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### FTC Trade Off 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.

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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, DC, and all relevant territories should uniformly:

#### ---Expand the scope of state antitrust laws to remove plaintiffs’ heightened burden of proof in platform markets

#### ---Grant jurisdiction to attorney generals to investigate and enforce the aforementioned policy

#### ---Set aside funds to their attorney general’s office for the purpose of enforcement.

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

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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.

### K Capitalism---1NC

#### Anti-trust is a capitalist psy op to pacify the working class, buy time to mystify unsustainable accumulation, and map competition onto subjectivity – homo economicus devalues life.

Lebow 19 [David Lebow – Lecturer on Social Studies at Harvard University and lawyer, “Trumpism and the Dialectic of Neoliberal Reason,” Perspectives on Politics 18(2):380-398, doi:10.1017/S1537592719000434]

I. Neoliberal Reason

As Michel Foucault and others have argued, neoliberalism entails far more than an economic doctrine favoring deregulated markets.4 It is a novel form of governmentality—a rationality linked to technologies of power that govern conduct, not just through direct state action but through liberty itself.5 Not isolated to the traditionally demarcated sphere of economics, neoliberal society entails a whole economic-juridical order.

The central program of neoliberal governmentality is the absolute generalization of competition as a universal behavioral norm. Whereas in liberal thought, the root principle of capitalism was exchange of equivalents, for neoliberal reason it is competition entailing inequality. The key result of market processes goes from specialization to selection. The competitive market is the exclusive site of rationality. It processes information, indicated by price, and is the only mechanism of producing knowledge, defined as what is profitably utilizable. Because consumers are free to refuse inferior goods or services, the price mechanism of the market system ensures optimal solutions and maximal satisfaction of preferences.

Liberal capitalism, as Karl Polanyi argued, required the construction of “fictitious” commodities like land and labor.6 These abstract, exchangeable factors of production had to be disembedded from concrete non-market social relations, norms, and values. Instead of merely disembedding commodities, neoliberalism intervenes to make competitive mechanisms regulate every moment and point in society. It strives to build an empire of market choice that invades every domain of life, and deposes all other social, political and solidaristic institutions and values.

Neoliberalism does not allege that markets are natural; competition must be constructed. Rather than endorsing laissez-faire overseen by a night watchman, it stipulates a strong state engaged in permanent vigilance, activity, and intervention to maintain artificial competition. It must not plan outcomes, which would upset the market’s innate rationality, and must be insulated from political disturbances. Economic interventionism leads down the road to serfdom; fascism and unlimited state power are its necessary results. A “minimum of economic interventionism” on the “mechanisms of the market” must be accompanied by “maximum legal interventionism” on the “conditions of the market.”7 Fixed, formal rules make up an economic constitution that inhibits planning, repulses political disruptions, and impartially safeguards competition. The state is the executor of the market and growth is the basis of public legitimacy. Governance depoliticizes public power, promotes ostensibly post-ideological technical problem-solving by experts, and relies on “best-practices” that dissolve the distinction between public and private organization.8

Unlimited generalization of competition yields an enterprise society in which calculations of supply/demand and cost/benefit become the model of all social relations. Neoliberal reason renders homo economicus, based on this model of the enterprise, the exhaustive figuration of human subjectivity. The center of economic thought shifts from labor and processes of production, exchange, and consumption to human capital and rational decision-making under conditions of scarcity. Capital is everything that can generate future income; wages are reconceived as income from capital. Labor is no longer comprehended as a commodity exchanged for a wage, but as a combination of human capital (the worker’s education and abilities) and the income stream it generates. This neoliberal subject is an aggregate of human capital who invests in his own income-generating abilities.

Neoliberalism replaces the invariant identity of the moral person as a rights-bearing citizen with a formally empty receptacle filled up through enterprising choices. It brushes aside models of freedom as self-rule achieved through moral autonomy or popular sovereignty.9 In the neoliberal “democracy of consumers,” individual consumers together constitute the sovereign that monopolizes the issuance of legitimate commands.10 Sovereign will is expressed not through political channels, but by choices in the “plebiscite of prices.”11 Whereas producers have particular interests like protectionism, consumers have a consensual and common interest; all favor the impartial functioning of market processes. In the neoliberal free society, consumers exercise their right to choose in complete independence.

II. From Keynesian State Capitalism to Neoliberal Deregulation

Situating the 2008 crisis in a historical account of American political and economic development clarifies its broader significance. The early twentieth-century Progressives were disdainful of what they took to be the chaos and waste of fin de siècle laissez-faire society. They strove to build a new American state that would replace the structural and rights-based formalisms of the nineteenth century with direct democracy and expert administration. It took the Great Depression and New Deal to bring into full bloom the Progressive commitment to pragmatic rationality. Thereafter, the “policy state” was authorized to pursue designated social goals and develop the means to accomplish them.12 The slew of New Deal innovations included state oversight of labor negotiations, invigorated antitrust, Keynesian countercyclical deficits to stimulate demand and increase purchasing power, an expansive public sector sheltered from the business cycle, aggressive banking regulation, and social insurance. Regulation and redistribution ensured the conditions necessary for an economic system based on capital accumulation, private property, and corporate profit to endure.

To many, the differences between the New Deal and Nazi political economies appeared less significant than their common response to monopoly capitalism. Both erased boundaries between state and society by politicizing the private sphere and authorizing public bureaucracies to rationalize crisis-prone economies. Frankfurt School member Friedrich Pollock suggested that this common “state capitalism” had solved the contradiction between the forces and relations of production, and thus overcome the economy’s crisis tendencies. It seemed to him that management had become merely technical and “nothing essential” had been “left to the laws of the market.”13 Worries abounded that the private law sphere of property and contract was necessary for individual freedom. Despite salient differences between Nazi and New Deal state capitalism, many feared that intervention into society was a waystation to domination. Unease about the specter of American despotism motivated development of mechanisms to ensure that interventionism did not devolve into arbitrary rule.14 Expertise was one justification and limitation of the policy state. Authority could be safely delegated to a new corps of public-spirited administrators because their scientific knowledge would not only make them effective, but also counsel restraint. Enduring misgivings led later to new laws of administrative process. The procedural state was legitimated by its defenders as being a substantively value-neutral and instrumentally rational machine serving goals set by society. Regulatory decision-making was shunted into the abstruse procedures of courtrooms and bureaucracies. Defenders of the state emphasized that its processes of allocating authority were neutral, impartial, and open to all. The balanced accommodation of all interest groups seeking to exercise influence would yield an equilibrium corresponding to the public interest.15

The intermeshing of state and society through interest groups, agencies, and professionalized parties marginalized the public. The sovereign public opinion that Progressives had hoped would rationalize government gave way to the rationality supposedly inherent in processes of public law, public-private negotiation, and regulated markets. The state was endowed with a diffuse legitimacy in exchange for a growing economy, broad distribution, and ongoing household capacity to consume.16 The Keynesian welfare settlement pacified the working class, protecting the market economy from more radical political pressures. Newly available, mass-produced commodities encouraged leveled-down notions of citizenship as welfare clientelism and privatistic consumption. As the state expanded and routinized, the initial politicization of private property relations through public intervention developed into depoliticized economic management by lawyers and social scientists organized by administrative and judicial processes.

