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#### Anticompetitive business practices are actions conducted by businesses

Ivy Wigmore No Date. Content Editor on WhatIs.com, the IT encyclopedia engine behind TechTarget’s large network of technology media websites. “DEFINITION anti-competitive practice.” https://whatis.techtarget.com/definition/anti-competitive-practice

An anti-competitive practice is an action conducted by one or more businesses to make it difficult or impossible for other companies to enter or succeed in their market. The market distortion resulting from anti-competitive practices can result in higher prices, poorer service and a stifling of innovation, among other effects. As such, anti-competitive practices are illegal in most countries and are prohibited under antitrust law in the United States.

#### Prohibitions are any proscribed conduct in antitrust.

Margaret V. Sachs 01. Robert Cotten Alston Professor of Law, University of Georgia School of Law. A.B. 1973, Harvard University; J.D. 1977, Harvard Law School. “Harmonizing Civil and Criminal Enforcement of Federal Regulatory Statutes: The Case of The Securities Exchange Act Of 1934”. https://www.illinoislawreview.org/wp-content/uploads/2001/06/Sachs.pdf

Many federal regulatory statutes are hybrid statutes—their prohibitions1 are enforceable in criminal actions as well as in private or govern- mental civil actions (or both).2 Leading examples include the Sherman Antitrust Act,3 the Clean Water Act,4 the Truth in Lending Act,5 the False Claims Act,6 the Racketeer Influenced Corrupt Organizations Act,7 the Federal Food, Drug and Cosmetic Act,8 and the Securities Exchange Act of 1934.9 Hybrid statutes present an important question that has divided courts but received virtually no attention from legal scholars—can the same prohibition mean different things in different enforcement contexts?10

---FOOTNOTE 1 STARTS---

1. For purposes of this article, the term “prohibition” refers to the part of the statute that identifies proscribed conduct. The plaintiff must prove that the defendant engaged in this conduct in order to establish a prima facie case.

---FOOTNOTE 1 ENDS---

#### Violation---Breaking up big banks doesn’t change if conduct is prohibited.

#### Vote neg on predictable limits and ground---infinite adjudication standards without differences in outcome moot topic disads and create unpredictable process advantages.

### 1NC---T Courts

#### Courts cannot ‘expand’ antitrust law

George Bibikos 19, Founder of GA Bibikos LL.C., J.D. from Widener Commonwealth Law School; Supreme Court of Pennsylvania, “Commonwealth of Pennsylvania, Appelle, vs. Chesapeake Energy Corporation et al., Appellants,” <https://paforciviljusticereform.org/wp-content/uploads/2020/11/PCCJR-Chesapeake.pdf>

The court’s decision therefore (a) alters the rights of parties in Pennsylvania accused of engaging in anticompetitive behavior to defend against those claims in federal court, (b) creates new causes of action under the Consumer Protection Law, and (c) creates new remedies for antitrust violations that defendants would not face in federal court. These decisions are inherently legislative in nature. See, e.g., State v. Philip Morris, Inc., Nos. 96122017 and CL211487, 1997 WL 540913, at \*6 (Md. Cir. Ct. May 21, 1997) (“Altering common law rights, creating new causes of action, and providing new remedies for wrongs is generally a legislative function, not a judicial function.”). If these decisions are legislative in nature, then they are outside the purview of the courts and the executive.

Moreover, when the General Assembly prescribes specific statutory duties and remedies, those provisions must be strictly followed, 1 Pa.C.S. § 1504, and the courts cannot “expand coverage to subsume other remedies.” See Nat’l R. R. Passenger Corp. v. Nat’l Ass’n of R.R. Passengers, 414 U.S. 453, 458 (1974) (“A frequently stated principle of statutory construction is that when legislation expressly provides a particular remedy or remedies, courts should not expand the coverage of the statute to subsume other remedies.”). If the Consumer Protection Law is designed to protect buyers in consumer transactions and sets forth specific remedies, the courts are unable to expand the statute to subsume antitrust remedies.

#### Vote neg:

#### Limits—courts explode advantages into unpredictable precedents

#### Ground—mechanism dodges DA links

### Cap K---1NC

#### The plan obscure the broader system of neoliberal governmentality---intermediate steps of regulation ignores the systemic causes of neoliberal crisis.

Jodi Dean 13. American political theorist and professor in the Political Science department at Hobart and William Smith Colleges in New York state. She held the Donald R. Harter ’39 Professorship of the Humanities and Social Sciences from 2013 to 2018. “The neoliberal trap.”

“Too big to fail,” however, is a non-explanation, omitting important questions like “says who?” and “how come?” Banks have failed in the past. Sovereign states have defaulted on their debts. “Too big to fail” displaces attention from the larger political economic circuit of contemporary neoliberal capitalism by condensing it onto a single location - big banks. “Moral hazard,” similarly directing us away from the constitutive immorality of an approach to production and distribution premised on exploitation and dispossession, nonetheless takes us a step closer to neoliberalism as a capitalist system, one in which knowledge of the system has effects on the system, one that is reflexive.

Ever since Socrates challenged his fellow Athenians to justify their opinions, reflexivity has been a primary feature of reason (not to mention a constitutive element of critiques of reason). Most thinking people link reason to self-consciousness and give this link a moral valuation.

Psychoanalysis, however, breaks this link. The psychoanalytic category of “drive” offers the vivid alternative of reflexivity as a trap, a vicious repetitive cycle ensnaring us in deeply destructive practices. Drive can thus illuminate how neoliberalism, that extreme capitalism wherein government pursues policies for the benefit of markets not people, captures its subjects.

#### Their method also fails---antitrust presumes capitalism can save us from capitalism.

Richard Wolff 19 Professor Emeritus of Economics at University of Massachusetts, Amherst. Transcript from YouTube video: “Economic Update: Competition and Monopoly in Capitalism.” Democracy @ Work. December 9th, 2019. https://www.democracyatwork.info/eu\_competition\_monopoly\_in\_capitalism.

Today I'm going to devote the program to something many of you have asked me to present, to talk about, to analyze, and that is the question of monopoly. It has to do with the assertions we hear often these days that somehow our capitalist system, here in the United States and beyond, is being negatively affected because monopolies have replaced or displaced competition. The idea here is if only we can get competition back, recreate a competitive capitalism, why then the problems we face will go away. Today's program is a design to show you how and why that is not the case, to think about these things in a different way from this nice story that capitalism is basically fine; it's just the monopoly form we have to get rid of so we get back to the competition which we're all supposed to believe is wonderful and presents us with no problems to solve. So let's go, and let's do it in a systematic way.

First, it is of course easier, faced with a declining capitalism, a capitalism that's all around us with its extreme inequalities, with its instabilities – here we are, trying to cope with the effects of the Great Crash of 2008, even while we anticipate the next downturn coming down the road soon – an economic system that has shown (that is, capitalism) that it is not respectful of the natural environment; it is not, as the words now go, sustainable in a reasonable way. Yeah, we're surrounded by problems of capitalism. So it's comforting in that situation to get the idea from somewhere that this really isn't a problem of capitalism as a system but rather the problem brought in somehow from the outside – monopoly – a situation in which competition among many companies gives way in some way we're not quite sure about to a domination by one or a small handful of companies. And so the argument goes, we don't have to be critical of capitalism; we don't have to think about an alternative system. No, no, we just have to deal with this little detail, the monopoly problem. And if we can deal with that, well, we'll get back to a competition, to a competitive capitalism that is good.

There are three big mistakes involved in this way of thinking, which is nonetheless very widespread and very popular, more so now than in quite some years. First mistake: Capitalism has been wrestling with the problem of monopoly from day one. We have had repeated periods of monopoly. They have eventually led to movements, often of many people, to destroy or remove monopoly. We used to call that in America trust-busting, or antitrust. We even have a department within the Department of Justice in Washington devoted to antitrust activities. Yeah, we've been waging battles against monopoly over and over again, and you know why? Because we keep having monopolies over and over again. Google is a monopoly. Amazon is a monopoly. They're all around us: companies that have effectively no real competition. This is a problem that capitalism has always displayed. And that ought to lead you to wonder whether thinking about it as something we can do away with isn't maybe the best possible example of wishful thinking.

The second big mistake is to imagine that competition is some unmixed blessing. It never was, and it isn't today. A competitive market is a human institution. Like every other human institution, it has strengths, and flaws, and weaknesses. To think of competition as some magical perfection is a silly abnegation of your own rational capability to evaluate something. It's sort of advertising thinking. By that, I mean the advertiser tells you what's good about the product they've been told to advertise; they don't tell you what's bad about it. If you want to evaluate it, you don't talk to an advertiser because they only give you one side. The people who promote competition use advertising logic. We're not going to do that here. Competition is no unmixed blessing.

And finally, I'm going to show you that competition is itself the major cause of monopoly. So that even if we ever got back to a competitive capitalism, all that would mean is we're back in the process that produces monopoly – as it always has.

All right, so let's begin. I'm going to start with explaining how competition has all kinds of consequences that most of you, like me, don't like, don't want. It's a discussion, if you like, of competition's other side: you know, the part that the advertiser doesn't tell you about. The used-car salesman who wants you to buy that junk doesn't tell you about what happened last week in the car crash that that was part of, etc., etc.

All right, let's begin. One of the major reasons that American corporations shut down their operations in the United States and moved them to China, among other places, is because of – you guessed it – competition. They wanted to make more money than they had been before. They were afraid of other companies beating them in the competitive game, so they said wow, let's go to China, because there you can pay workers a lot less. There you don't have the same rules to obey. There they don't care that much about pollution as they do here. So we can save on all kinds of costs, and that will allow us to undercut our competitors. Yeah, one of the consequences of competition was the exodus of American companies to other parts of the world, and the enormous unemployment that resulted from it. Yeah, that was a result, among other things, of competition.

Here's another one: Capitalists, employers, seeking to compete with one another, often engage in what we call automation. They bring in machines that are cheaper to use than human laborers, and that gets them a step ahead of their competitors. Okay, if we replace people with machines, we throw those people out of work. That has an impact on them, their self-esteem, their relationship to their spouse, their relationship to their children, their relationship to alcohol – should I continue? What are the social costs of automation? They're huge. They've been documented over and over again. Competition provokes and produces automation.

Let me give you another example: Companies are competing, say, in the food business – you know, trying to get a customer like you or me to buy this kind of cereal rather than another. So they get their labs to go to work, and they discover we can replace wheat, which we used to put in our little flakes, with – Lord help us – some chemical that is cheaper than wheat. We're not going to worry about what that chemical does to your chemistry in your body because we can now lower the price of our cereal, because we're saving on wheat, and undercut the competitor. The human beings who eat this stuff will suffer, now and in the future, but competition left our producer of cereal no choice.

And in case you think I'm making some up, let me give you some concrete ones. The Boeing Corporation, the major producer of airplanes in this country, is in a crisis as a corporation. You know why? Because the 737 Max crashed a couple of times, killing hundreds of people. And you know why? It turns out they economized on safety measures, and training measures. And you know why they did that? Because they're in a very tight competition with European and other airplane manufacturers, and that leads them – as it usually does – to look to cut corners: that race for, quote, "efficiency." Yeah, it was competition that contributed to those deaths and to that problem. That's competition too. You can't whitewash this story; they're real. One of the ways Amazon beats its competition is it speeds up the work process. It has figured out ways to make people work much more intensely, using up their brains, their muscles, their nerves, in ways that cause real long-term physical damage to working people. That, too, is a result of the competitive effort.

And you know, it wasn't so long ago that children were part of the labor force. That's right, kids as young as five and six years of age. We were told they have little fingers, you see. They can be more productive than people who are adults with big fat fingers, you know – that doesn't work. And by the way, you should be grateful because poor kids are the ones we hire, and that gives their poor families more income than they would otherwise have. We heard those arguments. Competition, the companies said, required them to use the more productive, and the lower-wage, children rather than adults. So child labor was also a result of competition. It was so ugly and so troubling to so many people that finally there were movements in the United States and many other countries simply to outlaw child labor. So it became a crime for any employer to use a worker who was under 16 or 18 years of age. That was a way in which people said we are not going to allow competition among capitalists to destroy our children. They were recognizing that competition has an awful effect in what it does to children.

Well, it has many awful effects. So let's be clear: In the history of capitalism, the monopoly problem (which we're going to get to in the second half of today's program) is no worse, it's just different, from the competition problems. Capitalism goes through phases of competition and monopoly, going from one to the other, as I will explain. But we shouldn't bemoan the one in favor of the other, any more than vice-versa. These are neither of them solutions; they are both phases of the problem. And the problem is capitalism, which does its number on us both in the period when it's competitive and in the period when it's monopoly. People who want us to engage one more time in an anti-monopoly crusade are doing something that in the end evades the problem, which is the system – capitalism – not this or that form of that system, such as competition and monopoly.

We've come to the end of the first half of today's Economic Update. This gives me an opportunity to remind you, please, to sign up if you haven't already, to subscribe to our YouTube channel. It's a way easily for you to support us, doesn't cost any money, and it is a big help to us in terms of our reputation and what we can accomplish. Likewise, please make use of our websites. They are there for your communication with us. They are there for you to be able to, with a click of a mouse, to follow us on Facebook, Twitter, and Instagram. And finally, a special thanks goes, as always, to our Patreon community for their ongoing enthusiastic support. It means the world to us. My final, very final for this first half, is about a new book that we have just produced and released. It's a follow-up to an earlier volume I have spoken to you about that was called Understanding Marxism. For the same reason, we have now produced a brand-new book, just out, called Understanding Socialism. It is a response, as this program is, to issues, questions, comments you have sent to us in large numbers. It's an attempt to give an overview of the different interpretations of what socialism means, of what happened in countries like Russia and China that tried to create this – the strengths, the weaknesses, the lessons to be learned, what to do, and what not to do. Please, if you're interested and want to follow up, check us out, check the book out: lulu.com is how you find both books. And I will be right back; stay with us.

Welcome back, friends, to the second half of today's Economic Update. This program, as I explained, is devoted to the analysis of competition and monopoly as two interactive, sequential phases of capitalism as a system. The first part of the program was devoted mostly to competition, so let's turn now to monopoly. What is the basic definition and criticism of monopoly? Strictly speaking, monopoly is defined simply as a situation in which the producers of a particular commodity – shoes, software programs, haircuts, it doesn't matter – have been reduced to only one. Literally one seller – a monopolist. But in general language, it includes also situations where many producers who once competed with one another have been reduced to only a handful. The strict term for only a handful is "oligopoly," but we don't have to split hairs about this. "Monopoly" will be the word we use for either one or a very small number.

For example, there were once dozens of automobile companies, but very quickly their competition reduced them to basically three for much of the post-World War II period, and you know their names: Ford, General Motors, and Chrysler. And likewise there were once many cigarette producers, there were once many television-set producers, and they became very few, whose names, therefore, we all know.

What's the criticism of a monopoly or oligopoly situation? Again, very simple: The idea is, if there's only one seller of something, that seller can jack up the price way above what he might have otherwise because he doesn't have any competitor. If he had a competitor, if he raised the price, the competitor would get all the business because we'd all go to the competitor who hadn't raised the price rather than buy it at a higher price from the monopolist. So we don't like monopolies, because they can jack up their prices and their profits because they don't have a competitor. And if it's a few, a handful, well then we talk about things like cartels: arrangements when a few get together over dinner, or out on the golf course, and tell us what the price is. If you ever wondered why the prices of different cars, different cigarettes, and so on, are so close to one another – mm-hmm – that's because there are few sellers, and somehow they worked it all out. But the basic criticism is that a monopoly is a situation in which the seller of something jacks the price up way beyond what they could otherwise get because there are no more competitors.

So let's talk about this monopoly problem and where the monopolies come from. Well, the first and most important lesson is this: Competition produces monopoly. It's not something external, imposed on competition. It has nothing to do with human greed or anything else. Are people greedy? You betcha – some more, some less – but that's really a separate matter. It's competition that produces monopoly, and let me show you how that works. In competition, we have, by definition, a whole bunch of producers. They all produce the same thing. They compete with one another, hoping we, the consumer, will buy from one rather than the other. They compete in the quality of what they produce and in the price of what they produce. And we are supposed, as consumers, to go look for the best quality at the lowest price, and to patronize that one who offers that to us better than the others that we could buy from but choose not to.

Okay, that's a fair definition. Now let's follow the logic. Company A produces – however it manages it – a better quality and/or a lower price than Company B. So we all go to Company A. Company B can't find any buyers because it's not competitive. Or to say the same thing in other words, Company A outcompetes Company B. Here's what happens: Company B collapses. Because it can't sell its goods, we're all going to Company A. So Company B sooner or later declares bankruptcy. It can't continue. It lays off its employees, it stops buying inputs, because it can't compete. Good. Now what happens in Company A? Company A says hey, there's a whole bunch of workers that have just lost their job at Company B; they're trained in producing what we produce; let's go hire some of them. And likewise, Company A says, they're not using their computers, or their trucks, or their other inputs. They're going to have to sell them on the secondhand market. We can get some important inputs we need at a lower price than we would have to pay if we bought them new. So what begins to happen is, where before there were two companies, A and B, there's now one larger A, and B has disappeared. Or to say the same thing in simple English, A – the winner in the competitive struggle – eats, absorbs into itself, what's left of Company B.

And this process is repeated over and over, until 30, or 300, companies have become one, or two, or three. That's the result of competition. That's how competition is supposed to work. That's how competition does work. It's important to understand: Monopoly is where competition leads. And as if that weren't enough, let me make sure you understand this from the business point of view: It is the great dream of every entrepreneur to become the last one standing in the competition, to win the competition, not just because it makes you feel good you outmaneuvered your competitors, but because if you're the last one standing, you're the monopolist. The reward for having outcompeted the others is that you're now in a position to jack up the profits, and the prices, way beyond what you could have done before.

So we have a system that produces monopoly, and all the incentives for every entrepreneur in competition to work as hard as possible to become the monopolist. So why is anyone surprised that monopolies keep happening, because they're the whole point and purpose of capitalist competition. If you ever were – and we never have, but if you ever were – able to get rid of all the monopolies and re-establish competition, all you would be doing is setting this same process in motion again for the umpteenth historical time. In other words, fighting against monopoly is pointless as long as you have capitalism, because it is the endless reproducer of this problem – as it always has been.

Now, how do monopolies maintain themselves? If you're the only one standing, you're a monopolist. Or you're an oligopoly, you're a few, and you get together and jack up your prices together. The question becomes look, a monopolist makes very high profits – much higher than a competitor can achieve – and isn't that an enormous incentive for other capitalists to get in on that business? Because look at the profits they're earning, because they're the only one. Apple, Amazon, Google – the profits are staggering. Everybody wants to get in. So the way a monopolist has to think is, I've got to create obstacles that block other people from coming in to get a piece of the enormous profits my monopoly allows me to get. We call that in economics "barriers to entry." Monopolists need to create barriers. Let me give you a couple of examples.

The major soft drink makers in the United States – basically Coca-Cola and Pepsi Cola – they produce a drink that has sugar and coloring in it, and lots and lots of water. Let me assure you, there is nothing difficult or complicated about producing a mixture of sugar, color, and water. It doesn't take a genius; it never did. Pepsi and Coca-Cola make a fortune off of their product, as we know, and they have for decades. They have a virtual monopoly. Now, lots of other people could produce water, sugar, and color close to, if not identical with, whatever they produce, but they can't break through. They can't really get to that status. And you know why? Because Coca-Cola and Pepsi erected a barrier to entry. And the way they did that was with advertising. Every billboard, every magazine cover, every doorway of every institution you've ever been to has a picture of smiling, happy people drinking one or the other. You've learned: that's the drink, that's the drink. Another company might make a perfect substitute, but they can't afford the enormous cost of advertising. The advertising costs more than the water, and the sugar, and the color. What you pay for when you buy Pepsi and Coke is the advertising that got you to buy it. You're paying for being hustled. But it works, because it means other companies know that they can't get in there by cheaply producing an alternative, because you have to produce the advertising that goes with it, or else you can't do it. And so their monopoly is maintained.

Here's another way to maintain a monopoly: Get the government to step in. Here the famous example is the milk producers. Some years ago, there was a crisis with milk. There was contamination; people were getting sick. So the clever milk monopolies came in and said, we're going to support the enormously expensive, special equipment to guarantee pasteurization, and so on, of milk. Why did they support it? Because your small farmer, your small dairy producer, can't afford it, so they go out of business. Only the big, rich few that are left can afford the enormous equipment. They used governmental rules to create a barrier to entry.

Here's another way: corrupt public officials. President Trump denounces Huawei corporation because it compromises our national security. It denounces European car producers because somehow their shipping cars here compromises our security. Who cares? As long as the president blocks other companies from getting into the business that might compete with an American, a barrier to entry exists. Monopolists have been very creative in coming up with ways to preserve their monopolies.

I don't want to lose the basic point. The basic point is: Capitalism oscillates, back and forth between competition and monopoly – first this industry, then that one. For a while, Ford, General Motors, and Chrysler were the monopolies – or the oligopoly, if you like – in automobiles. But eventually, Toyota, and Nissan, and Peugeot, and Fiat broke the monopoly. In that case, it was foreigners who did it. And then we had some competition, and that, then, is now shrinking. The French – the last two producers in France – have just agreed to merge. You get the picture. Industry by industry, first this one, then that one, go through one phase or another.

The important point is: The phases are not our problem. They merge into, and incentivize, each other. Each provokes movement in the other direction. The point to understand is that the problems of a capitalist system are not about this oscillation of phases. We're not going to solve the problem of monopoly by getting rid of them and re-establishing competition. We've been there; we've done that; it reproduces monopoly; and it doesn't change the basic inequality, unsustainability, instability of capitalism. We need to get beyond that stale, old debate – competition versus monopoly – and face the underlying reality: Capitalism is the problem, and getting beyond it is the solution.

#### Capitalism drives extinction and structural violence.

Jamie Allinson et al 21. Senior Lecturer in Politics and International Relations at Edinburgh University and author of The Age of Counter-revolution. China Miéville is the author of a number of highly acclaimed and prize-winning novels including October: The History of the Russian Revolution. Richard Seymour is the author of numerous works of non-fiction, His writing appears in the New York Times, London Review of Books, Guardian, Prospect, Jacobin. Rosie Warren is an Editor at Verso and the Editor-in-Chief of Salvage. All are writing for the Salvage Collective. “The Tragedy of the Worker: Toward the Proletarocene.” Introduction. July 2021. Verso EBook. ISBN: 9781839762963 //shree

This is the question that vexed us as we set out to write The Tragedy of the Worker. From the vantage point of the present, the history of capitalist development is, as Marx expected, the history of the development of a global working class, the proletarianisation of the majority of the world’s population. But the very same process of that development has brought us to the precipice of climate disaster. Our position, to recall Trotsky’s rationalisation of War Communism in 1920, is in the highest degree tragic.

It is now clear that we will pass what scientists have long warned will be a tipping point of global warming, accelerating the already catastrophic consequences of capitalist emissions. How do we imagine emancipation on an at best partially habitable planet? Where once communists imagined seizing the means of production, taking the unprecedented capacities of capitalist infrastructures and using them to build a world of plenty, what must we imagine after the apocalypse has befallen us? What does it mean that as capitalism has become truly global, the gravediggers it has created dig not only capitalism’s grave, but also that of much organic life on earth?

Our answers to these questions remain rooted in the politics of revolutionary communism. Our stance is not based on the fantasy of a homeostatic nature that must be defended but on the critique of the capitalist metabolism – the Stoffwechsel- that must be overthrown. Earth scientists are accustomed to speak in terms of ‘cycles’ by which substances circulate in different forms: the water cycle, the rock cycle, the nitrogen cycle, the glacial-interglacial cycle, the carbon cycle, and others. One way of registering the catastrophe of climate change is to see these cycles – most of all, but not solely, the carbon cycle – as disordered, under- or over-accumulating. But this is to ignore the more fundamental circuit of which these now form epicycles, like Ptolemy’s sub-orbits of the heavenly bodies: the circuit of capital accumulation, M-C-M′.

This circuit accumulates profit and produces death. Neither is accidental. It is for this reason that the debates that capitalist ruling classes permit among themselves on ‘adaptation’ versus ‘mitigation’ take place on false premises. What is to be mitigated is the impact of climate change on accumulation, rendered through the ideology of ‘growth’ as something that benefits everyone. What we are to adapt to are the parameters of accumulation, sacrificing just enough islands, eco-systems, indigenous – and non-indigenous – cultures to maintain its imperatives for a period of time until new thresholds must be crossed, and new life sacrificed to the pagan idol of capital. Already, capitalist petro-modernity builds a certain quantum of acceptable death into its predicates: at the very least, the 8.7 million killed by fossil fuels each year according to Harvard University are considered a price worth paying for the stupendous advantages of fossil capital. And the sky can only keep going up, as deforestation, polar melt, ocean acidification, soil de-fertilisation and more intense wildfires and storms tear the web of life into patches. If the necropolitical calculus of the Covid-19 pandemic appears crass, just wait until its premises are applied to climate catastrophe.

#### The solution isn’t regulation, it’s elimination. Vote negative for a socialist planning system that prioritizes state based provision of goods and emphasizes a move away from private banking. The aff recreates it’s impacts by assuming that regulation is sufficient, but the drive for profit is endemic.

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When a market is made for a specific designer instrument, like derivatives such as collateralized debt obligations and credit default swaps, the surplus risk shifts from being a byproduct to being the product; it occupies the place previously held by the asset. The riskiest tranches of a collateralized debt obligation (CDO) are the ones with the highest potential reward. When investors, particularly hedge funds and others looking for something to short, want them, banks look for more bad loans to buy, whether these loans are for houses, education, or municipal improvements. Low net worth individuals, people unlikely to be able to repay their loans, are necessary for high risk loans. Credit, then, isn’t extended to help people get ahead. It’s the means for producing securitizable debt, which means financialization (one of the key features of neoliberalism) needs poor people, poor people cut off from public services and left to fend for themselves.

At this interface of the extremes of profit and loss, poverty-like risk isn’t an unavoidable byproduct of capitalism but its condition and content. The debts of poor and working people drive the neoliberal finance machine. Just as the subprime mortgage market bubble required low income people, a shortage of affordable housing, and investors eager to buy debt, so does the encroaching student loan crisis depend on young people unable to pay for higher education, a public sector unwilling to fund higher education, and a finance sector hungry for debt. Each element impacts the other in a vicious cycle: families facing foreclosure lack the financial resources to pay their children’s college tuition; the children take out exorbitant student loans; banks bundle and then sell the loans to the wealthy, who, in part because of their investments can fund their own kids’ education and who thus lack any incentive to pay higher taxes and support public education, which then leads states to raise tuition, cut faculty, increase class sizes, push students into MOOCs, and diminish the quality of education for those less able to pay, who now find themselves less competing in a shrinking job market, and ever more dependent on credit. In the circuit of amplified inequality, the increase in the number of poor people isn’t a social problem, it’s an investment opportunity. The system turns in on itself and feeds on its own excesses.

