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

### 1AC---Plan

#### The United States federal government should substantially increase its antitrust prohibitions on employer collusion through labor cartels.

### 1AC---Solvency

#### The plan solves.

Gregory Day 20. Assistant Professor, University of Georgia Terry College of Business, Courtesy Appointment, University of Georgia School of Law. “Anticompetitive Employment” American Business Law Journal. Volume 57, Issue 3, 487–535, Fall 2020. https://onlinelibrary.wiley.com/doi/pdf/10.1111/ablj.12166

This article uses empirical methods to argue that antitrust law must condemn labor cartels as per se illegal, given the magnitude of injuries inflicted on workers, markets, and consumers. It demonstrates that labor cartels erode the purchasing power of workers as consumers because a reduced paycheck produces the same effects as elevated prices, which is precisely what antitrust law intends to prohibit.35 Antitrust law should even ban no-poaching and no-hire agreements when formed for an ostensibly valid purpose (e.g., to protect trade secrets) because employers could have achieved the same goals using less coercive means. Noncompete agreements, at least, provide labor with a semblance of notice and bargaining power without triggering antitrust alarms.36

Supporting per se illegality, the analysis herein shows that labor cartels are more pernicious and intractable than traditional restraints of trade. While the U.S. Supreme Court has sought to limit the number of situations that warrant antitrust liability, as markets should naturally selfcorrect (e.g., liability is improper when a firm merely charges high prices because the overcharge should invite rivals to undersell the firm, correcting the market),37 this article argues that labor markets do not typically self-correct. Rarely would low salaries cause firms to enter the market for the sake of offering higher wages. Moreover, in the face of low wages, many workers would incur significant costs in switching jobs, careers, geography, or skill sets. Recognizing that workers and employers are unlikely to correct the labor market, a cartel can depress wages using less effort and market power than required in product markets.38 Because per se illegality is meant for conduct generating reliably anticompetitive results, courts must recognize the depth of harms inflicted on workers, consumers, and markets when employers collude.

An important note about why labor cartels have suddenly caught the public’s eye: employer collusion tends to harm society’s most vulnerable members. Employers and policy makers have long cited an industry’s need to protect trade secrets, innovation, and other capital-intensive pursuits to justify labor restraints. Yet recent reports suggest that labor cartels are ubiquitous among minimum wage employers, ranging from Jiffy Lube to McDonald’s.39 In fact, DOJ leadership acknowledged that it only became alarmed about labor cartels after a New York Times article exposed employer collusion in 2017.40 The article found that over 70,000 fast food restaurants have entered no-poaching agreements (more than twenty-five percent of the industry), imperiling wages.41 Given the “systemic suppression of worker power,”42 the agencies have begun to describe “America[’s] labor mobility problem”43 as a crisis.44

This article proceeds in four parts. Part I frames the labor relationship in a historical context and explains antitrust’s emergence as a prominent feature of the employment landscape. Part II analyzes the framework for workers to challenge agreements that limit their mobility, wages, and bargaining power under section 1 of the Sherman Act. This discussion explores the qualities differentiating labor markets from traditional markets in which goods and services are traded, and then analyzes how this landscape has frustrated enforcement. Finally, Part III asserts, first, that courts and enforcers should interpret antitrust law as promoting the interests of workers as akin to consumers. Second, because labor cartels inflict unreasonable costs on workers, and thus consumers, antitrust enforcement should condemn labor cartels as per se illegal. To do so, Part III reviews prior research and presents an original empirical study to illustrate the competitive harms caused by labor cartels.

#### The plan’s codification is key to certainty

Eric A. Posner 8/13/21. Kirkland & Ellis Distinguished Service Professor at University of Chicago. How Antitrust Failed Workers. Oxford University Press, 2021.

Anticompetitive behavior. Plaintiffs would be able to base their case on any of the following anticompetitive acts: mergers in highly concentrated markets; use of noncompete and related clauses; restrictions on employees’ freedom to disclose wage and benefit information; unfair labor practices under the National Labor Relations Act;38 misclassification of employees as independent contractors; no-poaching, wage-fixing, and related agreements that are also presumptively illegal under Section 1; and prohibitions on class actions. Of course, current law gives employees the theoretical right to allege these types of anticompetitive behavior, but the cases show a pattern of judicial skepticism, as noted earlier. Codification would help employees by compelling courts to take these claims seriously. Employers would be allowed to rebut a prima facie case of anticompetitive behavior by showing that the act in question would likely lead to an increase in wages.

This reform would strengthen and extend Section 2 actions against labor monopsonists by standardizing a list of anticompetitive acts. While not all of these acts are invariably anticompetitive, the employer would be able to defend itself by citing a business justification. For example, a noncompete could be justified because it protects an employer’s investment in training. If so, an employer could avoid antitrust liability by showing that its use of noncompetes benefits workers, who obtain higher wages as a result of their training.39

These reforms would strengthen Section 2 claims against labor monopsonies but would also preserve the doctrinal structure of Section 2. They would not generate significant legal uncertainty or require a revision in the way that we think about antitrust law.

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

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

Introduction

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

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

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

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

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

#### Worker welfare can easily be assessed by the courts

Eugene K. Kim 20. J.D. 2020; Yale College, B.A. 2016. “Labor’s Antitrust Problem: A Case for Worker Welfare” The Yale Law Journal. 2020. https://www.yalelawjournal.org/pdf/130.2Kim\_q1s8bt8t.pdf

Just as consumer welfare can be measured through economic factors like price, output, quality, and innovation, courts and economic experts can assess worker welfare through a set of analogous factors**:** wages and benefits, hours, working conditions,65 and training. One major tension between these two standards is that workers benefit from higher wages while consumers benefit from lower prices, but these factors capture similar characteristics of equilibria in both markets.66 Wages and hours are the labor-market analogs of price and quantity, and benefits can be considered along with wages as a type of compensation. Working conditions reflect heterogeneity within a single type of employment, just as quality reflects heterogeneity within a single type of product. And training reflects how labor markets can be dynamic, just as innovation reflects how product markets can be dynamic: that is, labor productivity can improve over time, just as firm productivity can improve over time. As in product-market analysis, courts and economic experts can assess how a contested activity (e.g., a merger) affects these factors and estimate the net effect on worker welfare**.** A worker welfare standard would be similar to a consumer welfare standard in that much of its application would fall on economic experts, whose work would be assessed and weighed by courts. Of course, some cases will be clearer and may be amenable to per se analysis, like an agreement between firms to fix wages. But, as in product markets, other cases will be subtle, and economics will have a role to play. Just as economic models are used to forecast the effects of certain market events on price and quantity, and aggregate those effects to estimate net effects on consumer welfare,67 economics will also be instrumental in forecasting the effects of market events on wages and hours, and aggregating those effects to estimate net effects on worker welfare. Antitrust analysis is highly technical in the status quo,68 and a worker welfare standard would not be any different in its reliance on economics. The main difference is that a worker welfare standard focuses attention on the interests of workers, who are often neglected despite their vulnerability to rent-extractive firm behavior, and recognizes that advancing the interests of workers may require more than advancing the interests of consumers**.**

## 2AC

### Adv---Inequality

### Adv---FTC

#### The FTC and DOJ are already focused on antitrust in labor.

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.

### T---Exemptions

#### The aff limits the firm exemption to fix wages and control labor

Sanjukta Paul 19. Assistant Professor of Law, Romano Stancroff Research Scholar. “9 - The Case for Repealing the Firm Exemption to Antitrust (A Modest Proposal; or, a Response to Professor Epstein)”. from Part II - Labor Law Is Out of Date. Published online by Cambridge University Press: 01 November 2019 <https://www-cambridge-org.proxy.library.emory.edu/core/books/cambridge-handbook-of-us-labor-law-for-the-twentyfirst-century/case-for-repealing-the-firm-exemption-to-antitrust/E8BA98C6D6606A6E6BC1073291C3F277>

Professor Epstein argues in this volume and elsewhere for repealing the already limited economic coordination rights accorded to working people. In this chapter, I respond to his argument – and by extension, to the more general skepticism toward the coordination rights of working people. I begin by first questioning a different exemption from the putatively general norm about the “dangers of collective behavior.”Footnote6 Business associations themselves enjoy an almost unlimited exemption from antitrust law, one that is now treated as axiomatic. But it wasn’t always. The “firm exemption” is not based upon the text of the statute, and it was never endorsed by the legislators who conceived and drafted the Sherman Act. Indeed, they would likely have rejected it in its present form. At the same time, the legislative record is plain that legislators favored and intended coordination rights for working people to be preserved under the statute.Footnote7 But judges rewrote the Act in light of their own vision for the allocation of coordination rights – and that vision favored business firms as the locus of economic coordination and disfavored labor organizations.Footnote8

Professor Epstein’s “welfarist” argument against the labor exemption relies upon a normative benchmark given by “the competitive order” centered by Chicago School law and economics.Footnote9 But no such benchmark can exist without a definition – necessarily supplied by law, not economics – of the entities that are to engage in that competition.Footnote10 The law defines business firms, rather than, say, cartels, as the entities that are to engage in competition, thereby exempting their internal coordination from antitrust scrutiny. The other normative benchmark upon which Professor Epstein’s argument at least indirectly relies is the notion of freedom of contract, as embodied in the pre–New Deal common law of labor relations. However, the common law’s denial of coordination rights to working people was in fact justified in hierarchical, antiliberty terms – illustrating a more basic justificatory problem with the policy decision to abridge working people’s freedom of association from a liberal perspective.

