## 1AC

### Inequality---1AC

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

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

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

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

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

Key Administration Officials Outline Approach to Labor Market Issues

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

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

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

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

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

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

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

Labor Misconduct Continues To Be a Criminal Antitrust Enforcement Priority

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

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

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

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

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

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

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

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

Key Takeaways for 2022

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

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

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

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

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

The Current State of Confusion in the Federal Courts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. POLICY CONSIDERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This result adds considerably to our understanding of nationalism. To date, many scholars have focused on the international environment as the principal source of threats that prompt states to generate nationalism; the importance of the domestic threat posed by economic inequality has been largely overlooked. However, at least in recent years, domestic inequality is a far more important stimulus for the generation of nationalist sentiments than the international context. Given that nuclear weapons—either their own or their allies’—rather than the mass army now serve as the primary defense of many countries against being overrun by their enemies, perhaps this is not surprising: nationalism-inspired mass mobilization is simply no longer as necessary for protection as it once was (see Mearsheimer 1990, 21; Posen 1993, 122–24).

Another important implication of the analyses presented above is that growing economic inequality may increase ethnic conflict. States may foment national pride to stem discontent with increasing inequality, but this pride can also lead to more hostility towards immigrants and minorities. Though pride in the nation is distinct from chauvinism and outgroup hostility, it is nevertheless closely related to these phenomena, and recent experimental research has shown that members of majority groups who express high levels of national pride can be nudged into intolerant and xenophobic responses quite easily (Li and Brewer 2004). This finding suggests that, by leading to the creation of more national pride, higher levels of inequality produce environments favorable to those who would inflame ethnic animosities.

Another and perhaps even more worrisome implication regards the likelihood of war. Nationalism is frequently suggested as a cause of war, and more national pride has been found to result in a much greater demand for national security even at the expense of civil liberties (Davis and Silver 2004, 36–37) as well as preferences for “a more militaristic foreign affairs posture and a more interventionist role in world politics” (Conover and Feldman 1987, 3). To the extent that these preferences influence policymaking, the growth in economic inequality over the last quarter century should be expected to lead to more aggressive foreign policies and more international conflict. If economic inequality prompts states to generate diversionary nationalism as the results presented above suggest, then rising inequality could make for a more dangerous world.

The results of this work also contribute to our still limited knowledge of the relationship between economic inequality and democratic politics. In particular, it helps explain the fact that, contrary to median-voter models of redistribution (e.g., Meltzer and Richard 1981), democracies with higher levels of inequality do not consistently respond with more redistribution (e.g., Bénabou 1996). Rather than allowing redistribution to be decided through the democratic process suggested by such models, this work suggests that states often respond to higher levels of inequality with more nationalism. Nationalism then works to divert attention from inequality, so many citizens neither realize the extent of inequality nor demand redistributive policies. By prompting states to promote nationalism, greater economic inequality removes the issue of redistribution from debate and therefore narrows the scope of democratic politics.

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

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

(ii) Institutional quality and conflict

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Crisis responses limited

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

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

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

From bust to bubble

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

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

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

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

Liberalization’s discontents

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

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

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

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

Insecurity, populism, conflict

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

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

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

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

Avoiding Thucydides’ iceberg

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

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

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

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

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

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

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

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

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

IV. A PROPOSAL FOR CURRENT AND FUTURE FRANCHISE CASES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### DOJ credibility---1AC

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

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

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

V. WHERE DO WE GO FROM HERE?

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

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

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

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

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

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

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

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

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

1. Responses to the DOJ's Statement of Interest

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

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

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

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

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

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

#### Democracy solves great power war.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### Plan---1AC

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

## 2AC

### Adv---Inequality

### Adv---DOJ Credibility

#### Democracy solves every impact---leaders are responsive to their citizens---facilitates informed decisions, innovation and financial trust, that’s Kroenig.

#### It solves terrorism, war with revisionist states, famine, and poverty.

Garry Kasparov 17. Chairman of the Human Rights Foundation, founded the Renew Democracy Initiative. “Democracy and Human Rights: The Case for U.S. Leadership”. Feb 16 2017. U.S. Senate. http://www.foreign.senate.gov/imo/media/doc/021617\_Kasparov\_%20Testimony.pdf

The Soviet Union was an existential threat, and this focused the attention of the world, and the American people. There existential threat today is not found on a map, but it is very real. The forces of the past are making steady progress against the modern world order. Terrorist movements in the Middle East, extremist parties across Europe, a paranoid tyrant in North Korea threatening nuclear blackmail, and, at the center of the web, an aggressive KGB dictator in Russia. They all want to turn the world back to a dark past because their survival is threatened by the values of the free world, epitomized by the United States. And they are thriving as the U.S. has retreated. The global freedom index has declined for ten consecutive years. No one like to talk about the United States as a global policeman, but this is what happens when there is no cop on the beat. American leadership begins at home, right here. America cannot lead the world on democracy and human rights if there is no unity on the meaning and importance of these things. Leadership is required to make that case clearly and powerfully. Right now, Americans are engaged in politics at a level not seen in decades. It is an opportunity for them to rediscover that making America great begins with believing America can be great. The Cold War was won on American values that were shared by both parties and nearly every American. Institutions that were created by a Democrat, Truman, were triumphant forty years later thanks to the courage of a Republican, Reagan. This bipartisan consistency created the decades of strategic stability that is the great strength of democracies. Strong institutions that outlast politicians allow for long-range planning. In contrast, dictators can operate only tactically, not strategically, because they are not constrained by the balance of powers, but cannot afford to think beyond their own survival. This is why a dictator like Putin has an advantage in chaos, the ability to move quickly. This can only be met by strategy, by long-term goals that are based on shared values, not on polls and cable news. The fear of making things worse has paralyzed the United States from trying to make things better. There will always be setbacks, but the United States cannot quit. The spread of democracy is the only proven remedy for nearly every crisis that plagues the world today. War, famine, poverty, terrorism–all are generated and exacerbated by authoritarian regimes. A policy of America First inevitably puts American security last. American leadership is required because there is no one else, and because it is good for America. There is no weapon or wall that is more powerful for security than America being envied, imitated, and admired around the world. Admired not for being perfect, but for having the exceptional courage to always try to be better. Thank you

#### It's sustainable

Anna Lührmann et al. 20, PhD, Deputy Director of the Varieties of Democracy (V-Dem) Institute and Assistant Professor at the University of Gothenburg, “Autocratization Surges–Resistance Grows: DEMOCRACY REPORT 2020”, https://www.v-dem.net/media/filer\_public/f0/5d/f05d46d8-626f-4b20-8e4e-53d4b134bfcb/democracy\_report\_2020\_low.pdf

Notwithstanding the “autocratization alert” that this year’s Democracy Report issues, the world is still unmistakably more democratic today compared to 1972 when 76% of all states – 121 countries – were either electoral or closed autocracies (red and orange lines in Figure 6) and a vast majority of these were closed autocracies. This general positive historical trend should be borne in mind while we discuss the worrying specter of further declines that may be yet to come. A regional breakdown of regime types further illustrates this point (Figure 8). Despite the ongoing autocratization, some regions harbor many democracies. All regimes in Western Europe and North America still qualify as democratic as well as three quarters of all countries in Latin America and the Caribbean. In all regions of the world – apart from the MENA region – democracies represent at least roughly one third of all countries.

#### Tipping points determine decline, which is not inevitable

Dr. Larry Diamond 19, Professor of Political Science and Sociology at Stanford University, Senior Fellow at the Hoover Institution, Senior Fellow at the Freeman Spogli Institute for International Studies, PhD in Sociology from Stanford University, Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition, and American Complacency, p. 199-202

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

#### Democratic governance prevents multiple scenarios for extinction – apprehension creates openings for Russia and China to embed and authoritarian order, causing nuclear war

Dr. Edward A. Kolodziej 17, Emeritus Research Professor of Political Science at the University of Illinois, Urbana-Champaign, “Challenges to the Democratic Project for Governing Globalization”, EUC Paper Series, Volume 1, https://www.ideals.illinois.edu/bitstream/handle/2142/96620/Kolodziej%20Introduction%205.19.17.pdf?sequence=2&isAllowed=y

The Rise of a Global Society

Let me first sketch the global democratic project for global governance as a point of reference. We must first recognize that globalization has given rise to a global society for the first time in the evolution of the human species. We are now stuck with each other; seven and half billion people today — nine to ten by 2050: all super connected and interdependent. In greater or lesser measure, humans are mutually dependent on each other in the pursuit of their most salient values, interests, needs, and preferences — concerns about personal, community, and national security, sustainable economic growth, protection of the environment, the equitable distribution of the globe’s material wealth, human rights, and even the validation of their personal and social identities by others. Global warming is a metaphor of this morphological social change in the human condition. All humans are implicated in this looming Anthropogenic-induced disaster — the exhausts of billions of automobiles, the methane released in fracking for natural gas, outdated U.S. coal-fired power plants and newly constructed ones in China. Even the poor farmer burning charcoal to warm his dinner is complicit.

Since interdependence surrounds, ensnares, and binds us as a human society, the dilemma confronting the world’s diverse and divided populations is evident: the expanding scope as well as the deepening, accumulating, and thickening interdependencies of globalization urge global government. But the Kantian ideal of universal governance is beyond the reach of the world’s disparate peoples. They are profoundly divided by religion, culture, language, tribal, ethnic and national loyalties as well as by class, social status, race, gender, and sexual orientation. How have the democracies responded to this dilemma? How have they attempted to reconcile the growing interdependence of the world’s disputing peoples and need for global governance?