If the Marxian formula for capital is money begetting money, its neoliberal version is debt begetting debt. Neoliberal capitalism runs as a circuit in which reflexivity is a mechanism of capture rather than reason, where the loop of drive amplifies the worse tendencies rather than employing feedback as a mechanism of self-correction. Neoliberalism, the version of capitalism that has been dominant since the 1970s, is neither a formation well-defined in terms of free, unregulated markets nor one well-understood in terms of competition as a moderating force. Instead, it’s a system that unleashes drive for the benefit of the rich and the exploitation of the poor – that’s why banks are the institutions that are too big to fail but universities and hospitals are not.

Conclusion

Neoliberalism’s reliance on amplifying the inequality between rich and poor was explicitly acknowledged in the notorious Citigroup report, ‘Revisiting Plutonomy: The Rich Getting Richer.” A set of recommendations for investors to buy stock in luxury goods, private banks, and financial services (a group of stocks the authors refer to as the “plutonomy basket”), the report points out the insignificance of poor and middle class consumers.

The only consumers who matter are rich ones, the ones who have been benefiting and can be expected to continue to benefit from neoliberal globalization. The rich drive demand (not the mass of middle and working class consumers). The rich have an increasingly larger share of income and wealth and thus greater proclivity to spend. In the words of the report, “Asset booms, a rising profit share and favorable treatment by market-friendly governments have allowed the rich to prosper and become a greater share of the economy in the plutonomy countries.”

The super-rich purchase luxury items and investment vehicles. The poor rely on cheap, low quality goods and massive amounts of corn, that is, the sub-standard food of corporate agriculture. For everything else, there is debt, the debt the finance sector needs to function.

Freud’s observation that the objects of the drive can appear in each others’ places, accumulating the others’ intensity, alerts us to the ways that multiple, minor achievements (a higher daily book value on a portfolio, a quarterly decrease in unemployment, the recovery of a stock market) can well be moments in larger circuits of failure and decline. The system is failing even if one particular element in it is being kept aloft.

The big banks successfully fought against serious regulation of derivatives with the argument that banks would just come up with even more complex and dangerous ways to transfer risk from their books and produce new sources of profit.

Reflexivity in markets means that agents will incorporate changes in their setting into the behavior, and so just work around any changes (like water going downhill). But we should immediately be suspicious of such an appeal to reality as indicative of what Mark Fisher theorizes as “capitalism realism,” the excuse for capitalist excesses offered as if there were no alternative.

But there are alternatives. Don’t regulate derivates - eliminate them. Don’t supervise speculative finance - abolish it. Don’t expend bizarre amounts of time and resources on an elaborate banking system - have one global bank with multiple regional branches to fund experiments in developing places that need development, organizing places that need organization. There are alternatives – we just need the political will to seize them.

### Regs CP---1NC

#### The United States Federal Government should impose structural regulations on domestic, private sector financial institutions amassing liabilities greater than five percent of the Federal Deposit Insurance Corporation’s Deposit Insurance Fund including but not limited to requirements for

#### Aggregate ownership caps

#### Voting limits

#### Governance restrictions

#### Clearinghouses

#### Solves their deficits.

Samuel N. Weinstein 19. Assistant Professor of Law, Benjamin N. Cardozo School of Law. “ARTICLE: FINANCIAL REGULATION IN THE (RECEDING) SHADOW OF ANTITRUST,” 91 Temp. L. Rev. 447. Nexis.

In the absence of effective judicial or legislative solutions to the problems Credit Suisse and Trinko pose in the financial markets, and in light of the financial regulators' bureaucratic cultures and insufficient competition- enforcement resources, these markets remain vulnerable to anticompetitive conduct. But another solution is available: regulatory design that protects and promotes competition through structural mechanisms.

[\*495] IV. AREGULATORY-DESIGN APPROACH

When antitrust immunity attaches to conduct in regulated markets or regulation otherwise displaces antitrust and the sector regulators are unable or unwilling to root out competitive problems, the best way to preserve and promote competition may be to create structural protections that provide ex ante bulwarks against anticompetitive conduct. Structural regulation refers to government organization of markets, through statutes or agency action, to achieve a public policy goal. 341 Often the term is used in relation to financial services, media, and telecommunications markets. In financial services, it generally refers to limits on activities financial institutions may undertake. 342 In the media markets, structural regulation typically means ownership limits on media outlets. 343 Open-access requirements imposed on broadband companies to ensure network neutrality also may be described as structural regulation. 344 A similar approach could be effective in the derivatives markets. The CFTC and SEC provided one model for how this might work in their responses to Dodd-Frank's requirement that they consider promulgating rules regarding conflicts of interest in derivatives trading and clearing. The Antitrust Division of the U.S. Department of Justice subsequently suggested refinements to that model. Other structural solutions, including nationalization and utility-type regulation also have been proposed. Using the derivatives markets as a case study, this Section demonstrates how structural regulation can address the competition enforcement gap implied antitrust immunity creates in the financial sector.

A. Structural Regulation of the Derivatives Markets

The CFTC and SEC issued proposed rules in October 2010 addressing conflicts of interest in the derivatives markets. 345 Unlike many other Dodd- [\*496] Frank rulemakings, these rules have yet to be finalized. 346 The agencies took slightly different approaches in their proposed rules. As a general matter, the CFTC's proposals required clearinghouses, designated contract markets, and swap execution facilities to "establish and enforce rules to minimize conflicts of interest in [their] decision-making process and establish a process for resolving any conflicts of interest." 347 The CFTC crafted different rules for clearinghouses on the one hand and derivatives exchanges (SEFs and designated contract markets (DCMs)) on the other. Both sets of rules were structured around ownership and voting limits and governance restrictions. 348

The proposals offered clearinghouses two choices for complying with the CFTC's ownership and voting limits. Option one was to bar any member from owning more than 20% of a clearinghouse's equity or controlling more than 20% of its voting power, and to prohibit "Enumerated Entities" (big banks) together from owning more than 40% of a clearinghouse's equity or controlling more than 40% of its voting power. 349 Further, a clearinghouse would have to ensure that "no resolution or similar measure on which the Enumerated Entities are entitled to vote" is "passed by less than a majority of all outstanding equity interests similarly entitled to vote." 350 The second option was for a clearinghouse to cap all members' (including Enumerated Entities') individual equity ownership and voting stakes at 5%. 351 In this scenario, there would be no aggregate ownership and voting cap on Enumerated Entities. 352 In terms of governance, the proposed rules would have required that at least 35% percent of a clearinghouse's board of directors be independent. 353 The same would be true for the executive and risk management committees, and at least 10% of risk [\*497] management committee members would have to be "representative of customers," which in this context meant "any customer of a clearing member." 354 At least 51% of the nominating committee would have to be independent directors 355 and the chairpersons of the risk management and nominating committees also would have to be independent directors. 356

The CFTC's proposed conflict-of-interest rules for DCMs and SEFs took a different approach to ownership and voting limits than those for clearinghouses. Rather than offering two options for complying with the limits, the proposed rules simply restricted individual company ownership and voting stakes to 20% and did not include any aggregate cap on big-bank ownership or voting power. 357 Regarding governance, the proposals required DCMs and SEFs to have a regulatory oversight committee composed entirely of independent directors and a membership or participation committee with 35% independent directors. 358 As with clearinghouses, the CFTC proposal would have required DCMs' and SEFs' boards and executive committees to include at least 35% independent directors and their nominating committees to include at least 51% independent directors. 359

The SEC's approach to these conflicts-of-interest risks was generally similar to the CFTC's, but it included important differences as well. Like the CFTC's proposal, the SEC's proposed rule offered two ownership and voting model choices to clearinghouses. 360 One option capped individual ownership and voting stakes at 20% and had an aggregate ownership and voting cap of 40% on security-based swap clearing agency participants and their related persons (as opposed to a specific cap on big banks). 361 The second option capped individual stakes at 5% but had no aggregate cap. 362 In contrast to the CFTC's approach, however, the SEC would have imposed stricter governance requirements on clearinghouses choosing the model with no aggregate cap, mandating that their boards of directors and risk committees (should a clearinghouse choose to have one) have a majority of independent directors and that their nominating committees be composed entirely of independent directors. 363 The SEC's ownership and voting limits on security-based SEFs mirrored the CFTC's approach to exchanges, limiting an individual firm's ownership and voting stakes [\*498] to 20% but lacking an aggregate ownership cap. 364 As with clearinghouses, the SEC's proposed rules would have imposed stricter governance standards than the CFTC on security-based SEFs, requiring a majority of independent directors on their boards and executive committees (should a SEF choose to have one) and 100% independent directors on their regulatory oversight and nominating committees. 365

The agencies called for comments on these proposed rules and they received a range of responses. 366 In its submission, the Department of Justice's Antitrust Division argued that the proposals, especially the CFTC's, would not do enough to protect competition in the derivatives markets. 367 The Division limited its comments to the ownership and governance restrictions on DCMs and SEFs and the governance restrictions on clearinghouses; it did not address ownership restrictions on clearinghouses. 368 While it "strongly approve[d] of the CFTC's efforts to improve governance practices, reduce systemic risk, and promote competition" through the proposed rulemaking, the Division asserted that the lack of an aggregate cap on big-bank ownership of DCMs and SEFs meant that the proposal might not do enough to mitigate the risk that big banks could use control of these platforms to harm competition in the derivatives markets. 369 The Division was concerned that the big banks might exercise such control "to exclude rivals, limit pre- and post-trade transparency, decline to trade certain contracts to disadvantage rivals, or to try to evade exchange-trading requirements." 370

Caps on both individual and aggregate big-bank ownership of DCMs and SEFs would, in the Division's view, "be the most effective structural approach to protecting competition in the derivatives markets." 371 Aggregate ownership caps were important because the big banks have "very similar incentives to limit access and to otherwise" restrict competition. 372 The Division observed that, in its experience, "structural protections, like aggregate ownership limits, are likely" to better protect competition "and require less oversight than relying [\*499] solely on ongoing regulatory restrictions." 373 Further, the Division suggested that aggregate ownership caps might promote the creation of multiple DCMs and SEFs, increasing competition in these markets. 374 Even if economies of scale in trading meant that the derivatives markets would be served best by one trading platform (which the Division doubted was the case), the Division argued that competition for the market would be beneficial for market participants. 375

### CP---1NC

#### Text: The United States federal government should delegate antitrust rulemaking authority to a new expert agency. The agency should begin notice-and-comment rulemaking to resolve that serial criminality by domestic financial institutions is an anti-competitive private sector business practice prohibited by core anti-trust laws

#### Solves the case, engages notice and comment.

Rebecca Haw 11. Climenko Fellow and Lecturer on Law, Harvard Law School. J.D., Harvard Law School, 2008; M. Phil, Cambridge University, 2005; B.A., Yale University, 2001."Amicus Briefs and the Sherman Act: Why Antitrust Needs a New Deal." Texas Law Review, vol. 89, no. 6, May 2011, p. 1247-1292. HeinOnline.

Without the informational benefits of expertise and notice-and-comment rulemaking, the Court may be a poor choice to define the broad proscriptions of the Sherman Act. Framed this way, the problem has an obvious solution: give the power to interpret the Act to an expert agency.240 This idea has academic support already, 241 and the case for it is strengthened by this Article's observation that the Court has tried to approximate administrative decision making by relying on amicus briefs. The obvious candidates for reallocation are the two existing antitrust agencies: the Department of Justice's Antitrust Division and the FTC.

A. The Agency Solution

Using agencies to give specific meaning to American antitrust's most important statute means avoiding the problems with the Court's current quasi-administrative process for rulemaking. As adjudicators, agency experts would know what kind of economic evidence is necessary for an efficient solution and would be better able to understand it when it is presented by the parties. Repeat exposure to antitrust cases would only reinforce this advantage, while also giving the administrative judges a broader perspective on what kinds of conflicts commonly arise in competition law, a perspective necessary for efficient policy making in the first instance. A Supreme Court Justice hears about one antitrust case a year, hardly the cross section of controversies necessary to make efficient economic policy writ large.

Agencies could take policy making a step further using notice-and-comment rulemaking. Unlike in adjudication, regulation by rulemaking can be initiated without the formal requirements of a case or controversy and a proper appeal to the Supreme Court. Informal letters of complaint could spark an investigation. A rule-making agency could announce its intention to regulate publicly and provide a convenient venue for, or even solicit, expert opinions on the economic impact of the proposed rule. Not only would it have the benefit of these numerous perspectives, but it would also have the obligation to respond to them in a reasoned manner. Its rule would be subject to judicial review, affording an opportunity to catch mistakes 242 or invalidate rules that do nothing but deliver rents to special interests.

Another advantage of rulemaking, an option for agencies but not for the Court, since it only operates through adjudication, is that rulemaking regulates behavior ex ante, while resolution of economic policy through cases is necessarily ex post. Antitrust courts worry obsessively about "chill"--deterring procompetitive behavior with overly broad rules for liability.2 43 In fact, the overruling of Dr. Miles in Leegin implies that the entire twentieth century was a period of inefficient business practices and stunted innovation in distribution because of an early misunderstanding of RPM. Only after a long and expensive period of litigation was Leegin redeemed for breaking the law by effecting a change in the law, and only after Leegin was issued were similar firms, perhaps walking the Colgate line better than Leegin, redeemed for wanting some control over their product's ultimate retail price.24 4 The problem of ex post rulemaking is made worse by the treble damages afforded successful plaintiffs suing under the Sherman Act.2 4 5 To create a new form of liability, the Court has to punish a firm threefold for complying with standing antitrust norms. Thus Supreme Court lawmaking in antitrust is a kind of one-way ratchet.246

The result of the current ex post scheme is that "antitrust law leaves considerable gaps between what is permissible and what is optimal." 2 47 With judges making the rules one case at a time, this gap is justifiable. As discussed above, when judges are not economically sophisticated enough to know where "optimal" lies, 24 8 laissez-faire is a very inexpensive regulatory regime for courts to follow, and raising the level of regulation would effect a kind of taking of property from firms operating under the status quo. So if the Court is making antitrust policy, laissez-faire may be the only sensible approach. But that is not to say that it is the most sensible approach. An agency could provide firms with the necessary clarity-ex ante-that they need when conducting business in a world where competitive behavior so closely resembles anticompetitive conduct. The current state of affairs is that much more is illegal on the books than antitrust lawyers think is actually likely to be struck down in a court.24 9 Lawyers thrive in such a legally uncertain world, but firm efficiency suffers.

#### Key to democracy and court acquiescence---notice and comment engages participants and creates deference.

Harry First and Spencer Weber Waller 13. Harry First, New York University School of Law. Spencer Weber Waller, Loyola University Chicago School of Law. “Antitrust’s Democracy Deficit”. Fordham Law Review, Volume 81 Issue 5 Article 13. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4890&context=flr

Redressing antitrust’s democracy deficit on the procedural side can be done with the tools of administrative law. Administrative law is the body of law that controls the procedures of governmental decision making.151 It allows interested persons to participate in decisions that affect their interests. Normally, it requires appropriate notice, the right to be heard, fair procedures, protection of fundamental rights, and judicial review of the resulting decision. These basic features are present in the administrative laws of most foreign legal systems and are part of a growing international consensus.152 The tradeoff is that the decisions of administrative agencies that properly follow these strictures normally are granted a degree of deference as to the interpretation of the laws they enforce.153 Frequently, but not inevitably, private parties also have the right to proceed with actions for damages against private parties who violate their regulatory obligations and even against the government itself when it acts unlawfully, either substantively or procedurally. These tools of administrative law are available to make antitrust enforcement decisions more transparent and more responsive to the interests that the antitrust laws were meant to serve, thereby promoting both better decision making and greater democratic legitimacy.

CONCLUSION

Free markets and free people cannot be assured by the efforts of technocrats. Ultimately, both come about through the workings of democratic institutions, respectful of the legislature’s goals and constrained from engaging in arbitrary action. Antitrust has moved too far from democratic institutions and toward technocratic control, in service to a laissez-faire approach to antitrust enforcement. We need to move the needle back. Doing so will strengthen the institutions of antitrust, the market economy, and the democratic branches of government themselves.

#### Democracy solves war

Christopher Kutz 16. PhD UC Berkeley, JD Yale, Professor, Boalt Hall School of Law @ UC Berkeley, Visiting Professor at Columbia and Stanford law schools, as well as at Sciences Po University. “Introduction: War, Politics, Democracy,” in On War and Democracy, 1.

Despite Churchill’s famous quip—“Democracy is the worst form of government, except for all those other forms that have been tried from time to time”2—democracy is seen as a source of both domestic and international flourishing. Democracy, understood roughly for now as a political system with wide suffrage in which power is allocated to officials by popular election, can solve or help solve a host of problems with stunning success. It can solve the problem of revolutionary violence that condemns autocratic regimes, because mass politics can work at the ballot box rather than the streets. It can help solve the problem of famine, because the systems of free public communication and discussion that are essential to democratic politics are the backbone of the markets that have made democratic societies far richer than their competitors. It can help solve the problem of environmental despoliation, which occurs when those operating polluting factories (whether private citizens or the state) do not need to answer for harms visited upon a broad public. And democracy has been famously thought to help solve the problem of war, in the guise of the idea of the “peace amongst democratic nations”—an idea emerging with Immanuel Kant in the Age of Enlightenment and given new energy with the wave of democratization at the end of the twentieth century.

### FTC DA---1NC

#### FTC’s increasing enforcement in privacy now---it’s focused on algorithmic bias.

James V. Fazio 21. Special counsel in the Intellectual Property Practice Group at Sheppard, Mullin, Richter & Hampton LLP, with Liisa M. Thomas, 3/11. “What Is FTC’s Course Under Biden?” https://www.natlawreview.com/article/what-ftc-s-course-under-biden

The new acting FTC chair, Rebecca Kelly Slaughter, recently signaled that the FTC may increase enforcement and penalties in the privacy and data security realm. Slaughter pointed to several areas of focus for the FTC this year, which companies will want to keep in mind: Notifying Consumers About FTC Allegations: Slaughter referred favorably to two recent cases: (1) the Everalbum biometric settlement from earlier this year (which we wrote about at the time); and (2) the Flo Health settlement over alleged deceptive data sharing practices (which we also wrote about at the time). In drawing on these two cases, Slaughter indicated that in future cases the FTC intends to include as part of any settlement a requirement to notify customers of any FTC allegations. This, she said, would allow consumers to “vote with their feet” and help them decide whether to recommend their services to others. FTC Intent to Plead All Relevant Violations: According to Slaughter, another lesson the FTC is taking from the Flo case is to include in the cases it brings all potentially applicable violations of all relevant privacy-related laws. In the Flo case, Slaughter said the FTC should have pleaded a violation of the Health Breach Notification Rule, which requires that vendors of personal health records notify consumers of data breaches. Focus on Ed Tech and COPPA: Given the explosive growth of education technology during COVID-19, the FTC is conducting an industry sweep of the industry. Related to this, the FTC is reviewing its Children’s Online Privacy Protection Act Rule. This goes beyond the refresh the agency did of their FAQs earlier in the pandemic (which we wrote about at the time). For now, Slaughter reminds companies that parental consent is needed before collecting information online from children under the age of 13. Examination of Health Apps: The FTC will take a closer look at health apps, including telehealth and contact tracing apps, as more and more consumers are relying on such apps to manage their health during the pandemic. Overlap Between Competition and Privacy: Slaughter also indicated that it is worth looking at situations where there may be not only privacy concerns, but antitrust as well. Because the FTC has a dual mission (consumer protection and competition) she notes that it has a “structural advantage” over other regulators in that it can look at these issues, especially since -she states- “many of the largest players in digital markets are as powerful as they are because of the breadth of their access to and control over consumer data.” Racial Equality and AI/Biometrics/Geotracking: Slaughter noted that COVID-19 is exacerbating racial inequities. She pointed to the unequal access to technology, as well as algorithmic discrimination (the idea that discrimination offline becomes embedded into algorithmic system logic). The FTC intends to focus on algorithmic discrimination, as well as on the discrimination potentially embedded into facial recognition technologies. (This mirrors concerns that gave rise to the recent Portland facial recognition law, which we recently wrote about). Finally, Slaughter commented on the use of location data to identify characteristics of Black Lives Matter protesters, and said she is concerned about the misuse of location data to track Americans engaged in constitutionally protected speech. Putting it Into Practice: Companies that operate health apps, that are in the education technology space, or that use algorithms or facial recognition tools will want to keep in mind that these are areas of focus for the FTC. And for everyone, keep in mind that the FTC has indicated it will beef up privacy law penalties and will ask for more notification to injured consumers.

#### Antitrust enforcement saps up FTC resources and personnel, which are finite.

Tara L. Reinhart, et al. 21. \*\*Head of Skadden, Arps, Slate, Meagher & Flom LLP’s Antitrust/Competition Group. \*\*Steven C. Sunshine, Co-head of Skadden, Arps, Slat, Meagher & Flom LLP’s Antitrust/Competition Group. \*\*David P. Whales, antitrust lawyer with over 25 years of experience in both private and public sectors. \*\*Julia Y. York, partner at Skadden, Arps, Slat, Meagher & Flom LLP. \*\*Bre Jordan, associate at Skadden, Arps, Slat, Meagher & Flom LLP focusing on antitrust law. “Lina Khan’s Appointment as FTC Chair Reflects Biden Administration’s Aggressive Stance on Antitrust Enforcement.” 6/18/21. https://www.skadden.com/insights/publications/2021/06/lina-khans-appointment-as-ftc-chair

Second, like all antitrust enforcers, Ms. Khan and the FTC will face resource constraints. Bringing antitrust litigation is an expensive and laborious process, often requiring millions of dollars for expert fees and a large army of FTC staff attorneys and taking many months or even years to accomplish. Typically, the FTC can only litigate a handful of antitrust matters at a time. It seems likely that Congress will provide more funding to the FTC in the current environment, but even with these extra resources, the FTC will still have to pick its cases carefully and cannot challenge every deal or every instance of alleged unlawful conduct.

#### That trades off with the necessary resources for privacy enforcement.

John O. McGinnis\* and Linda Sun\*\* 20. \*George C. Dix Professor, Northwestern University, and Associate-Designate, Wilmer Pickering Hale & Dorr LLP. “Unifying Antitrust Enforcement for the Digital Age.” Northwestern Public Law Research Paper No. 20-20. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3669087

The FTC needs more resources to adequately address the nation’s growing privacy concerns. Currently, the FTC oversees both consumer protection—encompassing privacy—and antitrust,249 making the FTC the chief federal agency on privacy policy and enforcement250 and the nation’s de-facto privacy agency.251 The agency has long-standing experience in enforcing privacy statutes252 and also has special privacy assets, such as an internet lab capable of high-quality tech forensics to track invasions of privacy.253 The FTC, however, has failed to keep pace with the massive growth of privacy concerns—a phenomenon also driven by modern technology. Very few Americans feel conﬁdent in the privacy of their information in the digital age.254 According to a 2019 study, over 80% of Americans feel that they have little to no control over the data collected on them by companies and the government.255 To adequately address privacy concerns, the FTC needs more resources.256 The agency has been explicit that it needs more manpower to police tech companies. In requesting increased funding from Congress, FTC Director Joseph Simons said the money would allow the agency to hire additional staff and bring more privacy cases.257 A former director of the FTC’s Bureau of Consumer Protection, which houses the privacy unit, has called the FTC “woefully understaffed.”258 As of the spring of 2019, the FTC had only forty employees dedicated to privacy and data security, compared to 500 and 110 employees at comparable agencies in the UK. and Ireland, respectively.259 Without more lawyers, investigators, and technologists, the FTC will be forced to conduct privacy investigations less thoroughly, and in some cases, forgo them altogether.260 Currently, the FT C’s resources are spread thin across multiple missions, to the detriment of its privacy efforts. Removing the agency’s antitrust responsibilities would reallocate resources from the antitrust department to its privacy unit and other areas of consumer protection. Further, it would free up the scarce time of the commissioners to oversee this essential effort.261

#### Unchecked algorithmic bias risks massive inequality and extinction.

Mike Thomas 20. Quoting AI experts including MIT Physics Professors, Senior Features Writer for BuiltIn. THE FUTURE OF ARTIFICIAL INTELLIGENCE: 7 ways AI can change the world for better ... or worse, Updated: April 20, 2020, <https://builtin.com/artificial-intelligence/artificial-intelligence-future>

Klabjan also puts little stock in extreme scenarios — the type involving, say, murderous cyborgs that turn the earth into a smoldering hellscape. He’s much more concerned with machines — war robots, for instance — being fed faulty “incentives” by nefarious humans. As MIT physics professors and leading AI researcher Max Tegmark put it in a 2018 TED Talk, “The real threat from AI isn’t malice, like in silly Hollywood movies, but competence — AI accomplishing goals that just aren’t aligned with ours.” That’s Laird’s take, too. “I definitely don’t see the scenario where something wakes up and decides it wants to take over the world,” he says. “I think that’s science fiction and not the way it’s going to play out.” What Laird worries most about isn’t evil AI, per se, but “evil humans using AI as a sort of false force multiplier” for things like bank robbery and credit card fraud, among many other crimes. And so, while he’s often frustrated with the pace of progress, AI’s slow burn may actually be a blessing. “Time to understand what we’re creating and how we’re going to incorporate it into society,” Laird says, “might be exactly what we need.” But no one knows for sure. “There are several major breakthroughs that have to occur, and those could come very quickly,” Russell said during his Westminster talk. Referencing the rapid transformational effect of nuclear fission (atom splitting) by British physicist Ernest Rutherford in 1917, he added, “It’s very, very hard to predict when these conceptual breakthroughs are going to happen.” But whenever they do, if they do, he emphasized the importance of preparation. That means starting or continuing discussions about the ethical use of A.G.I. and whether it should be regulated. That means working to eliminate data bias, which has a corrupting effect on algorithms and is currently a fat fly in the AI ointment. That means working to invent and augment security measures capable of keeping the technology in check. And it means having the humility to realize that just because we can doesn’t mean we should. “Our situation with technology is complicated, but the big picture is rather simple,” Tegmark said during his TED Talk. “Most AGI researchers expect AGI within decades, and if we just bumble into this unprepared, it will probably be the biggest mistake in human history. It could enable brutal global dictatorship with unprecedented inequality, surveillance, suffering and maybe even human extinction. But if we steer carefully, we could end up in a fantastic future where everybody’s better off—the poor are richer, the rich are richer, everybody’s healthy and free to live out their dreams.”

### States CP---1NC

#### The 50 states, territories, and DC should uniformly resolve that serial criminality by domestic financial institutions is an anti-competitive private sector business practice prohibited by core anti-trust laws.