The terms of the social contract preserving the coexistence of capitalism and democracy had been set. In exchange for a pacified citizenry and depoliticized regulatory authority, the policy state promised to deploy instrumental reason to sustain both capital accumulation and widely distributed capacity to consume (supported, always, by the exclusion of African Americans). During the decades of postwar growth, these twin responsibilities seemed attainable and compatible. Capitalism functioned smoothly enough and potentially delegitimating inequality was clipped by inflation, tax-based welfare, and collectively negotiated wages. But in the late 1960s and early 1970s, weakening growth, stagflation, trade deficits, and the collapse of Bretton Woods revealed that state capitalism had not solved the problems of economics. As the Great Depression had enabled construction of the instrumentally rational policy state, economic disturbances in the 1970s opened the breach into which neoliberal reason entered to reconfigure the political economy. Rather than shielding rational policy-making from political pressure and assuring broadly distributed welfare, neoliberalism promised growth driven by depoliticized markets freed from regulation and downwards redistribution. Believing in the optimal rationality of competitive markets, neoliberals sought to reinvigorate capital accumulation through deregulation, lowered taxes, financialization, privatization, and market expansion.

Liberating accumulation from the restrictions and obligations incurred under state capitalism might have imperiled capitalism’s peace treaty with democracy. For deregulation to proceed without impairing the system’s legitimacy, the quid pro quo—depoliticization for consumption—had to continue. Over the ensuing decades, as Wolfgang Streeck explains, the state “bought time” by finding new ways to generate illusions of widely distributed prosperity that prolonged the capacity of the lower and middle classes to consume.17 Each successive attempt exhausted itself, leading to new and escalating disturbances. In the 1970s, inflation safeguarded social peace by compensating workers for inadequate growth until stagflation ended this mode of buying time. A subsequent reliance on public debt enabled the government to pacify conflict with borrowed money. Rising debt and balking creditors delimited this phase, which was brought to a definitive close with the Clinton administration’s social spending cuts and balanced budgets. In a final stage that dawned in the 1980s but grew increasingly paramount over time, debt-based support of purchasing power was privatized. Household spending was financed through mortgages, student loans, and credit cards. This “privatized Keynesianism” buoyed consumption up through 2008, despite cuts to social spending, falling wages, and tightening employment markets.18

Each device for upholding spending maintained the legitimacy of the depoliticized political economy, even as liberalization continued to strip the wage-dependent population of regulatory and redistributive safeguards. The end of the inflation era brought structural unemployment and weakened trade unions. The passing of the public debt regime meant cuts to social rights, privatization of social services, and a trimmed public sector. Growing private debt enabled people to hold on despite lost savings, and rising under- and unemployment. At every step, the neoliberal project was “dressed up” as a consumption project.19 Continuing consumption ensured legitimacy long enough to enact total transformation of the political economy.

The state could not buy time indefinitely. The 1970s had already witnessed the beginning of the transition from a manufacturing, production-oriented economy that exported surpluses to an import-based, finance and services economy focused on consumption. As the United States went from creditor to debtor, a system of “balanced disequilibrium” took hold.20 With impunity granted as the world’s reserve currency, the United States ran mounting budget and trade deficits. To finance them, it absorbed surplus capital from abroad, much of which wended its way to Wall Street. Banks used these profits to extend credit to the working- and middle- classes. Household debt funded consumption of imported goods, returning the surplus capital abroad, and completing the circuit of global trade. This system depended on the unsustainable condition of ever-increasing debt-based consumption. Consumption was notoriously reinforced by secondary markets in what was essentially private money (securitized derivatives and collateralized debt obligation) that was much riskier than assumed. Because increasingly irresponsible lending was integral to continuing the consumption that stabilized the macroeconomic system, it became a sort of vicious collective good that progressively magnified the scale of the inevitable crash.21 When in 2008 the debt finally proved unserviceable and the housing bubble burst, the private money disappeared and the disequilibrated global economic system fell into crisis.

Consumption based on private debt had provided an unstable bridge over the yawning inequality brought about by deregulation, financialization, globalization, and the diminished welfare state. When the 2008 crisis dried up credit, it revealed a divided “dual economy.”22 On one side is the primary sector of elite, highly-educated professionals who are collected in coastal urban centers and tied in to corporate management, technological innovation and oversight of global capital flows. On the other is the secondary sector of low-skilled workers primarily fixed in the heartland, for whom deregulated competition has brought under- or unemployment, job instability, depressed wages, exploding debt, and diminished prospects.

Unable to buy more time, the state’s breach of the postwar social contract has been exposed. The neoliberal system of capital accumulation was entrenched at the expense of broad and sustainable consumption. The results have been the politicization of defrauded citizens and a political economy plunged into legitimation crisis. Time has belied the premature conclusion that contradiction and crisis potential had been overcome by state capitalism. Contradiction was relocated into cross-cutting imperatives for the state to enable capital accumulation and distribute consumption. In hindsight, we find only a window of stabilization of an enduring crisis potential built into capitalist political economy. As Nancy Fraser puts it “on the one hand, legitimate, efficacious public power is a condition of possibility for sustained capital accumulation; on the other hand, capitalism’s drive to endless accumulations tends to destabilize the very public power on which it relies.”23 The political fallout from the 2008 crisis marks the end of the postwar social contract that had established conditions ensuring the continued coexistence of capitalism and democracy.

#### Competitive markets produce monopolization---antitrust replicates the problem.

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

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.” 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.

#### Vote neg for anti-capitalist commons – collectives should refuse commitments to competitive principle and the straitjacket of what’s “realistic”

Rose 21 [Nick. PhD in Political Ecology from RMIT University. Executive Director of Sustain: The Australian Food Network. From the Cancer Stage of Capitalism to the Political Principle of the Common: The Social Immune Response of “Food as Commons.” Int J Health Policy Manag 2021. 3-31-21. DOI: 10.34172/ijhpm.2021.20 //shree]

Silvia Federici provides a longer historical perspective, noting that ‘commoning is the principle by which human beings have organised their existence for thousands of years;’ and that to ‘speak of the principle of the common’ is to speak ‘not only of small-scale experiments [but] of large-scale social formations that in the past were continent-wide.’87 Hence a commons-based society is neither a utopia or reducible to fringe projects, and the commons have persisted despite the many and continuing enclosures, ‘feeding the radical imagination as well as the bodies of many commoners.’87 Federici acknowledges that commons and practices of commoning are diverse, that many are susceptible to cooptation and many are consistent with the persistence of capitalism; indeed some, such as charities providing social services (including foodbanks) during the years of austerity budgets in the United Kingdom (2010-2015), reinforce and stabilise capitalism.87 What matters to Federici is the character and intentionality of the commons as anti-capitalist, as ‘a means to the creation of an egalitarian and cooperative society…no longer built on a competitive principle, but on the principle of collective solidarity [and commitments] to the creation of collective subjects [and] fostering common interests in every aspect of our lives.’87