#### Counter-interp---“scope” is the range of what’s covered

Cambridge Dictionary. "scope". https://dictionary.cambridge.org/us/dictionary/english/scope

scope noun [U] (RANGE)

C1

the range of a subject covered by a book, program, discussion, class, etc.:

* I'm afraid that problem is beyond/outside the scope of my lecture.
* Oil painting does not come within the scope of a class of this kind.
* We would now like to broaden/widen the scope of the discussion and look at more general matters.

#### “Expand the scope of antitrust” includes axing consumer welfare.

Diana L. Moss 17. "Antitrust and Inequality: What Antitrust Can and Should Do to Protect Workers". American Antitrust Institute. 4-25-2017. https://www.antitrustinstitute.org/work-product/antitrust-and-inequality-what-antitrust-can-and-should-do-to-protect-workers/

How much of the burden for solving the labor and inequality problem should antitrust shoulder? Some propose wholesale changes to the standard underlying the laws in order to make antitrust go further and faster. They would swap out the existing “consumer welfare” standard for a new “public interest” one. A public interest standard would expand the scope of antitrust to directly consider the effects of anticompetitive activities on employment. Scrapping the existing standard in the name of combatting inequality would be shortsighted, for a couple of reasons.

### K---Capitalism

#### Regulated capitalism solves war, environment, and quality of life---alternatives increase degradation and poverty. Prefer empirical and measurable indicators.

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

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

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

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

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

Arguments for and against Forms of Capitalism

The Argument against Capitalism

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

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

The Argument for Well-Regulated Capitalism

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANNIE GALVIN: Right. [LAUGHS]

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

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

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

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

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

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

#### Markets solve their impact and the alt fails.

Noah Smith 9/6/21. Assistant Professor of finance @ SUNY Stony Brook, an economics PhD student at the University of Michigan, an academic editor in Japan, and a physics major at Stanford. “People are realizing that degrowth is bad.” https://noahpinion.substack.com/p/people-are-realizing-that-degrowth

I was going to write a lengthy post explaining why “degrowth” — the idea that we need to halt economic growth in order to save the planet — is a very bad idea. But in the meantime, other people have written that post, or recorded that podcast, and done it well. These include Branko Milanovic, Kelsey Piper, and Ezra Klein. So instead I’ll write a shorter post trying to catalog and boil down the arguments against degrowth.

But first, let’s go over the standard argument, so we can see why these new arguments are necessary.

The standard argument against degrowth

First, note that the typical argument against degrowth, which I laid out in a Bloomberg post a while back, is that we don’t need it; we can raise human living standards without exhausting the planet. This argument was capably put forward by Andy McAfee, in his excellent book More From Less, which you should buy and read. Essentially, the idea that economic growth requires growth in resource use is false; rich countries have started to grow while using less and less of the planet’s most important resources. For example, here is U.S. use of fresh water and various metals, as well as trade-adjusted carbon emissions:

[Chart, bar chart

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So the idea here is that we don’t need degrowth; instead, we can keep raising everyone’s standard of living without exhausting the planet’s resources. Because growth doesn’t just mean using more and more stuff; instead, it can mean finding more efficient ways to use the stuff we have.

Degrowthers have two counters to this. Their first counter, typically, is to show a graph of resource use for the entire world, and show that it’s correlated with global growth. This is a weak response, for two reasons:

1. Degrowthers have no idea how to combine various resources into an overall measure of resource use, so they typically go with gross weight. This is absurd, since some materials are recyclable and others are not — if you “use” a ton of copper you still have the copper, whereas if you “use” a ton of oil, your oil is gone. It’s also absurd because it doesn’t take into account the relative abundance of resources — if you figure out how to substitute 2 tons of sand for 1 ton of oil, you’re getting more efficient, since sand is much more plentiful than oil (and doesn’t pollute as much when you use it). A lot of growth is figuring out how to substitute plentiful resources for rare ones, and simply adding up gross tonnage ignores this.
2. Past trends are no guarantee of future trends. Until the 70s, for instance, U.S. economic growth was closely correlated with both energy use and carbon emissions; after the 70s, this correlation broke down completely and the lines started moving in opposite directions. Degrowthers present historical curves as if these are laws of nature, but we know that they are not. The trend is your friend only til the bend at the end. And the fact that rich countries have hit an inflection point where economic growth no longer depends on growing resource use is a strong indicator that industrializing countries like China will also hit this point as well. (And no, falling use in rich countries is mostly not due to outsourcing, as the emissions graph above illustrates.)

So this degrowther argument is just wrong. But degrowthers have a second, far better counter to McAfee’s notion that we can have our cake and eat it too: Decoupling isn’t happening fast enough. If we wait for China and India and all the countries of Africa to industrialize in a resource-intensive way like today’s developed countries did, and then to dematerialize their growth like today’s developed countries are doing now, it will be far too late and the planet will suffer ecological catastrophe.

This argument isn’t as strong as it sounds — China and India and the rest will be able to take advantage of the efficiency-inducing technologies created by the developed countries, like solar power (indeed, they are already doing so). And they will be able to embrace “dematerialized” goods and services like social networks and video games (sorry, Xi Jinping) very early in their growth path. So these countries’ resource use trajectories won’t look quite like the U.S.’ or Europe’s.

But this degrowther argument does contain a nugget of truth: Global resource use is currently on an unsustainable trajectory. Here, via Zeke Hausfather, are the current projections for global warming by century’s end, even with the advances in techologies like solar:

[CHART OMITTED]

Any one of these scenarios represents utter global catastrophe.

So even if there is a sustainable growth path, we are not currently on it. About this, degrowthers are right; a gentle, natural transition to green growth is possible, but is an unaffordable luxury. But degrowthers’ prescription is the wrong one.

The reason, in a word, is politics. The kind of massive intention reordering of global production and consumption that degrowthers fantasize about is not just pragmatically impossible to implement, it’s the kind of thing that essentially everyone in the world except for a few very shouty people in Northern Europe and the occasional Twitter activist is going to reject. To see why, let us turn to the excellent articles/podcasts by Milanovic, Piper, and Klein.

The political argument against degrowth

Milanovic actually has two excellent posts on the topic of degrowth. In the first one, he lays out why forcing developing countries to stay in poverty would be bad:

Let us suppose, for the sake of the argument, that we interpret “degrowth” as the decision to fix global GDP at its current level…Then, unless we change the distribution of income, we are condemning to permanent abject poverty some 15 percent of world population that currently earn less than $1.90 per day and some quarter of humankind who earn less than $2.50 per day…Keeping so many people in abject poverty so that the rich can continue to enjoy their current standard of living is obviously something that the proponents of degrowth would not condone.

Enforcing global degrowth would require freezing world income at about $17,000/year. That means that most people in the world would never even come close to current rich-world living standards — instead, they would at best only be able to reach the level currently enjoyed in China or Botswana. Perhaps that’s not such a horrible fate, but as Milanovic notes, this would require impoverishing most of the population of developed countries. He elaborates on this point in his new post, pulling no punches:

[In order to avoid keeping most of the world in poverty, degrowthers must] introduce a different [income] distribution (B) where everybody who is above the current mean world income ($PPP 16 per day) is driven down to this mean, and the poor countries and people are, at least for a while, allowed to continue growing until they too achieve the level of $PPP 16 per day. But the problem with that approach is that one would have to engage in a massive reduction of incomes for…practically all of the Western population. Only 14% of the population in Western countries live at the level of income less than the global mean…Degrowers thus need to convince 86% of the population living in rich countries that their incomes are too high and need to be reduced….It is quite obvious that such a proposition is a political suicide.

Milanovic quite rightly waves away degrowthers’ protestations that GDP is not a good measure of human welfare. GDP isn’t perfect, he notes, but it’s close enough where the basic point stands.

Demanding that people in rich countries accept absolutely catastrophic declines in their living standards is a political non-starter. Klein, on his podcast, tries to point this out as gently as possible:

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

I just don’t see the argument for degrowth as being anything but an extraordinarily slower way of approaching the politics, probably counterproductive compared to what we’re doing, which is I think you can make tremendous strides on climate change by deploying renewable energy technologies and giving people the opportunity to have a more materially fulfilling life atop those technologies.