What do we mean by the governance of a human society?

A working, legitimate government of a human society requires simultaneous responses to three competing imperatives: Order, Welfare, and Legitimacy. While the forms of these OWL imperatives have differed radically over the course of human societal evolution, these constraints remain predicable of all human societies if they are to replicate themselves and flourish over time. The OWL imperatives are no less applicable to a global society.

1. Order refers to a society’s investment of awesome material power in an individual or body to arbitrate and resolve value, interest, and preference conflicts, which cannot be otherwise resolved by non-violent means — the Hobbesian problematic.

2. The Welfare imperative refers to the necessity of humans to eat, drink, clothe, and shelter themselves and to pursue the full-range of their seemingly limitless acquisitive appetites. Responses to the Welfare imperative, like that of Order, constitute a distinct form of governing power and authority with its own decisional processes and actors principally associated either with the Welfare or the Order imperative. Hence we have the Marxian-Adam Smith problematic.

3. Legitimacy is no less a form of governing power and authority, independent of the Order and Welfare imperatives. Either by choice, socialization, or coerced acquiescence, populations acknowledge a regime’s governing authority and their obligation to submit to its rule. Here arises the Rousseaunian problematic.

The government of a human society emerges then as an evolving, precarious balance and compromise of the ceaseless struggle of these competing OWL power domains for ascendancy of one of these imperatives over the others. It is against the backdrop of these OWL imperatives — Order, Welfare, and Legitimacy — that we are brought to the democratic project for global governance.

The Democratic Project

For Order, open societies constructed the global democratic state and, in alliance, the democratic global-state system. Collectively these initiatives led to the creation of the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization, and the European Union to implement the democratic project’s system of global governance.

The democratic global state assumed all of the functions of the Hobbesian Westphalian security state — but a lot more. The global state became a Trading, Banking, Market, and Entrepreneurial state. To these functions were added those of the Science, Technology and the Economic Growth state. How else would we be able to enjoy the Internet, cell phones and iPhones, or miracle cures? These are the products of the iron triangle of the global democratic state, academic and non-profit research centers, and corporations. It is a myth that the Market System did all this alone. Fueled by increasing material wealth, the democratic global state was afforded the means to become the Safety Net state, providing education, health, social security, leisure and recreation for its population. And as the global state’s power expanded across this broad and enlarging spectrum of functions and roles, the global state was also constrained by the social compacts of the democracies to be bound by popular rule. The ironic result of the expansion of the global state’s power and social functions and its obligation to accede to popular will was a Security state and global state-system that vastly outperformed its principal authoritarian rivals in the Cold War. So much briefly is the democratic project’s response to the Order imperative.

Now let’s look at the democratic project’s response to the Welfare imperative. The democracies institutionalized Adam Smith’s vision of a global Market System. The Market System trucks and barters, Smith’s understanding of what it means to be human. But it does a lot more. The Market System facilitates and fosters the free movement of people, goods and services, capital, ideas, values, scientific discoveries, and best technological practices. Created is a vibrant global civil society oblivious to state boundaries. What we now experience is De Tocqueville’s Democracy in America on global steroids.

As for the imperative of Legitimacy, the social compacts of the democracies affirmed Rousseau’s conjecture that all humans are free and therefore equal. Applied to elections each citizen has one vote. Democratic regimes are also obliged to submit to the rule of law, to conduct free and fair elections, to honor majority rule while protecting minority rights, and to promote human rights at home and abroad.

The Authoritarian Threat to the Democratic Project

The democratic project for global governance is now at risk. Let’s start with the challenges posed by authoritarian regimes, with Russia and China in the lead. Both Russia and China would rest global governance on Big Power spheres of influence. Both would assume hegemonic status in their respective regions, asserting their versions of the Monroe Doctrine. Their regional hegemony would then leverage their claim to be global Big Powers. Moscow and Beijing would then have an equal say with the United States and the West in sharing and shaping global governance. The Russo-Chinese global system of Order would ascribe to Russia and China governing privileges not accorded to the states both aspire to dominate. Moscow and Beijing would enjoy unconditional recognition of their state sovereignty, territorial integrity, and non-interference in their domestic affairs, but they would reserve to themselves the right to intervene in the domestic and foreign affairs of the states and peoples under their tutelage in pursuit of their hegemonic interests. President Putin has announced that Russia’s imperialism encompasses the millions of Russians living in the former republics of the Soviet Union. Russia contends that Ukraine and Belarus also fall under Moscow’s purported claim to historical sovereignty over these states. Forceful re-absorption of Crimea and control over eastern Ukraine are viewed by President Putin as Russia’s historical inheritances. Self-determination is not extended to these states or to other states and peoples of the former Soviet Union. Moscow rejects their right to freely align, say, with the European Union or, god forbid, with NATO.

In contrast to the democratic project, universal in its reach, the Russo-Chinese conception of a stable global order rests on more tenuous and conflict-prone ethno-national foundations. Russia’s proclaimed enemies are the United States and the European Union. Any means that undermines the unity of these entities is viewed by Moscow as a gain. The endgame is a poly-anarchical interstate system, potentially as war-prone as the Eurocentric system before and after World War I, but now populated by states with nuclear weapons.

### K---Buddhism

#### Buddhism and util are compatible

Thich Nhat Hanh 13. Vietnamese Thiền Buddhist monk, peace activist, prolific author, poet, teacher, and founder of the Plum Village Tradition, historically recognized as the main inspiration for engaged Buddhism. “The Mindfulness Survival Kit,” Parallel Press (Berkeley, CA), 2013, pp. 79-82.

Utilitarianism

In the West we see ethical systems that are intricately linked with the idea of God and those that are secular. The ethics of utilitarianism are secular.

Utilitarianism was founded by the lawyer Jeremy Bentham (1748–1832) and the economist John Stuart Mill (1806–1873). Both of them were English philosophers and sociologists. They had been influenced by the philosophy of the Scottish historian and philosopher David Hume (1711–1776). According to utilitarianism, whether a behavior is good, evil, right, or wrong depends on whether it is beneficial for the happiness of the greatest number. In utilitarian ethics, good and evil actions are not good and evil in themselves but because of the result of those actions. If the action leads to suffering it is evil. If it leads to happiness it is good. If an action is for the happiness and benefit of the greater number then it’s a good action.

In Buddhism we speak of good and evil in terms of what can lead to enlightenment, liberation, freedom, and the reduction of suffering. In this sense it’s relatively close to utilitarianism. Utilitarianism also holds that we shouldn’t punish people, because punishment leads to suffering. This shows the compassionate nature of utilitarianism. According to utilitarianism, prisons shouldn’t be places where people have to pay for their crimes and suffer, but centers where there are means to give the prisoners a chance to reform, such as libraries, classes, technical schools. Although people have tried to reform prisons in this way, up to now it hasn’t been widely successful.

In former times, in Vietnam, China, and Korea, the Buddhist temples used to ask for prisoners who had been sentenced to ten or twenty years of imprisonment to be released to their custody. The monks would take responsibility for helping the criminals to transform, so they would be allowed to take one or two prisoners back to the temple. They would ask the prisoners to work for the temple, for example to work in the rice fields. The monks would keep an eye on the prisoners, ask them to come to the recitation of the Five Mindfulness Trainings every fortnight, to follow a vegetarian diet at least four times a month, and to attend Dharma talks. The temple would take care of them when they were sick. The monks would listen to them and give them advice. It meant that the temple really wanted to help that person and not just use them as a manual worker. In the case that the prisoner had transformed and was of marriageable age, the temple could also arrange for him to marry into a local farming family.

After the monks had shown that the prisoner had truly transformed, the government or correctional authority would grant him his freedom and he could continue to work for the temple or he could go and settle on his own farm. It was a successful way of reforming prisoners and it follows the line of utilitarianism. The proposal of utilitarianism in the eighteenth century was already being carried out in Asian Buddhist temples one thousand years before. The idea is that we don’t want to punish; we want only to help. Out of delusion and anger, a criminal has broken the law. We want him to feel regret for what he has done and begin anew, but we don’t need to make him suffer. So instead of locking him in a dark cell, we allow him to work in the fields, breathing the fresh air and learning the practice of transformation.

Utilitarianism is simple enough. First of all we have to say what we want for people: employment, food, clothes, harmony in the family, freedom, human rights, peace, and so on. Once we have listed humanity’s needs, we need to find the appropriate actions to realize them. All actions that lead to people having enough to eat, clothes to keep warm, human rights, and protection are good actions. This is consequentialism, which says that an action is determined to be right or wrong based on its consequences.

In Buddhism when we say there is an end of ill-being (happiness, well- being) and a path that leads to the end of ill-being, this is also consequentialism. Buddhism also says that everything that belongs to the Fourth Noble Truth, the Noble Eightfold Path, and that leads to the end of ill-being is good and right. The difference between Buddhism and utilitarianism is that utilitarianism does not explain the interbeing nature of suffering and happiness.

#### Death is the ultimate evil---there is no possible warrant for their argument

Craig PATERSON 3. Director and Consultant, Bioethics World; Professor of Philosophy, Providence College. “A Life Not Worth Living?” *Studies in Christian Ethics* 16: 1-20. Emory Libraries.

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alternative of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes. 80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life. 81 In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.