Federici’s analysis resonates with the political thought and proposals developed by Dardot and Laval in their 2018 work, ‘On Common: Revolution in the 21st century.’11 For Dardot and Laval, the common is likewise understood as a principle of political struggle, a demand for ‘real democracy’ and a major driving force behind the emerging articulation of a political vision and programme that transcends and overcomes the straitjacket logic of neoliberal ideological hegemony and its ‘policy grammar’ which appears to foreclose all alternatives and lock us forever into a capitalist realism in which ‘it is easier to imagine the end of the world than it is to imagine the end of capitalism.’89 Eschewing Bollier’s ‘triarchy’ of a market/state/ commons coexistence, Dardot and Laval argue for a politics of the common based on an engaged citizenry that directly participates and deliberates in all decisions which impact it, and in the process not merely transforms the institutions responsible for the management of services and allocation of resources, but creates new institutions and new ways of being in the world.11

Dardot and Laval describe this form of politics as ‘instituent praxis’: the common, they argue, is ‘not produced but instituted.’11 This acknowledges the conventional understanding of Ostrom, Bollier and others of ‘the commons’ as residing in the rules – the laws – that a community establishes for the collective management and use of shared resources, but extends it much further and in a more radical direction. The essence of the commons, they argue, is not in the goods per se such as land or a forest or a seed bank ‘held in common,’ but rather in the process of their establishment as well as the ongoing negotiation that will surround their use and governance. Hence, Dardot and Laval distinguish the commons from the ‘rights’ tradition of property, arguing that ‘the commons are above all else matters of institution and government…the use of the commons is inseparable from the right of deciding and governing. The practice that institutes the commons is the practice that maintains them and keeps them alive and takes full responsibility for their conflictuality through the coproduction of rules.’90 To ‘institute’ in this context should not be misunderstood as ‘to institutionalise [or] render official;’ rather it is ‘to recreate with, or on the basis of, what already exists.’ 90 This messy, conflictual and evolving process is what Dardot and Laval insist will ultimately bring about a revolution, not in the form of a violent uprising or insurrection, but rather through the ‘reinstitution of society’ via the transformation of politics and economy from its current state of ‘representative oligarchy’ to full participatory and deliberative democracy.11 Such a vision is premised on a mass politicisation of society; in effect a return of mass popular political contestation and a turn away from the postpolitical era of the neoliberal consumer.91-92

### Notice and Comments 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 remove plaintiffs’ heightened burden of proof in platform markets.

#### Solves the case, engages notice and comment, and avoids courts disads.

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

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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.

### Japan DA---1NC

Japan DA

#### New antitrust is applied globally---offends allies---regs counterplan avoids it.

Herbert Hovenkamp 03. Ben V. & Dorothy Willie Professor of Law and History, University of Iowa. “Antitrust as Extraterritorial Regulatory Policy,” 48 Antitrust BULL. 629 (2003).

Today few of us are sympathetic with the view that the common law exists apart from and somehow transcends the jurisdiction of the courts that make it. Nevertheless, there is a powerful sense in which the rules of antitrust law are regarded as "natural," while explicitly regulatory rules are considered to be purely local, territorial, or political. This view is given considerable support by a powerful neoclassical economic model that views markets as natural, in the sense that they exist separate and apart from state policy making. 32

Within this model antitrust law is a kind of background umpire that does not make first instance choices about price, quantity, quality, new entry and the like, but that does limit the anticompetitive exercise of market power. Antitrust operates as a kind of "macro" version of contract law. The common law of contracts is designed to facilitate and protect the utility of individual private bargains; antitrust is designed to do much the same thing, but for markets as a whole. Under this conception a well defined set of antitrust principles always operates in the background, so to speak, permitting private bargaining to proceed without interference in the great majority of instances, but intervening when competitive processes go awry. Further, widespread agreement exists both inside and outside the United States on a set of core principles pertaining to such things as naked price fixing, market division agreements, and the like. Within this core, problems of extraterritoriality have largely been limited to the technical ones of devising appropriate jurisdictional rules and remedies.

In contrast, the power to regulate is different. Under the traditional view of regulation the power to set price, quantity, quality, or the right to enter a market emanates in the first instance from the government. Further, although there is widespread economic agreement on fundamental principles, regulatory design is much more specific to the sovereign-more likely to reflect the demographics, industrial or employment base, or politics of the particular state imposing the regulation.

For example, nearly all of the 50 states of the United States have an antitrust law. With relatively few exceptions, however, the substantive coverage of these antitrust laws is the same, and mimics federal law. Many states have court decisions or even legislative enactments stating that federal antitrust law should govern the interpretation of that particular state's antitrust law as well. 33 The result is that the coverage of state antitrust law is remarkably similar from one state to the next. But one can hardly say the same thing about each state's regulation of land use, power generation and distribution, taxicabs, liquor pricing, and the like. Whatever homogeneity regulatory theory might produce, the politics of regulation virtually guarantees jurisdiction-specific outcomes.

But homogeneity in antitrust policy also begins to break down when antitrust law moves beyond its fundamental neoclassical concern with cartels or well-defined exclusionary practices, and into areas where its role is more controversial or marginal. This is often the case when the antitrust laws are applied in recently deregulated markets. For example, a common antitrust problem that arises in deregulated industries falls under the general rubric of unilateral refusals to deal. In order to encourage competition, newly deregulated firms may be forced to share their facilities, information, intellectual property, or other assets with new rivals. Devising reasonable "nonregulatory" rules governing refusals to deal in such markets has always extended the antitrust laws to the margin of their competence.

Increasingly, American courts seem willing to apply antitrust law to markets regulated by foreign nations under circumstances where regulatory laws themselves would never reach. For example, neither Congress nor a state legislature would very likely attempt to regulate the customer service or information provision practices of a foreign national's telephone company. But both federal and state courts have done precisely that under the guise of antitrust enforcement.3 4

Antitrust policy makes this thinkable as a result of the confluence of two sets of doctrines. First is the expansive reach of our antitrust laws to practices that have a substantial effect on United States commerce. Second is the very narrow conception of comity that applies in antitrust cases.

As a general matter, comity concerns in the international conflict of laws requires the court to consider the competing interests of domestic and foreign sovereigns. 35 After a half century of debate over the meaning of comity in international Sherman Act adjudication, the Supreme Court gave the doctrine an extraordinarily narrow meaning in the Hartford Fire case.36 That case involved an alleged insurance boycott in which Lloyd's of London participated as reinsurer. Lloyd's conduct-agreeing with some United States insurers not to write reinsurance policies for other United States insurers who wanted to write policies with broader coverage-was neither forbidden nor compelled by British law. To the defendant's claim of comity the Supreme Court replied that the provisions of the Sherman Act governing jurisdiction over transactions in foreign commerce were mandatory. As a result, a federal court could not simply decline jurisdiction on the basis of some general balancing of interests. 37 Rather, "comity" permits a federal court to decline jurisdiction only when there was a "conflict" between the law of the foreign sovereign and United States law. Further, "conflict" was defined not under choice of law principles, but more absolutely, as occurring only when the foreign law compelled the conduct at issue. 38

Perhaps significantly, the activity of the London reinsurers was very likely reachable under United States antitrust law even under ordinary interest analysis principles. British law was found by the Supreme Court to be indifferent to what the London reinsurers were doing. Further, what they were doing was agreeing not to insure against liability for particular toxic pollution risks in the United States, and risk of liability is of course measured in relation to the physical environment and legal regime in which the injury occurs. 39 As a result, the London reinsurers were selling a product especially targeted for United States markets and allegedly participating in a boycott designed to keep broader coverage insurance policies out of that market.