#### States can pursue autonomous anti-trust enforcement even when conflicting with federal law.

Erik **Knudsen 20.** Erik G. Knudsen is a partner in the Corporate Department and Private Equity Buyouts & Investment Group. Erik focuses his practice on complex business transactions, including leveraged buyouts, strategic mergers, acquisitions, investments and joint ventures, reorganizations, growth equity and venture capital investments, and divestitures. He has led transactions in a wide variety of industries, including healthcare, internet, technology, real estate, distribution and manufacturing. "Trends In State Antitrust Enforcement: Colorado Expands Attorney General’s Authority To Challenge Transactions On Competition Grounds." JD Supra. 4-16-2020. https://www.jdsupra.com/legalnews/trends-in-state-antitrust-enforcement-42950

At the federal level, the U.S. antitrust laws—including the Sherman Act and the Clayton Act, which governs mergers and acquisitions—are enforced by the FTC and DOJ. States also have antitrust laws, which are enforced by state AGs and are often patterned after their federal analogs, but can contain important differences. States frequently collaborate with the federal antitrust agencies and/or other states on merger investigations. However, the Supreme Court has recognized that states are not required to do so, and have the right to make enforcement decisions that differ from other federal and state authorities.[[3]](https://www.jdsupra.com/legalnews/trends-in-state-antitrust-enforcement-42950/#_ftn3) States have sometimes exercised this authority in order to “fill the gap” of perceived under-enforcement at the federal level. For example, in June 2017, the California AG sued to block Valero Energy Partners LP’s acquisition of two petroleum terminals in Northern California, despite the FTC’s decision not to challenge the deal. Several months later, the parties abandoned the transaction. More broadly, in recent years, there has been a growing trend of robust and autonomous state antitrust enforcement, as illustrated by major investigations and enforcement actions by state coalitions in the healthcare, pharmaceutical, telecom, and technology sectors, among others. Consistent with this trend, Colorado AG Phil Weiser—who previously served as Deputy Assistant Attorney General in the DOJ Antitrust Division under the Obama administration—has affirmed his commitment to “protecting all Coloradans from anticompetitive consolidation and practices…whether or not the federal government acts to protect Coloradans.” In keeping with this mandate, the Amendment will bring Colorado increasingly in line with states such as California and New York that have demonstrated an appetite for aggressive, independent antitrust enforcement, even where it may depart (or conflict) with federal action.

### Politics DA----1NC

#### Negotiations are back on track for BBB – will include climate provisions

Hans Nichols, 1-2-2022, "Manchin returns to Build Back Better negotiations with climate, childcare demands," Yahoo News, https://www.yahoo.com/now/manchin-returns-build-back-better-215059133.html

Sen. Joe Manchin (D-W.Va.) is open to reengaging on the climate and child care provisions in President Biden's Build Back Better agenda if the White House removes the enhanced child tax credit from the $1.75 trillion package — or dramatically lowers the income caps for eligible families, people familiar with the matter tell Axios.

Why it matters: The holdback senator's engagement on specifics indicates negotiations between him and the White House could get back on track, even after Manchin declared he was a “no” on the package on Dec. 19.

The senator’s concerns with the size and the scope of the package remain.

His belief that it could cost more than $4 trillion over 10 years extends beyond the CTC issue, and he continues to tell colleagues he’s concerned about the inflationary effects of so much government spending, Axios is told.

The Bureau of Labor Statistics will release its next Consumer Price Index on Jan. 12. Last month's reading put inflation at 6.8% for the year — fueling Manchin's opposition.

The big picture: Manchin and top White House aides traded recriminations after their negotiations fell apart — but President Biden and the senator subsequently spoke by phone late in the evening of Dec. 19.

They agreed to continue to talk, and Manchin stayed in touch with senior White House officials over the holidays.

The week before Christmas, reports emerged about how close he and Biden were on a potential deal.

The details included a $1.8 trillion offer from Manchin that contained money for universal preschool and green tax credits but nothing for the child tax credit, which provides families up to $3,600 per child per year.

#### Antitrust reform requires PC and trades off with other legislative priorities.

Peter C. Carstensen 21, the Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law School, February 2021, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,” https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities.

15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!

16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### BBB key to meeting climate pledges

Nick Sobczyk, 11-9-2021, "Pelosi to Glasgow: Congress has Biden’s back on climate," E&E News, https://www.eenews.net/articles/pelosi-to-glasgow-congress-has-bidens-back-on-climate/

Pelosi and her top deputies portrayed the $1.75 trillion spending legislation moving through Congress as primarily a historic effort to meet Biden’s pledge to halve U.S. greenhouse gas emissions by 2030.

“Our congressional delegation comes here fresh from advancing legislation to build back better, which represents the most ambitious and consequential climate and clean energy legislation of all time,” Pelosi said in a news conference in Glasgow today.

The pending reconciliation package, combined with the bipartisan infrastructure bill the House finalized over the weekend, would keep the world on track to reach net zero by 2050 and, potentially, hold warming under 1.5 degrees Celsius, said House Select Committee on the Climate Crisis Chair Kathy Castor (D-Fla.).

“I think once we pass this historic package, finally, it will help the world keep 1.5 alive,” Castor said in Glasgow.

#### Warming causes extinction---AND every increment is key because of invisible thresholds and exponential feedbacks.

Dr. Yew-Kwang Ng 19, Winsemius Professor of Economics at Nanyang Technological University, Fellow of the Academy of Social Sciences in Australia and Member of Advisory Board at the Global Priorities Institute at Oxford University, PhD in Economics from Sydney University, “Keynote: Global Extinction and Animal Welfare: Two Priorities for Effective Altruism”, Global Policy, Volume 10, Number 2, May 2019, pp. 258–266

Catastrophic climate change

Though by no means certain, CCC causing global extinction is possible due to interrelated factors of non-linearity, cascading effects, positive feedbacks, multiplicative factors, critical thresholds and tipping points (e.g. Barnosky and Hadly, 2016; Belaia et al., 2017; Buldyrev et al., 2010; Grainger, 2017; Hansen and Sato, 2012; IPCC 2014; Kareiva and Carranza, 2018; Osmond and Klausmeier, 2017; Rothman, 2017; Schuur et al., 2015; Sims and Finnoff, 2016; Van Aalst, 2006).7

A possibly imminent tipping point could be in the form of ‘an abrupt ice sheet collapse [that] could cause a rapid sea level rise’ (Baum et al., 2011, p. 399). There are many avenues for positive feedback in global warming, including:

• the replacement of an ice sea by a liquid ocean surface from melting reduces the reflection and increases the absorption of sunlight, leading to faster warming;

• the drying of forests from warming increases forest fires and the release of more carbon; and

• higher ocean temperatures may lead to the release of methane trapped under the ocean floor, producing runaway global warming.

Though there are also avenues for negative feedback, the scientific consensus is for an overall net positive feedback (Roe and Baker, 2007). Thus, the Global Challenges Foundation (2017, p. 25) concludes, ‘The world is currently completely unprepared to envisage, and even less deal with, the consequences of CCC’.

The threat of sea-level rising from global warming is well known, but there are also other likely and more imminent threats to the survivability of mankind and other living things. For example, Sherwood and Huber (2010) emphasize the adaptability limit to climate change due to heat stress from high environmental wet-bulb temperature. They show that ‘even modest global warming could ... expose large fractions of the [world] population to unprecedented heat stress’ p. 9552 and that with substantial global warming, ‘the area of land rendered uninhabitable by heat stress would dwarf that affected by rising sea level’ p. 9555, making extinction much more likely and the relatively moderate damages estimated by most integrated assessment models unreliably low.

While imminent extinction is very unlikely and may not come for a long time even under business as usual, the main point is that we cannot rule it out. Annan and Hargreaves (2011, pp. 434–435) may be right that there is ‘an upper 95 per cent probability limit for S [temperature increase] ... to lie close to 4°C, and certainly well below 6°C’. However, probabilities of 5 per cent, 0.5 per cent, 0.05 per cent or even 0.005 per cent of excessive warming and the resulting extinction probabilities cannot be ruled out and are unacceptable. Even if there is only a 1 per cent probability that there is a time bomb in the airplane, you probably want to change your flight. Extinction of the whole world is more important to avoid by literally a trillion times.

## Adv 1

### Solvency---1NC

#### Antitrust fails and is circumvented.

Chopra ’20 [Rohit and Lina Khan; March 2020; Commissioner of the Federal Trade Commission; Academic Fellow at Columbia Law School, Counsel to the Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary and Former Legal Fellow at the Federal Trade Commission; University of Chicago Law Review, “The Case for ‘Unfair Methods of Competition’ Rulemaking,” vol. 87]

I. The Status Quo: Ambiguous, Burdensome, and Undemocratic?

Antitrust law today is developed exclusively through adjudication. In theory, this case-by-case approach facilitates nuanced and fact-specific analysis of liability and well-tailored remedies. But in practice, the reliance on case-by-case adjudication yields a system of enforcement that generates ambiguity, unduly drains resources from enforcers, and deprives individuals and firms of any real opportunity to democratically participate in the process.

One reason that antitrust adjudication suffers from these shortcomings is that courts analyze most forms of conduct under the "rule of reason" standard. The "rule of reason" involves a broad and open-ended inquiry into the overall competitive effects of particular conduct and asks judges to weigh the circumstances to decide whether the practice at issue violates the antitrust laws. Balancing short-term losses against future predicted gains calls for "speculative, possibly labyrinthine, and unnecessary" analysis and appears to exceed the abilities of even the most capable institutional actors. 1 Generalist judges struggle to identify anticompetitive behavior 2 and to apply complex economic criteria in consistent ways. 3 Indeed, judges themselves have criticized antitrust standards for being highly difficult to administer. 4 And if a standard isn't administrable, it won't yield predictable results. The dearth of clear standards and rules in antitrust means that market actors face uncertainty and cannot internalize legal norms into their business decisions. 5Moreover, ambiguity deprives market participants and the public of notice about what the law is, thereby undermining due process--a fundamental principle in our legal system. 6

Decades ago, former Commissioner Philip Elman observed that case-by-case adjudication "may simply be too slow and cumbersome to produce specific and clear standards adequate to the needs of businessmen, the private bar, and the government agencies." 7Relying solely on case-by-case adjudication means that businesses and the public must attempt to extract legal rules from a patchwork of individual court opinions. Because antitrust plaintiffs bring cases in dozens of different courts with hundreds of different generalist judges and juries, simply understanding what the law is can involve piecing together disparate rulings founded on unique sets of facts. All too often, the resulting picture is unclear. This ambiguity is compounded when the Supreme Court assigns to lower courts the task of fleshing out how to structure and apply a standard, potentially delaying clarity and certainty for years or even decades. 8

#### Antitrust itself is an ineffective legal basis---it’s inherently weak and consistent.

Sipe ’16 [Matthew; December 2016; Assistant Professor of Law at the University of Baltimore, JD from Yale Law School, BA in Mathematics and Economics from the University of Virginia; American University Law Review, “Patents v. Antitrust: Preempting Conflict,” vol. 66]

As the Court recognized in *Credit Suisse*, "antitrust courts are likely to make unusually serious mistakes" in areas of law where expertise is necessary. 250 In addition, allowing generalist antitrust courts to encroach upon and shape patent law would effectively squander the considerable collective expertise of the PTO, the ITC, and the Federal Circuit. This expertise mismatch strongly suggests the need for a minimally overlapping role for antitrust law and patent law, if not preemption entirely under Credit Suisse.

D. The Risk of Inconsistency

The Credit Suisse Court additionally noted the risk that antitrust courts, "with different nonexpert judges and different nonexpert juries" will find it difficult to "reach consistent results" as a reason why antitrust law and securities law, if simultaneously applicable, would be likely to produce conflicting guidance and requirements. 251 This risk looms large in the patent context as well. As outlined above, the need for expertise in adjudicating patent disputes is substantial; 252 as a result, nonexpert judges dealing with cases involving patents are apt to produce inconsistent results. But there is also uncertainty and inconsistency built into the applicable antitrust doctrine itself: in antitrust cases involving patents, courts have increasingly abandoned predictable rules and eliminated useful presumptions that might otherwise create consistency.

#### That nukes predictability and enforcement.

Sokol ‘9 [Daniel; Fall 2009; Assistant Professor at the University of Florida Levin College of Law, Senior Advisor at White & Case LLP, LLM from the University of Wisconsin Law School, JD from the University of Chicago Law School, MSt in History from Oxford University, AB from Amherst College; George Mason Law Review, “Limiting Anticompetitive Government Interventions That Benefit Special Interests,” vol. 17]

Antitrust litigation produces regulatory uncertainty because different courts may rule inconsistently with the same set of facts. Anecdotal evidence indicates that when courts do not understand complex antitrust issues, they rule based on a highly procedural formalism. 140 These problems of procedural formalism in antitrust decisions create particular concerns in conduct cases or with regard to penalties for conduct, regardless of the origin of the legal system. 141 For example, in New Zealand, telecommunications regulation focused on a general antitrust solution in conjunction with courts rather than with sector regulation. 142 In a case involving interconnection rates within telecommunications between the incumbent provider and a new entrant for access to the local loop, the case took five years to decide, with significant procedural delay. 143 The lack of the New Zealand judicial system's understanding of the complex pricing issues and methodologies for interconnection underlying the case meant that the conflicting court decisions left little certainty—none of the courts came up with a specific interconnection price. This enabled the incumbent Telecom Corporation to maintain its monopoly position, and it left the victims of its anticompetitive behavior without any effective means of redress. 144 A similar problem occurred in Chile, where the Chilean Supreme Court recently overruled the Chilean Competition Tribunal in cases regarding tacit collusion based on procedural rather than substantive grounds, and where it seemed apparent that the Supreme Court did not understand the antitrust issues. 145

### No Failed States---1NC

#### No impact to failed states.

Mazarr 14—Professor of National Security Strategy at the National War College [Michael, “The Rise and Fall of the Failed-State Paradigm,” *Foreign Affairs*, Vol. 93, No. 1, Jan/Feb, p. 113-121, Emory Libraries]

THE DECLINE OF A STRATEGIC NARRATIVE

The practical challenges of state-building missions are now widely appreciated. They tend to be long, difficult, and expensive, with success demanding an open-ended commitment to a messy, violent, and confusing endeavor -- something unlikely to be sustained in an era of budgetary austerity. But the last decade has driven home intellectual challenges to the concept as well.

The threat posed by weak and fragile states, for example, turned out to be both less urgent and more complex and diffuse than was originally suggested. Foreign Policy’s Failed States Index for 2013 is not exactly a roster of national security priorities; of its top 20 weak states, very few (Afghanistan, Iraq, and Pakistan) boast geostrategic significance, and they do so mostly because of their connection to terrorism. But even the threat of terrorism isn’t highly correlated with the current roster of weak states; only one of the top 20, Sudan, appears on the State Department’s list of state sponsors of terrorism, and most other weak states have only a marginal connection to terrorism at best.

A lack of definitional rigor posed a second problem. There has never been a coherent set of factors that define failed states: As the political scientist Charles Call argued in a powerful 2008 corrective, the concept resulted in the “agglomeration of diverse criteria” that worked to “throw a monolithic cloak over disparate problems that require tailored solutions.” This basic methodological flaw would distort state-building missions for years, as outside powers forced generic, universal solutions onto very distinct contexts.

The specified dangers were never unique to weak states, moreover, nor would state-building campaigns necessarily have mitigated them. Take terrorism. The most effective terrorists tend to be products of the middle class, often from nations such as Saudi Arabia, Germany, and the United Kingdom, not impoverished citizens of failed states. And terrorist groups operating in weak states can shift their bases of operations: if Afghanistan becomes too risky, they can uproot themselves and move to Somalia, Yemen, or even Europe. As a result, “stabilizing” three or four sources of extremist violence would not render the United States secure. The same could be said of threats such as organized crime, which finds comfortable homes in functioning but troubled states in Asia, eastern Europe, and Latin America.

As the scholar Stewart Patrick noted in a 2006 examination of the purported threats issuing from weak states, “What is striking is how little empirical evidence underpins these assertions and policy developments. Analysts and policymakers alike have simply presumed the existence of a blanket connection between state weakness and threats to the national security of developed countries and have begun to recommend and implement policy responses.”

And although interconnectedness and interdependence may create risks, the dangers in such a world are more likely to come from strong, well-governed states with imperfect regulations than weak ones with governance deficiencies. Financial volatility that can shake the foundations of leading nations and cyberattacks that could destabilize energy or information networks pose more immediate and persistent risks than, say, terrorism.

### Unsustainable---1NC/2AC

#### Dollar heg is unsustainable --- COVID, election uncertainty, trade war, and alternatives prove --- Vaccine distribution makes it worse.

Lucas Leiroz 20. Research fellow in international law at the Federal University of Rio de Janeiro. “Dollar declines as global currency,” InfoBRICS. 11-25-2020. https://infobrics.org/post/32332

**The decline of the dollar** as a world currency **has set a new record recently.** In October, the euro replaced the dollar as the preferred currency for international payments for the first time in seven years. In the same month, the growth of the pound sterling and the Japanese yen as alternative models of global payment was impressive, indicating even more rejection of the American currency, until now considered absolutely hegemonic.

About 37.82% of the money transfers that the Society for Worldwide Interbank Financial Telecommunications (Swift) reported last month were in euros, which means that there has been an increase of more than six percentage points since the end of last year - meanwhile, the use of the dollar has fallen by about from 4, 6 percentage points since last December, reaching 37.64% of transactions in the month of October.=

**Several factors influence the recent phenomenon of the dollar’s reduction.** The fall in the use of the American currency occurs in the midst of events such as the world economic crisis generated by the pandemic of the new coronavirus, the problematic American elections and the trade war between Washington and Beijing. All of these facts contribute to a greater instability in the dollar system, which leads to its rejection. What worries the supporters of such a system, however, is the fact that **none of these factors has a** predicted **solution** in the near future, **indicating a possible increase in the dollar's decline** in the coming months or years.

Since its peak in March, the dollar has weakened more than 11%, according to data collected by Bloomberg. Experts believe that **its valuation may decline** **even further** in the coming months **if vaccines against the new coronavirus become widely available** by 2021, considering that investors may switch from American assets to international assets, if they see more economic movements in the rest of the world with the distribution of vaccines. Thus, the advances in vaccine research and the good results of tests tend to further hinder dollar negotiations and favor transactions in alternative currencies, as they favor a betting scenario and diminish an exaggerated search for financial security.

In parallel, **the yuan has become a very attractive asset for global investors** looking for stability and profit in recent times, as government bonds denominated in US dollars, yen and euros offer little, if not negative, returns when considering interest rates or exchange. Chinese five-year government bonds continue to offer an annual yield of more than 3%, while US government debt with the same maturity offers only 0.4%. In addition, China's rapid economic recovery after the coronavirus outbreak helped the yuan to reach a great advantage in relation to the US dollar. Experts believe that by the end of 2020, more than 40% of China's outstanding foreign debt will be denominated in yuan. It is important to emphasize that at the present time, the dollar remains the main financing currency in the world, with about half of all international loans and debt securities in dollars, according to a report published by the Bank for International Settlements in July. 85% of all foreign exchange transactions are currently carried out in dollars. Therefore, the current figures, while impressive, do not indicate an abrupt decline or an "end of the dollar era" for the coming months. What we are witnessing is the beginning of a long process of decline, which may or may not be reversed according to the progress of the factors that led to such decrease.

In fact, the international monetary system, controlled by the dollar for decades, is undergoing structural and profound changes. The yuan's rise in international trade and investment flows indicates that the Chinese currency already has “global currency characteristics”, having the necessary conditions to dispute the dollar's hegemony. But the coming scenario does not seem to be that of a new hegemonic currency.

### Resiliency---1NC/2AC

#### OR Dollar heg is resilient---newest data.

Doug Stokes 18. Professor of International Security and Strategy, University of Exeter. “Trump, American hegemony and the future of the liberal international order.” *International Affairs* 94(1): 133-50. Emory Libraries.

As the protector of an open, integrated international market, the American state can claim special privileges to enable it to preserve the zone effectively, and there are a number of areas where being the system maker gives the US huge positional advantages. The first such area we should note here is its ‘dollar hegemony’, whereby the greenback acts as the world’s default global currency: this, most notably, allows it to run progressively larger current account deficits without having to worry about foreign exchange reserves. This makes the US Federal Reserve the world’s de facto central bank, giving it the luxury of unilaterally setting borrowing costs for the rest of the global economy. It is this form of dollar hegemony, and the ‘exorbitant privilege’ it affords the American state,28 that has helped inform a range of scholarship on American economic decline, especially in relation to a rising China and the potential internationalization of the renminbi and the associated challenge to US monetary regimes. According to this ‘declinist’ narrative, if the dollar loses its international reserve currency status other aspects of US hegemony, most notably its global military primacy, will begin to crumble as other currencies vie for international monetary leadership.29 In short, the ‘dollar’s reserve currency role is central to America’s geopolitical preeminence and if it loses that status US hegemony will be literally unaffordable’.30 However, not only does this ‘renminbi revisionism’ ignore the ways in which US military primacy in east Asia helps bolster its monetary power (see below); it is not borne out by the hard data. According to the most recently available data from the Bank of International Settlements in its 2016 triennial survey, the dollar accounted for 88 per cent of all over-the-counter trades in foreign exchange markets in 2016. The renminbi accounted for just 4 per cent.31 This is a huge disparity and hardly supports the idea of an imminent end to dollar hegemony.

Dollar hegemony also has profound geopolitical implications. Specifically, the United States can fund its overseas military operations with freshly printed dollars largely at will. Between 2003 and 2008, for example, the ‘largest airborne transfer of currency in the history of the world’ saw the Federal Reserve print and ship US$40 billion in cash to Iraq to help finance the war. In just ‘the first two years, the shipments included more than 281 million individual bills weighing a total of 363 tons’.32 Dollar dominance has thus ensured that imports, debts and overseas military–political operations could all be paid for with greenbacks produced by the American state, which at the same time could gear its domestic macroeconomic management exclusively to conditions within the United States without any significant external constraint. More interestingly, dollar liquidity means that investors continue to use US monetary regimes even in the context of major global economic instability. For example, during the global financial crisis of 2008, not only did we not see a flight from US financial and monetary regimes, we actually saw the reverse: a global flight of capital into US debt markets, to the extent that in some instances US Treasury bonds had negative interest rates.33 In short, dollar hegemony and its privileges allow the US to externalize major crises through its unilateral capacity to alter its interest rates, to force other states to adjust accordingly, and to fund geopolitical hegemony on the cheap.

### No Nuke Terror---1NC

#### No risk of nuke terror.

John Mueller 17. Professor of Political Science at The Ohio State University & Senior Fellow at the Cato Institute & Senior Research Scientist with the Mershon Center for International Security Studies at Ohio State University. “76. Nuclear Weapons: Proliferation and Terrorism.” Cato Institute. https://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2017/2/cato-handbook-for-policymakers-8th-edition-76\_0.pdf

The possibility that small groups could set off nuclear weapons is an alarm that has been raised repeatedly over the decades. However, terrorist groups thus far seem to have exhibited only limited desire and even less progress in going atomic. Perhaps, after a brief exploration of the possible routes, they have discovered that the tremendous effort required is scarcely likely to succeed. One route a would-be atomic terrorist might take would be to receive or buy a bomb from a generous, like-minded nuclear state for delivery abroad. That route, however, is highly improbable. The risk would be too great—even for a country led by extremists—that the source of the weapon would ultimately be discovered. Here, the rapidly developing science (and art) of “nuclear forensics”—connecting nuclear materials to their sources even after a bomb has been detonated—provides an important deterrent. Moreover, the weapon could explode in a manner or on a target the donor would not approve—including, potentially, the donor itself. Almost no one, for example, is likely to trust al Qaeda: its explicit enemies list includes all Middle Eastern regimes, as well as the governments of Afghanistan, India, Pakistan, and Russia. And the Islamic State, or ISIS, which burst onto the international scene in 2014, has alienated just about every state on the planet. Nuclear-armed states are unlikely to give or sell their precious weapons to nonstate actors. Some observers, though, worry about “loose nukes,” especially in post-Communist Russia—meaning weapons, “suitcase bombs” in particular, that can be stolen or bought illicitly. However, as a former director at the Los Alamos National Laboratory notes, “Regardless of what is reported in the news, all nuclear nations take the security of their weapons very seriously.” Careful assessments have concluded that it is unlikely that any nuclear devices have been lost and that, regardless, their effectiveness would be very low or even nonexistent because nuclear weapons require continual maintenance. Moreover, finished bombs are outfitted with devices designed to trigger a nonnuclear explosion that will destroy the bomb if it is tampered with. Bombs can also be kept disassembled with the component parts stored in separate high-security vaults (a common practice in Pakistan). Two or more people and multiple codes may be required not only to use the bomb, but also to store, maintain, and deploy it. There could be dangers in the chaos that would emerge if a nuclear state were to fail, collapsing in full disarray. However, even under those conditions, nuclear weapons would still have locks or be disassembled and would likely remain under heavy guard by people who know that a purloined bomb would most likely end up going off in their own territory. Most analysts believe that a terrorist group’s most promising route would be to attempt to make a bomb using purloined fissile material— plutonium or highly enriched uranium. However, as the Gilmore Commission—the advisory panel on terrorism and weapons of mass destruction—stressed, building and deploying a nuclear device presents “Herculean challenges.” The process requires a lengthy sequence of steps; if each is not fully met, the result is not simply a less powerful weapon, but one that can’t produce any significant nuclear yield at all or can’t be delivered. First, the terrorists would need to steal or illicitly purchase the crucial plutonium or highly enriched uranium. This would most likely require the corruption of a host of greedy confederates, including brokers and money transmitters, any one of whom could turn on the terrorists or, out of either guile or incompetence, furnish them with material that is useless. Any theft would also likely trigger an intense international policing effort. Second, to manufacture a bomb, the terrorists would need to set up a large and well-equipped machine shop and populate it with a team of highly skilled and extremely devoted scientists, technicians, machinists, and managers. These people would have to be assembled and retained for the monumental task while generating no consequential suspicions

among friends, family, or police about their sudden and lengthy absence from normal pursuits back home. Throughout, the process of fabricating a nuclear weapon would require that international and local security services be kept perpetually in the dark, and that no curious locals, including criminal gangs, get wind of the project as they observe the constant coming and going of outside technicians over the months or even years it would take to pull off. Physicists who have studied the issue conclude that fabricating a nuclear weapon “could hardly be accomplished by a subnational group” because of “the difficulty of acquiring the necessary expertise, the technical requirements (which in several fields verge on the unfeasible), the lack of available materials and the lack of experience in working with these.” Others stress the “daunting problems associated with material purity, machining, and a host of other issues,” and conclude that the notion that a terrorist group could fabricate an atomic bomb or device “is far-fetched at best.” Finally, the resulting weapon, likely weighing a ton or more, would have to be moved to a target site in a manner that did not arouse suspicion. Then a skilled crew would have to set off the improvised and untested nuclear device, hoping that the machine shop work has been perfect, that there were no significant shakeups in the treacherous process of transportation, and that the device, after all the effort, isn’t a dud. The financial costs of such an extensive operation could easily become monumental: expensive equipment to buy, smuggle, and set up and people to pay—or pay off. Any criminals competent and capable enough to be effective allies in the project would likely discover boundless opportunities for extortion and be psychologically equipped by their profession to exploit them. Khalid Sheikh Mohammed, the designated “mastermind” behind the 9/11 attacks, reportedly said that al Qaeda’s atom bomb efforts never went beyond searching the Internet. Even so, that raises the popular notion that the Internet can be effective in providing operational information. However, that belief seems to be severely flawed. Researcher Anne Stenersen finds that the Internet is filled with misinformation and error and with materials hastily assembled and “randomly put together,” containing information that is often “far-fetched” or “utter nonsense.” Some members of al Qaeda may have dreamed about getting nuclear weapons. The only terrorist group to actually indulge in such dreams has been the Japanese millennial group Aum Shinrikyo. However, its experience can scarcely be much of an inspiration to other terrorist groups. Aum Shinrikyo was not under siege or even under close watch, and it had some 300 scientists in its employ, an estimated budget of $1 billion, and a remote and secluded haven in which to set up shop. After making dozens of mistakes in judgment, planning, and execution in a quest for nuclear weapons, it abandoned its efforts. The rise of ISIS in 2014 does not alter these conclusions. The vicious group is certainly a danger to the people under its control and to fellow Muslims and neighboring Christians. It is actually more visible—that is, easier to find—than al Qaeda in that it seeks to hold and govern physical territory, a task that is increasingly difficult in a hostile world. In the process, it is unlikely to be able to amass the finances, the skills, and the serenity to go atomic. The notion that terrorists could come up with a nuclear weapon seems remote. As with nuclear proliferation to countries, there may be reason for concern, or at least for interest and watchfulness. But alarm and hysteria are hardly called for.