#### Fiated debates centering existential risk isn’t ego delusion – key to civic engagement and research for risk mitigation

Javorsky 18. Emilia Javorsky is a Boston-based physician-scientist focused on the invention, development and commercialization of new medical therapies. She also leads an Artificial Intelligence in Medicine initiative with The Future Society at the Harvard Kennedy School of Government. Why Human Extinction Needs a Marketing Department. January 15, 2018. https://www.xconomy.com/boston/2018/01/15/why-human-extinction-needs-a-marketing-department/

Experts at Oxford University and elsewhere have estimated that the risk of a global human extinction event this century—or at least of an event that wipes out 10 percent or more of the world’s population— is around 1 in 10. The most probable culprits sending us the way of the dinosaur are mostly anthropogenic risks, meaning those created by humans. These include climate change, nuclear disaster, and more emerging risks such as artificial intelligence gone wrong (by accident or nefarious intent) and bioterrorism. A recent search of the scientific literature through ScienceDirect for “human extinction” returned a demoralizing 157 results, compared to the 1,627 for “dung beetle.” I don’t know about you, but this concerns me. Why is there so little research and action on existential risks (risks capable of rendering humanity extinct)?

A big part of the problem is a lack of awareness about the real threats we face and what can be done about them. When asked to estimate the chance of an extinction event in the next 50 years, U.S. adults in surveys reported chances ranging from 1 in 10 million to 1 in 100, certainly not 10 percent. The awareness and engagement issues extend to the academic community as well, where a key bottleneck is a lack of talented people studying existential risks. Developing viable risk mitigation strategies will require widespread civic engagement and concerted research efforts. Consequently, there is an urgent need to improve the communication of the magnitude and importance of existential risks. The first step is getting an audience to pay attention to this issue.

#### No “ego delusion” – Buddhism is more nonverifiable than psychoanalysis

Crabtree 11 (Vexen, Undergraduate in Social Sciences BSc, Criticisms of Buddhism, <http://www.humanreligions.info/buddhism_criticism.html#FirstCause> //shree)

You can spot Buddhist psycho-babble from quite a while off, there is a distinctive feel and look about Buddhist therapists and self-development. The truth is that Buddhist psychology is like Communist ideology or Christian guilt methodology: It only suits a particular type of person. Buddhist practices are not a universal solution to social ills or spiritual problems, but a certain type of solution catering for only certain types of person. For a religion that makes universalist claims about the enlightenment of all beings, it is stuck with a mythology about Indian, Chinese and Eastern-style sages, teachers and students; when it is only a certain portion of humanity that can exist in those roles. The rest do not fit into the Buddhist mould, and Buddhist advice and counsel is counterproductive. Ken Jones notes the real dangers that Buddhist ego training presents to certain types of people, producing neurotics and psychotics at worst, and mental imbalance at best. He notes the difficulty of adapting traditional Buddhist methods to swathes of society who do not conform to the model of the ego that Buddhist psychology requires of students. Buddhism unfortunately, for a religion with so much social potential, falls over its own dogma and mythology when it comes to individual, personal development of people in general. It operates best as a peace movement, as a mediator, as an intelligent social commenter rather than a personal religion. Those who do take earnestly and naturally to the methods of Buddhist self-development are those who are already more developed and already more intelligent Humans. Lower Buddhism, of the masses, is dumbed-down and mostly useless as a unique tool, functioning as a smotherer just like popular religions do in all countries. Higher Buddhism caters for those who are already on a higher level, just like scholarly Christianity suits the intelligent and elitist Satanism suits the naturally strong and mature, Buddhism doesn't offer much insight into how the masses may improve themselves beyond offering the same social programs that socially aware governments offer.

#### No ”spiritual” root cause – suffering isn’t created by “desire” – 1AC advantage is external to personal cravings, the plan is the only viable solution

Rachel 11 (blogger, try contesting “author quals” in a Buddhism debate, we dare you, “The Cause of Suffering,” <http://www.rabe.org/thoughts-on-buddhism/cause-of-suffering/> , August 16, 2011//shree)

Basically, life is suffering. And we create our suffering by thirsting or craving for what we cannot have. But are these really all the causes of suffering? Do we really create all of our suffering? I would argue that there is more to suffering than what we cause with our craving. Fighting with reality surely adds to our suffering – if I do not accept that I am sick, for example, and moan the whole time that I shouldn’t be sick, I will suffer more. But the original illness is suffering as well – as the Buddha taught –and it is caused by some sort of germ or an autoimmune attack of the body. So, even in the simple case of, say, a cold, there are two elements of suffering: the actual cold, which is caused by a virus, and possibly my mental fight with reality. There are thus two causes: only one is caused by craving (“I wish I were healthy”), the other is caused by something unknown at the time of the Buddha. Yet, his Second Noble Truth is not questions, not amended. Going beyond the simple, to the societal causes of suffering, the insidiousness of this teaching becomes clear. Despite what the Buddha taught, there is much that can be avoided about physical and mental suffering by changing things outside of ourselves. The story of a water pump spreading cholera might be a good example here. Cholera certainly creates suffering but the causes of this suffering are manifold: there is the cholera bacterium, there is the pump handle that is teaming with the bacterium, (going beyond the story) there is the city that is refusing to belief that the pump handle is the problem, and there is the merchant who charges more for a pump handle than the villagers can afford. True, some suffering might be caused because people afflicted with cholera are craving to be healthy again (who wouldn’t!). The many other factors that actually preceded the illness are never addressed by the Buddha. His teaching ignores any interplay between the personal and the larger society. He essentially teaches us that suffering is our fault and we can overcome it simply by changing our minds. This leads to a closed mind toward other potential causes.

#### No root cause to war, collectives balancing needs determine peace rather than alt’s individual mindset shifts, negative peace thru absence of war is indispensable

Yeh 6 (Theresa Der-Lan Yeh is Associate Professor of the Department of Foreign Languages and Literatures, and research fellow of the Advanced Institute for Humanities and Social Sciences at the National Taiwan University. She serves on the board of the Taiwan Peacetime Foundation and also as a council member for the Gender Equity Committee of the Ministry of National Defense and Taipei City Government in Taiwan. “The Way to Peace: A Buddhist Perspective.” International Journal of Peace Studies, Volume 11, Number 1, Spring/Summer 2006 //shree)

This Buddhist way of looking at the world comes, in the opinion of Johan Galtung (1993: 23), a Norwegian peace studies pioneer, closest to the one dynamic, complex peace theory he proposes, in which the world is “precisely a process based on diversity in symbiotic (mutually influential) interaction.” In this world of multi-leveled plurality, according to Galtung, peace is not a stable, end state but a more interactive process of a series of changing and balancing acts, an on-going dialectic between our actions and the world. This contingent view of peace, as shared by many peace scholars and activists in the field, is similar to what Buddhist perceives peace to be. In fact, the complexity and the collectiveness in causes leading to peace or war have long been recognized in the morphological construction of those words. According to Sanskrit dictionaries (Hirakawa, 1997; Ogiwara, 1979), the words samnipata, samgri, and samgama, all refer to the concept of peace. These words share the root sam-vii meaning people do things together, which is also shared by the Sanskrit word referring to war (samit). On the basis of this morphological derivation, both peace and war are produced by the collective, rather than individuals. No single nor simple explanation of what builds peace or create war would suffice.

The view of peace as a collective product is well in line with the Buddhist worldview based on the principle of dependent origination which emphasizes the mutual influence of all the elements involved in any situation. With this interdependent frame of reference, Buddhists would prefer a holistic view of peace, instead of peace in separate contexts such as schools, families, or the environment. This is again very close to what many peace studies scholars have advocated as the ultimate vision of peace (Brock-Utne, 1997; Galtung, 1993; Galtung & Ikeda, 1995; Turpin & Kurtz, 1997). From the holistic perspective, the connection between the concept of negative and positive peace becomes clear and imperative in the light of the Buddhist law of nature, dependent origination. Absence of war and direct violence only constitutes a temporary peace if there is no justice present in the socio-economic international structure. The injustice and the violence causing suffering in every other node in the web of existence would inevitably and eventually weigh the negative peace away. Though the negative peace is only temporary, unstable and fragile, it is absolutely indispensable on the way to the positive peace. Since each human being and each level of systems are interconnected, to create a positive peace compels efforts of everyone at every level of human structures. The Buddhist view of the interconnected world demands that the ideal of world peace is less rhetoric at the negotiation tables among some “superpowers” in the international level than starting a personal transformation of one’s daily living. And this peacemaking effort is a continued striving at the every very moment because of the dynamic, constant changing nature of all the possible causal forces in this world.

### P---Vagueness

#### The plan limits the single-entity exemption.

Michael Iadevaia 20. BS, Cornell University School of Industrial and Labor Relations, JD, Cornell Law School. “Poach-No-More: Antitrust Considerations of Intra-franchise No-Poach Agreements.” 2020. ABA Journal of Labor and Employment Law, 35.1, 151-182.

First, the unique organizational structure of firms within franchise systems raises a conundrum for antitrust law. Under antitrust law, a “single entity” (i.e., a single business or firm) is exempt from section 1 violations. 16 However, a franchise system has aspects of both a single entity and separate businesses. Unlike separate businesses, franchisees do not operate completely independent from one another— they are bound by a franchise agreement. Yet, franchisees in the same market often compete with one another for customers. To put this conundrum in perspective, if McDonald’s owned all of its restaurants, rather than franchised them, it would be impossible to argue that the restraints on employee mobility violated antitrust laws, as the organization would constitute a single entity. Accordingly, the analysis of no-poach agreements under antitrust law must tackle the novel issue and threshold question of whether franchise systems constitute a “single entity” (and are exempt from section 1 violations) or constistute separate entities (and are subject to violations under section 1).