But Hartford Fire's definition of comity is significantly problematic under deregulation. To the extent a foreign sovereign deregulates a public utility or common carrier, that firm enjoys greater discretion to make its own decisions. As a result, considerations of comity may no longer preclude a Sherman Act suit. What makes this especially problematic is the way that the Sherman Act has been used in the United States as a kind of replacement for the regulatory agency. Under comprehensive agency regulation a filed tariff plus regulatory oversight would have governed numerous acts by regulated firms, including pricing, entry into new markets, interconnection obligations and other duties to deal.40 Government relaxation of regulatory restrictions has given firms some discretion over these things but in the process has substituted the antitrust courts as governmental supervisor. In some situations this causes little difficulty because regulation may have been misapplied to a competitively structured industry to begin with.41 In other situations, such as long-distance telecommunication, a competitive environment has developed because of changes in technology, and topto-bottom price and product regulation is no longer necessary.42

But in a third class of situations the application of the antitrust laws is much more "regulatory" and more difficult to defend. These are the cases where unilateral conduct of the kind that was historically supervised by the regulatory agency now comes under antitrust jurisdiction. For example, under the essential facility doctrine a federal court of general jurisdiction may be asked to apply antitrust law to determine the scope of a formerly regulated firm's duty to interconnect with rivals. The circuit courts have applied the doctrine frequently in the telecommunications industry,43 but also to railroads" and natural gas pipelines.4 5 Problematically, supervising interconnection requirements involves the court in highly technical questions about the scope of the duty to deal and perhaps even about the price at which the deal must be made. In these cases we have not really "deregulated" at all; rather, we have simply substituted regulation by a government agency for regulation by a court, often through the highly inefficient and uncertain process of a jury trial. To do that in a purely domestic situation is ill-advised enough, but to do it abroad by taking advantage of the expansive jurisdictional reach of the Sherman Act is completely unjustified.

IV. Extraterritorial antitrust and foreign deregulation

As expansive as the regulatory power asserted by the United States sometimes becomes, it does not generally interfere directly into foreign governments' regulation of their own highly regulated industries. But to a large extent modem antitrust has inherited the regulatory attitude expressed by the Western Union decision discussed above. For several reasons, the idea that the United States Antitrust laws are jurisdictionally exceptional can produce overreaching that is offensive to foreign prerogatives. First, the United States antitrust laws are extremely general and make no distinction between ordinary competitive firms and public utilities or common carriers; the same rules purport to apply to all business firms. Second, the jurisdictional language of the antitrust laws is both mandatory and general to the same extent-that is, the "affecting foreign commerce" language of the basic Sherman Act and the export commerce language of the Foreign Trade Antitrust Improvement Act 6 do not distinguish between regulated and ordinary competitive firms. And third, the limiting doctrines of international law-namely Act of State, foreign sovereign compulsion, foreign sovereign immunity, and comity-do not distinguish among types of firms or types of antitrust complaints. They apply equally to both price fixing, which is at the core of antitrust concern, and to the essential facility doctrine, which lies at or outside its margin.

#### Ends the Japan economic alliance---they respond with diplomatic protest to new extraterritorial antitrust.

Takaaki Kojima 02. Fellow, Weatherhead Center for International Affairs, 2001-2002. “International Conflicts over the Extraterritorial Application of Competition Law in a Borderless Economy”. https://datascience.iq.harvard.edu/files/fellows/files/kojima.pdf

We are witnessing increasingly widespread and penetrating economic globalization today. As a result of trade liberalization, import restrictions or regulations on trade and investment have decreased substantially, and trans-border business activities face less barrier. At the same time, the role of trans-border business activities, especially those by so-called multinational or global enterprises, have become increasingly important and even dominant in some sectors.

As far as the territorial scope of business activities are concerned, state borders are more or less diminishing to become almost borderless; as for legal regimes, however, sovereign states retain in principle exclusive jurisdiction over their territories and nationals under international law. Business activities are regulated by the domestic laws of sovereign states or by international agreements concluded among sovereign states. The pertinent question is how to coordinate “borderless” business activities within the existing legal regimes governed by sovereign states. In the field of trade law, the measures of each state are restricted by international agreements, in particular under the GATT/WTO regime. In the field of competition law, such an international regime is lacking and the domestic laws of each state regulate private restraints of trade in the relevant markets.

Serious jurisdictional conflicts have transpired in the last several decades between the United States and other states over the so-called extraterritorial application of U.S. antitrust laws on anticompetitive conducts abroad. This problem has also caused diplomatic frictions between the United States and other states, as it concerns state sovereignty. In this essay, the author will review the historical development of international conflicts caused by the extraterritorial application of competition law and attempt to examine the options available to circumvent or solve these conflicts. The main focus will be U.S. antitrust law and its relation with other jurisdictions, mainly the European Union and Japan, considering the grave implications to competition law and policy as well as to the world economy. 2

II. Extraterritorial Application of U.S. Antitrust Laws

Problems concerning the extraterritorial application of U.S. antitrust laws have been discussed in many publications. Of the U.S. antitrust laws, the Sherman Act applies to “commerce … with foreign nations ” (Section 1) without qualifying provisions concerning its territorial scope as “within the United States” (Section 2) or “in any section of the country” (Section 3) as specified in the Clayton Act. In the past, U.S. courts interpreting the Sherman Act of 1890 and other antitrust laws commonly followed the traditional territorial principle with regard to its jurisdictional reach. In the American Banana case (213 U.S. 347 (1909)), where all the acts complained of were committed outside the territory of the United States, including the defendant’s alleged inducements of the Costa Rican government to monopolize the banana trade, the U.S. Supreme Court dismissed the complaint on the ground, inter alia, that acts committed outside of the United States are not governed by the Sherman Act. In this case, the territorial principle in the classic sense was applied.

In later decisions such as the American Tobacco case (221 U.S. 106 (1911)) and the Sisal case (274 U.S. 268 (1927)), jurisdiction was exercised over the defendants on the ground that although the agreements in question were concluded by foreigners outside the United States, jurisdiction was limited to what was performed and intended to be performed within the territory of the United States. In these cases, the territorial principle was applied more flexibly, but it has been observed that this application cannot be argued other than as a sensible and reasonable deployment of the objective territorial theory. 3

An entirely different approach was taken in the Alcoa case (148 F.2d. 416 (1944)), in which foreign companies outside the United States had concluded the agreements. The Court of Appeal for the Second Circuit held it settled law that any State may impose liabilities, even upon persons not within its allegiance, for conduct outside its borders that has consequences within its borders. It went on further to state that the agreements, although made abroad, were unlawful if they were intended to affect imports and did affect them.