Milanovic is less gentle, calling this “outright magical thinking”. He is correct. When you look at how much people in America are willing to sacrifice in terms of their material well-being in order to fight climate change, it’s far less than what Klein is talking about. And Klein is really softballing it here — it’s not just giving up beef and SUVs, it’s a dramatic reduction in the size of housing and the amount of food and the ease of transportation and the quality of medical care that people in rich countries enjoy. It is, frankly, not happening.

But even this vastly understates the political and practical difficulties of degrowth. Piper adds several key points. First of all, she notes, because developed countries have been decoupling resource use and growth for a while now, curbing resource use will actually cause a lot more restrictions on developing countries than Milanovic’s simple calculations would suggest:

From a climate change perspective, though, there’s a problem [with simply reducing rich-world living standards]. First, it means that degrowth would do nothing about the bulk of emissions, which are occurring in developing countries.

This is an incredibly important point. For example, China now produces more CO2 emissions than the U.S., the EU, and Japan combined:

[Chart, line chart

Description automatically generated](https://cdn.substack.com/image/fetch/f_auto,q_auto:good,fl_progressive:steep/https%3A%2F%2Fbucketeer-e05bbc84-baa3-437e-9518-adb32be77984.s3.amazonaws.com%2Fpublic%2Fimages%2Fe734c720-51e9-4c6d-a92f-827a27921382_3400x2400.png)

(And no, this is not because of outsourcing, as you can see by looking at the trade-adjusted emissions numbers.)

Another way of looking at this is that China’s CO2 emissions per dollar of GDP are more than twice America’s, and about five times that of the EU. Any global degrowth plan that actually reduces resource use is going to entail more pain for China than its GDP numbers would suggest, simply because China is at a more resource-intensive stage of growth.

Do you think China will accept a substantial diminution of its living standards, in order to satisfy the environmental-economic diktats of activists in Northern Europe? If so, you need to rethink a great many things.

Anyway, Piper makes a second crucially important point. So far we’ve been waving our hands and talking about lowering rich-world GDP while raising GDP for poor countries. In fact, economies don’t work like that:

Second, the global economy is more interconnected than Hickel implies. When Covid-19 hit, poor countries were devastated not just by the virus but by the aftershocks of virus-induced slowdowns in consumption in rich countries.

There’s some genuine appeal to the idea of an end to “consumerism,” but the pandemic offered a taste of how a sudden drop in rich-world consumption would actually affect the developing world. Covid-19 dramatically curtailed Western imports and tourism for a time. The consequences in poor countries were devastating. Hunger rose, and child mortality followed.

Degrowth would thus require deep changes in the entire way that the global economy works. Change happens, but not like that; implementing the kind of reallocation schemes that degrowthers throw around with abandon would require global economic planning that would put Gosplan to shame. Klein points this out, again rather gently:

Degrowth is, as its advocates understand it, a act of global economic planning really without equal anywhere in human history. It is an act of extraordinary central planning.

In other words, it is abject fantasy.

Taken together, these criticisms are utterly devastating to the entire degrowth project. In its current form, it will not advance beyond a media fad. No matter how shrilly degrowthers quote apocalyptic projections, the things they call for simply will not happen.

#### Socialism fails---centralization causes authoritarians who need growth for legitimacy.

Shi-Ling Hsu 21. D'Alemberte Professor of Law and Associate Dean for Environmental Programs at the Florida State University College of Law. Capitalism and the Environment: A Proposal to Save the Planet. “1 Introduction”

1.7 socialism is not the answer

Could a socialist state lead the way in repairing humankind’s fractured relationship with the environment? As one should suspect, “socialism” has taken on a wide variety of meanings in a variety of contexts over the centuries. For purposes of comparison, what I mean by “socialism” has a core policy implication: a decisive movement away from private property ownership of capital assets, governing an entire country. Smaller forms of socialism, such as for individual business enterprises, may be feasible, even in a capitalist economy. But that kind of “small socialism” would be incapable of the kind of transformation required to pull humankind back from the precipice. Reorienting an economy away from unnecessarily polluting industries is complicated; prices are necessary to move factors of production to different industries. Socialism governed by central planning, lacking prices, cannot do that.

Not all critics of modern capitalism would turn to socialism. While Schumpeter believed capitalism to be unsustainable in the long run, he was at least as critical of socialism. James Gustave “Gus” Speth, a longtime prominent environmental advocate and the author of a trilogy of books on environmentalism, was dismissive, citing examples of environmental catastrophe under socialist regimes. Bruce Scott laments the power that capitalist entities have seized, but advocates for better rules to constrain capitalist excess. Thomas Piketty would impose a wealth tax to alleviate inequality.

For others, however, the story is attractively simple: there is a flawed system (capitalism), identifiable villains (capitalists), and a solution (something like socialism, though they are often fuzzy on the details). Their answer is to blow up capitalism to save the environment. But the evidence tying capitalism to environmental destruction is too thin, the counterexamples too vexing, and the changeover plan too vague. Naomi Klein, in her book This Changes Everything: Capitalism vs. The Climate, proposes to abolish capitalism, but in favor of what? Magdoff and Foster, in their book What Every Environmentalist Needs to Know About Capitalism, write that “[i]t is precisely because ecological destruction is built into the inner nature and logic of our present system of production and distribution that it is so difficult to end.”

The “abolish capitalism” critics make two major mistakes: (1) that environmental destruction has occurred in capitalist systems means that it must be caused by capitalism; and (2) countries with socialist economies are somehow different from capitalist ones, in that there is no growth imperative for them.

With respect to the first mistake, there simply has not been very much socialism in history for it to have caused as much trouble as capitalist countries. Just about all of the economic growth occurring in the history of humankind has occurred under capitalist systems, so of course those have caused most of the environmental destruction. The little bit of socialism that human history has seen thus far has plenty to answer for in terms of environmental destruction. The former Soviet Union is a fertile source of shame. The Chernobyl nuclear power plant was a poor investment, badly carried out, with a predictably catastrophic environmental outcome. The Soviet Union also heavily polluted the largest and deepest freshwater lake in the world, Lake Baikal, by erecting pulp and paper mills on its shores, and inefficient ones at that. It also caused the dramatic shrinking of the Aral Sea, to about one-fifth its original size, into a patchwork of smaller lakes and deserts, by diverting the rivers feeding the Aral Sea, in the name of self-sufficiency in cotton production. Sure enough, the wasting of the Aral Sea and cotton production has outlasted glasnost.

Soviet-era Poland is one of the few Eastern bloc countries to have made significant attempts to legislate environmental protection, and even tolerated a fair amount of environmental protest and dissent within its authoritarian regime.49 But by the time that the Solidarity government took over in 1989, sweeping away Soviet-era socialism, Poland had become one of the most polluted countries in the world. Soil tests in Poland’s industrial region near Krakow showed levels of lead and cadmium that were higher than that ever recorded, anywhere, 200 times that considered safe by the Polish government. Sixty percent of the vegetables grown in the region were rendered unfit for human consumption. Katowice, a city forty miles west of Krakow, managed to belch out five times the amount of sulfur dioxide pollution than West Germany’s Ruhr Valley, while producing far less. The result? A shocking two-thirds of all ten-year-old children suffered from a mental or physical disability caused by that pollution. Half of all river water in the entire country was unfit for industrial use, let alone human consumption.50

How and why? It turns out, even in a socialist country that placed at least some formal emphasis on environmental protection, party politics, and a bureaucratic hierarchy that placed a higher emphasis on industrial production led to nonenforcement of well-intentioned environmental laws.51 The problem with socialist economies is that they must necessarily be governed by authoritarian regimes. How else is “central” planning to be carried out, except by a central government? Under authoritarianism, government is both the environmental regulator and the regulated party, so it is difficult for government to separate its regulatory functions from its ownership interests. Capital abolitionists misunderstand: removing a capitalist profit motive does not transform production entities into socially enlightened firms. The production of goods in socialist regimes are subjected to other pressures that also ignore or discount environmental harms. Nobody was particularly surprised in 2013 when 6,000 dead pigs were pulled out of the Huangpu River just upriver from Shanghai, the most populous city in the world.52

With respect to the second mistake, it has been commonly observed that the current capitalist impulse to boost GDP by any means necessary is a tragically errant edict. That lament is not limited to the capital abolitionists. But the impulse to grow is not unique to countries with capitalist systems. Chinese communist leader Mao Tse-Tung was obsessed with growth, declaring once that industrialization could be made to occur in every backyard with homemade steel furnaces. It was Mao who put in motion a plan to dam the Three Gorges, which displaced nearly two million people in 1,500 cities and villages, and flooded rivers as much as 375 miles upstream.53 Mao’s vision of economic growth has been realized to a great extent: the People’s Republic of China now has the second-largest economy in the world. It is an authoritarian state, albeit with enough tolerance for capitalism to have produced, in 2019, 324 billionaires, second-most in the world to the United States.54 It is also the world’s largest greenhouse gas emitter, emitting more CO2 in 2017 than nine countries combined: the United States, Japan, Germany, the United Kingdom, France, Italy, Canada, South Korea, and Australia.55 At the time that this book was being written, China was embarking upon the construction of more new coalfired power plants than the entire existing fleet of American coal-fired plants. 56

The impulse to grow is what caused the former Soviet Union and Soviet-era Eastern bloc countries to make their tragicomic mistakes. Growth for growth’s sake is, in socialist and capitalist societies alike, a political goal. It is naı̈ve to think that socialism does away with the political imperative for “growth.” The failure of socialist systems to grow to the satisfaction of political leaders and their polity is why, for example, East Germany placed armed guards on the top of the Berlin Wall, why defection is such a sensitive topic for North Korea, and why escaping the former Soviet Union was a life-or-death proposition. Growth in socialist economies run by authoritarian regimes is a matter of political survival. The most egregious environmental insults emerging from China – greenhouse gas emissions and its historical intransigence to international cooperation, its three gigantic state-owned oil companies, and the Three Gorges Dam – are all clearly political organizations. It is the politics of growth in socialist regimes that have invariably emphasized production over environmental protection, as production has been the only metric by which socialist governments have tried to legitimate themselves.