#### A move from rule of reason to per se expands the scope of antitrust and increases prohibitions.

HLR 10. Harvard Law Review. “American Needle, Inc. v. National Football League.” 11/19/10. Harvard Law Review 124.1, 400-410.

Finally, the Court stated that its decision would not subject every aspect of the NFL to section 1 scrutiny, and therefore some cooperation among the teams in the production of football games would remain beyond the scope of antitrust law. In the instant case, the Court instructed the Seventh Circuit to evaluate the legality of the concerted conduct using the rule of reason.50 The classic rule of reason invites the court to perform a thorousgh analysis of the restraint in question, including a consideration of its effects, “actual or probable.”51 Justice Stevens further noted that the application of the rule of reason does not always necessitate a detailed analysis — sometimes an activity can be evaluated “in the twinkling of an eye.”52 He concluded by noting that certain factors could be legitimate reasons for the NFL’s agreement and permit it to survive scrutiny under the rule of reason, including the need to “maintain[] a competitive balance.”53 The determination of whether such characteristics were relevant to this conduct was, however, a question for the lower court to decide on remand.54

Although much of the opinion in American Needle presents a narrow holding supported by a detailed recounting of precedent, Justice Stevens’s concluding instruction to the court on remand represents a novel development in antitrust law. Since its inception in Standard Oil Co. v. United States, 55 the rule of reason has generally been used to permit activity that appears to be in violation of the Sherman Antitrust Act.56 Conduct evaluated using the detailed, fact-based analysis of the rule of reason has often been deemed legal;57 in contrast, defendants found to have engaged in the second, more narrow category of per se illegal activity have been given no chance to justify their actions.58 A third choice, the quick look rule of reason, developed in the 1980s to place the initial burden of proof on defendants to prove that their presumptively illegal acts had a procompetitive justification.59 However, rather than blurring the dichotomy between the presumptively legal rule of reason analysis on one hand and the category of per se illegal conduct on the other, the quick look has allowed courts to find section 1 violations in nearly every case in which it has been used without having to expand the short list of per se illegal acts.60 In American Needle, Justice Stevens suggested that the court should use a quick look rule of reason.61 In his next sentence, however, Justice Stevens provided the lower court with a reason not to find the NFL’s conduct illegal, but instead to find justification for the teams’ cooperation. The deliberate determination that the quick look analysis should be used in order to find conduct legal is novel to antitrust doctrine and represents the fulfillment of the idea that antitrust doctrine should be “less a dichotomy than a continuum.”62

### DA---Heg bad

#### American primacy solves every threat---decline emboldens rivals and causes miscalc and arms races that escalate.

Hal Brands 18. Henry A. Kissinger Distinguished Professor of Global Affairs at the Johns Hopkins University School of Advanced International Studies, Senior Fellow at the Center for Strategic and Budgetary Assessments and the Foreign Policy Research Institute, Ph.D. in history from Yale University. “Chapter 6: Does America Have Enough Hard Power?” American Grand Strategy in the Age of Trump; pp. 129-133.

Much contemporary commentary favors the first option—reducing commitments—and denounces the third as financially ruinous and perhaps impossible.5 Yet significantly expanding American capabilities would not be nearly as economically onerous as it may seem. Compared to the alternatives, in fact, this approach represents the best option for sustaining American primacy and preventing a slide into strategic bankruptcy that will eventually be punished. Since World War II, the United States has had a military second to none. Since the Cold War, America has committed to having overwhelming military primacy. The idea, as George W. Bush declared in 2002, that America must possess “strengths beyond challenge” has featured in every major U.S. strategy document for a quarter century; it has also been reflected in concrete terms.6 From the early 1990s, for example, the United States consistently accounted for around 35 to 45 percent of world defense spending and maintained peerless global power-projection capabilities.7 Perhaps more important, U.S. primacy was also unrivaled in key overseas strategic regions—Europe, East Asia, the Middle East. From thrashing Saddam Hussein’s million-man Iraqi military during Operation Desert Storm, to deploying—with impunity—two carrier strike groups off Taiwan during the China-Taiwan crisis of 1995– 96, Washington has been able to project military power superior to anything a regional rival could employ even on its own geopolitical doorstep. This military dominance has constituted the hard-power backbone of an ambitious global strategy. After the Cold War, U.S. policymakers committed to averting a return to the unstable multipolarity of earlier eras, and to perpetuating the more favorable unipolar order. They committed to building on the successes of the postwar era by further advancing liberal political values and an open international economy, and to suppressing international scourges such as rogue states, nuclear proliferation, and catastrophic terrorism. And because they recognized that military force remained the ultima ratio regum, they understood the centrality of military preponderance. Washington would need the military power necessary to underwrite worldwide alliance commitments. It would have to preserve substantial overmatch versus any potential great-power rival. It must be able to answer the sharpest challenges to the international system, such as Saddam’s invasion of Kuwait in 1990 or jihadist extremism after 9/11. Finally, because prevailing global norms generally reflect hard-power realities, America would need the superiority to assure that its own values remained ascendant. It was impolitic to say that U.S. strategy and the international order required “strengths beyond challenge,” but it was not at all inaccurate. American primacy, moreover, was eminently affordable. At the height of the Cold War, the United States spent over 12 percent of GDP on defense. Since the mid-1990s, the number has usually been between 3 and 4 percent.8 In a historically favorable international environment, Washington could enjoy primacy—and its geopolitical fruits—on the cheap. Yet U.S. strategy also heeded, at least until recently, the fact that there was a limit to how cheaply that primacy could be had. The American military did shrink significantly during the 1990s, but U.S. officials understood that if Washington cut back too far, its primacy would erode to a point where it ceased to deliver its geopolitical benefits. Alliances would lose credibility; the stability of key regions would be eroded; rivals would be emboldened; international crises would go unaddressed. American primacy was thus like a reasonably priced insurance policy. It required nontrivial expenditures, but protected against far costlier outcomes.9 Washington paid its insurance premiums for two decades after the Cold War. But more recently American primacy and strategic solvency have been imperiled. THE DARKENING HORIZON For most of the post–Cold War era, the international system was— by historical standards—remarkably benign. Dangers existed, and as the terrorist attacks of September 11, 2001, demonstrated, they could manifest with horrific effect. But for two decades after the Soviet collapse, the world was characterized by remarkably low levels of great-power competition, high levels of security in key theaters such as Europe and East Asia, and the comparative weakness of those “rogue” actors—Iran, Iraq, North Korea, al-Qaeda—who most aggressively challenged American power. During the 1990s, some observers even spoke of a “strategic pause,” the idea being that the end of the Cold War had afforded the United States a respite from normal levels of geopolitical danger and competition. Now, however, the strategic horizon is darkening, due to four factors. First, great-power military competition is back. The world’s two leading authoritarian powers—China and Russia—are seeking regional hegemony, contesting global norms such as nonaggression and freedom of navigation, and developing the military punch to underwrite these ambitions. Notwithstanding severe economic and demographic problems, Russia has conducted a major military modernization emphasizing nuclear weapons, high-end conventional capabilities, and rapid-deployment and special operations forces— and utilized many of these capabilities in conflicts in Ukraine and Syria.10 China, meanwhile, has carried out a buildup of historic proportions, with constant-dollar defense outlays rising from US$26 billion in 1995 to US$226 billion in 2016.11 Ominously, these expenditures have funded development of power-projection and antiaccess/area denial (A2/AD) tools necessary to threaten China’s neighbors and complicate U.S. intervention on their behalf. Washington has grown accustomed to having a generational military lead; Russian and Chinese modernization efforts are now creating a far more competitive environment. Second, the international outlaws are no longer so weak. North Korea’s conventional forces have atrophied, but it has amassed a growing nuclear arsenal and is developing an intercontinental delivery capability that will soon allow it to threaten not just America’s regional allies but also the continental United States.12 Iran remains a nuclear threshold state, one that continues to develop ballistic missiles and A2/AD capabilities while employing sectarian and proxy forces across the Middle East. The Islamic State, for its part, is headed for defeat, but has displayed military capabilities unprecedented for any terrorist group, and shown that counterterrorism will continue to place significant operational demands on U.S. forces whether in this context or in others. Rogue actors have long preoccupied American planners, but the rogues are now more capable than at any time in decades. Third, the democratization of technology has allowed more actors to contest American superiority in dangerous ways. The spread of antisatellite and cyberwarfare capabilities; the proliferation of man-portable air defense systems and ballistic missiles; the increasing availability of key elements of the precision-strike complex— these phenomena have had a military leveling effect by giving weaker actors capabilities which were formerly unique to technologically advanced states. As such technologies “proliferate worldwide,” Air Force Chief of Staff General David Goldfein commented in 2016, “the technology and capability gaps between America and our adversaries are closing dangerously fast.”13 Indeed, as these capabilities spread, fourth-generation systems (such as F-15s and F-16s) may provide decreasing utility against even non-great-power competitors, and far more fifth-generation capabilities may be needed to perpetuate American overmatch. Finally, the number of challenges has multiplied. During the 1990s and early 2000s, Washington faced rogue states and jihadist extremism—but not intense great-power rivalry. America faced conflicts in the Middle East—but East Asia and Europe were comparatively secure. Now, the old threats still exist—but the more permissive conditions have vanished. The United States confronts rogue states, lethal jihadist organizations, and great-power competition; there are severe challenges in all three Eurasian theaters. “I don’t recall a time when we have been confronted with a more diverse array of threats, whether it’s the nation state threats posed by Russia and China and particularly their substantial nuclear capabilities, or non-nation states of the likes of ISIL, Al Qaida, etc.,” Director of National Intelligence James Clapper commented in 2016. Trends in the strategic landscape constituted a veritable “litany of doom.”14 The United States thus faces not just more significant, but also more numerous, challenges to its military dominance than it has for at least a quarter century.