This theory of the intended effect (the effects doctrine) elaborated in the Alcoa case was criticized by many as an excess of jurisdiction under public international law. For instance, R.Y. Jennings noted that “in this new guise it apparently comprehends the exercise of jurisdiction over agreements made abroad, by foreigners with foreigners provided only that the agreement was intended to have repercussions upon American imports or exports,” 4 while F.A. Mann argued that “the type of effect within the meaning of the Alcoa ruling has nothing in common with the effect which by virtue of established principles of international jurisdiction confers that right of regulation.” 5 Neverthele ss, since the Alcoa case, U.S. courts have continued to follow the new jurisdictional formula of the effects doctrine.

In response to excessive application of U.S. antitrust laws, especially with respect to courts’ orders to produce documents such as subpoena duces tecum located abroad, a considerable number of states have issued diplomatic protests. Australia, France, the United Kingdom, the Netherlands, and New Zealand have even enacted blocking legislation. 6 The protesting states maintain that taking evidence abroad, including an order to produce documents, is an exercise of extraterritorial enforcement of jurisdiction that, under international law, requires the consent of the state where the evidence is located. The United Kingdom has been one of the strongest opponents to U.S. claims of extraterritorial jurisdiction. The U.K. government stated for instance that “HM Government considers that in the present state of international law there is no basis for the extension of one country’s antitrust jurisdiction to activities outside of that country of the foreign national.” 7 The Protection of Trading Interest law was enacted in 1980, which provides to extensively thwart the extraterritorial application of U.S. antitrust laws. The U.K. government invoked the provisions in the Laker Airways case (1983 W.L.R. 413) in 1983.

Having faced the antagonistic reactions of other states, U.S. courts began to show some restraint in assuming extraterritorial jurisdiction. In the Timberlane case (549 F.2d. 9 th Cir. (1976)), the court concluded that it had jurisdiction over alleged anticompetitive conducts in Honduras but refrained from asserting extraterritorial jurisdiction after having applied three tests: first, whether the challenged conduct had had some effect on the commerce of the United States; second, whether the conduct in question imposed a burden on U.S. commerce; and third, whether the complaint’s interests of and links to the United States were sufficiently strong vis-à-vis those of other nations to justify an assertion of extraterritorial authority. The Foreign Trade Antitrust Improvements Act enacted in 1976 applies to foreign conduct that has a direct, substantial and reasonably foreseeable effect on U.S. commerce, The U.S. enforcement agencies, the Department of Justice (DOJ) and the Federal Trade Commission (FTC), have adopted this jurisdictional rule of reason formula since the Enforcement Guidelines for International Operations of 1988. However, divergent views exist as to whether the third test of balancing the interests of other states is a rule of international law or just a comity. 8 Furthermore, not all U.S. courts have consistently applied the test of balancing interests. 9

In 1993, the Supreme Court decision in the Hartford Fire Insurance case (113 S. Ct. 2891 (1993)) reaffirmed the effects doctrine, stating that the Sherman Act applies to foreign conduct that was meant to produce and did in fact produce some substantial effect in the United States. The Court then took a restrictive view on the test of balancing interests, stating that the only substantial question is whether there is a true conflict between domestic and foreign law, and held that no such conflict seemed to exist because British law did not require defendants to act in a manner prohibited by U.S. law. 10

Japan maintains the territorial principle and rejects the effects doctrine, stating that the effects doctrine cannot be regarded as an established rule of international law. In the view of the Government of Japan, the extraterritorial application of U.S. domestic laws (including U.S. antitrust laws) based on the effects doctrine is not allowed under general international law. 11 In the Nippon Paper case, where a Japanese company was prosecuted under the Sherman Act, the Japanese government submitted a brief of amicus curiae where it stated, inter alia, that the extraterritorial application of the Sherman Act to a conduct of a Japanese company engaged in business in Japan is unlawful under international law. 12 Nonetheless, the U.S. Supreme Court affirmed the Court of Appeal decision, which assumed the extraterritorial application of the Sherman Act to a criminal case for the first time (118 S. Ct. 685 (1998)).

#### Japan economic alliance is key to prevent Chinese challenges to the ILO---recovering now but smooth sailing is not guaranteed.

Shihoko Goto 21. deputy director for geoeconomics and senior associate for Northeast Asia at the Wilson Center. "When Trade No Longer Hampers U.S.-Japan Ties". 4-20-2021. https://www.wilsoncenter.org/blog-post/when-trade-no-longer-hampers-us-japan-ties

The April 16th meeting between President Joe Biden and Japanese Prime Minister Yoshihide Suga marked several milestones: not only was it the first foreign leader’s visit to the Biden White House, but it was also the first visit to the United States by Yoshihide Suga as the Japanese prime minister. It was also the first in-person summit meeting between the United States and Japan since the outbreak of a global pandemic. It marked a number of firsts in terms of content too, not least that it was the first time since the 1980s in which trade was not a sore point of contention between the two sides. Instead, trade relations projected as a way forward for further bilateral cooperation in confronting the China threat.

That isn’t to say trade relations between Japan and the United States are now smooth sailing. The U.S. trade deficit with the world’s third-largest economy runs to nearly $68 billion, and although the two sides signed a merchandise trade deal in 2019, the Japanese auto industry remains a point of contention for the United States. Indeed, Japan’s auto exports account for about $54 billion, or close to 80 percent, of the overall trade deficit. Meanwhile, the Biden administration is not expected to lift tariffs on steel and aluminum anytime soon, nor is it expected to make efforts to join the CPTPP in the near future, much to the frustration of Tokyo.

Yet instead of trying to negotiate a breakthrough on the trade front, the Biden-Suga meeting focused on bilateral economic relations based on their shared threat of dealing with China’s ambitions to challenge the regional status quo. Until recent months, Tokyo had aspired to maintain solid relations with China whilst furthering ties with the United States, most notably by endeavoring to decouple economic interests with Beijing from the security threat that China has increasingly been posing upon Tokyo. After the joint 2+2 joint security meeting in Tokyo in March, however, the two countries declared that China’s behavior is “inconsistent with the existing international order, presents political, economic, military, and technological challenges to the Alliance and to the international community.”

Since then, Tokyo has moved even closer to Washington publicly in pushing back against China, as the bilateral statement noted “the importance of peace and stability across the Taiwan Strait,” marking the first time since 1969 that Japan and the United States publicly referred to Taiwan which remains a core interest for China. In short, Japan’s hedging against the United States and maintaining a balancing act between China and the United States is now over. Not only is its security interests even more closely aligned with that of the United States, Japan’s economic interests are now more intertwined with that of the United States than ever.

Rather than focusing on the trade balance, Tokyo and Washington’s economic relations will concentrate more on economic resilience and maintaining free and fair economic rules of engagement in the Indo-Pacific. At the same time, the two countries are expected to work more closely together on competing against China in emerging technologies, from 5G to AI and information sciences.