#### No nuke terror NOR retal

---Technical barriers, op costs, organizational schisms, deterrence

Christopher **McIntosh &** Ian **Storey 18**. McIntosh is visiting assistant professor of political studies at Bard College; Storey is a fellow at the Hannah Arendt Center for Politics and Humanities at Bard College. 06/01/2018. “Between Acquisition and Use: Assessing the Likelihood of Nuclear Terrorism.” International Studies Quarterly, vol. 62, no. 2, pp. 289–300.

When looked at in isolation, each of the three areas of potential loss presents significant disincentives for immediate attack. In combination—as they would be considered in practice—the higher strategic value of available alternatives appears decisive. In other words, even if one reads our analysis as affirming the importance of nuclear acquisition, when considering competing options and the dangers that attach to any detonation attempt, nuclear attack is highly unlikely. Strategic Opportunity Costs Future opportunities available for “using” a nuclear weapon are effectively foreclosed depending on the aggressiveness of the option a group chooses. The two-by-two matrix of nuclear strategies in Figure 1 is only a rough guide encompassing many possible permutations in the nuclear sphere. The organization always retains non-nuclear options, even once they acquire nuclear weapons. As evidenced by the Cold War and in Kargil, the stability-instability paradox holds empirical weight. Nuclear acquisition by two opposing actors does not necessarily foreclose conventional and/or asymmetric attacks (Cohen 2013; Kapur 2005). Given the unique relationship between a state and terrorist organization, we can expect similar and even exacerbated levels of instability. This can expand even beyond aggression. Remaining options range all the way from the pacific—pursuing negotiations, cooption, entrance into the legitimate political arena (for example, Sinn Fein)—to heightened conventional attacks and the usage of non-nuclear forms of WMDs. This last point is worth emphasizing. Even in the remote case where an actor successfully acquires a nuclear weapon and primarily seeks raw numbers of casualties—whether due to outbidding or audience costs—other forms of WMDs are likely to be more appealing. As Aum Shinrikyo indicates, this is particularly the case for the group that overcomes the inevitable political and technological hurdles (Nehorayoff et al. 2016, 36–37). For these groups, chemical, biological, and radiological weapons (CBRW) are considerably easier to acquire, use, and stockpile. This is especially true when considered over time, rather than a single operation.18 While there are certainly downsides to CBRWs vis-à-vis nuclear weapons (delivery may paradoxically be easier and the maintenance risks comparatively smaller), they are undoubtedly easier to procure and produce (Zanders 1999). More importantly, CBRWs are perceived as easier to produce and thus likely to be viewed by targets as iterable. Unlike a nuclear attack, CBRW threats are more credible because a single CBRW attack can likely precipitate an indefinite number of follow-ups. In addition to the problem of iterability, a terrorist organization must always worry about the possible ratchet effect of an attack—a problem Neumann and Smith (2005, 588– 90) refer to as the “escalation trap.” A terrorist organization is different than a state at war because it manipulates other actors primarily through punishment. Campaigns are a communicative activity designed to convince the public and the leaders that the status quo is unsustainable. The message is that the costs of continuing the target state’s policy (such as the United States in Lebanon, France in Algeria, or the United Kingdom in Northern Ireland) will eventually outweigh the benefits. Once an organization conducts a nuclear attack, it lacks options for an encore. Not even the most nightmarish scenarios involve an indefinite supply of weapons. If a single attack plus the threat of one or two others does not induce capitulation, the organization might unwittingly harden the target state’s resolve. The attack could raise the bar such that any future non-nuclear attack constitutes a lessening of costs vis-à-vis the status quo. There are also heavy opportunity costs involved in pursuing, developing, and maintaining a nuclear capacity, let alone actually deploying and delivering it. As Weiss puts it, “even if a terror group were to achieve technical nuclear proficiency, the time, money, and infrastructure needed to build nuclear weapons creates significant risks of discovery that would put the group at risk of attack. Given the ease of obtaining conventional explosives and the ability to deploy them, a terrorist group is unlikely to exchange a big part of its operational program to engage in a risky nuclear development effort with such doubtful prospects” (Weiss 2015, 82). Organizational Survival Terrorist organizations are not monolithic entities, nor are they wholly self-sufficient actors. Historically speaking, these groups consider the public reception of their attacks in a complex manner. As Al Qaeda, the Palestine Liberation Organization (PLO) of the 1970s, the IRA, and anarchist groups of the nineteenth and twentieth centuries all demonstrate, these groups’ thinking about public reception is nuanced and complex, regardless of time or place. We focus on two types of audiences that would be affected by decisions to attack: those internal to the group itself, and their own broader public. While many claim that terrorists are undeterrable, the argument misconstrues the relational dynamics between a terrorist organization, target state, international community, and the internal dynamics of the organization itself (Talmadge 2007). It is undoubtedly the case that deterring a terrorist organization in the traditional sense is difficult (Whiteneck 2005; Mearsheimer and Walt 2003). Many lack a recognized territorial base, work on the fringes of the global economy, and are internally structured to be difficult to combat directly. Nearly all possess some permutation of these factors. Combined with the symbolic importance of even relatively small terror attacks—especially given the role of international media—physically denying a group the ability to conduct attacks is uniquely challenging. It is minimally a vastly different proposition than precluding a state’s ability to successfully invade its neighbor or conduct ongoing missile strikes.19 Despite these concerns, there are important reasons deterrence can and empirically does work in the case of terrorist organizations. This is especially possible when the state-terrorist relationship is not zero-sum and the target retains some influence over the realization of the group’s eventual goals (e.g., by denying the group access to territory or withholding international recognition) (Trager and Zagorcheva 2006, 88–89). Nuclear attack presents two significant threats to the organization’s continued existence: internal threats of disintegration and external threats to their continued operations and survival. Terrorist organizations are not unitary, homogenous organizations. This is especially true for groups possessing the size and competence likely necessary for operational nuclear capacity. As many have noted, the terrorist organizations of the present are vastly different from those Marxist- Leninist groups that terrorized Europe and the United States in the 1970s and early 1980s. There is a well theorized psychological value of the organization to individual terrorists themselves (Post 1998), but there is more to the organizational valuation of survival than captured in this atomistic picture. Modern, large-scale terrorist organizations are typically heavily intertwined with the social fabric of the groups from which they originate (Cronin 2006; Hoffman 2013). Beyond significant networks of financial connections, accounts, and moguls (Hamas, for example, draws funding from a massive international system of mosque-centered charities, while the IRA’s extensive connections to the Irish diaspora in the United States were well documented), many terrorist organizations build extensive networks of sub-organizations that tie them to the communities in which they are based. Hezbollah, like the IRA, is internally divided between a military arm and a political arm and has run an extensive network of community schools, medical care centers, and religious outreach groups. Together they are designed to embed the organization in the social life of (predominantly southern) Lebanon’s Muslim population and provide Hezbollah with fresh recruits (Parkinson 2013). The group’s persistence as a dominant political force in southern Lebanon nearly two decades after the initial Israeli decision to withdraw demonstrates terrorist organizations grow to exceed their initial military objectives. The spread of Al Qaeda and its affiliates has followed a similar path. Maintaining the continued support of these multiple audiences is therefore a crucial consideration for these organizations. While these audiences could conceivably be more casualty-acceptant than the individuals deciding the group’s operations, the broader public will usually moderate extreme behavior. The literature assessing so-called “radical- ization” and violence by individual actors emphasizes that there isn’t a one-to-one relationship between ideological extremism and acceptance of extraordinary violence in pursuit of those goals (McCauley and Moskalenko 2014; Jurecic and Wittes 2016). It is important to resist the assumption that a politically extreme ideology automatically corresponds to shared assumptions regarding casualty-acceptance. Some argue that the move toward “mass-casualty” terrorism obviates these concerns. Aside from the fact that the trend line is either flat or receding in terms of the death toll of individual attacks (even if campaigns themselves might be becoming deadlier), there is an orders of magnitude distinction in casualties between a nuclear attack and even the 2001 attack in the United States. While the psychological restraints on nuclear use among states do not translate precisely to this context, there is good reason to believe that transgressing the longstanding nuclear taboo would have dramatic and negative effects on broader public support. In an urban environment, the media would inevitably capture the attack and its gruesome after-effects in photography or video. This imagery would be inconceivable, ubiquitous, and inescapable. Even if supporters accept a highly retributive mentality, or as Hamid (2015) argues about the Islamic State, actively accept the potential of death, this would pose a severe problem for all but the most extreme supporters.20 Beyond these supporters, a nuclear attack affects the internal dynamics of the terrorist organization in multiple ways. There could be divisiveness regarding the most effective use of the weapon. This would be magnified by the scale of the opportunities and perceived opportunity costs. Such debates have the potential to splinter the organization as a whole (Cronin 2009, 100–02). Factional conflict in terrorist organizations appears frequently over questions of goals and tactics (Crenshaw 1981; Chai 1993). A decision to attack with a nuclear weapon risks considerable internal alienation over a variety of issues—targeting decisions, method of attack, campaign goals, potential deaths of supporters, and the domestic and international response (Mathew and Shambaugh 2005, 621–22). Finally, a nuclear attack would exponentially raise the threat to each individual who composes the extended organization. Post-nuclear attack, the greatest strengths of a terrorist organization—its lack of material territory, economy, or overt institutions and reliance on individuals—could turn into its greatest weaknesses (Eilstrup-Sangiovanni and Jones 2008). Currently, a wealthy financier found to have ties to a terrorist group would be monitored for intelligence, arrested, and brought up on criminal charges. Post-nuclear attack, the consequences would be immediate and rather worse. Externally, in a world post-nuclear attack, international cooperation would be instant and deep. One of the only international treaties to even define a terrorist in international law post-2001 has been the Nuclear Terrorism Convention (Edwards 2005). A nuclear attack would be far outside the norm of international politics. It would disrupt the dominance of state-actors and likely stimulate unparalleled cooperation to apprehend the responsible parties to prevent future attacks. Moreover, many large terrorist organizations require (some) tacit acquiescence by a host state. Even those with hostile host states have territory where they remain relatively unaffected by local governments (Korteweg 2008). Post-nuclear attack, these host states face an enormous incentive to find the actors responsible before the target state does. After an attack, regimes would find it difficult to claim that they “didn’t know” or “couldn’t stop them.” Claims of corruption or ineffective institutions would be unlikely to find much sympathy. Faced with potential organizational extinction itself, a host state/government will likely be much less committed to the survival of the terrorist group. This is likely to vary significantly from how they might otherwise behave after a more conventional attack. For these states, there would be a real fear of “Talibanization” and ruthless attempts at regime change post-attack. From the perspective of the group, it would know that it could be facing a unified international community and the removal of tacit state support. It would take a particularly confident leadership to presume it could continue to function post-attack without massive disruptions. Most strategic actors are risk-averse when facing the potential of complete elimination. There is little reason to believe terrorist groups would act any differently.

## Adv 2

### Circumvention---1NC

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### AT: Innovation---1NC

#### U.S. innovation is high and globally dominant---big business is key.

Wolf ’21 [Martin; April 27; Chief Economics Commentator, M.A. in Economics from Oxford University; Financial Times, “China is wrong to think the US faces inevitable decline,” <https://www.ft.com/content/8336169e-d1a8-4be8-b143-308e5b52e355>]

The Chinese elite are convinced that the US is in irreversible decline. So reports Jude Blanchette of the Center for Strategic and International Studies, a respected Washington-based think-tank. What has been happening in the US in recent years, particularly in politics, supports this perspective. A stable liberal democracy would not elect Donald Trump — a man lacking all necessary qualities and abilities — to national leadership. Nevertheless, the notion of US decline is exaggerated. The US retains big assets, notably in economics.

For one and half centuries, the US has been the world’s most innovative economy. That has been the basis of its global power and influence. So how does its innovative power look today? The answer is: rather good, despite competition from China.

Stock markets are imperfect. But the value investors put on companies is at least a relatively impartial assessment of their prospects. At the end of last week, 7 of the 10 most valuable companies in the world and 14 of the top 20, were headquartered in the US.

If it were not for Saudi Arabian oil, the five most valuable companies in the world would be US technology giants: Apple, Microsoft, Amazon, Alphabet and Facebook. China has two valuable technology companies: Tencent (at seventh position) and Alibaba (at ninth). But those are China’s only companies in the top 20. The most valuable European company is LVMH at 17th. Yet LVMH is just a collection of established luxury brands. That ought to worry Europeans.

When we look only at technology companies, the US has 12 of the top 20; China (with Hong Kong but excluding Taiwan) has three; and there are two Dutch companies, one of which, ASML, is the largest manufacturer of machines that make integrated circuits. Taiwan has the Taiwan Semiconductor Manufacturing Company, the world’s biggest contract computer chipmaker, and South Korea has Samsung Electronics.

Life sciences are another crucial sector for future prosperity. Here there are seven European companies (with Switzerland and the UK included) in the top 20. But the US has seven of the top 10, and 11 of the top 20. There is also one Australian and one Japanese company, but no Chinese businesses.

In sum, US companies are globally dominant and nearly all the most valuable non-US firms are headquartered in allied countries.

### AT: AI---1NC

#### No AI impacts – time, safeguards, and long internal links.

Shermer 17 Dr. Michael Shermer, Ph.D. from Claremont Graduate University in the history of science. [Why Artificial Intelligence is Not an Existential Threat, Altadena, 22(2), 29–35 (“i/s” is short for “if statements”)]

Pinker agrees that there is plenty of time to plan for all conceivable contingencies and build safeguards into our AI systems. "They would not need any ponderous 'rules of robotics' or some newfangled moral philosophy to do this, just the senne common sense that went into the design of food processors, table saws, space heaters, and automobiles." Sure, an ASI would be many orders of magnitude smarter than these machines, but Pinker reminds us of the AI hyperbole we've been fed for decades: "The worry that an AI system would be so clever at attaining one of the goals programmed into it (like commandeering energy) that it would run roughshod over the others (like human safety) assumes that AI will descend upon us faster than we can design fail-safe precautions. The reality is that progress in AI is hype-defyingly slow, and there will be plenty of time for feedback from incremental implementations, with humans wielding the screwdriver at every stage." 22 Former Google CEO Eric Schmidt agrees, responding to the fears expressed by Hawking and Musk this way: "Don't you think the humans would notice this, and start turning off the computers?" He also noted the irony in the fact that Musk has invested $1 billion into a company called OpenAI that is "promoting precisely AI of the kind we are describing."23 Google's own DeepMind has developed the concept of an AI off-switch, playfully described as a "big red button" to be pushed in the event of an attempted AI takeover. "We have proposed a framework to allow a human operator to repeatedly safely interrupt a reinforcement learning agent while making sure the agent will not learn to prevent or induce these interruptions," write the authors Laurent Orseau from DeepMind and Stuart Armstrong from the Future of Humanity Institute, in a paper titled "Safely Interruptible Agents." They even suggest a precautionary scheduled shutdown every night at 2 AM for an hour so that both humans and AI are accustomed to the idea. "Safe interruptibility can be useful to take control of a robot that is misbehaving and may lead to irreversible consequences, or to take it out of a delicate situation, or even to temporarily use it to achieve a task it did not learn to perform or would not normally receive rewards for this."24 As well, it is good to keep in mind that artificial intelligence is not the same as artificial consciousness. Thinking machines may not be sentient machines. Finally, Andrew Ng of Baidu responded to Elon Musk's ASI concerns by noting (in a jab at the entrepreneur's ambitions for colonizing the red planet) it would be "like worrying about overpopulation on Mars when we have not even set foot on the planet yet."25 Both utopian and dystopian visions of AI are based on a projection of the future quite unlike anything history has given us. Yet, even Ray Kurzweil's "law of accelerating returns," as remarkable as it has been has nevertheless advanced at a pace that has allowed for considerable ethical deliberation with appropriate checks and balances applied to various technologies along the way. With time, even if an unforeseen motive somehow began to emerge in an AI we would have the time to reprogram it before it got out of control. That is also the judgment of Alan Winfield, an engineering professor and co-author of the Principles of Robotics, a list of rules for regulating robots in the real world that goes far beyond Isaac Asimov's famous three laws of robotics (which were, in any case, designed to fail as plot devices for science fictional narratives).26 Winfield points out that all of these doomsday scenarios depend on a long sequence of big i/s to unroll sequentially: "If we succeed in building human equivalent AI and if that AI acquires a full understanding of how it works, and if it then succeeds in improving itself to produce super-intelligent AI, and if that super-AI, accidentally or maliciously, starts to consume resources, and if we fail to pull the plug, then, yes, we may well have a problem. The risk, while not impossible, is improbable." 27

# 2NC---R3---FullerTown

### 2NC---AT: Framework

#### 1. Education. Question of what we should do carries presuppositions about political subjectivity---if those are wrong, our policies will be too, so they can’t perm away our links. It means they can’t access the case until they’ve defended their ideology.

Mathieu HILGERS, Laboratory for Contemporary Anthropology, Université Libre de Bruxelles, and Centre for Urban and Community Research, Goldsmiths, University of London, 13 [“Embodying neoliberalism: thoughts and responses to critics,” *Social Anthropology*, Vol. 21, No. 1, February 2013, p. 75-89, Accessed Online through Emory Libraries]

The implementation of neoliberalism goes far beyond the mere appearance of its policies. It cannot be reduced to the application of a programme or to institutional changes. This implementation is deployed within a triangle constituted by policies, institutions and dispositions. This last component has remained at the margins of our debate. If we wish to grasp the depth of the changes that neoliberalism causes, we cannot neglect its effects on systems of dispositions. To analyse this impact, it is necessary to describe the symbolic operations that give rise to government-enabling representations as well as to categories that support neoliberalism and are propagated by it. This task requires accounting for the historicity of the spaces in which policies are put into action, the intentional constructions but also involuntary historical formations in which they become entangled, and the transactions, negotiations, associations, working misunderstandings and chains of translation that give them their flexibility and support their deployment.

Neoliberalism is embodied in the agents and representations through which it is put into action. Through a historical process, the dispositions that it generates become, as Bourdieu would say, durable and transposable, as well as increasingly autonomous from their initial conditions of production. As such, when these conditions disappear or transform, or when policies are modified or abandoned, some of them spread into other social spaces and contexts and take on new meanings. Therein lies the importance of broadening the notion of ‘implementation’, so that we may appreciate the role of culture in the dynamics of neoliberal expansion. It is precisely (but not only) because of the embodiment of neoliberalism emphasized in this paper that at the moment we are nowhere near the end of the neoliberal era. Thus I arrive, by a different path, at the same observation that Kalb (2012) formulated in this debate: today it is capitalism that is in crisis, not neoliberalism.

In some parts of the world, information that helps people to stabilize their perceptions, practices and activities is mainly produced within a neoliberal context, forms and procedures. The figures, statistics, norms, audits and discourses that I evoke in this paper are fashioned by a constellation of institutions; they condition, train and shape a mental and practical space. They impact the way in which one conceives and carries out research. Indeed, academia is not outside of this neoliberal world; on the contrary, it is a centre of development and support for neoliberalism. While many academics are critical of neoliberalism, this does not mean that they have a permanent deconstructionist relation to the world and to themselves. In many parts of academia, a neoliberal way of functioning has become common sense. If neoliberalism is so present in our mind and in the way in which academia is designed and works today, it appears more than necessary for researchers to consider how this shapes their relation to production of knowledge.

If we wish to avoid the eviction of critical perspectives in this time of crisis, if we hope to have some chance to think within but beyond the neoliberal age, if we want to develop alternatives and different horizons, one of the first things to do is to decolonize our mind by objectifying our own neoliberal dispositions. The reflexive return to the tools of analysis is thus ‘not an epistemological scruple but an indispensable pre-condition of scientific knowledge of the object’ (Bourdieu 1984: 94), if we are to prevent the object and its definition from being dictated to the researcher by non-scientific logics, such as the necessity of being visible and marketable in the academy. To achieve a break with neoliberal common sense, anthropologists could follow Bourdieu (2003) in his will to engage in a ‘participant objectivation’.14 It is clearly this kind of objectivation even if not phrased in such terms that has led some researchers to call for a radical change in the academy, supported by new arguments and put into practice through the initiation of a ‘slow science’ movement.15 In some places, academia is still a space of critiques and alternatives.

#### 4. Invert your standard for solvency.

Eugene McCarraher 19. Associate Professor of Humanities at Villanova University, PhD in US Cultural and Intellectual History from Rutgers University; The Enchantments of Mammon: How Capitalism Became the Religion of Modernity, 11/12/19, p. 15-18

Words such as “paradise” or “love” or “communion” are certainly absent from our political vernacular, excluded on account of their “utopian” connotations or their lack of steely-eyed “realism.” Although this is a book about the past, I have always kept before me its larger contemporary religious, philosophical, and political implications. The book should make these clear enough; I will only say here that one of my broader intentions is to challenge the canons of “realism,” especially as defined in the “science” of economics. As the master science of desire in advanced capitalist nations, economics and its acolytes define the parameters of our moral and political imaginations, patrolling the boundaries of possibility and censoring any more generous conception of human affairs. Under the regime of neoliberalism, it has been the chief weapon in the arsenal of what David Graeber has characterized as “a war on the imagination,” a relentless assault on our capacity to envision an end to the despotism of money.24 Insistent, in Margaret Thatcher’s ominous ukase, that “there is no alternative” to capitalism, our corporate plutocracy has been busy imposing its own beatific vision on the world: the empire of capital, with an imperial aristocracy enriched by the labor of a fearful, overburdened, and cheerfully servile population of human resources. Every avenue of escape from accumulation and wage servitude must be closed, or better yet, rendered inconceivable; any map of the world that includes utopia must be burned before it can be glanced at. Better to follow Miller’s wisdom: we already inhabit paradise, and we can never make ourselves fit to live in it if we obey the avaricious and punitive sophistry professed in the dismal pseudoscience. The grotesque ontology of scarcity and money, the tawdry humanism of acquisitiveness and conflict, the reduction of rationality to the mercenary principles of pecuniary reason—this ensemble of falsehoods that comprise the foundation of economics must be resisted and supplanted. Economics must be challenged, not only as a sanction for injustice but also as a specious portrayal of human beings and a fictional account of their history. As a legion of anthropologists and historians have repeatedly demonstrated, economics, in Graeber’s forthright dismissal, has “little to do with anything we observe when we examine how economic life is actually conducted.” From its historically illiterate “myth of barter” to its shabby and degrading claims about human nature, economics is not just a dismal but a fundamentally fraudulent science as well, akin, as Ruskin wrote in Unto This Last, to “alchemy, astrology, witchcraft, and other such popular creeds.”25 Ruskin’s courageous and bracing indictment of economics arose from his Romantic imagination, and this book partakes unashamedly of his sacramental Romanticism. “Imagination” was, to the Romantics, primarily a form of vision, a mode of realism, an insight into the nature of reality that was irreducible to, but not contradictory of, the knowledge provided by scientific investigation. Romantic social criticism did not claim the imprimatur of science as did Marxism and other modern social theories, yet the Romantic lineage of opposition to “disenchantment” and capitalism has proved to be more resilient and humane than Marxism, “progressivism,” or social democracy. Indeed, it is more urgently relevant to a world hurtling ever faster to barbarism and ecological calamity. I wrote this book in part out of a belief that many on the “left” continue to share far too much with their antagonists: an ideology of “progress” defined as unlimited economic growth and technological development, as well as an acceptance of the myth of disenchantment that underwrites the pursuit of such expansion. The Romantic antipathy to capitalism, mechanization, and disenchantment stemmed not from a facile and nostalgic desire to return to the past, but from a view that much of what passed for “progress” was in fact inimical to human flourishing: a specious productivity that required the acceptance of venality, injustice, and despoliation; a technological and organizational efficiency that entailed the industrialization of human beings; and the primacy of the production of goods over the cultivation and nurturance of men and women. This train of iniquities followed inevitably from the chauvinism of what William Blake called “single vision,” a blindness to the enormity of reality that led to a “Babylon builded in the waste.”26 Romantics redefined rather than rejected “realism” and “progress,” drawing on the premodern customs and traditions of peasants, artisans, and artists: craftsmanship, mutual aid, and a conception of property that harkened back to the medieval practices of “the commons.” Whether they believed in some traditional form of religion or translated it into secular idioms of enchantment, such as “art” or “beauty” or “organism,” Romantic anticapitalists tended to favor direct workers’ control of production; the restoration of a human scale in technics and social relations; a sensitivity to the natural world that precluded its reduction to mere instrumental value; and an apotheosis of pleasure in making sometimes referred to as poesis, a union of reason, imagination, and creativity, an ideal of labor as a poetry of everyday life, and a form of human divinity. In work free of alienation and toil, we receive “the reward of creation,” as William Morris described it through a character in News from Nowhere (1890), “the wages that God gets, as people might have said time agone.”27 Rendered gaudy and impoverished by the tyranny of economics and the enchantment of neoliberal capitalism, our sensibilities need replenishment from the sacramental imagination. As Americans begin to experience the initial stages of imperial sclerosis and decline, and as the advanced capitalist world in general discovers the reality of ecological limits, we may find in what Marx called the “prehistory” of our species a perennial and redemptive wisdom. We will not be saved by our money, our weapons, or our technological virtuosity; we might be rescued by the joyful and unprofitable pursuits of love, beauty, and contemplation. No doubt this will all seem foolish to the shamans and magicians of pecuniary enchantment. But there are more things in heaven and earth than are dreamt of on Wall Street or in Silicon Valley.