Capitalism does not require environmental destruction, and does not even require “growth,” except insofar as it strives for an efficient allocation of resources. Formally, neither does socialism. But the problem with socialism is that it tends to create institutional incentives to prioritize industrial productivity over environmental protection. The problem with capitalism has been that efficiency has not been widely defined to include the importance of the global environment. That is solvable. Once it is, then capitalism will reorder resources much more quickly than a socialist system would. Countries with capitalist economies have done a rotten job of controlling environmental harm, but it is implausible that countries with socialist economies have done or would do better.

It is difficult to prove a negative, and this book does not claim to do so, especially with the paucity of socialist experience. But it seems that capital abolitionists should explain some of these socialist tragicomedies before suggesting that it replace capitalism.

### CP---Multilat

#### say no---won’t take sovereignty losses.

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

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

---FOOTNOTE 42 STARTS, MIDPARAGRAPH---

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

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

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

#### AND concession aversion, framing effect, and ambiguity aversion.

NOTE---BE = Behavior Economics.

Armin Steinbach 16. Senior Research Fellow, Max Planck Institute for Research on Collective Goods in Bonn (Germany); Associate Member, Nuffield College, Oxford University. “The Trend towards NonConsensualism in Public International Law: A (Behavioural) Law and Economics Perspective.” The European Journal of International Law Vol. 27 no. 3

Antitrust governance remained decentralized, largely due to national approaches towards antitrust enforcement. How can the persistent dominance of unilateral antitrust rules be explained? The extraterritorial actions of the economic powers have been interpreted as the hegemonic mode of economic governance in line with hegemonic stability theory.45 Other approaches refer to antitrust matters as public goods production, according to which market regulation and enforcement are common goods in a globalized economy where some countries can free-ride.46 Several issues related to jurisdictional and sovereignty claims may comprise a fundamental reason not to surrender national competences. Moreover, the uncertainty surrounding the design of a universal standard of antitrust governance and the scope of discretionary practice of national authorities form another barrier. All of these factors translate into significant sovereignty and monitoring costs, thus rendering consensualism (via cooperation) an unattractive option.47

However, no one can clearly predict whether cooperation on antitrust matters would fail. From a welfare perspective, a uniform standard of antitrust governance that ensures a worldwide level playing field is generally perceived to be desirable since monopoly rents and competitive biases are to be avoided. Without transnational regimes, information costs are incurred because fact-finding processes abroad are more difficult to achieve without the formal involvement of respective countries. Costs may also be incurred because of the insufficiency of a holistic approach. By contrast, common and uniform regimes and standards reduce costs, essentially avoiding a ‘rag rug’ of different national rules and transaction costs from gaps or overlaps of a wide range of policies and jurisdictions. A scope for clashes of national policies evidently exists (for example, competition policies with industrial policies abroad).48 Accordingly, realizing Kaldor–Hicks improvements is deemed possible through a negotiation solution.

Why then has cooperation on common standards of prosecution, investigation and conditions of anti-competitive conduct failed and been limited to comity in enforcement and exchange of information? A RC answer would be that cooperation gains, at least for some parties, would not be sufficiently high. This may be the case because benefits from a level playing field through uniform rules do not exceed the potential disadvantages (for example, legal uncertainty, less domestic policy discretion). However, even if RC analysis would generally suggest that cooperation gains exist for all countries, failure of cooperation may be explained using the BE perspective and the concept of loss aversion mentioned above. The actors involved in bargaining situations perceive their own concessions as losses, and those they receive from others as gains, thus leading to ‘concession aversion’.49

Overestimating the values of the concessions of these actors and undervaluing those of their adversaries may form an impasse in negotiations, thereby frustrating compensation solutions in line with Kaldor–Hicks. In such cases, parties accept the adverse effects of possible termination to minimize their respective concessions. Furthermore, bargaining over the allocation of losses is less likely to lead to an agreement than bargaining over gains, which suggests that much depends on the framing of the situation. Accordingly, a gain or loss relies on the so-called ‘framing effect’, such that decisions made can actually vary based on how circumstances are presented (that is, as either positive or negative).50 Concession aversion may be particularly applicable where countries, as in antitrust matters, would ‘lose’ their well-established legal regime or practice. In these settings, the present rules and practice governing anti-competitive conduct and enforcement are perceived as being costly achievements, a loss of which would be very painful in the return of a new legal regime.

While sovereignty issues are at stake in other areas as well (for example, in financial law), the particular sensitivity may be rooted in the imminent economic impact of antitrust measures on business. This may explain why only procedural and informal modes of cooperation have been agreed upon in antitrust matters offering several procedural advantages: the enhanced flow of information, the provision of technical assistance and the establishment of the obligations of positive comity. To this end, the Organisation for Economic Co-operation and Development and the International Competition Network have developed the best practices and platforms upon which member countries can exchange knowledge.51 These ‘procedural mitigations’ fit in the rational choice framework because they are ‘low-hanging fruits’ intended to facilitate the conduct of antitrust proceedings without giving up sovereignty.

In this vein, the USA has rejected deeper multilateral antitrust cooperation based on the fear that a multilateral agreement would entail compromise on the potential encroachment on sovereignty. In turn, developing countries have discarded the initiative so that the more dominant foreign companies could gain access to their markets.52 In this case, sovereignty losses have been the overarching threat associated with a uniform competition law regime. The fact that the USA and the European Union (EU) have relied on the well-established jurisprudence on the extraterritorial stretch of their jurisdictions has significantly reduced the incentives and prospective benefits of a change towards multilateral governance.53 Again, this may be explained by the concept of loss aversion. Sunk costs – those that are not recoverable and should have no bearing on the decision-making process – are considered losses that may prolong the implementation of current policies despite the existence of better alternatives. This is exemplified by how wars are carried out despite the uncertainties of their outcomes. Sunk costs may also be associated with any policy that has been pursued in the past, the establishment of which has required resources and practice. Even though a reformed regime (in antitrust, a more harmonized global system) is more likely to be beneficial than past practice, the sunk cost bias suggests that countries will stick to their well-established regimes.54 This may even be in light of the expanding practice of effect-based approaches to national antitrust laws. Since national practice has been established through a ‘costly’ jurisprudence and antitrust enforcement practice in the past, these sunk costs create barriers to replace this practice by new international standards.

From a BE perspective, we can say further that ‘ambiguity aversion’ can be used to explain why multilateralism fails, especially where a RC analysis would suggest that an equilibrium in multilateral cooperation should be reached due to cooperation gains. This is because actors are ambiguity averse when probabilities cannot be easily predicted – hence, actors prefer known outcomes over unknown ones. As mentioned, the degree of uncertainty in antitrust coordination is high, and the foreseeability on the harmonized regime seems limited – over decades, states have established national antitrust rules. While heterogeneity across legal orders persists, any substantial change (going beyond comity practice) would create uncertainty about the applicable legal standard that could potentially lead to legal uncertainty affecting the entire business sector. Hence, the effect of loss aversion would be exacerbated. In sum, the use of BE perspective in studying antitrust matters involves three insights: concession aversion, framing effect and ambiguity aversion. These insights collectively prevent states from neutrally perceiving and assessing the benefits of the international level playing field by following the same set of rules.

#### Permutation do the plan and [CP’s mechanism] over enforcement

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

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

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

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

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

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

#### Harmonizing competition policy fails – but the trade DA links to the CP

Cenuk Sayekti, 20. Lecturer in law at Universitas Lancang Kuning, Riau. Her bachelor's and master's degrees are in law from the Universitas Islam Indonesia. "COMPETITION LAW HARMONIZATION: WHAT ASEAN CAN LEARN FROM OTHERS?" Refleksi Hukum: Jurnal Ilmu Hukum 4, no. 2 (2020): 195-216.