#### Collapse of unipolarity causes extinction via transition wars. The structure of the international system explains conflict.

Michael Beckley 18. Professor of political science at Tufts. *Unrivaled: Why America Will Remain the World’s Sole Superpower*. Cornell University Press.

The story of world politics is often told as a game of thrones in which a rotating cast of great powers battles for top-dog status. According to researchers led by Graham Allison at Harvard, there have been sixteen cases in the past ﬁve hundred years when a rising power challenged a ruling power. 3 Twelve of these cases ended in carnage. One can quibble with Allison’s case selection, but the basic pattern is clear: hegemonic rivalry has sparked a catastrophic war every forty years on average for the past half millennium.

The emergence of unipolarity in 1991 has put this cycle of hegemonic competition on hold. Obviously wars and security competition still occur in today’s unipolar world—in fact, as I explain later, unipolarity has made certain types of asymmetric conﬂict more likely—but none of these conﬂicts have the global scope or generational length of a hegemonic rivalry.

To appreciate this point, just consider the Cold War—one of the four “peaceful” cases of hegemonic rivalry identiﬁed by Allison’s study. Although the two superpowers never went to war, they divided the world into rival camps, waged proxy wars that killed millions of people, and pushed each other to the brink of nuclear Armageddon. For forty-ﬁve years, World War III and human extinction were nontrivial possibilities.

Since the collapse of the Soviet Union, by contrast, the United States has not faced a hegemonic rival, and the world, though far from perfect, has been more peaceful and prosperous than ever before.

Just look at the numbers. From 1400 to 1991, the rate of war deaths worldwide hovered between 5 and 10 deaths per 100,000 people and spiked to 200 deaths per 100,000 during major wars. 4 After 1991, however, war death rates dropped to 0.5 deaths per 100,000 people and have stayed there ever since. Interstate wars have disappeared almost entirely, and the number of civil wars has declined by more than 30 percent. 5 Meanwhile, the global economy has quadrupled in size, creating more wealth between 1991 and 2018 than in all prior human history combined. 6

What explains this unprecedented outbreak of peace and prosperity? Some scholars attribute it to advances in communications technology, from the printing press to the telegraph to the Internet, which supposedly spread empathy around the globe and caused entire nations to place a higher value on human life. 7

Such explanations are appealing, because they play on our natural desire to believe in human progress, but are they convincing? Did humans suddenly become 10 to 20 times less violent and cruel in 1991? Are we orders of magnitude more noble and kind than our grandparents? Has social media made us more empathetic? Of course not, which is why the dramatic decline in warfare after 1991 is better explained by geopolitics than sociology. 8

The collapse of the Soviet Union not only ended the Cold War and related proxy ﬁghting, it also opened up large swathes of the world to democracy, international commerce, and peacekeeping forces—all of which surged after 1991 and further dampened conﬂict. 9 Faced with overwhelming U.S. economic and military might, most countries have decided to work within the American-led liberal order rather than ﬁght to overturn it. 10 As of 2018, nearly seventy countries have joined the U.S. alliance network—a Kantian community in which war is unthinkable—and even the two main challengers to this community, China and Russia, begrudgingly participate in the institutions of the liberal order (e.g., the UN, the WTO, the IMF, World Bank, and the G-20), engage in commerce with the United States and its allies, and contribute to international peacekeeping missions. 11 History may not have ended in 1991, but it clearly changed in profound ways—and mostly for the better.

#### Both sides miscalc---powers misread the transition.

Min-hyung Kim 20. Department of Political Science and International Relations, Kyung Hee University, Seoul, South Korea. “A real driver of US–China trade conflict: The Sino–US competition for global hegemony and its implications for the future” Emerald Insight. 02-04-2019. <https://www.emerald.com/insight/content/doi/10.1108/ITPD-02-2019-003/full/html>

Underlying these arguments for an inevitable war between the two superpowers is PTT. PTT originally formulated by Organski (1958) posits that **war is likely** when the power of the dominant state in the international system (i.e. hegemon) is **declining** and that a dissatisfied rising challenger **substantially reduces the power gap between the hegemon and itself**. Unlike balance of power theory, PTT argues that the war is most likely when there is near power parity between a dominant state and a rising and dissatisfied challenger (Organski and Kugler, 1980, pp. 19-20)[5]. A rising power here is generally dissatisfied with the existing international order and **initiates war against a declining hegemon in order to impose orders that are more favorable to itself** (Organski 1958, pp. 364-367). Layne (2018, p. 110) put these power transition dynamics quite succinctly as follows: “Over time, however, the relative power of states changes, and eventually the international order no longer reflects the actual distribution of power between or among the leading Great Powers. When that happens, the legitimacy of the prevailing order is called into question, and it will be challenged by the rising power(s).” And when the balance of power between a dominant state and a rising challenger changes sufficiently, a new order replaces an old one typically **by a hegemonic war** (2018, p. 104). Paying close attention to the **growing Sino–US competition** over hegemony in the twenty-first century, therefore, Shirk (2007, p. 4), China specialist, argues that “History teaches us that rising powers are likely to provoke war.” On the other hand, scholars like Gilpin (1981) contend that the power transition war between great powers is likely to occur when a hegemonic state whose power is declining due to imperial overstretch[6] views “**preventive war as the most attractive means of eliminating the threat** posed by challengers” (Ned Lebow and Valentino, 2009, p. 391), although they do acknowledge that there might be some “ways to prolong the period of its power preponderance vis-à-vis the rising challenger, so that the rapidly rising power will not dare to challenge the hegemonic leadership” (Kim and Gates, 2015, p. 221). In this case, the initiator of war is a declining hegemon, rather than a rising challenger. The declining hegemon who fears a rising challenger’s overtaking its power in the near future **sees war as a better option** than other options of maintaining its hegemony such as reducing its commitments abroad and appeasing a rising challenger.

#### Unipolarity solves interventions by providing the US with the freedom of action to avoid ill-advised fights. BUT retrenchment causes prolif of proxy conflicts and adventurism.

Noel Thomas Anderson 19. Assistant professor in the Department of Political Science at the University of Toronto. “Competitive Intervention, Protracted Conflict, and the Global Prevalence of Civil War.” International Studies Quarterly 63(3): 692-706.

Systemic Dimensions: The Varying Prevalence of Competitive Intervention

The framework articulated above not only provides a comprehensive account of the duration effects of competitive intervention on civil wars—it also highlights a candidate explanation for the recent decline in the prevalence of intrastate conflict. Insofar as state decisions to aid combatants are consistent with competitive state policy-making, temporal variation in geopolitical competition between states should affect trends in the prevalence of competitive intervention. Variation in the prevalence of competitive intervention should in turn affect temporal trends in the prevalence of internal conflict through the duration effects described above.

Consider the pervasiveness of US-Soviet competition during the Cold War. Bipolarity extended the geographic scope of concern and broadened the range of factors included in the competition between the superpowers. American and Soviet leaders worried that challenges to the existing distribution of power might raise doubts about the credibility of their alliance commitments, thereby encouraging their allies to drift toward neutrality or, worse still, switch sides (Hironaka 2005, 107–11). Because challenges to the status quo were perceived to threaten the relative balance of power and credibility, they were resisted. Yet, because any action by one superpower was perceived as an attempt to gain a geostrategic advantage, it demanded a response. The end result was a proliferation of US-Soviet competitive intervention, wherein the superpowers committed resources to opposing government and rebel forces fighting on the periphery of their spheres of influence.

That many civil wars during the Cold War were superpower proxy wars is a well-rehearsed perspective, but what is missing from existing accounts is an explanation for why superpower sponsorship should be associated with longer conflicts. If foreign civil wars played such a key role in the larger Cold War struggle, why did the superpowers not do what was necessary to help their respective sides win? The theory outlined above provides an answer: challenges to the relative balance of power and credibility necessitated reflexive responses, but the impossible stakes of direct confrontation advised caution. While the superpowers were compelled to intervene, they were simultaneously—and paradoxically—compelled to do so with restraint.

Superpower rivalry also had secondary duration effects. Constrained by the need to both deter and avoid direct confrontation, Washington and Moscow employed indirect strategies for projecting power. Military aid was an integral element of their competition for influence, and accordingly, money and weapons diffused not only to civil wars, but across the international system. This assistance empowered client states, providing a set of Cold War framings and superpower arms that could be used to justify and implement independent foreign policy objectives. Notably, the superpowers struggled to control their clients’ adventurism; by exploiting fears of defection to the opposing bloc, clients found ways to commandeer superpower aid for their own self-interested ends (Krause 1991). The net result was a proliferation of interventions by otherwise weak states in civil wars across the globe.

In the post–Cold War period, by contrast, state clients have a harder time garnering American aid. Regional powers continue to intervene in civil wars, but they can no longer rely on the reflexive support of the USSR when conflicts of interest arise vis-à-vis US policy, nor can they threaten defection to the Soviet-bloc in the face of American sanction. In the unipolar period, the United States has greater choice in which state clients it chooses to support, enjoys greater flexibility to discipline adventurism by weaker powers, and maintains “command of the commons” to restrict flows of economic and military aid around the globe (Posen 2003). Together, these features of the unipolar system constrain foreign adventurism by lesser powers relative to the Cold War period, thereby reducing—though not eliminating—the prevalence of competitive interventions among neighboring states and regional rivals. In this way, the transition from a bipolar to unipolar system not only terminated superpower proxy warfare, but also decreased the rate of competitive intervention by lesser powers.