### 2NC---AT: Alt Fails---Cumbers 14

#### 6. A focus on policy solutions is “status-quo reproducing.” You should flip your evaluation for solvency from the bottom up, not the top down.

Carles MUNTANER ET AL. 15, MD, PhD, Professor in the Faculty of Nursing, Dalla Lana School of Public Health, and in the Department of Psychiatry, Faculty of Medicine, at the University of Toronto; Edwin Ng, PhD in Social Science and Health in the Dalla Lana School of Public Health; Haejoo Chung, associate professor in health policy at the Korea University College of Health Sciences; Seth J. Prins, PhD candidate in Epidemiology and a Psychiatric Epidemiology Training Program Fellow at Columbia University [“Two decades of Neo-Marxist class analysis and health inequalities: A critical reconstruction,” *Social Theory & Health*, Vol. 13, No. 3-4, Aug/Nov 2015, p. 267-287, Accessed Online through Emory Libraries]

An ostensible goal of all research on the social production of health inequalities is not merely to describe or explain such inequalities, but to effectively reduce them (Muntaner and Lynch, 2002; O'Campo and Dunn, 2011; Muntaner et al, 2012b). A Neo-Marxist class approach has implications for the way that researchers think about and engage with efforts to reduce health inequalities, implications that invert the mainstream relationship between research and action. A cursory glance at the conclusion sections of many population health studies reveals an almost rote focus on ‘policy implications’ relevant to policymakers. We argue here that, although this mainstream orientation to social class and health inequalities may appear innocuous or politically neutral, it in fact functions in the service of incremental, apolitical, technical changes that are ultimately system-justifying and status-quo-reproducing (Chomsky, 1971).

As we described at the outset, the individual attribute approach to social class tracked broader trends in social science theory and research towards reductionism and methodological individualism. This absolves researchers from engaging with social processes and relations, which demand analyses of exploitation, domination, and even employment relations. These intellectual trends, in turn, reflect structural changes in the political economy of academic institutions that produce such knowledge (Muntaner et al, 2012a). While a complete discussion of the impact of neo-liberalism on health inequalities research is beyond the scope of this analysis, we contend that such trends conform to political options that often perpetuate inequalities, because they produce knowledge that explicitly avoids the mechanisms that generate social and health inequalities.

What can a Neo-Marxist approach to social and health inequalities add? Aside from doing the opposite of the mainstream approach (that is, re-engaging with analyses of employment relations, exploitation, domination and other class processes), an important contribution of Neo-Marxist class analysis is to break the chain between health inequality research and the ‘policy mystique’. It can do this by flipping its orientation from the top-down to the bottom-up, and rediscovering and engaging with the rich diversity of poor people's and working class social movements whose struggles - class struggles - against inequality, including health inequalities, can become a target audience for research and action. Adopting a relational class approach means recognizing - not just politically, but from a pragmatic research design and implementation perspective - that the vast majority of ‘the 99 per cent’ are completely alienated from the policy space, both professionally and electorally. Examples of such bottom up class approaches would be the ‘Housing First’ program in Canadian cities (van Draanen et al, 2013) or public health action research with labour unions in the United States (Malinowski et al, 2015). A resurgence of poor, working class, and climate-justice activism, from the international outgrowths of Latin America's left turn and the Arab Spring (Muntaner et al, 2011) to the anti-austerity movements in the European Union (Tugas, 2014), provides compelling opportunities for researchers to address new, grassroots stakeholders.

Recognizing that the vast majority of the population is on the opposite side of the class struggle than 'policymakers' does not imply that we should abandon progressive health policy reforms, but it means that we should adopt a more critical, bottom-up perspective towards how policy changes affecting the public's health are ultimately achieved. This is not to say that all researchers of social inequalities in health must become public social scientists (Burawoy, 2005) but it is to say that we cannot consign ourselves, under a thin veil of neutrality, to de facto approaching policy from a privileged position of access to elites, that is, from the orientation of serving policymakers. At the very least, we should have a more class-conscious perspective (Burawoy, 2014). Returning to and advancing relational approaches to class may be the only way this will be possible.

### 2NC---AT: Perm Do Both

#### Any combo poisons the well.

Curran 16 [William J. Curran Ill. Editor for the Antitrust Bulletin. Commitment and betrayal: Contradictions in american democracy, capitalism, and antitrust laws. Antitrust Bulletin. 2016. 61(2): 246]

Scholars now link antitrust with distributional values. 11 Professor Anthony B. Atkinson wants antitrust to value the individual,1 12 recognizing as Hand did in Alcoa1 13 that "among the purposes of Congress in 1890 was a desire to put an end to great aggregations of capital because of the helplessness of the individual before them." 1 14 And it is the individual-rich and poor, but especially the poor-whom Atkinson wants to protect from the inequities of the marketplace.115 Atkinson sees as Senator John Sherman did in 1890 that the "problems that may disturb [the] social order ... none is more threatening than the inequality of condition of wealth, and opportunity that has grown within a single generation out of the concentration of capital into vast combinations to control production and trade to break down competition." 11 6 Sherman's and Hand's worries were certainly not Bork's. Hand said it best in Alcoa, "[W]e have been speaking only of the economic reasons which forbid monopoly ... [but] there are others, based upon the belief that great industrial consolidations are inherently undesirable, regardless of their economic results.",1 1 7 Bork-regardless of destructive results to democracy-would never find efficient economic results inherently undesirable. Bork would likely find democracy a "cornucopia of social values, all rather vague and undefined but infinitely attractive."iiS A definition that was surely meant to disparage, fails. What makes democracy attractive is its socially related values. 11 9 What makes it infinitely attractive are its regenerative capacities and potential for self-definition. 120 Bork blocked democracy's values so as not to tempt liberal judges. He worried needlessly. An antitrust solution to wealth's severe inequality is simply not plausible. 121 Antitrust has always been the heart of capitalism's ideology. 122 In truth, antitrust's distribution of wealth for the wealthy is more than ideology-it is heartless reality. So was Bork right? Are the fates of capitalism and antitrust intertwined? 123 And if antitrust were repealed? Professor Atkinson wants antitrust saved and used for citizens.124 But like Professors Stiglitz, Krugman, and Reich, he has fallen headfirst into antitrust's heartless ideological trap. And like the other three he would resurrect TR's trust-busting for the twenty-first century. Piketty avoids ideological traps. He learns the facts of history-unencumbered by ideologies like Bork's-and has an unobstructed vision 125 of the unequal and democratically destructive wealth of capitalism. Bork's antitrust is the wrong policy tool for a nation presumed to be dedicated to serving citizens equitably. 126

#### Their rhetoric of preserving competition cements neoliberalism by legitimizing and justifying extreme inequality in economic, social, and political spheres.

William Davies 14, Senior Lecturer at Goldsmiths, University of London [“How ‘competitiveness’ became one of the great unquestioned virtues of contemporary culture,” *The London School of Economics and Political Science*, May 19, 2014, http://blogs.lse.ac.uk/politicsandpolicy/the-cult-of-competitiveness/]

The years since the banking meltdown of 2008 have witnessed a dawning awareness, that our model of capitalism is not simply producing widening inequality, but is apparently governed by the interests of a tiny minority of the population. The post-crisis period has spawned its own sociological category – ‘the 1%’ – and recently delivered its first work of grand economic theory, in Thomas Piketty’s Capital in the Twenty-first Century, a book dedicated to understanding why inequality keeps on growing.

What seems to be provoking the most outrage right now is not inequality as such, which has, after all, been rising in the UK (give or take Tony Blair’s second term) since 1979, but the sense that the economic game is now being rigged. If we can put our outrage to one side for a second, this poses a couple of questions, for those interested in the sociology of legitimation. Firstly, how did mounting inequality succeed in proving culturally and politically attractive for as long as it did? And secondly, how and why has that model of justification now broken down?

In some ways, the concept of inequality is unhelpful here. There has rarely been a political or business leader who has stood up and publicly said, “society needs more inequality”. And yet, most of the policies and regulations which have driven inequality since the 1970s have been publicly known. Although it is tempting to look back and feel duped by the pre-2008 era, it was relatively clear what was going on, and how it was being justified. But rather than speak in terms of generating more inequality, policy-makers have always favoured another term, which effectively comes to the same thing: competitiveness.

My new book, The Limits of Neoliberalism: Sovereignty, Authority & The Logic of Competition, is an attempt to understand the ways in which political authority has been reconfigured in terms of the promotion of competitiveness. Competitiveness is an interesting concept, and an interesting principle on which to base social and economic institutions. When we view situations as ‘competitions’, we are assuming that participants have some vaguely equal opportunity at the outset. But we are also assuming that they are striving for maximum inequality at the conclusion. To demand ‘competitiveness’ is to demand that people prove themselves relative to one other.

It struck me, when I began my Sociology PhD on which the book is based, that competitiveness had become one of the great unquestioned virtues of contemporary culture, especially in the UK. We celebrate London because it is a competitive world city; we worship sportsmen for having won; we turn on our televisions and watch contestants competitively cooking against each other. In TV shows such as the Dragons Den or sporting contests such as the Premier League, the division between competitive entertainment and capitalism dissolves altogether. Why would it be remotely surprising, to discover that a society in which competitiveness was a supreme moral and cultural virtue, should also be one which generates increasing levels of inequality?

Unless one wants to descend into biological reductionism, the question then has to be posed: how did this state of affairs come about? To answer this, we need to turn firstly to the roots of neoliberal thinking in the 1930s. For Friedrich Hayek in London, the ordoliberals in Freiburg and Henry Simons in Chicago, competition wasn’t just one feature of a market amongst many. It was the fundamental reason why markets were politically desirable, because it conserved the uncertainty of the future. What united all forms of totalitarianism and planning, according to Hayek, was that they refused to tolerate competition. And hence a neoliberal state would be defined first and foremost as one which used its sovereign powers to defend competitive processes, using anti-trust law and other instruments.

One way of understanding neoliberalism, as Foucault has best highlighted, is as the extension of competitive principles into all walks of life, with the force of the state behind them. Sovereign power does not recede, and nor is it replaced by ‘governance’; it is reconfigured in such a way that society becomes a form of ‘game’, which produces winners and losers. My aim in The Limits of Neoliberalism is to understand some of the ways in which this comes about.

In particular, I examine how the Chicago School Law and Economics tradition achieved an overhaul (and drastic shrinkage) in the role of market regulation. And I look at how Michael Porter’s theory of ‘national competitiveness’ led to a new form of policy orientation, as the search for competitive advantage. Both of these processes have their intellectual roots in the post-War period, but achieved significant political influence from the late 1970s onwards. They are, if you like, major components of neoliberalism.

By studying these intellectual traditions, it becomes possible to see how an entire moral and philosophical worldview has developed, which assumes that inequalities are both a fair and an exciting outcome of a capitalist process which is overseen by political authorities. In that respect, the state is a constant accomplice of rising inequality, although corporations, their managers and shareholders, were the obvious beneficiaries. Drawing on the work of Luc Boltanski, I suggest that we need to understand how competition, competitiveness and, ultimately, inequality are rendered justifiable and acceptable – otherwise their sustained presence in public and private life appears simply inexplicable.

And yet, this approach also helps us to understand what exactly has broken down over recent years, which I would argue is the following: At a key moment in the history of neoliberal thought, its advocates shifted from defending markets as competitive arenas amongst many, to viewing society-as-a-whole as one big competitive arena. Under the latter model, there is no distinction between arenas of politics, economics and society. To convert money into political power, or into legal muscle, or into media influence, or into educational advantage, is justifiable, within this more brutal, capitalist model of neoliberalism. The problem that we now know as the ‘1%’ is, as has been argued of America recently, a problem of oligarchy.

Underlying it is the problem that there are no longer any external, separate or higher principles to appeal to, through which oligarchs might be challenged. Legitimate powers need other powers through which their legitimacy can be tested; this is the basic principle on which the separation of executive, legislature and judiciary is based. The same thing holds true with respect to economic power, but this is what has been lost.

Regulators, accountants, tax collectors, lawyers, public institutions, have been drawn into the economic contest, and become available to buy. To use the sort of sporting metaphor much-loved by business leaders; it’s as if the top football team has bought not only the best coaches, physios and facilities, but also bought the referee and the journalists as well. The bodies responsible for judging economic competition have lost all authority, which leaves the dream of ‘meritocracy’ or a ‘level playing field’ (crucial ideals within the neoliberal imaginary) in tatters. Politically speaking, this is as much a failure of legitimation as it is a problem of spiralling material inequality.

The result is a condition that I term ‘contingent neoliberalism’, contingent in the sense that it no longer operates with any spirit of fairness or inclusiveness. The priority is simply to prop it up at all costs. If people are irrational, then nudge them. If banks don’t lend money, then inflate their balance sheets through artificial means. If a currency is no longer taken seriously, political leaders must repeatedly guarantee it as a sovereign priority. If people protest, buy a water canon. This is a system whose own conditions are constantly falling apart, and which governments must do constant repair work on.

#### Courts will eviscerate the action of the plan. Fiat can’t solve weakening of anti-trust laws and misinterpretation in individual cases.

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For most of American history, all sides in most major fights about the nation’s political economy agreed about one thing: the questions they were fighting about were constitutional in nature. In other words, they were fighting about constitutional political economy. This point is central to a book project that Willy Forbath and I have been working on for a few years, [The Anti-Oligarchy Constitution: Reconstructing the Economic Foundations of American Democracy](https://www.hup.harvard.edu/catalog.php?isbn=9780674980624) (forthcoming January 2022). We tell a story about rival visions of constitutional political economy stretching back to the Founding Era and how advocates of these visions fought out their differences both through politics and in court at different moments in American history. We are especially interested in what we call the “democracy of opportunity” tradition, which runs from the founding through the New Deal, whose (varied) advocates contended, by and large, that the Constitution required that we enact laws to disperse economic and political power, rather than letting it get concentrated in too few hands. We also explore various rival traditions, from the distinctive constitutional political economy arguments of the defenders of slavery to the anti-redistributive constitutional political economy arguments that crystallized a century ago into what we now call Lochnerism. You’ll notice I said “through politics and in court.” A central theme of the book is that for most of American history there has not been much separation (if any) between the constitutional political economy arguments advocates make in the courtroom, in the legislative hearing room, at a protest rally, or on the stump as candidates for office. And yet there does seem to be a noticeable pattern, which is my topic in this blog post. For advocates of the democracy of opportunity tradition—the tradition holding that the Constitution required (among other things) crushing the landed Southern oligarchy of the Slave Power; breaking up the trusts and monopolies; taxing the incomes of the rich; distributing land, education, and opportunity to ordinary Americans; and enforcing workers’ rights to organize and strike—courts have generally been the least hospitable of the three branches of government. The pattern is pretty striking. Painting with a bit of a broad brush—this is a blog post—it seems fair to say that American courts have, much more often than not, taken a particular side in fights about constitutional political economy. Courts have taken the side of holding that the Constitution protects the rights of aristocracy and oligarchy to maintain their outsized economic and political power. Many Americans have argued that the Constitution requires just the opposite, but they have found a more receptive audience, on the whole, in the democratically elected branches than in the courts. Over the course of American history, the elected branches have built a considerably more open and democratic political economy than the courts generally have wanted to allow. Today, as courts eviscerate voting rights and campaign finance laws, and take whacks at public employee unions and social safety net programs such as the Affordable Care Act, this particular alignment of the branches of government is with us again. But why? Why this alignment, so much more often than the reverse? The pattern began in earnest with Reconstruction. To the Radical Republicans, it was obvious that racial inclusion was impossible without destroying the planter oligarchy and building a mass, multi-racial middle class in the South. As Thaddeus Stevens put it, “The whole fabric of southern society must be changed . . . [i]f the South is ever to be made a safe republic.” There can be no “republican institutions . . . in a mingled community of nabobs and serfs.” But as violent white supremacists undid Reconstruction, the Court abetted them by finding ways to eviscerate the Reconstruction Amendments, striking down key parts of the core civil rights statutes that Congress had enacted to enforce the Amendments. The Court’s gutting of those statutes left Black citizens unprotected from most [discrimination](https://www.oyez.org/cases/1850-1900/109us3), [disenfranchisement](https://supreme.justia.com/cases/federal/us/189/475/), and even [massacre by white terrorist mobs](https://supreme.justia.com/cases/federal/us/92/542/). However, the same Court was receptive to claims that the Reconstruction Amendments protected [corporations](https://www.amazon.com/dp/B01M64LRDJ/) and their freedom from various forms of government regulation. The Supreme Court during this period—which was a long period, spanning much of the late nineteenth and early twentieth centuries—managed to surprise almost everyone by [striking down](https://www.oyez.org/cases/1850-1900/157us429) an income tax on the highest earners as unconstitutional (a decision eventually overturned by constitutional amendment). Frequently, federal courts, including the Supreme Court, found ways to weaken the antitrust laws that Congress enacted. Courts attacked efforts to organize labor unions with sweeping injunctions, court-sanctioned state violence, and jail terms aimed at protecting employers’ rights to an uninterrupted flow of non-union workers. (These are just a few highlights; there are many more in the book.) When you read some of these decisions today, they barely read like what we recognize as law—the class politics is so raw and right on the surface. But the views of those judges were predictable. The early-twentieth-century Republican Party that dominated American politics and judicial appointments in that era was the party of big business; the federal courts were stacked with elite lawyers from the emerging corporate bar, whose jobs before they joined the bench mostly involved serving the railroads and the trusts and their owners, the oligarchs of the Gilded Age. It would have been surprising if these judges had not beenactivists bent on finding ways to thwart the democratic branches’ efforts to rein in oligarchy. So what about when American politics turned? After President Franklin Roosevelt’s dramatic confrontation with the *Lochner* Court, the Court retreated and upheld the New Deal, ushering in a new constitutional regime. The Court reconceived its role, especially after World War II, as the nation’s protector of civil liberties and, eventually, civil rights. The Court upheld many laws parallel to the ones it had struck down after Reconstruction, such as the Civil Rights Act of 1964 and the Voting Rights Act of 1965. But that was the most important thing it did in its brief period of mid-20th-century liberalism: step out of the way. The Warren Court has a reputation for activism, and many of its decisions—Brown v. Board of Education, the criminal procedure revolution, one-person-one-vote—were indeed activist holdings. But when it came to economic inequality, the Warren Court was operating during the period of American history when inequality was at its most muted (the “great compression”). Restraining oligarchy, or building up the middle class as a bulwark of Republican government, was not on the Court’s docket. Some observers expected the Court to do more—to enlist the Constitution in the War on Poverty, set [constitutional minimum welfare guarantees](https://www.theregreview.org/wp-content/uploads/2016/05/80HarvLRev.pdf), or [equalize school funding](https://www.oyez.org/cases/1972/71-1332)—but in the end, it didn’t. And then the Court took a long right turn, and now we are once again in a Gilded Age, with the Court playing the familiar role it played a century before, as the branch where efforts to build a democracy of opportunity can most readily expect to be crushed. There is a lot of contingency in American history, perhaps especially when it comes to courts. But it seems to me non-coincidental that the Court has so consistently been the least dangerous branch to aristocrats and oligarchs and their efforts to concentrate economic and political power. The simplest reason is this: efforts to restrain concentrations of private power—whether it’s the landed aristocrats Jefferson worried about at the founding, their Slave Power successors, or the monopolist robber barons of the Gilded Age—require the exercise of public power in the form of legislation. There are supporting roles to be played here by executives executing legislation and by courts interpreting it. But fundamentally, courts are not equipped to initiate or lead the work—the constitutionally necessary work—of laws like the Sherman Antitrust Act, the National Labor Relations Act, the Social Security Act, the Civil Rights Act, the Voting Rights Act, or the Affordable Care Act (to name a few!). Courts can interpret these statutes in ways that further the statutes’ goals, or courts can try to thwart them. But courts are not equipped to move first or take the lead in advancing these statutes’ goals. On the other hand, courts are better equipped to recognize the anti-redistributive, so-called libertarian claims of property, contract, and so on that some of these statutes might be viewed as threatening. Those claims are of a form that we still teach in the first year of law school: an individual claimant, standing on old common law-ish rights, against the redistributive machinations of the progressive state. Conservatives have long understood this point. They have placed their hopes in courts for over a century. As we explain in the book, conservatives never accepted the “New Deal Settlement” that exists in the wishful thinking of liberals. Instead they have continued ever since the 1930s to find ways to enlist the courts in their struggles to build a less redistributive constitutional political economy, one more tolerant of concentrations of economic and political power. Liberals and progressives cannot similarly place their hopes in courts—and not only because currently, contingently, the courts are far more conservative than the country as a whole. And yet liberals and progressives cannot ignore courts, which still have the power to thwart almost any intervention in our constitutional political economy. Nor should liberals and progressives argue seriously for an end to judicial review: we do actually need the courts to police violations of civil liberties and civil rights. That leaves liberals and progressives in a tricky spot. We need the courts, but we also need to understand that the courts are not our friends—and are unlikely ever to be. We need to understand the role of courts in our constitutional politics: rather than umpires sitting outside of politics, judges are a special kind of political actor, engaged quite directly in their own form of constitutional politics. If history is any guide, the long-term solution when the courts are aligned against liberal and progressive causes is not to “reform” the politics out of the courts, but, rather, to confront the courts through politics itself. It has worked before.

#### Boom & Bust.

Alan Maass 21. Communications staff for Rutgers AAUP-AFT. Marxism Shows Us How Our Problems Are Connected. Jacobin. 1-5-2021. https://jacobinmag.com/2021/01/marxism-capital-socialism-capitalism-book-review

When Things Fall Apart

Marxist economics explains not only how capitalism works but why it regularly doesn’t — during the periodic economic busts that inevitably follow the booms. As Marx and Engels wrote:

Society suddenly finds itself put back into a state of momentary barbarism; it appears as if a famine, a universal war of devastation had cut off the supply of every means of subsistence; industry and commerce seem to be destroyed. And why? Because there is too much civilization, too much means of subsistence, too much industry, too much commerce.

Of course, in a world where billions go without enough food, there’s no such thing as “too much means of subsistence.” There’s only too much from the point of view of the capitalists — too much to sell their products at an acceptable profit.

Thier introduces the chapters on capitalist crisis by unpacking a long quotation from Engels that ends: “The contradiction between socialized production and capitalistic appropriation is reproduced as the antagonism between the organization of production in the single factory and the anarchy of production in society as a whole.”

Under capitalism, production within workplaces is generally highly regimented, but the economy as a whole is a free-for-all. Businesses make their investment decisions behind closed doors, each hoping to get a leg up on the competition — by introducing the most popular model, the new product, the next trend. Success means a greater share of the market and therefore more profits.

All the important questions for society as a whole — how much food should be produced, how many homes to build, what kind of drugs to research and manufacture, how to generate electricity — are decided by the free market.

In economic good times, success seems contagious. Companies make ambitious investments, produce more and more, and watch the money roll in. But when enough companies jump in, the market gets saturated, sales slump, debts grow, and the record profits start to sink. The effects spread from part of the economy to the next, as Thier explains, using the example of oil:

If refineries sit idle because there is an overproduction of oil, the workers are laid off, and the creditors, who financed the investment, are dragged down as well. But as future oil extraction and refining projects are pulled back, so too is demand for the raw materials (steel, concrete, plastics, electricity, etc.) and engineering necessary for the production of oil rigs, pipelines, and so on. The construction business and service and retail companies, which had benefited from the springing up of oil boomtowns, suffer as well.

Because of the complexity of the international capitalist economy, the boom-slump roller-coaster ride can look and feel different each time around. Thier devotes a chapter to analyzing the crash last time: the Great Recession of 2008–9. She explains why and how the parasitical realm of banking and finance was the detonator of this slump but looks beyond popular left explanations about “financialization” to reveal the underlying crisis of global overproduction.

Among Marxist economics writers, there are some disagreements about the details here, specifically about “which aspects of Marx’s writing — falling profitability, overproduction (or in some cases, underproduction), disproportionality among branches, the role of credit — are emphasized and how these pieces fit together,” Thier writes.

In her account, Thier tends to stress overproduction, to the disappointment of those who emphasize falling profit rates. This focus on overproduction crucially emphasizes how an organic mechanism of capitalism — inevitable in a system driven by exchange, exploitation, and competition — repeatedly causes crisis.

Regardless of their ideology or morality (or lack thereof), capitalists are inevitably driven to reduce costs, they inevitably see an advantage in producing more for less, and this inevitably leads to frantic overproduction that undermines profitability and ultimately slams the economy into reverse.

In other words, capitalism stops working not because of a mistake or failed policy, but because it’s been working the way it’s supposed to. As Thier writes:

Competition is the mainstay of capitalism. It can’t be made friendlier or softer because it requires an accumulation of capital at any cost, in order to get ahead or get left behind.… These same processes of accumulation necessarily lead to contradictions that threaten the very profits that capitalists seek. Every contradiction for capitalism is both a great hazard to our lives — since we are made to pay the price — and also an important crack in the system. Every periodic crisis is a potential point around which to organize.