CONCLUSION

There is a reason why some regional economic communities delay or avoid the process of harmonization stem from the perception of different treatment to market behavior. Another obstacle is the problem of legal culture and the effect of the history of a nation on its competition policy and law. The central point regarding this obstacle is that ASEAN member states legal differences often stem from different cultures and social preferences. Specific rules are often suited to local traditions and customs, and even if harmonization enhances foreign trade opportunities among the member states, it may impose quite substantial short-run adaptation costs. Accordingly, the chance to harmonize different competition policies and laws in the ASEAN member states cannot be ultimately seen as an uncontroversial positive effort or one that is free of conflict. The increased integration of trade and national laws also creates fault-lines of cultural dissonance.

#### links to the net benefit---we’d still impose it extraterritorially on other countries---they’d backlash because we don’t implement

#### [ politics ]

Benji Jones 21. An environmental reporter at Vox.com, where he writes about the science and politics of the biodiversity crisis. “Why the US won’t join the single most important treaty to protect nature” Vox. 05-20-21. https://www.vox.com/22434172/us-cbd-treaty-biological-diversity-nature-conservation

**GOP lawmakers still resist treaties — any treaties** Two and a half decades later, concerns related to American sovereignty persist, especially within the Republican Party, and keep the US out of treaties. Conservative lawmakers stand **in the way** of not only CBD but also several other **treaties awaiting ratification** by the Senate, including the UN Convention on the Rights of Persons With Disabilities. “Conservative nationalists in the United States (including the Senate) have long **mistrusted international agreements**,” Stewart Patrick, director of International Institutions and Global Governance at the Council on Foreign Relations, said in an email to Vox. They view them, he added, “as efforts by the United Nations and foreign governments to **impose constraints on US constitutional independence**, interfere with US private sector activity, as well as create redistributionist schemes.” In other words, not a whole lot has changed. A week after Biden was sworn into office, the Heritage Foundation, an influential right-wing think tank, published a report **calling on the Senate to oppose a handful of treaties** while he’s in office, “on the grounds that they threaten the sovereignty of the United States.” They include CBD, the Arms Trade Treaty, and the Convention on the Elimination of All Forms of Discrimination Against Women, among others. (Environmental treaties like CBD tend to draw a stronger opposition from conservative lawmakers, who often fear environmental regulations, relative to other agreements, Snape said.)

#### Extraterritorialism prevents a race to the bottom.

Brendan Sweeney 07. BCom, LLB (Melbourne); PhD (Monash); Barrister and Solicitor of the Supreme Court of Victoria; Senior Lecturer, Department of Business Law and Taxation, Faculty of Business and Economics, Monash University. "Combating Foreign Anti-Competitive Conduct: What Role for Extraterritorialism?" [2007] MelbJlIntLaw 2; (2007) 8(1) Melbourne Journal of International Law 35. http://www.austlii.edu.au/au/journals/MelbJIL/2007/2.html#fn1

C **Extraterritorialism Helps to Prevent a ‘Race to the Bottom’** If there is a strong connection between the shape of a country’s competition law and its attraction as a destination for foreign investment, business or trade, a country may be persuaded to shape its competition law to maximise that attractiveness. If investors and others are attracted to strong competition laws, the result could be a race between countries to **have the strongest competition regime**. This might be called ‘**a race to the top**’.[52] In this instance the ‘top’ is not necessarily a beneficial outcome in welfare terms. In fact, it implies over-regulation. If, as is intuitively more likely, investors and others are attracted to **weak competition laws**, the result could be a race between countries to have the weakest competition regime, that is, ‘**a race to the bottom’**. Under economic models of regulatory competition, firms will seek laws that maximise benefits to the firms’ shareholders or decision-makers. Therefore, the models suggest that firms will prefer competition laws that maximise producer profits (pro-monopoly laws) over competition laws that **maximise consumer welfare** (pro-competitive laws).[53] In welfare terms, a system that allows firms to choose the competition laws that apply to them is therefore bound to be sub-optimal.[54] Extraterritorialism can do little about preventing a race to the top, but it will affect the **viability of a race to the bottom**. Extraterritoriality means that a **firm cannot necessarily protect itself from effective competition law** simply by moving its anti-competitive activities to a country with weak competition law. Although extraterritoriality often proves to be ineffective, its presence means that firms cannot be sure that they are safe behind foreign borders.[55] Consequently, extraterritoriality **reduces incentives for states to engage in a regulatory race to the bottom.** In other words, extraterritoriality limits the opportunities for states to engage in a race to produce a sub-optimal competition standard for the purpose of attracting foreign investment, business or trade.

### CP---NGA

#### Gets preempted.

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

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

#### The counterplan collapses the rule of law.

Aziz Huq & Tom Ginsburg 18. \*\*Law professor at the University of Chicago Law School. \*\*Law professor at the University of Chicago Law School. “

How to Lose a Constitutional Democracy.” 2018. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=13666&context=journal\_articles

The United States has one institutional characteristic that is sometimes thought to be a distinctive safeguard against centralizing tyranny: the constitutional diffusion of governmental authority between the national government and the several states, or federalism.368 Federalism is both anointed as democracy’s savior,369 and also condemned as a handmaiden of local tyrannies.370 The North Carolina election law, for example, provides some cause for the latter concern.37

The existence of subnational entities wielding substantial regulatory authority and possessing considerable regulatory capacity means that states and certain localities will almost certainly play a necessary role in any process of constitutional retrogression—or in the narrative of a failed attempt at such backsliding—at least in terms of the negotiations they force from the federal government.372 But we think it is uncertain ex ante how federalism (or localism) will influence the trajectory of retrogression. It is possible that states will serve as salutary platforms for alternative, antiauthoritarian politicians and coalitions in the manner that Heather Gerken has suggested.373 For many policy areas, states and cities have the power to slow implementation and even nullify federal law.374

Alternatively, it is also possible that a concatenation of state electoral results and policy actions in the voting rights domain in particular will entrench an antidemocratic coalition, and render it nationally unassailable. Patterns of diffusion, whereby policies and institutions adopted in one state can spread to others, need not differentiate between pro and antidemocratic content. One can imagine institutional innovations such as those adopted in North Carolina spreading around the country, creating a series of one-party states. If a sufficient number of states fall into that category, national electoral competition would be severely limited.

It is not, in short, that federalism is irrelevant. Far from it. It is rather that before the fact it is very hard to know whether devolution will accelerate or retard the advent of an authoritarian or quasi-authoritarian regime at the national level. As in so many other areas, the Constitution provides less certain protection than one might have expected.

#### perm do both--- inclusion of threatening solves the internal net benefit, even if the plan happens immediately.

Albert Lin 20. Professor of Law at University of California, Davis, School of Law. “Uncooperative Environmental Federalism: State Suits Against the Federal Government in an Age of Political Polarization.” 7/1/20. <https://escholarship.org/content/qt64j5g27g/qt64j5g27g.pdf>

Successful state lawsuits can check abuses of power by the federal government and serve as deliberately chosen mechanisms for making policy.328 Even if state challenges to federal policy ultimately fail, the litigation process itself can still promote deliberation and democratic values. State public-law litigation can provide a forum for direct public opposition between states and the federal government, offer a channel for states to express independent views, and force states and the federal government to provide a public accounting of their policies and underlying policy justifications.329 Consistent with dynamic federalism’s appreciation of the virtues of interactive state and federal involvement, state lawsuits against the federal government can enrich the dialogue on national policy.

#### Uncooperative federalism’s fails---partisanship means judicial battles won’t last.

Anthony Johnstone 20. Professor of Law, University of Montana Blewett School of Law. “A State Is a “They,” Not an “It”: Intrastate Conflicts in Multistate Challenges to the Affordable Care Act” *BYU Law Review*, Vol 2019, Issue 6, Article 7. https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=3249&context=lawreview

In both of these cases, however, the state officials are taken as a unified whole in their consent to the exercise of federal power, whether it is commandeering in New York or the necessary and proper extension of commerce power in Comstock. But as the attorney general’s presence in New York demonstrated, different state officials have different roles and a “state’s” authority to accept or reject federal law is structured by state law. The justices’ analyses would have benefitted from an acknowledgement that it was not simply “state officials” who consented due to their policy preferences, but a set of separately elected executive and legislative officials whose views of “the States’ policy preferences” might work at cross-purposes.45 Instead of acting inconsistently or strategically, the state officials may be playing out the same checks and balances the Court celebrates and reinforces at the federal level. The Court disrespects dual sovereignty when it neglects how States structure their governments and does not hear the voices of the State that its own citizens choose to speak through on particular issues.