#### The best studies confirm our impact---err on the side of a consensus of empirical research---our evidence assumes every skeptic.

Stephen Brooks & William Wohlforth 16. William, Daniel Webster Professor in the Department of Government at Dartmouth College. Stephen Brooks, Ph. D in Political Science from Yale, Associate Professor of Government at Dartmouth College, Senior Fellow at the Belfer Center for Science and International Affairs at Harvard University. Page 103-108

Consistency with influential relevant theories lends credence to the expectation that US security commitments actually can shape the strategic environment as deep engagement presupposes. But it is far from conclusive. Not all analysts endorse the theories we discussed in chapter 5. These theories make strong assumptions that states generally act rationally and focus primarily on security. Allowing misperceptions, emotions, domestic politics, desire for status, or concern for honor into the picture might alter the verdict on the strategy’s net expected effects. And to model the strategy’s expected effects we had to simplify things by selecting two mechanisms— assurance and deterrence— and examining their effects independently, thus missing potentially powerful positive interactions between them.

This chapter moves beyond theory to examine patterns of evidence. If the theoretical arguments about the security effects of deep engagement are right, what sort of evidence should we see? Two major bodies of evidence are most important: general empirical findings concerning the strategy’s key mechanisms and regionally focused research.

General Patterns of Evidence Three key questions about US security provision have received the most extensive analysis. First, do alliances such as those sustained by the United States actually deter war and increase security? Second, does such security provision actually hinder nuclear proliferation? And third, does limiting proliferation actually increase security?

Deterrence Effectiveness The determinants of deterrence success and failure have attracted scores of quantitative and case study tests. Much of the case study work yields a cautionary finding: that deterrence is much harder in practice than in theory, because standard models assume away the complexities of human psychology and domestic politics that tend to make some states hard to deter and might cause deterrence policies to backfire. 1 Many quantitative findings, mean- while, are mutually contradictory or are clearly not relevant to extended deterrence. But some relevant results receive broad support:

* Alliances generally do have a deterrent effect. In a study spanning nearly two centuries, Johnson and Leeds found “support for the hypothesis that defensive alliances deter the initiation of disputes.” They conclude that “defensive alliances lower the probability of international conflict and are thus a good policy option for states seeking to maintain peace in the world.” Sechser and Fuhrmann similarly find that formal defense pacts with nuclear states have significant deterrence benefits. 2 3
* The overall balance of military forces (including nuclear) between states does not appear to influence deterrence; the local balance of military forces in the specific theater in which deterrence is actually practiced, however, is key. 4
* Forward- deployed troops enhance the deterrent effect of alliances with overseas allies. 5
* Strong mutual interests and ties enhance deterrence. 6
* Case studies strongly ratify the theoretical expectation that it is easier to defend a given status quo than to challenge it forcefully: compellence (sometimes termed “coercion” or “coercive diplomacy”) is extremely hard.

The most important finding to emerge from this voluminous research is that alliances— especially with nuclear- armed allies like the United States— actually work in deterring conflict. This is all the more striking in view of the fact that what scholars call “selection bias” probably works against it. The United States is more inclined to offer— and protégés to seek— alliance rela- tionships in settings where the probability of military conflicts is higher than average. The fact that alliances work to deter conflict in precisely the situations where deterrence is likely to be especially hard is noteworthy.

More specifically, these findings buttress the key theoretical implication that if the United States is interested in deterring military challenges to the status quo in key regions, relying only on latent military capabilities in the US homeland is likely to be far less effective than having an overseas military posture. Similarly, they lend support to the general proposition that a forward deterrence posture is strongly appealing to a status quo power, because defending a given status quo is far cheaper than overturning it, and, once a favorable status quo is successfully overturned, restoring the status quo ante can be expected to be fearsomely costly. Recognizing the significance of these findings clearly casts doubt on the “wait on the sidelines and decide whether to intervene later” approach that is so strongly favored by retrenchment proponents.

The Causes of Nuclear Proliferation Matthew Kroenig highlights a number of reasons why US policymakers seek to limit the spread of nuclear weapons: “Fear that nuclear proliferation might deter [US leaders] from using military intervention to pursue their interests, reduce the effectiveness of their coercive diplomacy, trigger regional instability, undermine their alliance structures, dissipate their strategic attention, and set off further nuclear proliferation within their sphere of influence.” These are not the only reasons for concern about nuclear proliferation; also notable are the enhanced prospects of nuclear accidents and the greater risk of leakage of nuclear material to terrorists. 9 8

Do deep engagement’s security ties serve to contain the spread of nuclear weapons? The literature on the causes of proliferation is massive and faces challenges as great as any in international relations. With few cases to study, severe challenges in gathering evidence about inevitably secretive nuclear programs, and a large number of factors in play on both the demand and the supply sides, findings are decidedly mixed. Alliance relationships are just one piece of this complex puzzle, one that is hard to isolate from all the other factors in play. And empirical studies face the same selection bias problem just discussed: Nuclear powers are more likely to offer security guarantees to states confronting a serious threat and thus facing above- average incentives to acquire nuclear weapons. Indeed, alliance guarantees might be offered to states actively considering the nuclear option precisely in order to try to forestall that decision. Like a strong drug given only to very sick patients, alliances thus may have a powerful effect even if they sometimes fail to work as hoped. 10

Bearing these challenges in mind, the most relevant findings that emerge from this literature are:

* The most recent statistical analysis of the precise question at issue concludes that “security guarantees significantly reduce proliferation proclivity among their recipients.” In addition, states with such guarantees are less likely to export sensitive nuclear material and technology to other nonnuclear states. 12 11
* Case study research underscores that the complexity of motivations for acquiring nuclear weapons cannot be reduced to security: domestic politics, economic interests, and prestige all matter. 13
* Multiple independently conceived and executed recent case studies nonetheless reveal that security alliances help explain numerous allied decisions not to proliferate even when security is not always the main driver of leaders’ interest in a nuclear program. As Nuno Monteiro and Alexandre Debs stress, “States whose security goals are subsumed by their sponsors’ own aims have never acquired the bomb. … This finding highlights the role of U.S. security commitments in stymieing nuclear proliferation: U.S. protégés will only seek the bomb if they doubt U.S. protection of their core security goals.” 15 14
* Multiple independently conceived and executed recent case research projects further unpack the conditions that decrease the likelihood of allied proliferation, centering on the credibility of the alliance commitment. In addition, in some cases of prevention failure, the alliances allow the patron to influence the ally’s nuclear program subsequently, decreasing further proliferation risks. 17
* Security alliances lower the likelihood of proliferation cascades. To be sure, many predicted cascades did not occur. But security provision, mainly by the United States, is a key reason why. The most comprehensive statistical analysis finds that states are more likely to proliferate in response to neighbors when three conditions are met: (1) there is an intense security rivalry between the two countries; (2) the prospective proliferating state does not have a security guarantee from a nuclear- armed patron; and (3) the potential proliferator has the industrial and technical capacity to launch an indigenous nuclear program. 18 19 16

In sum, as Monteiro and Debs note, “Despite grave concerns that more states would seek a nuclear deterrent to counter U.S. power preponderance,” in fact “the spread of nuclear weapons decelerated with the end of the Cold War in 1989.” Their research, as well as that of scores of scholars using multiple methods and representing many contrasting theoretical perspectives, shows that US security guarantees and the counter- proliferation policy deep engagement allows are a big part of the reason why. 20

The Costs of Nuclear Proliferation General empirical findings thus lend support to the proposition that security alliances impede nuclear proliferation. But is this a net contributor to global security? Most practitioners and policy analysts would probably not even bring this up as a question and would automatically answer yes if it were raised. Yet a small but very prominent group of theorists within the academy reach a different answer: some of the same realist precepts that generate the theoretical prediction that retrenchment would increase demand for nuclear weapons also suggest that proliferation might increase security such that the net effect of retrenchment could be neutral. Most notably, “nuclear optimists” like Kenneth Waltz contend that deterrence essentially solves the security problem for all nuclear- armed states, largely eliminating the direct use of force among them. It follows that US retrenchment might generate an initial decrease in security followed by an increase as insecure states acquire nuclear capabilities, ultimately leaving no net effect on international security. 21

This perspective is countered by “nuclear pessimists” such as Scott Sagan. Reaching outside realism to organization theory and other bodies of social science research, they see major security downsides from new nuclear states. Copious research produced by Sagan and others casts doubt on the expectation that governments can be relied upon to create secure and controlled nuclear forces. The more nuclear states there are, the higher the probability that the organizational, psychological, and civil- military pathologies Sagan identifies will turn an episode like one of the numerous “near misses” he uncovers into actual nuclear use. As Campbell Craig warns, “One day a warning system will fail, or an official will panic, or a terrorist attack will be misconstrued, and the missiles will fly.” 22 23

Looking beyond these kinds of factors, it is notable that powerful reasons to question the assessment of proliferation optimists also emerge even if one assumes, as they do, that states are rational and seek only to maximize their security. First, nuclear deterrence can only work by raising the risk of nuclear war. For deterrence to be credible, there has to be a nonzero chance of nuclear use. If nuclear use is impossible, deterrence cannot be credible. It follows that every nuclear deterrence relationship depends on some probability of 24 nuclear use. The more such relationships there are, the greater the risk of nuclear war. Proliferation therefore increases the chances of nuclear war even in a perfectly rationalist world. Proliferation optimists cannot logically deny that nuclear spread increases the risk of nuclear war. Their argument must be that the security gains of nuclear spread outweigh this enhanced risk.