### 2NC---AT: AI Innovation Solves---Pearson 20

#### Automation forces unemployment and wage slashes to accumulate capital and generate surplus.

Ted Reese 21. Marxist economist and author of Socialism or Extinction (self-published) and The End of Capitalism: The Thought of Henryk Grossman. Automation Represents the Second — Not ‘Fourth’ — Industrial Revolution: Just as the First Necessitated Capitalism, the Second Necessitates Socialism — Hampton Institute. Hampton Institute. 4-21-2021. https://www.hamptonthink.org/read/automation-represents-the-second-not-fourth-industrial-revolution-just-as-the-first-necessitated-capitalism-the-second-necessitates-socialism

Commodity-producers must continually expand production to overcome the inherent contradiction contained in the commodity: it is both a use-value, a utility; and an exchange-value, containing surplus value and sold for profit. The quicker and more abundantly commodities are made, the less labour, exchange-value and therefore profit tends to be contained in each commodity, compelling the capitalist to expand production yet further, only to continually intensify the contradiction. All production under capitalism is governed by this, the law of (exchange-)value. This contradiction is also expressed in an overaccumulation of capital (a surplus that cannot be (re)invested profitably, resulting also in the equivalent surplus labour (unemployment)) and a contraction in economic output. This is at the same time an underproduction in surplus value. The necessary reaction for capital is to expand and cheapen the labour base and raise its productivity through innovation, only to increase the underproduction of surplus value in the long-run, since the amount machinery and capital employed tends to rise relative to the total surplus-value-producing labour employed. Commodity-producers continually have to attract greater investment to turn a profit. As a company gets bigger, though, its costs get larger and more unsustainable, and so greater profits need to be generated than before (hence the dominant tendency towards the ever-greater monopolisation of industry, for economies of scale (efficiency)). Since wages eat into thinning profit margins, expenditure on wages must be slashed. Robots do not need toilet/rest/lunch breaks, sick or holiday pay, and are therefore much more productive and cheaper to employ. (There is no such thing as ‘technological unemployment’, though; people go unemployed when capital can no longer afford to employ them (so socialism, capable of permanent full employment, would take advantage of automated production by training and employing far more scientists, doctors, teachers, etc). Even police and soldiers, who do not produce surplus value and are therefore paid out of the surplus produced by commodity-producing workers, are increasingly being replaced by surveillance technology and autonomous weapons, since one effect of shrinking profit margins is shrinking government tax bases, at least in relative terms per capita.) Innovation is necessary to continually raise the productivity of labour, to meet the demands of accumulation — only the size of the ever-expanding total capital eventually becomes too large for the ever-dwindling pool of surplus-value-producing labour to renew and expand. The underproduction of surplus value becomes insurmountable. The system comes up against a historical limit of accumulation and breaks down into barbarism, necessitating socialist revolution.[26] Indeed, interest,[27] GDP and general profit rates have all trended historically towards zero,[28] along with commodity prices.[29] As with previous modes of production, the contradictions between the productive forces (the means of production) and the productive relations (the ownership of production) are being driven into irreconcilable conflict by sheer historical force. While this contradiction has always been expressed under capitalism by the private appropriation of the products of collective, socialised labour, it is now increasingly expressed by automated labour and a diminishing source of profit, tending ever-closer towards the self-abolition of the law of value. Just as capitalism matured in the womb of feudalism through the concentration of industry, socialism has matured in the womb of capitalism through the further concentration and monopolisation of industry and the deindustrialisation, servicisation, automation and digitalisation of labour. The new technological-economic base demands a new, applicable superstructure; ie public ownership of the means of production; an all-socialist state (a people’s democratic republic); centrally planned production on a break-even basis; and the replacement of money by digital (non-transferable) vouchers pegged to labour time.

#### Only the Alt solves environmental collapse.

Kenneth P Tucker 21. Senior [lecturer at the Fletcher School](mailto:ken.pucker@tufts.edu) at Tufts University and a lecturer at Boston University’s Questrom School of Business. Advisory director at Berkshire Partners and was formerly the chief operating officer of Timberland. "Overselling Sustainability Reporting," Harvard Business Review May-June 2021. https://hbr.org/2021/05/overselling-sustainability-reporting

**Where to Focus** Most of the sustainability effort at Timberland went into measuring and improving areas where the company had some control. For example, it put solar arrays on some of its buildings, installed LED light bulbs in its offices and retail stores, and limited workers’ hours in contractor factories. Other companies that have made sincere attempts to improve their social and environmental performance have generally behaved similarly: They’ve focused on what systems thinkers call *parameters*—dials that can be turned up and down to change performance without altering the structure of the larger system. However, researchers have found that those parameters are rarely sources of real impact. The late Donella Meadows, the primary author of The Limits to Growth and a distinguished professor of system dynamics at Dartmouth, analyzed 12 types of intervention that would affect system performance and concluded that parameters are the least powerful. Probably 99% of efforts go to parameters, she wrote, “but there is not a lot of leverage in them.” High-leverage interventions that would move the needle are largely outside the control of individual corporations. Such interventions wouldn’t be popular in the corporate world because they require changes in the rules governing companies’ behavior, a repricing of resources to address market failures, and a reorientation of how public assets are allocated and how power is distributed. Unfortunately, Sustainability Inc.’s focus on measurement and reporting—and the underlying premise that market-based change would be sufficient—has likely helped to delay these much-needed structural transformations. So has misplaced faith in overhyped approaches such as “creating shared value” and “the circular economy”; these are touted as win-win, pain-free solutions, but supporters invoke case studies, not empirical research, as evidence. In her speech at COP25, in 2019, the climate-change activist Greta Thunberg astutely noted, “The biggest danger is not inaction. The real danger is when politicians and CEOs are making it look like real action is happening when in fact almost nothing is being done, apart from clever accounting and creative PR.” This is not to say that investors and companies can’t make a difference. Corporate commitments to science-based goals are one promising path to improvement. It is good news that companies such as Apple and Microsoft are committing to net-zero trajectories, including for their scope 3 emissions, on a timeline that’s consistent with the planetary boundaries framework. Just recently BMW announced that its suppliers’ carbon footprints will be a key factor in procurement decisions going forward, and Climate TRACE, a coalition funded partly by Google, is developing a satellite-based tool to measure all emissions, including scope 3, in real time. These are welcome advances. But if we are to bend the global emissions curve downward and address growing environmental and social challenges effectively, a more aggressive approach is needed. The following suggestions are places to begin. **Measure less, better.** The current plethora of authorities and frameworks for ESG measurement is unwieldy, confusing, and burdensome for companies. It’s encouraging that five of the leading standard setters and measurement bodies—including GRI and the Sustainability Accounting Standards Board—are collaborating to streamline and harmonize standards for reporting. The European Commission and the International Financial Reporting Standards Foundation are undertaking other efforts to improve reporting practices. My hope is that what emerges will include a commitment to a transparent application of rigorous science-based targets in line with nature’s limits. No matter what standard ultimately prevails, sustainability reports must be mandated and audited by an empowered referee. **“The real danger is when politicians and CEOs are making it look like real action is happening when in fact almost nothing is being done.” Mobilize.** Vested interests and system inertia have been formidable obstacles to progress. Attempts to self-regulate have delivered incremental gains that have been subsumed by business as usual and the unyielding pressure to grow. However, with mounting evidence that climate change is harmful and accelerating, grassroots global movements for action—such as the Sunrise Movement and 350.org—are making what the civil rights hero John Lewis called “good trouble.” **Spend government funds on the right things.** According to the IMF, global subsidies for fossil fuels topped $5 trillion in 2017. In the United States, tens of billions of dollars have gone to subsidies for biofuels, including ethanol. This makes no sense. We are using taxpayer money to subsidize energy sources that accelerate future environmental damage. Imagine if governments instead invested those resources in R&D for carbon capture, incentives for retrofitting buildings, or infrastructure to spur faster growth in renewable energy. Change the system. Executives and investors operate in keeping with the rules and incentives of the system. If their behavior is to change, the rules that governments set and enforce also need to change. More specifically, as a partial list, corporations should be prevented from co-opting the regulatory apparatus; carbon emissions should be capped or taxed to account for their social costs; the agriculture industry should be incentivized to transition from spewing carbon to sequestering it; and lawmakers should ban the building of new thermal coal plants as a source of primary energy. In addition, as Meadows pointed out when discussing leverage points for system intervention, our mindsets, and assumptions about how the world works are potential sources of profound impact. A sustainable system will ultimately require a paradigm shift from the prevailing goal of wealth creation to one of well-being, and a shift in focus away from GDP and toward something akin to the OECD’s Better Life Index. Commitments to concepts such as regenerative agriculture, reuse, and collective value represent first steps in the right direction. **. . .** After two decades of trying, it should be clear that the market alone will not address worsening social and environmental challenges. The British economist Sir Paul Collier summed up the situation well when he said that capitalism “doesn’t work on autopilot. Periodically throughout its 250-year history, capitalism has derailed. And when that happens, it’s been up to public policy to get it back on the rails—public policy and the efforts of private citizens, of firms and families.” Ultimately, corporations exist within a broader system. The obsession with shareholder primacy has served executives and investors well, but it has left younger generations with a staggering bill. This past-due invoice includes environmental degradation, biodiversity loss, income inequality, and climate change. Going forward, stability and prosperity require that executive leaders advocate for structural changes that enable them to focus beyond the next quarter’s numbers. After all, like the members of Sustainability Inc., they, too, want to pass on a better world than the one they inherited.

#### Financialization---also means small banking fails.

Joachim Osiński and Izabela Zawiślińska 21. University of Warsaw, Faculty of Political Science and International Studies, Department of Political Systems. Warsaw School of Economics in Warsaw, Department of Public Administration. “Financialization of economy and politics in contemporary capitalism. Selected problems” *Studia Politologiczne* 2021;60. http://www.studiapolitologiczne.pl/Financialization-of-economy-and-politics-nin-contemporary-capitalism-nSelected-problems,139919,0,2.html

Introduction

The economy of mythical capitalism as seen by neoliberalism created a conceptual chaos in social sciences and in the practice of management. It mistakes progress for capitalist expansion, and market for capitalism. The predominant economy of the main current permanently suggests “mental shortcuts”, “indicating the means that favour the expansion of capital and giving the name of “development” to what follows or what in their opinion could follow from the former. Meanwhile, the logic of the expansion of capital does not at all assume striving to achieve the results which would have the “developmental” character. It does not, for example, assume full employment or inequality (or equality) of incomes defined in advance. The logic of this expansion is guided by the companies’ search for income, and the latter can in certain conditions bring economic growth or stagnation, an increase or reduction of employment, a decrease or an increase of inequalities in incomes, depending on the situation”1.

An increased role of finances along with an increasing role of the stream of money coming from capital gains changed the way people experience capitalism. A division into two extreme groups of people took place in societies: those living off capital and those living off their work. The former achieve higher incomes, frequently free from credit burdens, while the latter are usually supported by an easily accessible credit. The so far existing unequal distribution of incomes is now additionally increased by the growing difference between people rich in assets and those poor in them. A growing possibility of consumption without income from work appears at the cost of financial destabilization of states, declining industry and a regression of social values. An aggressive and sumptuous model of consumption spreading in developed countries is a more and more visible sign of financialization2.

Other indicators of financialization include such processes as a constantly increasing range of financial instruments and institutions functioning in the most developed states in the world, an increase of financial assets in the general value of property of non-financial entities, an increased importance of financial instruments in steering large enterprises, an increase in the consumption of households driven by credits and an increasing debt of both the public sector and the private sector in a global view3.

The purpose of the present article is to analyze the essence of financialization in contemporary economies of capitalist states and in the world economy, indicating the consequences and threats brought together with this process not only to the economy but also to the sphere of politics and a citizen’s status. The analysis is based on the assumptions and categories of neo-institutional methodology. The threats resulting from the process of financialization are analyzed on the example of the 2007+ financial and banking crisis. The principal thesis of the article is that the permeation of the aforementioned process into the sphere of politics, and especially its effect on the transfer of public funds to private corporations and its influence on the system of democracy and the processes of electing political institutions constitute significant features of the contemporary state in the development of global capitalism.

#### Ag collapse---short term.

Allinson et al ’21. [Jamie Allinson is Senior Lecturer in Politics and International Relations at Edinburgh University and author of The Age of Counter-revolution. China Miéville is the author of a number of highly acclaimed and prize-winning novels including October: The History of the Russian Revolution. Richard Seymour is the author of numerous works of non-fiction, His writing appears in the New York Times, London Review of Books, Guardian, Prospect, Jacobin. Rosie Warren is an Editor at Verso and the Editor-in-Chief of Salvage. All are writing for the Salvage Collective. “The Tragedy of the Worker: Toward the Proletarocene.” Chapter 1: M-C-M’ and the Death Cult. July 2021. Verso EBook. ISBN: 9781839762963 //shree]

The Triassic-Permian ‘great dying’ was a megaphase change taking place through pulses lasting for tens of thousands of years, separated by interludes of hundreds of thousands of years, if not millions. The current mass extinction event is a megaphase change taking place in microphase time. Mass extinction is punctuated by the production of what the environmentalist Jonathan Lymbery calls ‘dead zones’: the conversion of wild ecosystems into dead monocultures. In Sumatra, these dead zones are made by burning rainforest and, amid the stench of death, planting palm crop. The palm oil is used in foods and household items, while the nut is used in animal feed. It is secured with barbed wire, and treated with poison, to prevent the crop from being eaten. Surviving animal life, and surrounding human communities, are pushed to the edges, to the brink of extinction. Agricultural workers are abused, underpaid, even enslaved. This is an example of what Moore would call ‘cheap food’, where the ‘value composition’ of the goods, the amount of waged labour necessary to produce each item is ‘below the systemwide average for all commodities’. In this case, a ‘cheap nature’ is produced by a distinctly capitalist form of territorialisation, wherein forestry is converted through deforestation into palm monoculture, while ‘cheap labour’ is secured partly through the dispossession of neighbouring human communities. More calories with less socially-necessary labour-time is cheap food. Cheap is not, of course, the same thing as efficient. Food production is, alongside fuel, a fulcrum of the capitalist organisation of work-energetics. It is one that, as with fossil fuels, wastes an incredible amount of the energy it extracts. According to the FAO (Food and Agriculture Organization of the United Nations), 30 per cent of cereals grown for human and animal consumption are wasted, along with almost half of all root crops, fruits and vegetables. To conclude from this grotesque squander that a ‘more efficient’ capitalism would ‘solve the problem’ of ‘the environment’ would be to fail to understand waste, capitalism and ecology: that the first is intrinsic to the second; that the second, whatever the degree to which it is inflected by the first, is inimical to the third. Capitalism also directly undermines its own productivity, precisely through its industrially-produced biospheric destruction. According to the UN, for example, there are at most sixty harvests remaining before the world’s soils are too exhausted to feed the planet. This edaphic impoverishment is a product, not a byproduct. It is the predictable, and long-predicted, consequence of intensive agriculture, over-grazing and the destruction of natural features (such as trees) that prevent erosion. Likewise, the death-drop of insect biomass, the decline of pollinating bees, are hastened by the extensive use of pesticides and fertilisers. Capitalist food production can only evade the problem – a problem, in its terms, of accumulation – either by establishing new ‘cheap natures’ through such means as deforestation, or by extracting rent from competitor producers through such means as intellectual property rights. For instance, since 1994’s notorious TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights), through the rules of UPOV (Union for the Protection of New Plant Varieties), particularly the notorious UPOV 1991, and in the face of local fightbacks from Guatemala to Ghana, the World Trade Organisation has enforced property agreements outlawing the saving of seeds from one season to the next, thus sharply raising costs for farmers producing 70 per cent of the global food supply.

#### Carbon bubble, peak oil.

Rifkin ‘19 [Jeremy, Honorary Doctorate in Economics at Hasselt University. Recipient of the 13th annual German Sustainability Award in December 2020. BS in Economics at UPenn – Wharton School. Founder of People’s Bicentennial Commission. The Green New Deal: Why the Fossil Fuel Civilization Will Collapse By 2028, and the Bold Economic Plan to Save Life on Earth. St Martin’s Press. P7-8. Google Book. //shree]

The Carbon Tracker Initiative, a London-based think tank serving the energy industry, reports that the steep decline in the price of generating solar and wind energy “will inevitably lead to trillions of dollars of stranded assets across the corporate sector and hit petro-states that fail to reinvent themselves,” while “putting trillions at risk for unsavvy investors oblivious to the speed of the unfolding energy transition.”19 “Stranded assets” are all the fossil fuels that will remain in the ground because of falling demand as well as the abandonment of pipelines, ocean platforms, storage facilities, energy generation plants, backup power plants, petrochemical processing facilities, and industries tightly coupled to the fossil fuel culture. Behind the scenes, a seismic struggle is taking place as four of the principal sectors responsible for global warming—the Information and Communications Technology (ICT)/telecommunications sector, the power and electric utility sector, the mobility and logistics sector, and the buildings sector—are beginning to decouple from the fossil fuel industry in favor of adopting the cheaper new green energies. The result is that within the fossil fuel industry, “around $100 trillion of assets could be ‘carbon stranded.’”20 The carbon bubble is the largest economic bubble in history. And studies and reports over the past twenty-four months—from within the global financial community, the insurance sector, global trade organizations, national governments, and many of the leading consulting agencies in the energy industry, the transportation sector, and the real estate sector—suggest that the imminent collapse of the fossil fuel industrial civilization could occur sometime between 2023 and 2030, as key sectors decouple from fossil fuels and rely on ever-cheaper solar, wind, and other renewable energies and accompanying zero-carbon technologies.21 The United States, currently the leading oil-producing nation, will be caught in the crosshairs between the plummeting price of solar and wind and the fallout from peak oil demand and accumulating stranded assets in the oil industry.22

#### Mineral cycles---that’s Allinson---copper, lithium, and manganese hit bottlenecks.

Ahmed 20 [Nafeez. M.A. in contemporary war & peace studies and a DPhil (April 2009) in international relations from the School of Global Studies at Sussex University. Capitalism Will Ruin the Earth By 2050, Scientists Say. Vice. 10-21-2020. https://www.vice.com/en/article/v7m48d/capitalism-will-ruin-the-earth-by-2050-scientists-say]

Endless growth will generate minerals scarcity within decades The EV transition is, in short, a massive industrial project. Electrification of roads and rail will require upgraded smart grids, complex routes connected to high power lines, and regular battery-swap stations. The paper explores several scenarios to explore how such a transition would take place. In a continuing GDP growth scenario, the authors note that the economy begins to stagnate “due to peak oil limits at around 2025-2040,” but GDP is able to continue growing thanks to the EV transition. This shows that the reduction in liquid fuels in transportation can play a powerful role in avoiding “energy shortages in the economy as a whole.” But then the economy hits the limits of mineral and material production to sustain this electric transition—in just three decades. And this is even with high levels of minerals recycling. By 2050, in this scenario, the EV transition will “require higher amounts of copper, lithium and manganese than current reserves. For the cases of copper and manganese the depletion is mainly due to the demand from the rest of the economy,” but most lithium demand “is for EV batteries,” and this alone “depletes its estimated global reserves.” Mineral depletion takes place even with “a very high increase in recycling rates” in a continuing GDP growth scenario. In one such scenario, the authors apply what they consider to be realistic upper level recycling rates of 57 percent, 30 percent and 74 percent to copper, lithium and manganese respectively. These are based on extremely optimistic projections of recycling capabilities relative to their costs. But still they find that even these high recycling rates wouldn’t prevent depletion of all current estimated reserves by 2050. The conclusion corroborates findings of other studies, estimating an expected bottleneck for lithium by 2042-2045 and for manganese by 2038-2050. Actual bottlenecks could come even earlier because existing studies—including the MEDEAS model—don’t account for material requirements needed for internal wiring, the EV motor, EV chargers, building and maintaining the grid to connect and charge EV batteries, the catenaries to electrify the railways, as well as inherent difficulties in recycling metals.

#### COVID---“recovery” is sugar rush that drives crisis.

Roberts & Smith ‘21 [Michael Roberts worked as an economist for over 40 years, Activist in British Labor Movement in Britain. Interviewed by Ashley Smith, Author at Specter Journal. “Out of Lockdown and Back into the Long Depression.” 7-6-21. <https://spectrejournal.com/out-of-lockdown-and-back-into-the-long-depression/> //shree]

The Covid slump of 2020-21 was basically a supply-side shock due to the global spread of the Covid-19 virus and the failure of governments in the major economies (with a few exceptions) to prevent its spread. There were delayed and bungled measures along with weakened health systems, so economies had to close down as lockdowns and isolation measures were the only answer to avoiding catastrophe. Economically, that meant supply stopped, and then that led to a collapse in demand as people were laid off and businesses crashed. But recovery is now under way (more or less) in most major economies. Demand was propped up in the major advanced economies through massive government fiscal spending and central bank injections of credit for businesses (particularly large ones). And now through a combination of lockdowns and the incredibly fast development and rollout of effective vaccinations (thanks to publicly funded science), the major economies are now able to recover. But in the G7 economies this initial recovery has the aspect of a “sugar rush.” The “sugar” of fiscal stimulus and historic levels of easy credit is infusing capitalist businesses and household spending with an energy boost. Indeed, during the pandemic slump sections of capitalism did not suffer at all; on the contrary, they gained hugely, e.g., the social media and tech sector, the mega-distribution companies, and Big Pharma. Better-off households also suffered less (at least materially) as they continued to be paid, could work at home, and saved income significantly. This led to a house purchase boom as these sectors of labour looked to change their lifestyles post-Covid. At the same time, zero interest rates and cheap credit allowed financial institutions to make hay in financial markets and billionaire wealth rocketed as stock and bond markets hit historic highs. But, for most manual workers in the cities and in low-paid service industries, the pandemic slump was a disaster and with little prospect of returning to “normal” for them in the recovery. And it’s the advanced capitalist economies and the East Asian states that are recovering best in 2021-22. The so-called global South suffered hugely in the pandemic, with record levels of excess deaths and a massive rise in unemployment and poverty levels. Fiscal support from governments was limited and the rollout of vaccines to get economies going again is way short. Estimates are that the target vaccination levels in these countries will not be achieved until 2023-4! So, what we are going to see is the major capitalist economies of the West and China returning to pre-pandemic levels of national output by the end of this year or in early 2022, but Latin America, Africa, South Asia failing to do so. What are the weaknesses and contradictions of the recovery in those economies? Before the pandemic, the world economy was slowing down. Real GDP growth rates in the G7 were dropping to just 1 percent or lower; the so-called emerging economies had growth rates down to 3 percent (hardly enough to cover increases in population). World trade was declining. Even the giant economies of China and India had slowed. The main reason was that growth in investment in productive assets that can boost the productivity of labor and expand technology and employment had also slowed. In my view, investment and productivity growth are key to developing the productive forces of modern capitalist economies, and they were failing because under capitalism, profitability is the driving force behind investment. And according to the best estimates, US and global profitability levels are at historic lows. This is the long-term result of the basic contradiction of capitalism: between raising the productivity of labour and sustaining profitability. Over the long term, this cannot be done, and this is the economic Achilles heel of capital. At first sight, this result seems strange when we read of the huge profits being made by the likes of the so-called FAANGS (the tech and social media monopolies) and Amazon. But these are the exceptions that prove the rule. On average, the profitability of firms in the productive sectors of capitalist economies are low. That’s partly why profits have been reinvested into financial and other unproductive sectors like property where profitability is higher. Indeed, it is estimated that before the pandemic, about 15-20 percent of companies in the major economies were what are called “zombies,” i.e., not making enough profit to invest or expand, but just enough to pay wages and service their debts. They are the “living dead” in capitalist terms. At the same time, however, corporate debt is at record highs in most countries, raising the risk of bankruptcies if interest rates were to rise. All this makes it unlikely that we shall see any significant change post-pandemic from what we saw in the post-great recession decade, i.e., slow growth in investment, low wage growth, poor productivity growth, rising inequality, and unchanged or worsened global poverty. In the US, a lot has been made about Biden’s turn away from the neoliberal consensus toward Keynesianism. What has he done, why has he done it, and what has been its impact so far? The pandemic fiscal packages introduced by various G7 governments and, of course, by the Biden administration were emergency measures by states to avoid complete meltdown and catastrophe from the pandemic. In my view, they do not signify a change of ideology or policy by pro-capitalist governments. The usual talk is “let’s get out of this slump and preserve capitalist businesses using state funds and credit and then worry about paying it all down later.” The “later” is still to come. Biden’s fiscal packages have been heralded as a sea change in government policy and a return to Keynesian macro-management and stimulation of capitalist economies. But first, let’s leave aside the fact that Keynesian stimulus and macro-management was mainly a myth anyway and really the product of a war economy after 1945 which was ditched in the mid-1970s. Instead let us consider the actual impact of the Biden packages. The latest estimates by Goldman Sachs, hardly a voice of the left, is that after all the machinations of Congress by the end of this year, the Biden package will be equivalent to about 1 percent of US GDP each year for the rest of Biden term. But Biden is going to pay for these partly by increasing taxation by 0.75 percent of GDP a year. Given that the best estimates of so-called multiplier effects on GDP from fiscal stimulus are about one, that means the net effect of the Biden packages, if fully implemented, might boost US real GDP growth by 0.25 percent a year. The current forecast for long-term us real GDP growth is just 1.8 percent a year. So, the “great” return to Keynes by Biden will be minimal. If Biden manages to get his larger proposals for increased spending on infrastructure and social welfare spending through Congress, what impact will that have on the US and world economies? If the Biden package will have a limited effect on the US economy, any spillover effect into other economies will be even less substantial. The EU is also planning an economic recovery package that will boost government funds in EU countries with already large debt burdens like Italy and Spain. But again, the impact on the capitalist sectors of these economies will be minimal. Japan is about to announce a fiscal package that aims to “balance the books” over the next decade – hardly stimulus then! Indeed, the latest growth forecast for japan is a further slowing from its pre-pandemic pace of less than 1 percent a year. And apart from China, Vietnam, and the small East Asian states, the rest of the global South has little prospect of any fiscal stimulus or economic recovery. Most estimates from international agencies are that these economies will not recover to pre-pandemic GDP levels before 2023 and will never recover to pre-pandemic trajectories of economic growth. There is a permanent “scarring” of these weak peripheral capitalist economies. There has been a whole range of bourgeois commentators like Lawrence Summers warning about the threat of inflation. What’s your assessment about the arguments about inflation? What are the dangers of a return to what in the 1970s was called stagflation, a combination of slow growth and increased inflation? In the short term, inflation has returned to many economies. This is because of the sugar rush of consumer demand as economies open up again and people start spending down savings built up during the pandemic slump, while companies search for raw materials and components to restart businesses. Coupled with a significant disruption of global value chains, supply cannot meet demand and bottlenecks have created an inflation of prices in raw materials and consumer goods and services. But is this as transitory as the federal reserve and other central banks claim (though to be fair, there are divergent views within these banks)? Some, like Summers, argue that credit and fiscal stimulation boost demand without engendering enough supply because there is a secular stagnation in investment and productivity in modern economies. Others argue that credit injections and monetary easing after the great recession did not lead to inflation. On the contrary, easing only boosted financial and property prices. The Keynesian view is that inflation only happens when wage costs rise, i.e., inflation is caused by labor rather than capital. And that is not happening so far. My view is that price inflation in goods and services in capitalist economies comes about through a combination of demand generated by new value (as expressed in wages and profits) and the pace of money supply growth. But it is the change in value production that matters most. Capitalist economies have experienced a slowdown in new value growth for decades, so inflation rates have slowed to a trickle. Central banks have tried very hard with monetary easing to get some inflation (2 percent targets, etc.) and failed. Tinkering with interest rates and money quantities cannot deliver even moderate inflation in these conditions. So, after this initial burst, inflation will rise above pre-pandemic rates (i.e., 2 percent or so) only if the world capitalist economies generate faster growth in new value (unlikely) and/or there are sustained levels of double-digit growth money supply (possible). The latter is what central banks control, and they are divided on how long to maintain that. This raises larger theoretical questions on the left. Many believe that Keynesianism or Modern Monetary Theory can stimulate growth and bring about a more egalitarian capitalist order. You have challenged these ideas in your blog, The Next Recession. Why do Marxists argue that Keynesianism can’t overcome capitalist crisis in general and in this slump? The key to answering this is to recognize that capitalists decide whether economies grow or go into slump. By that I mean capitalists will only invest in means of production and employment if there is a profit to be made. Profit calls the tune under capitalism. And as mentioned above, average profitability in the major capitalist economies is low; corporate debt is high, and many firms are just surviving through cheap credit and not investing productively. But Keynesian theory does not consider capitalist economies from the perspective of profitability. It’s effective demand that decides. If government spending can increase demand, then it can get capitalist economies going. If Marxist theory is a better explanation of capitalist accumulation, then if profitability of capital stays low and does not recover to new higher levels post-pandemic, then government spending will be ineffective.