For Japan, one of the biggest takeaways from the Biden-Suga meeting will be that the days of Japan posing an economic threat to the United States are now over. It will also be putting increasing pressure not only for Tokyo to be prepared to fight back against China on the economic as well as security fronts together with Washington, but it will also push Tokyo to step up its own efforts to compete in the innovation economy that goes beyond manufacturing.

#### ILO is sustainable and prevents great power war but can’t run on autopilot---preventing Chinese aggression is key.

Alan W. Dowd 21. Senior fellow with the Sagamore Institute, where he leads the Center for America’s Purpose. "Capstones: China’s Dream, the World’s Nightmare – Sagamore Institute". No Publication. 4-5-2021. https://sagamoreinstitute.org/capstones-chinas-dream-the-worlds-nightmare/

If China is indeed the future, if China is primed to “rule the world,” if China remakes the international order in its image, it won’t be pretty. A future dominated by the People’s Republic of China (PRC) will be demonstrably worse than the world we know. Just look at how Xi Jinping’s regime treats its own subjects—and plays its current role on the global stage.

NO RIGHTS

Those predictions aren’t outlandish. China already is the world’s top manufacturing nation, top exporting nation and second-largest economy. The PRC was the only major economy to emerge from 2020 claiming GDP growth (if we are to trust Beijing’s books). In the pandemic’s wake, China dislodged the U.S. as the world’s primary destination for foreign direct investment. PRC-backed firms are leaders in the global 5G and AI race. On the strength of a 517-percent binge in military spending since 2000, China bristles with anti-ship and anti-aircraft missiles, deploys a high-tech air force, has a growing and openly hostile presence in space, is doubling its nuclear arsenal, and boasts a 350-ship navy (now the world’s largest). Beijing’s growing cultural reach is evident in everything from its influence over Hollywood, to its puppet-master relationship with the NBA, to its 480 Confucius Institutes (designated by Washington as “part of the Chinese Communist Party’s global influence and propaganda apparatus”).

As President Joe Biden concludes, China is “the only competitor potentially capable of combining its economic, diplomatic, military, and technological power to mount a sustained challenge to a stable and open international system.”

Xi is doing exactly that. But the China challenge starts inside the PRC.

Xi is pursuing what he calls the “China Dream,” which enfolds goals such as sustained economic development, military power modeled after and matching that of the U.S., ideological conformity, “rejuvenation of the Chinese nation” and “complete unification of our country.” Making Xi’s “China Dream” come true is turning into a nightmare for his subjects.

Before leaving his State Department post, Secretary of State Mike Pompeo described what Xi is doing to Uighur Muslims as “genocide,” noting that Beijing has “forced more than a million people into internment camps in the Xinjiang region” and detailing “torture, sexual abuse…rape, forced labor…and unexplained deaths in custody.” As he took the baton from Pompeo, Secretary of State Antony Blinken agreed, affirming that “The forcing of men, women and children into concentration camps, trying to, in effect, re-educate them to be adherents to the ideology of the Chinese Communist Party—all of that speaks to an effort to commit genocide.”

The U.S. government isn’t alone. The Uighur Muslim region, according to a UN human-rights watchdog, “resembles a massive internment camp…a no-rights zone.” More accurately, all of China is a no-rights zone.

Xi’s China is a place where Christian churches are smashed and followers of Christ are sent to reeducation camps; Buddhist temples are bulldozed; Uighur men are packed into freight trains, Uighur women are forcibly sterilized and Uighur babies are forcibly aborted; and bishops and Nobel Peace Prize laureates die in prison. Under Xi, “Religious persecution has increased…with four communities in particular experiencing a downturn in conditions—Protestant Christians, Tibetan Buddhists, and both Hui and Uighur Muslims,” Freedom House reports. Amnesty International adds that “hundreds of thousands of people” are subjected to arbitrary arrest and detention in China, many of them for “peacefully exercising their rights to freedom of expression and freedom of belief.”

There’s a brutal logic to Xi’s brutal response to religious activity. The common denominator of most every religion is that there’s something above, something beyond, something bigger, more enduring and more important than the state. That notion represents a mortal threat to the legitimacy and durability of Xi’s regime, which is founded on the premise that people exist to serve the state—not to use their God-given gifts to serve others and God.

Xi’s capacity to control is growing ever more insidious. The PRC’s new “social credit system” is using mega-databases to monitor and catalogue every aspect of life of China’s 1.3 billion people—financial transactions, civil infractions, social-media postings, online activity—and then reward or sanction Xi’s subjects by feeding all that information to the National Development and Reform Commission, banking system and judicial system. PRC subjects with good social credit scores enjoy waived fees, lower utility bills, promotions and expedited overseas-travel approval, while those with poor social credit scores can be fired from their jobs, expelled from school, blocked from universities, or barred from accessing transportation.

An Orwellian surveillance state, more than a billion people denied religious freedom and other human rights, uncounted numbers tortured in reeducation camps, physicians jailed for following the Hippocratic Oath—that’s the kind of future and the kind of world Xi wants to build. As dissident leader Xu Zhangrun observed in the wake of Beijing’s criminal mishandling of COVID-19, “A polity that is blatantly incapable of treating its own people properly can hardly be expected to treat the rest of the world well.”

NO LIMITS

That idea—the notion that the PRC is incapable of treating the world any better than it treats its own—is not particularly profound. After all, this is a regime that over the decades has erased some 35 million of its subjects and tortured millions more. Regimes like this see no limits on their power. Since they believe nothing is above the state, they rationalize everything they do in the name of the state, the revolution, the Supreme Leader, the Dear Leader, the Core Leader (Xi’s new title). With no moral constraints on what they do, they believe their ends always justify their means.

That backwards worldview informs every aspect of decision-making in the PRC. This doesn’t mean Washington should refuse to talk with Beijing. But we must be ever vigilant when dealing with Xi. A regime that can justify imprisoning, torturing and killing its own people for peacefully practicing their faith can and will justify anything: seizing foreign lands, annexing international waterways, absorbing free peoples, stealing proprietary information, leveraging a pandemic to gain geopolitical advantage, breaking treaties. The godless USSR did those sorts of things, and so has the godless PRC.

“It is difficult to imagine that a government that continues to repress freedom in its own country,” President Ronald Reagan said of the USSR, “can be trusted to keep agreements with others.” And here we are yet again.

Experts in policy analysis, academia and military-security affairs conclude that Xi’s response to COVID-19 “was in breach of international law.” It pays to recall that COVID-19 was a local public-health problem that metastasized into a global pandemic due to Beijing’s incompetence or intention (either cause is reason not to entrust the future to Xi); that Xi’s regime lied about human-to-human transmission; that Xi’s regime willfully allowed millions to leave the epicenter in Wuhan for destinations around the world; that Xi’s regime carried out a premeditated plan to hoard 2.5 billion pieces of protective equipment as the virus swept the globe; that Xi’s regime blocked scientists from sharing findings about genome sequencing for weeks; that Xi’s regime continues to refuse to cooperate with international health agencies.

Xi’s intervention in Hong Kong and assertion of rule by remote-control is a brazen violation of an international treaty.