Estimating that risk is not simply a matter of pondering the conditions under which leaders will choose to unleash nuclear war. Rather, as Schelling established, the question is whether states will run the risk of using nuclear weapons. Nuclear crisis bargaining is about a “competition in risk taking.” Kroenig counts some twenty cases in which states—including prominently the United States—ran real risks of nuclear war in order to prevail in crises. As Kroenig notes, “By asking whether states can be deterred or not … proliferation optimists are asking the wrong question. The right question to ask is: what risk of nuclear war is a specific state willing to run against a particular opponent in a given crisis?” The more nuclear- armed states there are, the more the opportunities for such risk- taking and the greater the probability of nuclear use. 27 26 25

#### Heg is sustainable.

Kroenig 20, Professor in the Department of Government and the Edmund A. Walsh School of Foreign Service at Georgetown University. (Matthew, *The Return of Great Power Rivalry: Democracy versus Autocracy from the Ancient World to the U.S. and China*, pg. 205-207, Oxford University Press)

America’s Military Strength

America’s final advantage is its military strength. The United States remains the world’s only military superpower. It has global power-projection capabilities. As it demonstrated as far back as World War II, it can bring military forces to any spot on the globe and wage a sustained, major-theater war. It currently deploys forces on every major continent except Antarctica. Russia and China lack these capabilities.

When analysts worry about World War III, they are talking about a possible fight in Russia or China’s backyard. Some international relations theorists argue that we are moving to a more multipolar world. But in the classic European balance of power system, Prussia’s ability to threaten France was roughly equivalent to France’s capacity to do harm to Prussia. Until Russia and China have the ability to fight a full-scale war in North America, talk of genuine multipolarity is premature.

In addition, as the United States demonstrated in Iraq, Afghanistan, Serbia, and Libya, hostile dictators in small and medium-sized countries remain in power only at the mercy of the U.S. Department of Defense. While rebuilding governments has proved to be an insurmountable challenge, the Pentagon has shown that it can topple them with relative ease.

The United States uses its large economy to continue to invest in military strength. Its annual defense spending towers over that of its competitors at $718 billion per year, compared to $146 billion in China and $68 billion in Russia. Indeed, the United States spends more on defense than the next nine countries combined, and most of these countries are U.S. allies and partners.

China is certainly expanding its military capabilities, but it takes time (often a decade or more) to build major military platforms. Even if Xi Jinping makes the decision to do so today, it would take China until 2050 at the earliest to become a global military superpower.

Washington also has trust in its officer corps and strong civil-military relations. The United States is comfortable delegating tactical decisions to commanders on the ground. This provides a significant advantage over more sclerotic autocratic competitors, especially in a messy, high-intensity fight.

The United States also retains a healthy lead in military applications of high technology and strategic forces. Washington first deployed stealth technology in the late 1980s, for example. China has been working on stealth technology since that time, and it is still not clear whether it has mastered it. Washington is still the only great power that conducts regular nuclear deterrence patrols with its submarine force; this is a strategic advantage that is sixty years old and counting.

Washington is also exploring new military technologies: hypersonic glide vehicles, directed-energy lasers for missile defense, and other sci-fi-like capabilities. The United States is already incorporating 3D printing into its defense acquisition process, with the potential to produce better products while drastically lowering the defense budget.13 China and Russia are also working in these areas, but history and theory, from the Greek phalanx to thermonuclear weapons, suggest that an open society will likely be the first to develop novel military technologies and the operational concepts to put them to good use.

Perhaps America’s greatest military strength, however, is the simple fact that it can focus its defense strategy against foreign threats. Unlike its autocratic foes, U.S. leaders do not worry that the American system of government might fall tomorrow. As a result, they do not need to spend exorbitant amounts on domestic security. To be sure, the United States has effective law enforcement and provides adequate resources to the FBI and state and local police. But among the new great power competitors, the United States is unique in spending less on domestic security than on international security. If you follow the money, Russia and China believe that the greatest threat to their security comes from their own people. In the United States, domestic tranquility provides for our common defense.

U.S. domestic political stability will allow Washington to continue to execute its consistent grand strategy from the past seventy-five years and counting: expanding and defending the U.S.-led, rules-based international order. Pessimists have argued that this order is dead, but they are incorrect. It can and should be revitalized, adapted, and defended for a new era.14

The United States has certainly made some costly errors in foreign and defense policy. Most believe the Iraq war was a mistake and the execution of the conflicts in both Iraq and Afghanistan left something to be desired. Yet, consistent with democracies in the past, America’s mistakes have been fewer and easier to rectify. Occupying Iraq and Afghanistan is not invading Russia in the winter. Despite fighting for nearly two decades in what may be considered losing wars, the United States remains the world’s preeminent military power.

### CP---PSE

#### Can’t solve credibility---DOJ still gets blamed.

Boris Bershteyn et al. 19. \*\*Partner, Complex Litigation and Trials; Antitrust/Competition at Skadden, Arps, Slate, Meagher and Flom, LLP. \*\*Karen M. Lent. \*\*Tara L. Reinhart. \*\*Zachary C. Siegler. “'Titans' of Antitrust Policy Clash Over No-Poach Agreements.” 6/7/19. https://www.skadden.com/insights/publications/2019/06/titans-of-antitrust-policy-clash-over

DOJ’s statements have also provoked concerns from Congress. On May 22, Congressman David Cicilline (D-R.I.), chairman of the House Judiciary Committee’s antitrust subcommittee, wrote a letter criticizing DOJ’s recent advocacy efforts, singling out the fast food franchise statements.4 In Chairman Cicilline’s view, DOJ’s “decision to interfere [in the franchise cases] in order to win greater protection for corporate franchisors that restrict labor market competition ... reflects grossly misshapen priorities.” Chairman Cicilline warned that continuing the use of resources on the amicus program may cause Congress to review the Antitrust Division’s budget.

But unless Congress acts, the antitrust treatment of no-poach agreements will continue to evolve in the courts. In the words of Judge Rosenstengel,“This dichotomy [between DOJ and AAI] shows that the legal questions here are in their infancy, and this battle looks like one that will make its way through the courts for years to come.”

#### Criminal antitrust penalties are key to deterrence.

Donald I. Baker 01. Senior Partner, Baker & Miller PLLC; former Assistant Attorney General in charge of the Antitrust Division, U.S. Department of Justice. “The Use of Criminal Law Remedies to Deter and Punish Cartels and Bid-Rigging” The George Washington Law Review. Vol 69:693. October/December 2001.

The principal reason for having criminal liability against those who commit **antitrust violations** is to **deter similar conduct by others**. As a consequence, in the United States, where we have had a criminal enforcement system in effect for several decades, we do not tend to see **serial violators** (those individuals who repeat the same offense after having been caught once).24 Rather, we see different individuals and enterprises violating the law **because they think they can get away with it**, and they see substantial economic advantage in trying to do so.

Any system that is based on deterrence-and fairness-**must have clear rules**. Ordinary business actors must be able to understand the difference between right and wrong, and their lawyers must be able to give unequivocal legal advice. The anticartel rules are apt candidates for such treatments. Cartels involve several different variations:

a Agreements not to compete for any customers on price or some element of price (for example, credit terms).

\* Agreements not to poach each other's existing customers.

\* Agreements not to compete for any customers, old or new, in each other's agreed geographic markets.

( Agreements on who is to be the winning bidder in a bidding situation (with the other participants often putting in so-called "complementary bids").

\* Agreements to limit output.

Each of these examples is capable of being seen and understood by a business executive or salesperson as illegal before she takes any action to enter into or implement such an agreement. Thus, there is still a mens rea requirement.

**Effective deterrence** also requires that those who might otherwise be tempted to take illegal action believe that there is some reasonable probability of their being caught and that **the consequences are grave.** The presence of **criminal remedies**-and particularly criminal remedies for individuals-has proven to be an important part of **achieving the level of deterrence** we now seem to have in the United States.25 Risk of conviction and imprisonment **provides a powerful inducement** for one coconspirator to in- form on her other coconspirators. In addition, the United States has provided a fairly high level of funding for antitrust criminal enforcement by the DOJ and a uniquely advantageous prosecutorial system of grand jury investi- gation, both of which increase the government's chance of catching antitrust violators. Having more DOJ staff armed with a secretive process favoring the prosecutors clearly raises the stakes for those rationally contemplating price-fixing or other cartel activities.

#### Employers will circumvent the counterplan through misclassification---only the plan solves.

Marshall Steinbaum 19. Assistant Professor of Economics at the University of Utah, Senior Fellow in Higher Education Finance at the Jain Family Institute. “Antitrust, The Gig Economy, and Labor Market Power.” 2019. Law and Contemporary Problems 82, 45-64.

That means the solution to unequal bargaining power is not necessarily or not entirely an antitrust solution, but antitrust must play a major part, since it implicates the business models available to the economy’s dominant firms. In particular, we should seek, through revived antitrust and labor regulations that both take account of how the economy actually works, and how power is exercised within it, to re-establish the sharp distinction embodied in Richfield Oil. Either workers are employees, in which case they can be controlled by their bosses, who in turn owe them statutory protections including the right to bargain collectively, or they are independent businesses, in which case they cannot be coerced by contract or by any other means. Proposals to extend and strengthen labor law tests for statutory employment to take account of gig economy technologies are crucial, but they will be ineffective so long as employers and lead firms retain the strong incentive to push workers outside their protection. The role of antitrust in that context is to create a significant cost to so doing: the potential for treble damages under antitrust liability should a lead firm be caught coordinating and directing the activities of its non-employee subsidiaries and contractors. That is the mechanism that would weigh against employers’ incentive to mis-classify.