## Advantage 1

### 2NC---Turns Kleptocracy

#### Capitalism turns kleptocracy.

Kelly Wilkins 19. 8-15-19. Kelly Wilkins is interviewing Henry A. Giroux M.A. in history at Appalachian State University and a D.A. (Doctor of Arts) in history at [Carnegie-Mellon](https://en.wikipedia.org/wiki/Carnegie-Mellon). Honorary Doctorate of Humane Letters degree from [Chapman University](https://en.wikipedia.org/wiki/Chapman_University). "Henry A. Giroux: Neoliberal Capitalism Sets the Stage for Fascism," Truthout, https://truthout.org/articles/henry-a-giroux-neoliberal-capitalism-sets-the-stage-for-fascism/

**Henry A. Giroux:** What we need to understand is that neoliberalism does a couple of things that set the groundwork for a fascist politics. But behind all of that, there is a comment that Horkheimer mentioned once, and which always sticks in my mind. He said that if you can’t talk about capitalism, you can’t talk about fascism. I think that we have to keep that in the background. But what neoliberalism has done since the 1970s is it has created such economic misery, it has so accentuated levels of inequality, it has created such suffering, it has dismantled entire towns, it has concentrated wealth in the hands of the financial elite, and it has legitimated an enormous culture of cruelty. And it operates off the assumption that the market can solve all problems — not simply in the economy, but in all of social life — so it becomes a template and a model for all social relations. In doing so, it is at odds with any notion of the welfare state, any notion of labor unions, any notion of workers’ rights, and any notion of economic rights. It privatizes, deregulates, and commodifies everything. It sets up a series of competitive attitudes that degrades collaboration. It highlights self-interest at the expense of modes of solidarity. It so accentuates matters of inequitable relations in wealth and power that you have an enormous concentration of wealth and power in the hands of the financial elite, and this is enacted by all kinds of policies that undermine the foundations of a democracy — all of its basic institutions, from the press, to public goods such as schools and media, to politics itself. Money drives politics. We all know that now. But the other side of this is that it’s not just an economic system, it’s also an ideological system. As an ideological system, what it generally does is three things that are pernicious and which set the groundwork for a kind of right-wing populism and a fascist politics. First, it operates off the assumption that all social problems are individual problems. Therefore whatever problems people face, the blame for those problems rests with themselves — whether we’re talking about ecological disasters, about poverty, about homelessness, about ignorance and illiteracy, and so forth and so on. Secondly, in doing so it tends to depoliticize people, and by depoliticizing them it becomes very difficult for people — operating under that notion of self-interest, a brutal form of competition, and this heightened notion of rugged individualism — to translate private troubles into larger systemic issues. Hence they find it very hard to understand the conditions in which they find themselves. Thirdly, it creates an enormous culture of ignorance. You have these cultural apparatuses like Fox News, conservative talk radio, and digital online platforms, that constantly pump out conspiracy theories, lies, and attacks on the truth as ‘fake news’. This creates a level of ignorance in which ignorance is not innocent; ignorance actually becomes a form of depoliticization. People become very susceptible to simplistic answers, and they become very susceptible in their anger and their frustration to turning over their sense of agency to the strongman. They get wooed by appeals to ultra cultural sovereignty — shorthand for racism and nativism — and ultra cultural nationalism. They fall into the trap of believing in the friend/enemy divide. And in the United States, now under Trump and prior to Trump, with the rise of fascist politics that’s been going on for a long time, the friend/enemy divide translates into a racial divide. It’s a divide that basically supports xenophobia and a politics of racial cleansing. It says that people at the border are the enemy, it says that blacks are the enemy, it says that women cannot have certain reproductive rights. And so with the anger coupled with the misery, you have a perfect storm between that and the appropriation of what I want to call white supremacy, white nationalism, and this despicable notion of racial cleansing.

### 2NC---Turns Terror

#### Capitalism turns terror---their internal link to terror is bank funding---the link turn the case argument proves that the Aff only increases foreign funding--- Link turns case – domestic prohibitions push outsourcing and multinational integration.

Kopf et al 13 [Jerry. Professor of Economics, Radford University. Charles Vehorn, Professor of Economics, Radford University. Joel Carnevale, Professor of Economics, Syracuse University. “Emerging Oligopolies in Global Markets: Was Marx Ahead of His Time?” *Journal of Management Policy and Practice* 14(3): 96-98. <http://www.m.www.na-businesspress.com/JMPP/KopfJ_Web14_3_.pdf>]

With firms branching out into global competition and countries lowering their trade barriers to promote such competition, the absence of effective global regulation once again raises Marx concerns. Because of strong federal governments, national governments were able to pass and enforce, through the uses of military or police force where necessary, laws that regulated externalities, such as pollution, and antitrust. At the moment there is no strong federal government at the global level and, therefore, no one to pass and enforce laws that effectively regulate externalities or antitrust. Epstein and Greve raise a Marx like concern, “when firms have international market power, one would expect them to behave as monopolists just like domestic firms with market power” (2004). Therefore, without any dominant form of regulatory governance, industry concentration could very well replicate what was seen in the late 19th century, though, globally instead of nationally. Carstensen & Farmer discusses this tendency towards M&A’s: The transformation of formerly regulated or noncompetitive industries to competition is closely linked with merger movements. The historical record demonstrates that once faced with competition, leading firms in these industries began to merge. This has been the pattern in airlines, banks, railroads, electric and gas utilities, health care and, with great prominence, telecommunications (2008). While some may argue that reaching that level of concentration is unlikely, one should consider current industries that hold a considerable global market share. “Although it may be more difficult to establish and maintain market power internationally, there is no reason to believe that it is impossible or, for that matter, rare. Industries such as pharmaceuticals, passenger aircraft, and software illustrate the phenomenon” (Epstein & Greve, 2004). There are actually quite a few firms who have emerged into the global market that hold what can be considered a significant share within global industries, ranging from manufacturing, financial intermediation, and transport service along with other service industries. For example, The European Aeronautic Defense and Space Company and The Boeing Company combined hold more than 50% market share within the global civil aerospace products manufacturing industry. Goldman and Sachs hav2 20.20% market share within the global investment banking and brokerage industry and Vivendi holds 20.10% within the global music production and distribution industry. United Parcel Service holds 23.80%, within the global logistics – couriers industry (IBISW, 2011). We do not intend to imply that the monopolization that had plagued the United States in the late 19th century has emulated itself at the global level, creating one dominant firm controlling an entire global industry. However, it does appear that a number of industries are starting to exhibit Marx, “inevitable move toward a monopoly.” The increase in oligopoly power at the global level presents unprecedented challenges. Reaching a cross-country consensus on competition policy is a difficult. Epstein & Greve discuss some of the issues that arise when attempting to unite foreign and domestic competition policy. Competition policy embodies imprecise normative judgments that invite controversy and defection rather than consensus and commitment. Because its scope extends to such a wide range of economic activity, it has the potential to inflict significant costs on many transactors. In particular, competition policy tempts states both to impose nominally neutral policies that favor local producers and consumers at the expense of global welfare, and to administer their policies in a discriminatory fashion to similar ends” (2004). While more and more countries are adopting competition policies, this seemingly positive step towards unification of trust law has its negative effects. “Nearly one hundred jurisdictions now have antitrust laws” according to Epstein & Greve, this raises increasing issues of “jurisdictional overlaps” since many countries will assert their “jurisdiction over extraterritorial conduct that has a domestic impact” (2004). Antitrust enforcement agencies around the world have tried to cope with the increased power of global corporations by staying in regular and increasing contact with one another on individual merger cases as well as on general issues of mutual enforcement interest. Through instruments such as the 1995 Recommendation of the Organization for Economic Co-operation and Development (OECD) that its 29 members cooperate with one another in antitrust enforcement and bilateral agreements like that which exists between the United States and the European Community, the antitrust agencies notify one another when a case under investigation affects another's important interests and they share what information they can and otherwise cooperate in the investigation and resolution of those cases (1999). Richard Parker, Senior Deputy Director of the Bureau of Competition FTC, presenting on global merger enforcement, discussed the implementation of the Organization for Economic Co-operation and Development (OECD) and concluded with examples of global merger enforcement. While attempts at unified standards of competition policy are underway, the efforts of the OECD are considered to have substantial limitations on enforcing global merger laws. Epstein and Greve state: Information sharing or “soft” cooperation has also been pursued at the Organization for Economic Co-operation and Development, which has generated several aspirational texts. None of these impose obligations on states, and they are not intended to do so. Their goals are modestly limited to improving communication on competition issues. History shows us that even with a strong federal government with the ability to enforce laws through the use of force where necessary, such as the United States federal government has on its states, firms are very good at ignoring or getting around antitrust laws. If the U.S. government did not have strong federal power over states, and it was up to the states to reach agreements on antitrust laws, one can easily imagine that there would likely be problems resulting in less strenuous competition policy. Take for example state control over age discrimination laws. When these laws originated, states chose whether to enact policies aimed at protecting workers rights. By 1960 only 8 states had age discrimination laws until the federal government enacted such regulations as the Age Discrimination Employment Act of 1967 (ADEA). This, along with the Department of Labor in 1979 giving administrative authority to the U.S. Equal Employment Opportunity Commission (EEOC), established unified laws protecting individual employment rights (Lahey, 2007). Without this dominant authority of the federal government, fair employment practices may still continue to be a regionally dependent right. In the current era of globalization, where industry’s actions domestically can be felt by all corners of the globe and vice versa, without a global entity with strong “federal” powers capable of monitoring and enforcing competition policy, it seems reasonable to conclude that Marx may in fact be proven correct: the inevitable result of the efficient market is increasing concentration of power resulting in global oligopolies or, eventually, monopolies.

### 2NC---Turns Dollar Heg

#### Capitalism requires permanent economic crises to continue cycles of accumulation and dispossession. Capture of the state by neoliberal forces means no amount of restructuring can solve.

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We come therefore to understand the overall contour of counterterrorism policy as the imposition of an effective ban on popular politics. The latter can be expressed only inasmuch as it is granted permission or tacit tolerance by the state. In effect, the state imposes a monopoly over (legitimate) politics, a testament to the authoritarian hardening of its form. The political exclusion of the population signifies that the state has become the private affair of dominant capital. Here again, counterterrorism policy has been important in devising the structures through which public money and, crucially, the capacity to make political decisions is taken over by capital. This arrangement takes place as capitalism enters a phase where the continuation of accumulation generates, and depends on, crisis. Throughout the neoliberal era, and across both breadth and depth modes, capital accumulation is enabled by dispossession. This comprised, on the one hand, the integration of previously non-market social assets and relations into the circuit of capital: state-owned assets, health, education, land, water, art, culture, genetic material, communal science, etc. – all became expropriated by private capital, marking a “greenfield” expansion of accumulation (Harvey 2003, 147–149). On the other hand, on the basis of supply-side economics that conceptualise the wage as a cost of production rather than a source of demand, workfare is the fundamental strategy of the neoliberal state. It entails material dispossession of the population through sustained pressures on pensions and salaries, reduction of social entitlements and rights to welfare, transportation, education, and health, and the degradation of public infrastructures (Jessop 2002, 141–171, 250–254; Mackleavy 2010). This marks an intensification of accumulation and results in the extreme concentration of wealth, the diffusion of poverty, and the proliferation of highly exploitative and precarious labour relations. This trend is further accentuated by tax and budgetary state policy, which systematically fails to tax capital, and instead gathers its income mainly from workers – but then spends tax money not on social welfare or education, but on handouts to capital and services primarily beneficial to the rich (such as security, safeguarding of intellectual property, or war). Thus, the state budget has become a mechanism that expropriates wealth from society and hands it over to capital (Demirović 2009, 46; Kotz 2011, 1; Stiglitz 2012, 71–74). Along these lines, financialisation was generated by workfarism and material dispossession, which made access to consumer goods, health and education dependent on financial sector credit; and state policy forced pension and social insurance funds to enter the financial market in order to survive. While dependent on dispossession, financialisation opened, at the same time, new pastures of accumulation and became the primary source of capitalist profitability until, in 2007, its crisis erupted (Lapavitsas 2013). It seems therefore that neoliberal capitalism is haunted by a fundamental contradiction. The more successful its core strategy of wealth concentration through devaluation of labour and life, the more difficult capital accumulation becomes: as fewer and fewer people can afford fewer and fewer commodities, the realisation of capital becomes increasingly implausible and accumulation is reduced to mere amassment of wealth (Harvey 2010, 118, 2014, 169; Kotz 2011, 2013, 6; Piketty 2014, 297; Stiglitz 2012, 85–89). Accordingly, the overall role of the capitalist state is to manage the crisis while advancing the strategies that cause it. It has managed to do so with exceptional ingenuity and success for over a decade now, by postponing, ameliorating, and dislocating crises and their effects – for instance, the crisis of 2000–2001 was overcome by the throwing of public money at private capital, while the continuing dispossession of the population was countered by the mass provision of cheap credit; this led to the 2007–2011 crisis, which, in turn, was soon transformed from a US-centred crisis of the financial sector to one of (especially European) public sector debt. The wave of violent pauperisation of populations across the core capitalist countries that resulted from the management of the public debt crisis led to a new round of accumulation through dispossession: the remaining state assets are pilfered by capital; the last fortress of organised labour, the public sector, is smashed; the rate of exploitation intensifies; and dominant capital (especially in finance) amasses record profits – thus laying the groundwork for the next crisis of capital realisation (Crouch 2011, 112; Demirović 2009; Harvey 2014, 177; Lapavitsas 2014, 214–215, 271–305; Mirowski 2013, 170). As economic crises come in quick succession and the management of each accentuates the factors leading to the next, there is no complete recovery between them. The subaltern classes certainly do not return to pre-crisis levels and, wary of lack of overall demand, capitalists are reluctant to invest (Demirović 2009, 56; Irvin 2008, 138–140; Kotz 2012, 14–15, 2014, 2). This makes bubbles the only path to recovery, turning capitalism into a stop–start system (Kotz 2013, 5; Stiglitz 2012, 85–89). The process of capital accumulation is recast as a circle of crisis. While (usually orchestrated) crises are an ideal vehicle for imposing upon societies the expropriation and dispossession vital for accumulation (Klein 2007), it also seems that crisis has also become a method for accumulation (Bichler and Nitzan 2013; Crouch 2011, 101; Demirović 2009, 56; Harvey 2010, 246; Kotz 2011, 2). In any case, it seems that neoliberalism has nothing to offer but crisis. Marketisation drastically undermines the education system, material infrastructure and long-term-oriented research, making very unlikely the prospects of a new economic revolution (like the publicly funded, privately appropriated cybernetics one) (Demirović 2009, 50, 2012, 242; Stiglitz 2012, 93); the capture of the state by capital precludes the advancement of strategies for long-term social reproduction under capitalism; the advent of neo-rentier capitalism (Harvey 2014, 179; Lapavitsas 2014, 147–148; Piketty 2014, 195–198, 232–233, 418–429) is parasitic, unstable, and dependent on state force; and, the recent financial crisis and its transformation to one of public debt show a sudden thickening of contradictions as the power of capital to exploit society reaches its asymptotes (Harvey 2014, 235–245; Bichler and Nitzan 2012). Given its persistence on the neoliberal route, economic crisis seems to be a permanent condition and the only horizon of capitalism.

## Advantage 2

### 2NC---Turns Competition

#### “Lack of competition” is a misguided catch-all used to excuse the mass inequities of capitalism---turns case.

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Vigorous economic competition certainly has a place in today’s world. But economists may currently be overly reliant on this default approach, attributing to a lack of discipline outcomes that may instead result from insufficient solidarity and concern. CAMBRIDGE – Mark Twain [purportedly](https://quoteinvestigator.com/2014/01/12/history-rhymes/) said that “History never repeats itself, but it rhymes.” Typically, however, what rhymes is not the underlying historical facts but the narratives we construct around them. The stories we tell about the world repeat some basic ideas that may not necessarily be true. But we like to believe that they are because they make the world more intelligible and morally certain. The standard education of economists is a case in point. Beyond individual theories, the profession possesses a long list of rhymes. We recognize their meter and can guess when and how they end, because we know the previous stanzas and also know that the next phrase needs to rhyme with them. Consider Adam Smith’s invisible hand, according to which we get our dinner from the butcher and the brewer because of their [self-interest](https://hbr.org/2002/04/wealth-happens), not their generosity. The market can turn their private vices into public virtue. So, greed may not always be bad. Conversely, good intentions may sometimes pave the way to hell, which is why many economists argue the world needs the kind of tough love that people dislike in the short run but is good for them in the longer term. Specifically, competition allows the more able to triumph over the less able, thus “freeing resources” that the winners can put to better use. On this view, any attempt to prevent competition from doing its thing – such as a garment industry fighting cheaper Chinese products, farmers opposing food imports, or taxi drivers protesting against Uber – will inevitably make people poorer. For example, attempting to ensure that everybody has a minimum amount of land to live on would inevitably be inefficient. Not all farmers have the same ability, and the world will be better off if the more successful ones get more land and the less productive find other jobs. Likewise, economists commonly regard the plethora of small businesses in much of the developing world as a consequence of – you guessed it – insufficient competition. If competition was tougher, all these small, inefficient firms would fold, and their owners or employees would get jobs with better, larger companies. The reason why this does not happen automatically, through the market’s invisible hand, is that some people are up to no good. They seek protection instead of competition, rents rather than productivity, and privilege rather than a level playing field. Economists are called on to confront these interest groups for the purpose of protecting the common good. After all, there is nothing like a bit of moral certitude to underpin righteousness and strengthen the ethical spine of tough lovers. This, in short, is the [story](https://www.aeaweb.org/articles?id=10.1257/aer.89.5.1216) told by, among others, the Nobel laureate economist Edward Prescott and Stephen Parente, as well as many of their students. The narratives are repeated so frequently that many economists simply sing along to the rhyme, even though life may be somewhat more complicated. At the core of many of these narratives is the assumption that people and firms are heterogeneous: some are more capable than others. But this heterogeneity is taken to be exogenous, or somehow determined outside the story. The invisible hand’s task is thus to improve the allocation of resources by putting more of them – including land, labor, and capital – under the control of the more capable. That way, resources will go to those able to generate the biggest return, and the world will be richer as a result. It is easy to see how a slight change to the story may introduce dissonance and break the rhyme and moral certitude. First, what if heterogeneity was not so exogenous? Maybe some people are more capable today because they have had access to better education, acquired more experience, or benefited from higher-quality infrastructure. Providing laggards with the same opportunities may improve their performance, too, and make countries better off as a result of higher and broader-based productivity. But this would require investment in backward regions, enough time for people to become more productive through experience, and possibly even assistance in adopting and adapting technology. In short, it would require love that is tender, not tough. Second, what if capital and labor are not so mobile? Maybe the capital that needs to be reallocated is tied up in land or factories, and cannot be moved. Or maybe people in the area speak a different language, which they value, and are embedded in a complex web of local social relations that makes it difficult for them to move. Wiping them out of the market through competition, far from improving resource allocation, may actually worsen it. Farmers, for example, would lose their sunk investments and become unemployed, wasting both capital and labor. A better policy would help improve these people’s access to technology and markets. But this, too, calls for tenderness, not tough love. East Asia’s successful [agrarian reforms](https://www.jstor.org/stable/3993564) did not simply permit resources to flow a priori to more capable people, but instead empowered farmers with land, credit, and infrastructure, as well as access to inputs, markets, and extension services. And as digitization efforts such as Colombia’s [Fábricas de Productividad](https://www.colombiaproductiva.com/fabricasdeproductividad) have shown, helping firms in other sectors adopt and adapt technology can enhance their prospects. Tough economic love definitely has a place in today’s world. But economists may currently be overusing this default rhyme, attributing to a lack of discipline outcomes that may instead result from insufficient solidarity and concern. If they are not careful, their unconditional love for tough love will often end in useless and avoidable tears.

### 2NC---Turns Innovation

#### Extraction replaces production and zeros innovation.

John Bellamy Foster et al. 21, R. Jamil Jonna and Brett Clark. John Bellamy Foster is the editor of Monthly Review and a professor of sociology at the University of Oregon. R. Jamil Jonna is associate editor for communications and production at Monthly Review. Brett Clark is associate editor of Monthly Review and a professor of sociology at the University of Utah. The authors thank John Mage, Craig Medlen, and Fred Magdoff for their assistance. “The Contagion of Capital Financialised Capitalism, COVID-19, and the Great Divide.” The Jus Semper Global Alliance. In Pursuit of the People and Planet Paradigm Sustainable Human Development March 2021. Essays on True Democracy and Capitalism. https://jussemper.org/Resources/Economic%20Data/Resources/BellamyFosterJonaClark-ContagionCapital.pdf

As we have seen, when corporations do not invest their economic surplus in new capital formation—primarily due to vanishing investment opportunities in an economy characterised by excess capacity—they are left with abundant free cash that is partly returned to the shareholders through share buybacks and, to a lesser degree, dividends. It is also used for speculation, including mergers, acquisitions, and the panoply of corporate “cash management” techniques that amount to the leveraging of free cash to enhance returns. This gives rise to a whole alphabet soup of 19 financial instruments, in which corporations use the cash at their disposal partly as collateral for debt leverage, with non-financial corporate debt rising rapidly as a share of national income. Predictably recurring internal corporate funds in the form of free cash constitute a “flow collateral” allowing for further leverage, feeding speculation. A speculative economy relies on borrowed funds for leverage, backed up in part by cash. Expanding cash reserves are also needed as hedges in case of financial defaults. The whole system is a house of cards.

The progressive financialisation of the capitalist economy, whereby the financial superstructure continues to expand as a share of the underlying productive economy, has led to ever-greater asset price bubbles and growing threats of world economic meltdown. So far, a complete meltdown has been headed off by central banks, as in the 2000 and 2008 financial crashes. At every major recurring disturbance, and with serious economic repercussions, the monetary authorities pump massive amounts of cash into the financial superstructure of the economy only to give rise to greater bubbles in the future.

Theoretically, stock values represent future expected streams of earnings arising primarily from production. Nowadays, 20 however, finance has become increasingly autonomous from production (or the “real economy”), relying on its own speculative “self-financing,” leading to financial bubbles, contagions, and crashes, with the monetary authorities intervening to keep the whole house of cards from collapsing. This serves to reduce the risk to speculators, thereby keeping the value of stocks and other financial assets rising on a long-term basis, along with the overall wealth/income ratio. In these circumstances, so-called asset accumulation by speculative means has replaced actual accumulation or productive investment as a route to the increase of wealth, generating a condition of “profits without production.”21

In order to grasp the full significance of the financialisation of the economy, it is useful to look at the two conceptions of capital (relative to national income) depicted in Chart 3. One of these, the numerator of the lower line, is the 22 traditional conception of capital as fixed investment stock (physical structures and equipment) at historical cost minus depreciation. This is called the fixed capital stock of the nation and is tied directly to economic growth. It represents 23 what economic theorists from Adam Smith to Karl Marx to Keynes have referred to as the accumulation of capital. Capital formation and national income are closely related, generally rising and falling together, producing the relatively flat line, representing the ratio of fixed capital stock to national income, shown in Chart 3.24

Yet, capital, as Marx noted very early in the process, has more and more taken on the “duplicate” form of “fictitious capital,” that is, the structure of financial claims (in monetary values) produced by the formal title to this real capital. Insofar as economic activity is directed to the appreciation of such financial claims to wealth relatively independently of the accumulation of capital at the level of production, it has metamorphosed into a largely speculative form.25

This can be seen by looking again at Chart 3. In contrast to the lower line, the upper line depicts what is traditionally seen as the wealth/income ratio (which some economic theorists, such as Thomas Piketty, conflate with the capital/ income ratio, treating wealth as capital). The numerator here is the value of corporate stocks. Since the mid–1980s, the 26 ratio of stock value to national income has increased more than 300 percent. This marks an enormous growth of financial wealth, with speculation-induced asset growth sidelining the role of productive investment or capital accumulation as such in the amassing of wealth. This is associated with a massive redistribution of wealth to the top of society. The top 10 percent of the U.S. population owns 88 percent of the value of stocks, while the top 1 percent owns 56 percent. Rising stock values relative to national income thus mean, all other things being equal, rapidly rising 27 wealth (and income) inequality.28

The existence of the two conceptions of capital (and of capital/income ratios) presented here—one representing historical investment cost minus depreciation, and conforming to the notion of accumulated capital stock, the other the monetary value of stock equities (in economics traditionally treated as wealth rather than capital)—is often downplayed within establishment economics under the assumption that in the long run they will simply fall in line with each other, and with national income. As leading mainstream economic growth theorist Robert Solow writes: “Stock market values, the financial counterpart of corporate productive capital, can fluctuate violently, more violently than national income. In a recession the wealth-income ratio may fall noticeably, although the stock of productive capital, and even its expected future earning power, may have changed very little or not at all. But as long as we stick to longer-run trends…this difficulty can safely be disregarded.”29

But can the divergence of stock values from income (and from fixed capital stock) in reality be so easily disregarded? Chart 3 depicts a sharp increase in stock values relative to national income, which has now continued for over a third of a century, with decreases in total stock values as a ratio of national income (output) occurring during recessions, then rebounding during recoveries. The 30 overall movement is clearly in the direction of compounded financial hyperextension. This conforms to the general pattern of the financialisation of the capitalist economy, constituting a structural change in the system associated with the growth of monopoly-finance capital. This has gone hand in hand with a bubblier economy, with financial bubbles bursting in 1987, 1991, 2001, and 2008, but ultimately shored up by the Federal Reserve and other central banks.