In and above the East China Sea, Beijing is constantly violating Japanese airspace and illegally loitering PRC coast guard vessels in Japanese waters. All the while, Beijing illegally claims some 90 percent of the South China Sea. Xi has backed up those claims by building 3,200 acres of illegal islands beyond PRC waters. These islands feature SAM batteries and warplanes. Xi promised the PRC wouldn’t militarize these islands. But as America and its allies learned at enormous cost last century, words don’t matter to men like Xi. Strength and the will to wield it are all that matters. Xi has both.

His goal is to control the resource-rich South and East China Seas, assert sovereignty claims in fait accompli fashion, and bring Chinese-speaking lands under his heel. Hong Kong—where only PRC-approved “patriots” are allowed to serve in government—was his first objective. Taiwan is next. Xi has made clear that democratic Taiwan “must and will be” absorbed by the communist Mainland. “We make no promise to abandon the use of force,” he warns. That explains Beijing’s ground-unit exercises, naval drills and bomber sorties around the island democracy.

Nor are Xi’s dreams and designs limited to his immediate neighborhood. Beijing is buying loyalty via development projects (see the Belt and Road Initiative), gaining a toehold in strategically located regions (see PRC control over ports in 18 countries), building an authoritarian bloc (see Russia, Serbia, North Korea, Iran, Venezuela), and fielding a power-projecting military capable of challenging the Free World across every region and every domain—land, sea, air, space and cyberspace. Xi’s relentless cybersiege of the Free World is siphoning away inventions, discoveries, technologies and wealth, penetrating defense firms, and interfering in elections.

For those with eyes to see—who know about the laogai camps and brutalization of Muslims and oppression of Tibet and assault on Christianity—none of this comes as a surprise. What’s surprising is that for 40 years, the trade über alles caucus convinced itself that such a regime could somehow be reformed by access to Buicks and Kentucky Fried Chicken.

TAKING AIM

Xi vows to build what he calls “a more just and reasonable new world order”—one that would supplant the liberal democratic order the United States and its allies began building after World War II. Importantly, the PRC not only has the intent to build a new world order; it has the resources and capabilities to do so—which helps explain why those who designed and uphold the existing world order are answering China’s challenge.

The PRC is a country of 1.3 billion people. Its GDP is already $14.1 trillion. Its economic tendrils—trade, banking, manufacturing, logistics, shipping, technology, super-computing, artificial intelligence—stretch into every part of the globe. All of this is fueling the PRC’s relentless military modernization and buildup. The PRC’s annual military expenditure is at least $261 billion. (Beijing recently announced an increase in military spending of 6.8 percent for 2021). The PRC has a 2-million-man military, the world’s largest navy and an intense focus on its neighborhood.

None of this would be a particularly worrisome if China embraced the values of liberal democracy—the rule of law, individual freedom, religious liberty, free enterprise and free trade, majority rule with minority rights. These are the foundation stones of what Churchill and FDR envisioned when they drafted the Atlantic Charter in 1941. Their vision led to what some call the “rules-based democratic order,” others the “liberal international order,” still others the “free world order.” These terms aim to describe how the peoples of the West have tried to make the world work and indeed manage the world: They embraced and encouraged democratic governance; developed rules and norms of behavior; promoted liberal (freedom-oriented) political and economic institutions; and called upon governments to live up to the responsibilities of nationhood by respecting international borders and promoting good order within those borders. The result has been an unparalleled spread of prosperity, an unprecedented expansion of free government and an unexpected remission of great-power war (which had become an increasingly-destructive feature of the centuries leading up to 1945).

To be sure, many regimes reject the values of liberal democracy. But the PRC, like the USSR before it, not only rejects those values; it possesses the military-technological-industrial-economic assets to challenge those values, erode the liberal international order built upon those values, and forge a new international order or at least bend the existing order toward its own goals. But don’t take my word for it.

“Some seek to challenge the international order—that is, the rules, values and institutions that reduce conflict and make cooperation possible among nations,” Blinken and Defense Secretary Lloyd Austin warn, pointedly adding that “China in particular is all too willing to use coercion to get its way.”

Former national security advisor Gen H.R. McMaster concludes that PRC “leaders believe they have a narrow window of strategic opportunity to…revise the international order in their favor.”

Before he retired as Indo-Pacific commander ,Adm. Phil Davidson told the Senate Armed Services Committee that Xi and his lieutenants are “accelerating their ambitions to supplant the United States and our leadership role in the rules-based international order.”

A NATO panel noted late last year that Beijing’s “approach to human rights and international law challenges the fundamental premise of a rules-based international order.”

These political, diplomatic and military leaders recognize that the liberal order has promoted the peace and prosperity of the Free World for nearly 75 years. But it doesn’t run on autopilot. If we want the benefits of a liberal order that sustains our way of life, we need to sustain the liberal order. As Robert Kagan of the Brookings Institution observes, “The present order will last only as long as those who favor it and benefit from it retain the will and capacity to defend it.” He adds, “Every international order in history has reflected the beliefs and interests of its strongest powers, and every international order has changed when power shifted to others with different beliefs and interests.”

Indeed, the liberal order and its guarantors have arrived at a turning point or breaking point: Either they will marshal the means and will to update, strengthen and preserve the existing order, or Beijing will dramatically transform it. Xi’s callous treatment of his own subjects and contempt for international norms offer a glimpse of what his “more reasonable new world order” would look like.

## Platform Adv

### innovation high—1nc

#### Fintech innovation is high, and smaller firms are joining the industry

Beauchamp, 20 – Canadian journalist, researcher and content contributor covering topics ranging from the environment, business, and the economy at Valuer AI ( Lauren, ‘The Best Fintech Startups in the USA’, November 18 2020, <https://www.valuer.ai/blog/best-fintech-startups-in-usa> )

Fintech, or financial technology has become one of the most successful global industries in the last decade. From mobile payment, trading, and cryptocurrency applications, FinTech has transformed the way finances are done. The hub of this technological trend is in the United States, where there is currently 1,491 startups and $58.5 billion investment in the industry, according to Digital Information World. Fintech is a global industry with startups having a presence in 6 continents. The USA is considered the global capital of Fintech with the largest investment in the industry, followed by China, The United Kingdom, and India. [graph omitted] With the fintech industry growing every subsequent year, the market is starting to fill up with fintech startups and innovative financial services trying to fulfill customers' needs that will ultimately shape the future of finance. [graph omitted] The last year has shown that startups are on the rise across all of America. In March 2019, there were 774,725 businesses that were less than 1 year old, according to Statista. These businesses had all started from scratch and were unrelated to existing corporations. These startups have generated $34.5 billion in revenue globally.

### AT: Big Tech---1NC

#### Amex doesn’t prevent challenging big tech.

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The top antitrust lawyer at the Department of Justice said Tuesday that he doesn't think a Supreme Court ruling earlier this week would make it more difficult to take on the biggest online platforms over competition concerns.

Why it matters: Critics of large tech companies worry the ruling in a case concerning credit card providers might offer Silicon Valley companies like Google, Facebook, Amazon and Uber protection from antitrust prosecution because they use so-called two-sided marketplaces to connect parties, such as buyers and sellers.