### DA---Drug prices

#### Congress has proposed the plan---there’s support.

Tirza J Angerhofer and Roger D Blair 21. Tirza J Angerhofer, Doctoral Fellow, Department of Economics. \*\*Roger D Blair, Professor, Department of Economics and Affiliate Faculty of Law, University of Florida. “Considerations of Buyer Power in Merger Review” Journal of Antitrust Enforcement. 10-18-21. <https://academic.oup.com/antitrust/advance-article/doi/10.1093/jaenfo/jnab015/6400043?searchresult=1>

Recently, there has been **increasing recognition** of the adverse welfare effects of buyer power in various jurisdictions around the world.2 First, a firm that has monopsony power can reduce the quantity that it buys in order to depress the price that it pays for inputs which leads to a social welfare loss. Secondly, a firm with bargaining power can use the threat of walking away from the negotiations to extract surplus from suppliers. Mergers have the potential to increase buyer power and thereby cause substantial . anticompetitive harm. But this harm has traditionally been ignored in merger review. Our improved understanding of the relationship between mergers and buying power has led to **requests by Congress and policymakers** that the US Department of Justice (DOJ) and the Federal Trade Commission (FTC) **pay closer attention to threats of monopsony when conducting their merger reviews.** In the USA, at least, policymakers have focused their efforts on monopsony power due to its clear social welfare impact and its relevance to labour markets. Congress and policymakers have **proposed bills** that would encourage the Agencies to **consider monopsony in merger review** and would help them to do this by increasing their budget.3 In both the House and Senate, a **proposed bill would amend section 7 of the Clayton Act** by explicitly including monopsony in the statutory language in order to strengthen the emphasis on monopsony in merger review.4 As we will show in this Article, both the economic theory and the empirical evidence provide support for considering the potential effects of monopsony in merger review. This evidence is particularly clear in labour markets but is also relevant to other input markets.

#### Tons of antitrust now.

Ben Lovejoy 03-29. British technology writer. “US antitrust bill targeting Apple and others gets endorsement from Department of Justice” 9to5 Mac.03-29-22. https://9to5mac.com/2022/03/29/us-antitrust-bill-endorsed-by-doj/

The US **antitrust bill**, the American Innovation and Choice Online Act, has been **endorsed by the Department of Justice.**

The bill was introduced after a report stating that a number of tech companies – including Apple – were guilty of engaging in “deeply disturbing” anticompetitive behavior …

Background

We previously outlined the run-up to the act.

2019 saw the start of a year-long investigation into whether tech giants were guilty of anti-competitive behavior. Apple was one of the companies investigated, with Tim Cook required to testify before Congress – and was among the tech companies found to engage in “deeply disturbing” anticompetitive behavior.

Congress was initially expected to try to pass a single antitrust bill to tackle all of the issues identified, but instead for multiple bills. We’re **currently up to six of these**, one of which had been described as putting the entire Apple ecosystem at risk.

If passed into law, it would impact Apple’s treatment of apps like Spotify, but some have suggested it could even bar the company from pre-installing its own apps on iPhones.

The American Innovation and Choice Online Act has **made the most progress.** Apple CEO Tim Cook personally lobbied against the bill, but his concerns were dismissed by co-sponsor Senator Amy Klobuchar. The bill had **bipartisan support in the Senate Judiciary Committee**, but it faces opposition from some in both houses.

#### Biden can’t push anything---moderates want legislation and will backlash to EOs he inevitably passes

Rachael Bade and Eugene Daniels 3-31. ."POLITICO Playbook: Biden gets mixed signals from rival House Dem factions". POLITICO. 3-31-2022. https://www.politico.com/newsletters/playbook/2022/03/31/biden-gets-mixed-signals-from-rival-house-dem-factions-00021956

In a pair of meetings with two separate wings of the House Democratic Caucus on Wednesday evening, President JOE BIDEN received mixed messages over how to jump-start his stalled agenda, according to multiple sources familiar with the talks. — The context: In recent weeks, as action on key Democratic priorities has languished in Congress, progressives as well as some senior party leaders have pushed the president to more liberally use his pen to sidestep Congress and take executive actions to enact key campaign promises on everything from immigration to climate to student loans. — But that proposed strategy has caused heartburn among other Democrats, who worry about the potential for political blowback — not to mention concerns about those policies being rolled back the minute a Republican president is sworn in. Which brings us back to Wednesday, when Biden met with members of the House Progessive Caucus and, separately, the more centrist New Democrat Coalition. — The progressives asked Biden to take action unilaterally on a host of their top priorities, including “canceling student debt, raising the overtime threshold, lowering prescription drug costs, expanding renewable energy to decrease reliance on fossil fuels, and fixing the Affordable Care Act ‘family glitch’ to expand access to health care,” per a statement from the CPC. — The New Dems expressed caution on the EOs, and sought to appeal to Biden’s history as a legislator, urging him to continue banging heads together in Congress until a reconciliation bill passes. “Clearly, the president may be able to take actions, but we feel that for long-term durable policy, Congress needs to act,” New Dem leader SUZAN DELBENE (D-Wash.) told Playbook on Wednesday night. “We have the House, the Senate and the White House. There may be slim majorities, but we still have an important opportunity to make long-term change. This whiplash of things going back and forth [via executive action] doesn’t really help over the long term.” (More on this meeting below.)

#### Won’t pass

Peter Sullivan, 3-22-2022, "Schumer says he supports bipartisan talks on bill to lower insulin costs," TheHill, https://thehill.com/policy/healthcare/599267-schumer-says-he-supports-bipartisan-talks-on-bill-to-lower-insulin-costs

“There's now a bipartisan effort underway led by Sen. Collins and Sen. Shaheen to pair the $35 cap sponsored by Sen. Warnock with additional policies to drive down the list price in a more comprehensive way, including having the uninsured protected,” Schumer said.

It remains unclear if any insulin legislation can gain the 10 Republican votes needed to advance in the Senate.

Senate GOP aides had said that the Warnock bill as it currently stands was seen as partisan and was not expected to gain much, if any, Republican support.

Giving time for the talks with Collins to continue could improve the chances of getting some Republican support.

However, Warnock is facing a competitive reelection race this year, and lawmakers are often reluctant to give victories to lawmakers in the opposing party who are up for reelection.

#### No extinction

Amesh Adalja 21. Senior scholar at the Johns Hopkins Center for Health Security and an infectious disease critical care and emergency medicine physician, 4/19/21. “WHAT WOULD HAPPEN IF A PANDEMIC KILLED 10 PERCENT OF HUMANS?” <https://www.inverse.com/science/pandemic-wipes-out-10-percent-of-population-future-earth-2121>

Covid-19 has shown us just how serious the threat of an emerging infectious disease can be — and just how underprepared we are to handle another like it. Amesh Adalja, a senior scholar at the Johns Hopkins Center for Health Security and an infectious disease critical care and emergency medicine physician, tells Inverse that it’s unlikely future pandemics will ever reach the toll on human life caused by something like the Black Death. Still, a disease with even a fraction of plague’s mortality would be a global concern.

Inverse spoke to Adalja about how a deadly pandemic could transform the Earth by 2121. His response has been edited and condensed:

Many people think about pandemics as extinction events for the human species, but it's highly unlikely you find a pandemic able to do something on that level. Our mitigation efforts, as well as idiosyncrasies in the human immune response, are likely to leave some segment of the population able to withstand the infection. It's much more valuable to think about infectious diseases that have mortality rates of around 20 percent.

## 1AR

### Adv---Inequality

#### COVID hit zero-lower bound

Christopher Rugaber 21. Associated Press. “Federal Reserve keeps key interest rate near zero, signals COVID-19 economic risks receding.” https://www.chicagotribune.com/business/ct-biz-fed-interest-rates-economy-20210428-bumyc3ynpza6ri4ygsntmdsmya-story.html.

WASHINGTON — The Federal Reserve is keeping its ultra-low interest rate policies in place, a sign that it wants to see more evidence of a strengthening economic recovery before it would consider easing its support.

In a statement Wednesday, the Fed expressed a brighter outlook, saying the economy has improved along with the job market. And while the policymakers noted that inflation has risen, they ascribed the increase to temporary factors.

The Fed also signaled its belief that the pandemic’s threat to the economy has diminished, a significant point given Chair Jerome Powell’s long-stated view that the recovery depends on the virus being brought under control. Last month, the Fed had cautioned that the virus posed “considerable risks to the economic outlook.” On Wednesday, it said only that “risks to the economic outlook remain” because of the pandemic.

The central bank left its benchmark short-term rate near zero, where it’s been since the pandemic erupted nearly a year ago, to help keep loan rates down to encourage borrowing and spending. It also said in a statement after its latest policy meeting that it would keep buying $120 billion in bonds each month to try to keep longer-term borrowing rates low.

The U.S. economy has been posting unexpectedly strong gains in recent weeks, with barometers of hiring, spending and manufacturing all surging. Most economists say they detect the early stages of what could be a robust and sustained recovery, with coronavirus case counts declining, vaccinations rising and Americans spending their stimulus-boosted savings.