Today, vast amounts of free cash are spilling over into waves of mergers and acquisitions, typically aimed at acquiring mega-monopoly positions in the economy. A major focus is the tech sector, much of which is directed at commodifying all information in society, in the form of a ubiquitous surveillance capitalism. All financial bubbles derive their animus 31 from some common rationale, which claims that this time is different, discounting the reality of a bubble. In the present case, the rationale is that the advance of the FAANG stocks (Facebook, Apple, Amazon, Netflix, and Google), which now comprise almost a quarter of the value of Standard and Poor 500’s total capitalisation, is unstoppable, reflecting the dominance of technology. Apple alone has reached a stock market valuation of $2 trillion. All of this is feeding a massive increase in income and wealth inequality in the United States, as the gains from financial assets rise relative to income. Yet, like all previous bubbles, this one too will burst.32

Kalecki determined that the export surplus on the U.S. current account increased free cash, as did the federal deficit.33 However, the current account deficit cannot be seen, in today’s overall structural context, as simply reducing free cash, because of the changed role of multinational corporations in late imperialism, which alters other parts of the equation. Due to globalisation and the rise of the global labor arbitrage, U.S. multinational corporations in their intra-firm relations have in effect substituted production overseas by their affiliates for parent company exports, thereby decreasing their investment in fixed capital in the United States. The sales abroad of goods by majority-owned affiliates of U.S. 34 multinational corporations in 2018 were 14.5 times the exports of goods to majority-owned affiliates. Foreign profits of 35 U.S. corporations as a proportion of U.S. domestic corporate profits rose from 4 percent in 1950 to 9 percent in 1970 to 29 percent in 2019. This mainly reflects the shift in production to low unit labor cost countries in the Global South. Samir Amin described the vast expropriation of surplus from the Global South, based on the global labor arbitrage, as a form of “imperialist rent.”36

This expansion of global labor-value chains is also associated with an epochal increase in what is called the non-equity mode of production, or arm’s length production. Companies like Apple and Nike rely not on foreign direct investment abroad, but instead draw on subcontractors overseas to produce their goods at extremely low unit labor costs, often generating gross profit margins on shipping prices on the order of 50 to 60 percent.37

The loss of investment in the United States, as U.S. multinational corporations have substituted production overseas, coupled with the growth of foreign profits of U.S. mega firms, has further increased the free cash at the disposal of corporations (even with a growing deficit in the current account), thereby intensifying the all-around contradictions of over-accumulation, stagnation, and financialisation in the U.S. economy. Much of this free cash is parked in tax havens overseas to escape U.S. taxes.38

Washington uses its printing press, through the federal deficit, to compensate for the U.S. current account deficit. Foreign governments cooperate, providing the “giant gift” of accepting dollars in lieu of goods, thereby acquiring massive dollar reserves. At some point, however, these contradictions are bound to undermine the hegemony of the dollar as the 39 world’s reserve currency, with dire ramifications for the U.S.-based world empire.

#### Technology uses the guise of efficiency to expand the working class – exploitation gets re-circulated into new forms.

Estevan Hernandez et. al. 19. Estevan Hernandez, John Prysner, and Derek Ford 19. Members of the Liberation School. A Marxist approach to technology. Liberation School. 12-9-2019. https://liberationschool.org/a-marxist-approach-to-technology/

Under capitalism, each technological development is bound to be outdone. This means that once capitalists develop new technologies, they have an incentive to use them as quickly as possible. Thus, rather than shortening the working day, machinery prolonged it. Machinery also increased the pace of work through speed-ups.

Another way that machinery impacted workers was through deskilling. No longer was the worker’s knowledge required for production. Now it was contained in the machine. This also increased the available supply of labor-power for capitalists.

Marx further identified machinery as “the most powerful weapon for repressing strikes” (p. 410). In fact, he suggested that “it would be possible to write quite a history of the inventions, made since 1830, for the sole purpose of supplying capital with weapons against the revolts of the working-class” (p. 411).

When a capitalist introduces new machinery in the workplace, it tends to displace labor power in that workplace in ways that are easily observable. There are two countervailing tendencies, however, which are not so easily observed. First, if the machinery increases the rate of profit enough, other capitalists will move into that industry and therefore the need for labor as a whole in that industry might increase. Second, it can increase employment in other industries that feed into it. The invention of machinery, for example, increased the demand for coal and metal workers. That was the case, at least, until labor-saving technologies were later introduced in coal and metal mines. But the point here is that the major technological changes in the means of production led to a rapid overall increase in the size of the working class; these were coupled with labor-replacing technology that pushed agricultural workers and peasants off the land and into the urban factories.

#### **Technology under an era of surveillance capitalism operates through mass production and managerialism that commodifies human experience via machine intelligence.**

John Naughton 19. professor of the public understanding of technology at the Open University. 'The goal is to automate us': welcome to the age of surveillance capitalism. The Guardian. 1-20-2019. https://www.theguardian.com/technology/2019/jan/20/shoshana-zuboff-age-of-surveillance-capitalism-google-facebook

The headline story is that it’s not so much about the nature of digital technology as about a new mutant form of capitalism that has found a way to use tech for its purposes. The name Zuboff has given to the new variant is “surveillance capitalism”. It works by providing free services that billions of people cheerfully use, enabling the providers of those services to monitor the behaviour of those users in astonishing detail – often without their explicit consent.

“Surveillance capitalism,” she writes, “unilaterally claims human experience as free raw material for translation into behavioural data. Although some of these data are applied to service improvement, the rest are declared as a proprietary behavioural surplus, fed into advanced manufacturing processes known as ‘machine intelligence’, and fabricated into prediction products that anticipate what you will do now, soon, and later. Finally, these prediction products are traded in a new kind of marketplace that I call behavioural futures markets. Surveillance capitalists have grown immensely wealthy from these trading operations, for many companies are willing to lay bets on our future behaviour.”

While the general modus operandi of Google, Facebook et al has been known and understood (at least by some people) for a while, what has been missing – and what Zuboff provides – is the insight and scholarship to situate them in a wider context. She points out that while most of us think that we are dealing merely with algorithmic inscrutability, in fact what confronts us is the latest phase in capitalism’s long evolution – from the making of products, to mass production, to managerial capitalism, to services, to financial capitalism, and now to the exploitation of behavioural predictions covertly derived from the surveillance of users. In that sense, her vast (660-page) book is a continuation of a tradition that includes Adam Smith, Max Weber, Karl Polanyi and – dare I say it – Karl Marx.

#### Shareholder value maximization ensures green assets can’t solve.

Katharina Pistor 9/21. Professor of Comparative Law at Columbia Law School. “The Myth of Green Capitalism.” Project Syndicate. 9/21/2021. <https://www.project-syndicate.org/commentary/green-capitalism-myth-no-market-solution-to-climate-change-by-katharina-pistor-2021-09>

NEW YORK – Heat waves, floods, droughts, and wildfires are devastating communities around the world, and they will only grow more severe. While climate-change deniers remain powerful, the need for urgent action is now recognized well beyond activist circles. Governments, international organizations, and even business and finance are bowing to the inevitable – or so it seems. In fact, the world has wasted decades tinkering with carbon trading and “green” financial labeling schemes, and the current vogue is merely to devise fancy hedging strategies (“carbon offsets”) in defiance of the simple fact that humanity is sitting in the same boat. “Offsetting” may serve individual asset holders, but it will do little to avert the climate disaster that awaits us all. The private sector’s embrace of “green capitalism” appears to be yet another gimmick to avoid a real reckoning. If business and finance leaders were serious, they would recognize the need to change course drastically to ensure that this planet remains hospitable for all of humanity now and in the future. This is not about substituting brown assets for green ones, but about sharing the losses that brown capitalism has imposed on millions and ensuring a future even for the most vulnerable. The notion of green capitalism implies that the costs of addressing climate change are too high for governments to shoulder on their own, and that the private sector always has better answers. So, for advocates of green capitalism, public-private partnership will ensure that the transition from brown to green capitalism will be cost-neutral. Efficiently priced investments in new technologies supposedly will prevent humanity from stepping over into the abyss. But this sounds too good to be true, because it is. Capitalism’s DNA makes it unfit to cope with the fallout from climate change, which in no small part is the product of capitalism itself. The entire capitalist system is premised on the privatization of gains and the socialization of losses – not in any nefarious fashion, but with the blessing of the law. The law offers licenses to externalize the costs of despoiling the planet to anybody who is smart enough to establish a trust or corporate entity before generating pollution. It encourages the off-loading of accrued environmental liabilities through restructuring in bankruptcy. And it holds entire countries hostage to international rules that privilege the protection of foreign investors’ returns over their own people’s welfare. Several countries have already been sued by foreign companies under the Energy Charter Treaty for trying to curb their carbon dioxide emissions. Two-thirds of total emissions since the Industrial Revolution have come from just 90 corporations. Yet even if the managers of the world’s worst polluters were willing to pursue rapid decarbonization, their shareholders would resist. For decades, the gospel of shareholder value maximization has reigned supreme, and managers have known that if they deviate from the orthodoxy, they will be sued for violating their fiduciary duties. No wonder Big Business and Big Finance now advocate climate disclosures as a way out. The message is that shareholders, not managers, must spur the necessary behavioral change; solutions must be found through the price mechanism, not through science-based policies. Left unanswered is the question of why investors with an easy exit option and plenty of hedging opportunities should care about the disclosure of future harm to some companies in their portfolio. There is obviously a need for more drastic changes, such as carbon taxes, permanent moratoria on extracting natural resources, and so forth. These policies are often dismissed as mechanisms that would distort markets, and yet they idealize markets that don’t exist in the real world. After all, governments have lavishly subsidized fossil-fuel industries for decades, spending $5.5 trillion (both pre- and post-tax), or 6.8% of global GDP, in 2017. And should fossil-fuel companies ever run out of profits to offset these tax breaks, they can simply sell themselves to a more profitable company, thereby rewarding their shareholders for their loyalty. The script for these strategies has long been written in the law of mergers and acquisitions. 1 But the mother of all subsidies is the centuries-old process of legally encoding capital through property, corporate, trust, and bankruptcy law. It is law, not markets or firms, that protects the owners of capital assets even as they saddle others with enormous liabilities. Advocates of green capitalism are hoping to continue this game. That is why they are now lobbying governments to subsidize asset substitution, so that as the price of brown assets declines, the price of green ones will rise to compensate the asset holders. Again, this is what capitalism is all about. Whether it represents the best strategy for ensuring the planet’s habitability is an entirely different question. Instead of tackling such questions, governments and regulators have once again succumbed to the siren song of market-friendly mechanisms. The new consensus focuses on financial disclosure because that path promises change without having to deliver it. (It also happens to generate employment for entire industries of accountants, lawyers, and business consultants with powerful lobbying arms of their own.) Not surprisingly, the result has been a wave of greenwashing. The financial industry has happily poured trillions of dollars into green-labeled assets that turned out not to be green at all. According to a recent study, 71% of ESG-themed funds (supposedly reflecting environmental, social, or governance criteria) are negatively aligned with the goals of the Paris climate agreement. We are running out of time for such experiments. If greening the economy was really the goal, the first step would be to eliminate all direct subsidies and tax subsidies for brown capitalism and mandate a halt to carbon “proliferation.” Governments should also place a moratorium on shielding polluters, their owners, and investors from liability for environmental damages. Incidentally, these moves would also remove some of the worst market distortions around.

#### It can’t scale up fast enough.

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6. **Green growth is not a thing** Milanovic believes that technology will come to our rescue, and make growth “green”. Unfortunately there is a **strong consensus against this assumption**. We have reviewed the relevant empirical evidence here (“[Is green growth possible?](https://www.tandfonline.com/doi/full/10.1080/13563467.2019.1598964)”), examining both CO2 emissions and resource use. Briefly, about CO2, the question is not whether GDP can be decoupled from emissions (we know that it can be), the **question is whether this can be done fast enough** to stay within safe carbon budgets while growing GDP at the same time. And the **answer to this is no.** More growth entails more energy use, and more energy use makes it all the more difficult to cover that demand with renewables. The only scenarios that succeed in reducing emissions fast enough to **keep us under 1.5 or 2C** involve a reduction in resource and energy use (in other words, degrowth). I discuss this in more depth [here](https://www.jasonhickel.org/s/Hickel-Degrowth-A-Theory-of-Radical-Abundance.pdf). This [2020 review](https://iopscience.iop.org/article/10.1088/1748-9326/ab842a/meta) examines 835 empirical studies and finds that decoupling alone is **not adequate to achieve climate** goals; it requires what the authors themselves refer to as “degrowth” scenarios. [This paper](https://www.nature.com/articles/s41893-020-0484-y) in Nature Sustainability comes to similar conclusions. As for resources: **resource use continues to rise along with GDP** (despite significant efficiency improvements, and a significant shift to services and knowledge as share of GDP), and indeed all existing models indicate that absolute decoupling is unlikely to happen, even under strong policy conditions. See [here](https://foreignpolicy.com/2018/09/12/why-growth-cant-be-green/) and [here](https://foreignpolicy.com/2020/06/18/more-from-less-green-growth-environment-gdp/) for more. [Ward et al (2016)](http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0164733) find that even the most optimistic projections of efficiency improvements yield **no absolute decoupling in the medium and long term**. The authors state: “this result is a robust rebuttal to the claim of absolute decoupling”; “decoupling of GDP growth from resource use, whether relative or absolute, is at best only temporary. Permanent decoupling (absolute or relative) is impossible… because the efficiency gains are ultimately governed by physical limits.” Schandl et al (2016) find the same thing. Even in their best-case scenario projection, global material consumption still grows steadily. The authors conclude: “Our research shows that while some relative decoupling can be achieved in some scenarios, none would lead to an absolute reduction in energy or materials footprint.” Our review was published in 2019, and the literature on this has grown since: i.e., [here](https://www.tandfonline.com/doi/abs/10.1080/09644016.2020.1783951?journalCode=fenp20) and [here](https://www.sciencedirect.com/science/article/pii/S1462901120304342)… the latter paper reviews 179 studies on decoupling published since 1990 and finds “no evidence of economy-wide, national or international absolute resource decoupling, and no evidence of the kind of decoupling needed for ecological sustainability.” [Here is a 2020 meta-analysis](https://iopscience.iop.org/article/10.1088/1748-9326/ab842a/meta) of all available data on GDP and resource use, which comes to the same conclusion. \* In sum, it is **irrational to hope, against the evidence**, that our existing economic system will deliver the development outcomes we want while at the same time reversing ecological breakdown. We need to be smarter than that. Degrowth provides an empirically-informed alternative: a pathway to reducing excess resource and energy use while at the same time ensuring flourishing lives for all. Given the stakes of the crisis we face, we should be open to fresh thinking

### 2NC---Turns AI

Cap turns AI---

#### Market-driven versions catalyzes inequality, causing competition-based war – only nationalized AI under a planning economy solves.

Xiang 18 [Feng. Professor of law at Tsinghua University and one of China’s most prominent legal scholars. Opinion: AI will spell the end of capitalism. Washington Post. 5-3-2018. <https://www.washingtonpost.com/news/theworldpost/wp/2018/05/03/end-of-capitalism/> ]

BEIJING — The most momentous challenge facing socio-economic systems today is the arrival of artificial intelligence. If AI remains under the control of market forces, it will inexorably result in a super-rich oligopoly of data billionaires who reap the wealth created by robots that displace human labor, leaving massive unemployment in their wake. But China’s socialist market economy could provide a solution to this. If AI rationally allocates resources through big data analysis, and if robust feedback loops can supplant the imperfections of “the invisible hand” while fairly sharing the vast wealth it creates, a planned economy that actually works could at last be achievable. The more AI advances into a general-purpose technology that permeates every corner of life, the less sense it makes to allow it to remain in private hands that serve the interests of the few instead of the many. More than anything else, the inevitability of mass unemployment and the demand for universal welfare will drive the idea of socializing or nationalizing AI. Marx’s dictum, “From each according to their abilities, to each according to their needs,” needs an update for the 21st century: “From the inability of an AI economy to provide jobs and a living wage for all, to each according to their needs.” Even at this early stage, the idea that digital capitalism will somehow make social welfare a priority has already proven to be a fairytale. The billionaires of Google and Apple, who have been depositing company profits in offshore havens to avoid taxation, are hardly paragons of social responsibility. The ongoing scandal around Facebook’s business model, which puts profitability above responsible citizenship, is yet another example of how in digital capitalism, private companies only look after their own interests at the expense of the rest of society. One can readily see where this is all headed once technological unemployment accelerates. “Our responsibility is to our shareholders,” the robot owners will say. “We are not an employment agency or a charity.” These companies have been able to get away with their social irresponsibility because the legal system and its loopholes in the West are geared to protect private property above all else. Of course, in China, we have big privately owned Internet companies like Alibaba and Tencent. But unlike in the West, they are monitored by the state and do not regard themselves as above or beyond social control. It is the very pervasiveness of AI that will spell the end of market dominance. The market may reasonably if unequally function if industry creates employment opportunities for most people. But when industry only produces joblessness, as robots take over more and more, there is no good alternative but for the state to step in. As AI invades economic and social life, all private law-related issues will soon become public ones. More and more, regulation of private companies will become a necessity to maintain some semblance of stability in societies roiled by constant innovation. I consider this historical process a step closer to a planned market economy. Laissez-faire capitalism as we have known it can lead nowhere but to a dictatorship of AI oligarchs who gather rents because the intellectual property they own rules over the means of production. On a global scale, it is easy to envision this unleashed digital capitalism leading to a battle between robots for market share that will surely end as disastrously as the imperialist wars did in an earlier era. For the sake of social well-being and security, individuals and private companies should not be allowed to possess any exclusive cutting-edge technology or core AI platforms. Like nuclear and biochemical weapons, as long as they exist, nothing other than a strong and stable state can ensure society’s safety. If we don’t nationalize AI, we could sink into a dystopia reminiscent of the early misery of industrialization, with its satanic mills and street urchins scrounging for a crust of bread. The dream of communism is the elimination of wage labor. If AI is bound to serve society instead of private capitalists, it promises to do so by freeing an overwhelming majority from such drudgery while creating wealth to sustain all. If the state controls the market, instead of digital capitalism controlling the state, true communist aspirations will be achievable. And because AI increasingly enables the management of complex systems by processing massive amounts of information through intensive feedback loops, it presents, for the first time, a real alternative to the market signals that have long justified laissez-faire ideology — and all the ills that go with it.

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## T ACBP

### 2NC AT: We Meet

#### They don’t prohibit a practice, they just make it less likely a financial institution will do so

**Slawotsky 15** (Joel Slawotsky – lecturer in several law and business schools, including IDC Radzyncr Law School (Herzilya, Israel); Academic Center for Law and Business (Ramat Gan, Israel); Colman Business School MBA program; and the Haim Striks Law School (Rishon L'Tzion, Israel), AV peer review rated attorney and former law clerk to the Honorable Charles H. Tenney (United States District Judge for the Southern District of New York) and litigator at Sonnenschein Nath & Rosenthal (now Dentons) representing clients in state and federal courts at both the trial and appellate level. <KEN> “Reining in Recidivist Financial Institutions,” *Delaware Journal of Corporate Law*. Vol. 40. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/decor40&div=8&id=&page=>) \*brackets in original

IV. THE NEED TO UTILIZE THE "ALMOST" ULTIMATE SANCTION

The existing remedy for illegal conduct perpetrated by financial institutions is woefully ineffective. The practice, wherein financial institutions systemically violate the law and the resulting profits dwarf [swamp] the imposed penalties, has bred disenfranchisement and disdain among the American public.'1 " Large corporate profiteers and the racketeers themselves-managers, executives, and directors-bear little or no risk of meaningful criminal prosecution or imprisonment." 5 Moreover, prosecutors are averse to criminally pursuing large financial institutions." 6 Their hesitation is motivated by concerns for large-scale economic consequences:

The government has been reluctant to bring criminal charges against large corporations, fearing that such an action could imperil a company and throw innocent employees out of work. Those fears trace to the indictment of Enron's accounting firm, Arthur Andersen, which went out of businesses after its 2002 conviction, taking 28,000 jobs with it. Ever since, prosecutors have increasingly relied on deferred-prosecution agreements, which rebuke companies without threatening their health.

While the prosecutors are averse, the schemes continue and the criminal conduct enriches the financial institutions." 8 The public correctly perceives that the TBTF and TBTJ financial institutions have no meaningful incentive to change and will continue to scheme." 9 The current regime of regulation and penalty assessment is outmoded and unsustainable. What should be the response to rampant corrupt behavior?

Corporations, as juridical organizations, can be prosecuted4 50 and subject to an array of sanctions, such as fines and disgorgement of profits.451 For corporations whose main goal is to engage in criminal acts, the law provides for the "execution" of the business.4 52 Many call for prosecutors to become more aggressive and for regulators to cease waiving penalties.453 Yet, as outlined above, 5 " prosecutors and regulators have great personal incentive to not overly punish a financial institution. Thus, demands for more aggressive prosecutorial action may not prove substantially beneficial.

So what is the alternative? Under what circumstances is ordinary fine imposition inadequate? The U.S. Sentencing Guidelines ("Sentencing Guidelines") provide a useful perspective.455 Pursuant to the Sentencing Guidelines, certain acts of outrageous misconduct justify a departure from the ordinary guidelines and call for punishment that exceeds the norm. 56 Among the types of actors that warrant extraordinary punishment are (1) actors that endanger national security,4 57 (2) serial criminals,458 and (3) actors that threaten financial markets.4 59 Accordingly, misconduct that impinges on the national security of the United States, is perpetrated by repeat offenders, or imperils the stability of financial markets should be treated differently.

Financial institutional misconduct closely tracks these types of outrageous misconduct. There is a match between the categories listed in the Sentencing Guidelines and a substantial amount of financial institutional wrongdoing.460 The institutional misconduct has enabled sanctions avoidance, terrorist enterprises, failed states, looting of national wealth, noncompliance with U.S. tax laws, LIBOR rate rigging, mortgage fraud, market manipulation, and may have proximately caused-or at the very least contributed to-the severe global financial crisis.461 Thus, to a large extent, the misconduct imperils the national security of the United States and threatens American financial markets. 62 Moreover, many of the institutions are repeat offenders, making them serial criminals. 63 In a stunning display of serial criminality, financial institutions have violated agreements with U.S. prosecutors; for example, Barclays-the bank that former CEO Jenkins promised had changed its ways-was caught violating an agreement with the U.S. Justice Department.4 6 In another example, UBS was caught violating its agreement, and the U.S. Justice Department is scheduled to nullify the settlement:

The U.S. Justice Department is set to rip up its agreement not to prosecute UBS Group AG for rigging benchmark interest rates, according to a person familiar with the matter, taking a new step to hold banks accountable for repeat offenses.

The move by the U.S. would be a first for the industry, making good on a March threat by a senior Justice Department official to revoke such agreements and putting banks on notice that these accords can be unwound if 465 misconduct continues.

In sum, the misconduct of many financial institutions mirrors the list in the Sentencing Guidelines for defendants whose actions deserve 466 extraordinary punishment.

Financial institutions will not have an incentive to act legally unless they risk losing their right to profit or risk having senior managers, officers, or directors imprisoned. 467 As long as these punishments are off the table, there is precious little incentive to rein in misconduct.468 By allowing the culprits to remain in business, the incentive to cease criminal activity is low:

Perhaps the most interesting part of the prolonged and leak-filled dance leading up to the expected criminal charges has been the effort to assure that the banks will stay in business after they plead guilty. Credit Suisse is expected to admit that it helped Americans evade taxes, and BNP Paribas is expected to admit that it did business with countries blacklisted by the United States. Regulators will not enforce statutes that would seem to bar the banks from some activities.

To put it another way, the Justice Department has gone to great lengths to guarantee that convicted banks will not be treated as criminals.

In being treated that way, the banks will receive the same breaks other banks have come to expect when they are caught violating rules or laws.469

Financial institutions must be more adequately punished to create a strong enough disincentive to break the law. However, liquidating the financial institution would risk engendering another Enron. A middle approach may be effective.

Financial institutions that commit certain misconduct within a certain time parameter should be sold off to their business rivals. 4 70 The U.S. Congress should pass legislation that mandates federal courts to dissolve a financial institution whose misconduct falls within the three categories listed in the Sentencing Guidelines.4 7 1 These corporations should be broken up and sold to business competitors.472 Additionally, their managers and directors should be banned from employment with any successor entity.473 Convictions, including guilty pleas, would count as violations. 474 Three violations committed within a ten-year time frame should trigger the penalty. 47 5

This punishment would accomplish several goals. First, the punishment will serve as a clear deterrent from engaging in such behavior.4 76 Second, it would remove the senior managers and officers from positions of authority in the successor company hopefully preventing repeat abuse.4 77 Third, it would stop the culture of fraud and flouting of the law in the company as it is absorbed by another entity. 4 7 8 Fourth, it would likely impede the executives from finding employment in the entire sector as other financial institutions would be loath to hire individuals responsible for the "almost" ultimate sanction. 479 Fifth, it would cause the managers and officers to lose their jobs, which will affect them personally. 480 Sixth, it will potentially reduce the losses to be borne by the shareholders for future misconduct.481 Seventh, it will reduce the discretionary waivers that prosecutors and regulators can award because of their self-interest in future employment.482 A federal judge will likely not be subject to the same enticement and lure of future employment with financial institutions.483

#### The aff does not overturn something to make a practice illegal, but they overturn something to fix the enforcement gap

**Shelanski 18** (Howard Shelanski – Professor of Law, Georgetown University; Partner, Davis Polk & Wardwell LLP. <KEN> "Antitrust and Deregulation," *Yale Law Journal*. Vol. 127. No. 7. <https://www.yalelawjournal.org/pdf/Shelanski_kcn6n4k3.pdf>)

Three years after Trinko, the Court decided Credit Suisse Securities (USA) LLC v. Billing. 86 The plaintiffs in Credit Suisse claimed that the defendants violated Section 1 of the Sherman Act, which prohibits “every contract, combination . . . , or conspiracy, in restraint of trade,”87 by setting securities prices through joint conduct that went beyond what securities laws allow.88 They also alleged that the defendants had violated antitrust and securities laws by impermissibly engaging in tying and similar activities.89 Importantly, the Court accepted as given that the securities law did, and “inevitably” would, render defendants’ conduct unlawful, so in principle there was no conflict between the antitrust claims and the regulatory statute.90 The Court nonetheless held that even where a correctly construed antitrust claim would not actually conflict with regulation, the antitrust claim could still be barred on potential conflict grounds.91 The Court reasoned that “only a fine, complex, detailed line separates activity that the SEC permits or encourages (for which respondents must concede antitrust immunity) from activity that the SEC must (and inevitably will) forbid.”92 Therefore, the Court expanded the notion of plain repugnancy to incorporate not just the genuine conflict that arises when antitrust could bar conduct that regulation might allow, but even conflict between antitrust and regulation that could arise only from judicial mistake or confusion.

Credit Suisse thus went beyond prior implied immunity cases to establish a rule that blocks some claims even when they rely on legitimate antitrust principles, are consistent with securities laws, and, correctly read, would not interfere with the applicable regulatory scheme. Where the underlying conduct is similar enough to regulated conduct that a judge might confuse the two and create a conflict with regulatory authority, the Court chose to err on the side of barring antitrust claims.

The effect of Trinko and Credit Suisse was to render antitrust and regulation more like substitutes and less like complements. The competitive practices, market structure, and market performance of regulated industries are thus more likely to develop without the constraints of antitrust, reflecting instead the potentially different requirements and prohibitions of a regulatory agency’s competition-related rules. With antitrust less able to act in parallel or as a complement, the enforcement of competition in regulated industries will depend on the nature of the relevant rules, the agency’s commitment to enforcement, and the kinds of sanctions the agency can impose. As agencies repeal such rules or back off from actively administering them, the resulting competition enforcement gap could be greater because antitrust has been sidelined as an available supplement or complement. The doctrinal shift in the relationship between antitrust and regulation that resulted from Trinko and Credit Suisse therefore magnifies the competition enforcement consequences of strong deregulatory cycles.