#### Perm do the counterplan---anything that regulates competition expands antitrust.

Nurix Therapeutics, Inc. and Gilead Sciences, Inc. 17. “Collaboration, Option and License Agreement by and between NURIX THERAPEUTICS, INC. and GILEAD SCIENCES, INC.” dated as of June 10, 2019. Certain confidential information contained in this document, marked by [\*], has been omitted because it is not material and would likely cause competitive harm to the company if publicly disclosed. https://www.sec.gov/Archives/edgar/data/1549595/000119312520186809/d903927dex109.htm

1.14 “Antitrust Law” means any Applicable Law that is designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization, lessening of competition or restraint of trade, including the HSR Act.

1.15 “Applicable Law” means all applicable laws, statutes, rules, regulations, treaties (including tax treaties), orders, judgments or ordinances having the effect of law of any national, multinational, federal, state, provincial, county, city or other political subdivision, including, to the extent applicable, GCP, GLP and GMP, as well as all applicable data protection and privacy laws, rules and regulations, including, to the extent applicable, the United States Department of Health and Human Services privacy rules under the Health Insurance Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act and the EU Data Protection Directive (Council Directive 95/46/EC) and applicable laws implementing the EU Data Protection Directive and the General Data Protection Regulation (2016/679).

#### Doesn’t solve deterrence. Ineffective remedies, agency capture, and expertise gaps ensure failure to curtail anticompetitive practices.

Samuel Weinstein 19. Assistant Professor of Law, Benjamin N. Cardozo School of Law, Yeshiva University. “Article: Financial Regulation in the (Receding) Shadow of Antitrust.” *Temple Law Review* (91): 487-491.

Even when sector regulators prioritize protecting competition, many lack the expertise and institutional mechanisms to do so effectively. Regulatory agencies might not employ investigatory and adjudicatory procedures sufficient to root out anticompetitive conduct. While courts must in many cases allow for exhaustive discovery, the same cannot be said for most agency proceedings. As a result, even those sector regulators that value protecting competition may not have the institutional systems necessary to follow through effectively.

The relative weakness of remedies typically available to regulatory agencies compounds these problems. Most agencies do not have access to remedies as stringent as an antitrust court's power to assign treble damages under the Sherman Act or to permanently enjoin anticompetitive conduct. The administrative record in Trinko showed that Verizon admitted it had violated its open-access commitments and voluntarily paid $ 3 million to the FCC and $ 10 [\*488] million to competitive local exchange carriers. While the Trinko opinion relied on these sanctions in part for its conclusion that the FCC's regulatory regime had fulfilled the antitrust function, the FCC Chairman subsequently told Congress that the Commission's maximum fine authority was in many instances "insufficient to punish and deter violations" that incumbent local exchange carriers like Verizon had committed with the aim of "slow[ing] the development of local competition." Among other measures, Chairman Powell recommended increasing the FCC's forfeiture authority against common carriers for single continuing violations of the Telecommunications Act from $ 1.2 million to "at least $ 10 million."

Agency capture is another explanation for regulators' relative weakness as competition enforcers. The literature on capture is well developed. There is a general scholarly consensus that the political nature of top agency jobs and the revolving door between agencies and the industries they oversee make sector regulators much more susceptible to industry pressure than antitrust courts. Studies have shown that capture may be a particular problem at the financial regulatory agencies. There is a steady flow of lawyers between the SEC and CFTC, on the one hand, and Wall Street firms and the law firms and lobbyists [\*489] that represent them on the other, which appears to affect outcomes of agency proceedings in some cases.

Objective measures of the relative competition-enforcement abilities of the antitrust agencies versus the sector regulators tend to confirm the supposition that sector regulators generally cannot be relied on to fulfill the antitrust function in regulated markets. The expert staffs of the antitrust agencies are far larger and more experienced than the competition staffs, if any, at the sector regulators. In recent years, the Antitrust Division typically has had between 340 and 400 attorneys and approximately 50 economists dedicated to competition enforcement, while the FTC's Bureau of Competition has had around 300 attorneys and support staff and approximately 50 antitrust economists. Some regulatory agencies, like the FCC, Federal Deposit Insurance Corporation (FDIC), and the Federal Reserve, have dedicated competition staff with specific expertise. The FCC has a Wireline Competition Bureau, which includes a Competition Policy Division. The FDIC, Federal Reserve, and the Office of the Comptroller of the Currency have staff dedicated to reviewing proposed bank mergers. Even at these agencies, however, the competition staff is smaller and more narrowly focused than the staffs of the Antitrust Division and FTC. [\*490] The comparison with the SEC and CFTC is starker. Neither agency has a dedicated competition division or group. And neither agency established such a body post-Credit Suisse, when it appeared the SEC and CFTC would have increased responsibility for competition matters, or in the wake of Dodd-Frank, which required the agencies to monitor and protect competition in the derivatives markets. This paucity of personnel resources is perhaps predictable given these agencies' bureaucratic cultures.

Considering this lack of experienced competition staff, it is unsurprising that the SEC and CFTC bring very few independent competition-related enforcement actions. While these agencies have collaborated with the [\*491] Department of Justice and other enforcement agencies on significant competition investigations, there is little evidence that they would bring such cases on their own. It seems clear that the financial services agencies are either unwilling or unable to "perform the antitrust function" as envisioned by the Supreme Court's case law balancing antitrust and regulation. This conclusion is troubling. It means that when courts apply Credit Suisse or Trinko to shift the responsibility for policing competition away from the expert antitrust agencies to regulatory bodies that are unprepared for the task, they are leaving some regulated markets, especially the financial markets, vulnerable to anticompetitive conduct.

## 1AR

### Adv---Inequality

### Adv---DOJ credibility

### K---Buddhism

#### No singularity.

Vallati, 20 – Senior Lecturer in Computer Science at the University of Huddersfield ( Mauro, ‘Will AI take over? Quantum theory suggests otherwise’, January 6 2020, <https://theconversation.com/will-ai-take-over-quantum-theory-suggests-otherwise-126567> )

Will artificial intelligence one day surpass human thinking? The rapid progress of AI, coupled with our standard fear of machines, has raised concerns that its abilities will one day start to grow uncontrollably, eventually leading it to take over the world and wipe out humanity if it decides we are an obstacle to its goals. This moment is usually referred to as the “AI singularity”. One argument against the possibility of such a supreme, unstoppable and indefinitely growing intelligence is that it would need, by definition, to be able to accurately predict the future. And quantum theory, one of modern science’s key ways of explaining the universe, says that predicting the future may not be possible because the universe is random. But what if we only think predicting the future is impossible because we aren’t intelligent enough to know otherwise? Intelligence is a very complex and abstract concept without an agreed definition. However, there is common agreement about some of the components that make up every sort of known intelligence. One of those is the ability to solve problems, which requires the ability to plan by anticipating the future. To solve a problem, it is pivotal to understand the current conditions, predict how the environment will evolve, and to anticipate the outcome of the actions that will be applied. Random universe Recent theories in physics suggest the universe is extremely chaotic and random. Take the example of unstable chemical elements that eventually undergo radioactive decay into another substance. You can estimate how long it will take a certain amount of this element to decay but you can’t say for sure when any single atom of it will. Similarly, you can measure the position or momentum of a particle but, for certain reasons related to quantum theory, you cannot know both at the same time with complete accuracy. (This is known as Heisenberg’s uncertainty principle.) Assuming these theories are correct, they suggest that, beyond a certain level of detail, the universe is ultimately unpredictable, chaotic and unstable. This would mean that any sort of growing intelligence would eventually reach a point where it can no longer improve its predictions of the future and so cannot further increase in intelligence. In other words, there is no risk of a runaway AI, because physical laws of the universe pose some very constraining hard limits. For instance, given the known limits on weather predictability, an AI system will not be able to outsmart humans by exploiting extremely accurate long-term weather forecasts for planning future actions. It is very comforting to believe that the nature of the universe is, in some sense, preventing an AI escalation. But there is an alternative perspective. What if humans perceive the universe as random and chaotic only because our cognitive and reasoning capabilities are too limited? We are aware of some of the limits of human understanding but, to paraphrase Donald Rumsfeld, we don’t know what we don’t know. Taking this perspective, it may be the case that the universe is instead deterministic, and therefore fully predictable, but in an extremely complex way that we as humans cannot grasp. Albert Einstein argued that quantum theory was an incomplete description of the universe and that there must be hidden variables that we don’t yet understand but that hold the key to determining future events. That would turn the table on the possibility of an AI singularity. A super-advanced intelligence could be in the position to reveal these hidden variables and so understand the predictable nature of the universe, unleashing the machine’s full potential. It’s worth noting that AI approaches are already used for automatically making discoveries in physics. On a practical level, the singularity doesn’t seem that plausible given how limited AI actually still is. Recent breakthroughs in AI have been achieved via what’s known as narrow AI, designed to perform a well defined task such as playing chess or driving a car. While narrow AI can outperform humans in some tasks, there’s little to suggest that more general AI that can emulate humans’ ability to respond to many different tasks will be delivered and put humans at risk in the near future.

### DA---Heg bad