### K---Capitalism

#### Fragility’s wrong

Agne Setikiene and Mindaugas Butkus 21. Institute of Regional Development, Vilnius University Siauliai Academy. Associated Professor / Senior Researcher at the Institute of Regional Development. “The Heterogeneous Impact of Financialisation on Economic Growth in the Long Run” *Journal of Risk and Financial Management*, 14(5), 209. https://www.mdpi.com/1911-8074/14/5/209/htm

The study results show that more developed countries, regardless of their institutional quality, most likely experience a negative effect of financialisation on long-run economic growth. However, in countries with a lower level of development, we, in the majority of cases, find a statistically significant positive effect. The fact that the effect of financialisation, mediated by institutional quality, level of development, and interaction using the same proxies, differs across countries, shows that the effect on long-run growth is heterogeneous and depends on variables used to proxy the country’s development level and institutional quality. This finding, to some extent, explains the ambiguous conclusions of previous research.

4. Conclusions

Though there have been many attempts to study the relationship between financialisation and economic growth, this study contributes to the literature by examining the heterogeneous impact of financialisation on long-run economic growth. To the best of our knowledge, there is no other study in which the effect of financialisation on economic growth is examined by considering two simultaneous mediators and their interaction.

This study contributes to the methodological approaches used to estimate the effect of financialisation by augmenting a traditional model with a three-way multiplicative term. Contrary to previous research, which only allowed to estimate the effect of the financialisation on growth directly in different groups of countries, this study contributes to the direct estimation of the variability of the financialisation, which depends on the factors that could mediate the effect of financialisation. The suggested specification of the model and the computation of conditional standard errors could contribute to the analysis of any mediating factor.

Aiming to evaluate the heterogeneous effect of financialisation on long-run economic growth and by computing the conditional marginal effects and their standard errors, we showed that it is possible to find the positive and negative as well as significant and insignificant effect of financialisation in different countries.

The findings of the research support the view that the impact of financialisation on long-run economic growth is heterogeneous. In addition, we find evidence that the source of heterogeneity is the country’s development level and institutional quality, which work simultaneously. Using different combinations of proxies for institutional quality and level of development, we found that more developed countries, regardless of their institutional quality, experience a negative effect of financialisation on long-run economic growth. If investments are directed to stock markets to profit and create shareholder value, resources are shifted from the manufacturing sector to the financial sector, which has a negative impact on economic growth. Contrary, in countries with a lower development level, a positive and statistically significant effect was found. Since credit is channelled to investment in the service sector or the real sector to improve productivity and quality, the financial sector, by providing new opportunities for savers and investors, stimulates economic growth. In many cases, in relatively less-developed countries, the effect of financialisation, mediated by the interaction between secondary school enrollment or tertiary school enrollment and institutional quality indicators, is insignificant. The country’s level of development likely has a stronger impact on the effect of financialisation on economic growth than institutional quality. However, this study did not intend to investigate which factor has a stronger mediating effect on the financialisation-growth nexus. Moreover, including other variables of financialisation and other mediating factors could be considered as the scope for further research.

The results of this paper point out some policy recommendations. For developing countries, financialisation can be a driving force for economic growth. It is more common in countries with a lower development level to find a positive and statistically significant effect of financialisation, which is mediated by the interaction between the size of the service sector and institutional quality. Thus, it is important to allocate financial resources properly and direct investment to the service sector to stimulate its growth. In developed countries, financialisation has a positive effect on long-run economic growth only when it is driven by the interaction of secondary school enrollment and voice and accountability. Thus, for developed countries, other sources of heterogeneity that could reduce the negative effects of financialisation on economic growth should be sought.

#### Complexity’s wrong

Michael MEHAFFY AND Nikos A. SALINGAROS 12. \*\*Sir David Anderson Fellow at the University of Strathclyde in Glasgow, a Visiting Faculty Associate at Arizona State University; a Research Associate with the Center for Environmental Structure. \*\*Professor of Mathematics at the University of Texas at San Antonio. “Science for Designers: The Meaning of Complexity.” Metropolis. March 30. <http://www.metropolismag.com/uncategorized/science-for-designers-the-meaning-of-complexity/>.

Human life on earth is creating signs of informational intelligence: an earth that is conscious because it is intimately interconnected. We can save civilization from self-destruction by understanding the underlying mechanisms.

Note that “complexity” is very different from “complicatedness”. Some postmodernist urbanists seem eager to conflate these two very different ideas. You don’t get a system when you pile up disjointed fragments, because there is no integration. Instead, a complex system arises through a process working to organize different and often conflicting elements in some way, in spite of their differences. Intentionality in building complexity sheds all “complicatedness” that is irrelevant and unconnected, just like in natural systems. It does not “streamline” processes to a single aim, but simply evolves the system to include those multiple connected cycles, however large or small, that interact in some essential way.

That process is often a subtle dynamic, such as a set of apparently simple adaptive rules that each element follows. Why do people walking through a park all move along one line and not others? Why does one store get lots of pedestrian customers and another, just as good, fail? We can discover and document the socio-geometric patterns that people are following, as they make the simple human calculations that we all do: head in the direction of your destination, avoid obstructions, stop only if you see something interesting, and so on.

If we understand these patterns, we can place our pavement more effectively, or place our store in a more successful location. Other patterns of complex organization can be documented and put to work for us in our designs. The human inhabitants of even the most diverse city are, and remain, part of a complex emergent whole. Their complex behaviors and interactions must not be reduced for the city to work like some crude yet giant machine, for that would (and does) severely damage living systems. So, too, the elements of an ecosystem have a history, as do other natural systems. This is the nature of complexity — it has an inherent wholeness or whole-systems quality to it.

The elements we are considering possess what the physicist David Bohm called an “implicate order” — they have a much deeper relationship within a whole system that predates our observation. We face a perceptual problem, however. The reason most people think of complexity as being more like “complicatedness” — a messy collection of unrelated parts — is that we are very good at seeing particular fragments of the world. This view has its evolutionary benefits — we can see just a snapshot of what happens at a certain point and at a particular time, and omit all the interactions that brought those parts together in the first place. While this ability gave early humans an advantage in quick decision-making, it handicaps us when confronting the complex systems that we are now capable of building. We tend to forget that this way of looking at the world and its complex interactions is merely an abstraction, helpful for some purposes, but not for design. This is because in design, we are working with complex, implicate-ordered systems. Earth and life systems manifest design intentionality (in the sense of organizing their complexity) and intrinsic intelligence. When we treat these systems as problems of simplicity, we fail to understand the actual complex systems that we are creating, disturbing, and often destroying — a neighborhood, a city, an ecology, a human economy, or a living planet. And so, today, we find ourselves in a great deal of trouble.

#### Their ev is way too old---no brink---Emory reads blue

2NC Trainer, 20 (Ted Trainer, Ph.D. and Conjoint Lecturer at New South Wales, Edited by Samuel Alexander, Ph.D. and Lecturer at Melbourne; and Jonathan Rutherford, Ph.D. and Former Professor at Middlesex, "The Simpler Way: Collected writings of Ted Trainer", Simplicity Institute, accessed 4-19-2021, <https://www.degrowth.info/en/catalogue-entry/the-simpler-way-collected-writings-of-ted-trainer/>) jcw

6.5 Diminishing returns, complexity, redundancy, feedbacks, fragility and vulnerability The limits problem increases all these kinds of difficulties. As society becomes more complex, more resources and time and dollars must go into just maintaining systems and the net benefit per unit of input declines. Tainter (1988) saw this as the key effect in the decline and fall of empires. For instance, Rome reached the stage where most of the effort had to go into maintaining the borders and territories previously conquered, leaving none for expanding any further. Imagine using gravel to make more roads. As the system expands more of the gravel must be used to repair roads, until eventually all of the supply will be going into maintaining existing roads and there can be no further extension of the system The diminishing returns effect can be illustrated by the expense we go to where roads cross. In a village there is no problem, but in a modern freeway system an intersection can involve construction of multi-million-dollar flyovers etc. Water has to be pumped to high levels in buildings. Long ago there was no need for staff, buildings or expense to care for aged people, deal with pollution or recycle water. Now we must put great effort into remedying all the social damage being caused, the depression, stress, homelessness, crime and suicide. Tribes need no lawyers, prisons or welfare workers. They have law but one person can remember it all, whereas our law occupies metres of shelf space and we have elaborate institutions making more law every day. At the global level vast sums have to be spent on arms to maintain access to the markets and resources rich societies must now get. We are having to consider vastly expensive schemes to bury the CO2 from fossil fuel use. Thus, as consumption and complexity increase, disproportionately more and more effort and resources have to go into dealing with the problems created. Herman Daly (2011) argues persuasively that our economy is well past the point where increasing production adds more to costs to be met than to welfare to be enjoyed. Tainter also points out that systems are becoming more inter-connected and therefore prone to total system breakdown when one component fails. Globalisation has reduced redundancy, robustness and resilience in crucial sectors. Spare parts for a device used all around the world might come from only one factory. Supermarkets have only a few days’ food supply, so if the ships or trucks stop, we are quickly in trouble. Most spectacularly, the integrated global financial system went down suddenly in 2008, causing trouble almost every where. But in earlier times your region would have been dependent only on the local banks, which would not have been affected if banks in other countries failed. In rural villages many people would have been able to go on producing food, repairing carts, building houses etc., but now many necessities can only be secured via complex, distant systems requiring specialists, high-tech components, global transport networks and infrastructures. Individuals and towns can’t fix local problems; these lack resilience, being dependent on distant complex systems, and thus they are insecure and vulnerable. Similarly, world trade is highly interconnected; the failure of a harvest in one major country can starve millions elsewhere. The interconnections between systems mean that as problems in one sector of the economy develop, they create problems in others. For instance, as energy becomes more expensive and scarce, minerals do too, because it takes a lot of energy to produce them. A breakdown in one area can send bad feedback effects cascading through many others. Redundancy reduces this possibility; if the village plumber was ill and couldn’t fix your tank the blacksmith probably could. The lingering difficulty in getting the post-GFC global economy to work as normal seems to reveal a marked sensitivity to high energy prices (and rising inequality). Morgan (2013) explains how the global financial and trade systems are now vulnerable to total, sudden and catastrophic collapse due to the impact of increasing resource limits on these interdependent and fragile systems. Mason (2003) argues that the resulting problems will come to a head in the ‘2030 spike’. Ahmed’s (2017) explanation of the Middle East provides a graphic illustration of these themes – increasingly over-extended, complex, fragile systems becoming less and less resilient, and threatening global disruption due to the interconnectedness and interdependence on oil. People in rich countries do not think about the limits problem because it does not yet affect them much; they continue to get most of the dwindling resources. But they are likely to be impacted heavily within one or two decades. Given the above complexity, interdependence and fragility, it is difficult to believe they will be able to avoid extremely serious breakdown, especially given that they do not yet have any understanding of the situation they are in.

#### Trainer’s wrong---yes, decoupling

Jonathan H. Adler 3/30/22. Johan Verheij Memorial Professor of Law at the Case Western Reserve University School of Law. “How Markets Make Economic Growth Sustainable.” https://reason.com/volokh/2022/03/30/how-markets-make-economic-growth-sustainable/printer/

As should be obvious, the predictions offered in The Limits to Growth (and other contemporary doomsayers) were wildly off the mark. Among other things, they failed to account for how markets respond to scarcity, producing incentives for efficiency and innovation, so that we may do more with less. In short, the authors failed to understand why markets encourage sustainability.

Those predicting imminent depletion of global resources and exhaustion of the earth's carrying capacity also failed to predict what is arguably the most important -- and under-appreciated -- positive environmental trend of the 21st century: Dematerialization of modern economies. The same economic incentives which forestalled resource exhaustion have actually enabled people to do more with less throughout the developed world.

This dramatic development is chronicled in Andrew McAfee's book, More from Less: The Surprising Story of How We Learned to Prosper Using Fewer Resources — and What Happens Next, which I reviewed for Regulation. Here is an excerpt from my review:

Dematerialization may be the most important, yet unsung, example of environmental progress in the 21st century. It is commonplace to observe that the relentless drive to do more with less has led to more efficient resource use, so that a soda can today is made with a fraction of the metal required 50 years ago. But dematerialization is not merely a story about increased efficiency or per‐​capita reductions.

What is now being observed represents a fundamental decoupling of resource consumption from economic growth, such that as mature economies grow, they not only use fewer resources per unit of output, but they also consume fewer resources overall. In short, economic growth in the most developed nations increasingly coincides with a net reduction in resource consumption.

Let that sink in. It is not merely that we are using resources more efficiently in countries like the United States. It's also that we are actually using fewer total resources year-over-year.

The United States uses less gold, steel, aluminum, copper, stone, cement, and even paper than it did at the start of this century, despite the continued increase in gross domestic product. Annual consumption of all but six of the 72 resources tracked by the U.S. Geological Service are "post peak." We also use less fertilizer and water while growing more crops. Plastic consumption is up, as is energy use, but these two appear to have been decoupled from population and economic growth as well.

How does this dematerialization occur? Some examples may be useful. The dematerialization of soda cans is relatively easy to grasp, particularly for those of us who can remember the heavier cans of the 20th century. Aluminum cans weighed 85 grams when introduced in the 1950s. By 2011, the average can was under 13 grams. Cans today are not only thinner and lighter, they are produced more efficiently, with fewer separate sheets of metal.

Substitution can be an even more powerful source of dematerialization. Consider telecommunications. A single fiber optic cable made from less than 150 pounds of silica can carry the same volume of information as multiple 1‑ton copper cables. And were that not enough, satellite and wireless technologies enable us to bypass the use of physical cables altogether. We can communicate more and yet use vastly less material to do so. This not only saves copper, but other resources too. Think of all the paper saved by e‑mail, e‑banking, and e‑readers.

Not only did neo-Malthusians not predict these developments, they failed to recognize that such trends would be driven by private markets, and not governmental regulation.

We do more with less not because of government regulation or administrative direction, but because of capitalism and technology. These are the dominant forces driving dematerialization in the most developed countries and they could unleash similar gains in the rest of the world. We "want more all the time, but not more resources," McAfee notes. We want more of what resources can provide, and one way to get more is to do more with less. Market capitalism both facilitates and enhances the underlying incentives that drive efficiency gains and technological advance. This not only leads to dematerialization but also promotes "critical aspects of well‐​being," including health and prosperity.

Unfortunately, these trends are not universal. While we consume fewer resources in developed nations, these trends have not (yet) taken hold in many developing countries, which often lack well-functioning market economies. We have also not observed equivalent trends in many forms of pollution, largely because emissions are not priced the way consumption is. An entrepreneur who figures out how to produce widgets while using less copper gains an economic advantage, as the copper must be paid for. An entrepreneur who figures out how to emit fewer particulates or nitrogen oxides does not, as emitting such pollutants is not meaningfully priced and contemporary regulations rarely create meaningful incentives for emission reductions on the margin.

Understanding what has encouraged and allowed for dematerialization at the same time that populations have expanded and economies have grown is essential if these trends are to be replicated in developing countries and if we are to meet contemporary environmental challenges, including climate change. A suite of policies designed to replicate the same market dynamics that have led dematerialization could spur meaningful decarbonization. Ill-conceived policies, on the other hand, could actually do more harm than good. This is but one more reason policymakers should be more interested in fiscal instruments than regulatory mandates to reduce greenhouse gas emissions.

Another article in the same issue of Regulation as my More from Less review notes that greenhouse gas emissions in the United States may have peaked in 2005, and that GHG emissions appear to initially increase, but then decline, with economic growth. Such trends are not observed, however, in less-developed and less-market-oriented economies, such as China. The authors, Bruce Yandle and Jody Lipford, think this indicates that domestic GHGs could continue to decline going forward, even without new government policies. This may be so, but the reductions are nowhere near what would be achieved if carbon emissions were priced and there were more powerful market incentives for market decarbonization. Greater market incentives for decarbonization could also lead to the development and deployment of low-carbon technologies that could facilitate emission reductions in other countries as well, and given that climate change is a global concern, such measures will be necessary if atmospheric stabilization is to be achieved.

The bottom line is that competitive markets create powerful incentives for efficient and sustainable resource use. Market-driven innovation has made it possible to provide for more people using fewer resources. Such environmental successes are often ignored because there is no policymaker or program than can take credit for them. They are the result of market processes, not governmental direction or design.

Replicating the incentives that spur dematerialization may be difficult, particularly because some obvious measures (such as taxing carbon emissions) are politically fraught. Yet pursuing such policies is the surest way to replicating market-driven environmental successes. Dematerialization is not a reason to ignore environmental problems, as many such problems are quite real. It does, however, provide a lesson for how to address many of the environmental problems that remain.

#### The alt causes transition wars---turns warming.

Smith 19, Assistant professor of finance at Stony Brook University (Noah, April 5th, “Dumping Capitalism Won’t Save the Planet,” *Bloomberg*, <https://www.bloomberg.com/opinion/articles/2019-04-05/capitalism-is-more-likely-to-limit-climate-change-than-socialism>, Accessed 07-15-19)

The climate threat is certainly dire, and carbon taxes are unlikely to be enough to solve the problem. But eco-socialism is probably not going to be an effective method of addressing that threat. Dismantling an entire economic system is never easy, and probably would touch off armed conflict and major political upheaval. In the scramble to win those battles, even the socialists would almost certainly abandon their limitation on fossil-fuel use — either to support military efforts, or to keep the population from turning against them. The precedent here is the Soviet Union, whose multidecade effort to reshape its economy by force amid confrontation with the West led to profound environmental degradation. The world's climate does not have several decades to spare.