Speaking at the Aspen Ideas Festival, DOJ antitrust chief Makan Delrahim said he saw the ruling as a "sound decision" overall.

""I was more worried the Supreme Court would come up with a test [that would] cause harm to new business models like Uber and Airbnb," he said, saying that would have been a greater hardship to the economy than just losing this case.

Impact on Big Tech: Responding to a question from Axios, Delrahim said he didn't think the ruling would make it harder to go after Facebook and Google over competition concerns "for a couple of reasons."

First, he said, each case is specific to the facts. Second, the ruling doesn't treat all two-sided marketplaces alike. While it might help protect Uber and Airbnb, which directly connect two parties, Delrahim said he wasn't sure that Google and Facebook would see their businesses similarly affected.

Other companies, like Amazon, might find some parts of their business protected and others not.

"I think to the extent that it creates that transaction and you bring in third party sellers and buyers, they could benefit from that, but not in other areas of their business," he said.

Yes, but: Delrahim did say he thought that the ruling could limit antitrust enforcers' ability to take on Uber, Lyft, and Airbnb, but would not protect the companies in the case of criminal behavior, like price fixing.

The backdrop: The court ruled that, when considering an antitrust case involving some two-sided markets, authorities need to weigh whether there is competitive harm on all sides of the market. Allegedly anticompetitive behavior on one side of a business model wouldn't be actionable in some cases, Justice Clarence Thomas wrote in the court's opinion, if the whole picture wasn't anticompetitive.

### AT: Competitiveness Impact

#### Tech now solves competitiveness

Michael Beckley 18. Professor of political science at Tufts. *Unrivaled: Why America Will Remain the World’s Sole Superpower*. Cornell University Press. 49.

However, in high-technology industries, meaning those that involve the commercial application of scientiﬁ c research (e.g., pharmaceuticals, biotechnology, and semiconductors) or the engineering and integration of complex parts (e.g. aviation, medical devices, and system software), China generally accounts for small shares of global markets compared to the United States. 85 China is a major producer of many high-technology products, particularly computer and electronics technologies, but most Chinese ﬁrms in these industries are conﬁned to low-tech, low-productivity activities, such as manufacturing and component supply whereas American ﬁrms tend to focus on product design, development, and branding—the activities in which proﬁts and proprietary knowledge are greatest. 86 As manufacturing has become increasingly automated with the development of 3D-printing and artiﬁcial intelligence, and as China’s labor costs have risen, American ﬁrms have started “reshoring” manufacturing plants in the United States to take advantage of low energy prices, high-skilled labor, and proximity to consumers. For those reasons, Deloitte and Boston Consulting Group both project that the United States will overtake China as the world’s most cost-competitive manufacturing nation by 2020. 87

### AT: Sanctions

#### Noko nuclearization disproves effectiveness of sanctions, OR

#### US sanctions are strong now

Kathy Gilsinan 19, a contributing writer at The Atlantic "A Boom Time for U.S. Sanctions," Atlantic, 5-3-2019, https://www.theatlantic.com/politics/archive/2019/05/why-united-states-uses-sanctions-so-much/588625/; HS

The Treasury Department’s position is that, even as the number of sanctions have increased, their success is measured not by volume but by their impact in achieving specific policy goals.

On that score, sanctions have notched some successes. They may have helped drive the North Koreans to negotiate with Trump over their nuclear program, though so far no deal has resulted. Sanctions also helped push Iran to the table over its own nuclear program during the Obama administration; the Trump administration says that the current sanctions are part of an effort to push it back for a better deal.

The goals spelled out in Secretary of State Mike Pompeo’s 12 demands on Iran—including renouncing nuclear weapons, ceasing support for proxies like Hezbollah that the U.S. considers terrorist organizations, and releasing U.S. citizens imprisoned in the country—would amount to a wholesale overhaul of the country’s current foreign policy. Iranian leaders have in the past indicated that they’re not interested in negotiating over those points, though Foreign Minister Javad Zarif recently floated the idea of a prisoner exchange in a possible sign of softening. The demands have been criticized as unreachable, but Pompeo has said they amount to nothing more than a request for normal behavior of the kind the U.S. should expect from any other country.

In the meantime, though, Iran’s economy is tanking, and the country is struggling to trade on its economic lifeblood, which is oil. Whatever the long-term policy goals, and whatever the risks of pursuing them so aggressively, in the short term the administration is satisfied with the results so far.

### AT: NoKo Impact

#### No Korea war---both sides are rational.

Michael C. Horowitz 18. \*\*Professor of political science and the associate director of Perry World House at the University of Pennsylvania; Emory NDT champion. \*\*Elizabeth N. Saunders, associate professor of political science at George Washington University. “Why nuclear war with North Korea is less likely than you think.” Washington Post. 5/24/2018. https://www.washingtonpost.com/news/monkey-cage/wp/2018/01/03/why-nuclear-war-with-north-korea-is-less-likely-than-you-think/?utm\_term=.e1fee0b19d0a

Editor’s note: What will happen now that has President Trump canceled the planned June 12 summit with North Korean leader Kim Jong Un**?** Here is a post from January 3, 2018 on why nuclear war is **(still) not very likely**. — E.S. On Tuesday night, in response to North Korean leader Kim Jong Un’s claim to have a nuclear button on his desk, President Trump tweeted, “I too have a Nuclear Button, but it is a much bigger & more powerful one than his, and my Button works!” This is not the first time that things have gotten personal in the U.S.-North Korea standoff. Much of the rhetoric between the two leaders and media commentary about the risk of war focuses on the leadership of Trump and Kim — or “Little Rocket Man,” as Trump has called the North Korean leader. But how much could these two singular leaders really propel us to a nuclear war? Trump’s tweets and other actions certainly can increase the risk of conflict — consistent with our research on how the decisions of individual leaders affect military conflict. However, in this case, other factors, including **geography** and **military capabilities**, will matter more than tweets or the characteristics of leaders. And these factors reduce the likelihood of war. Leaders can be important for international conflict For the past few generations, political scientists who write about the outbreak of conflict mainly argued that leaders were irrelevant, focusing instead on international factors such as great power relations or domestic political factors such as whether the two countries involved had democratic institutions. But more and more scholarship suggests that leaders make a large difference in determining whether and how countries go to war. And it’s not just in dictatorships such as that of North Korea; even more constrained leaders, such as U.S. presidents, matter. Leaders’ beliefs and experiences before coming into office can be critical in determining whether a country goes to war and what military strategy will be used in the event of war. But **structural forces** are strong in this case Even if leaders have discretion, they are **constrained by material and situational constraints**. No U.S. or North Korean leader can realistically change or avoid some of these constraints. One constraint stems from the two sides’ formidable military capabilities, which mean that a general war with North Korea would be devastating, as Barry Posen argued last year. Even before North Korea acquired a nuclear capability, its artillery put tremendous pressure on South Korea. Add to that its missile arsenal — which, as nuclear experts have chronicled, can now probably deliver an intercontinental ballistic missile armed with a nuclear warhead against the United States. A second unavoidable constraint is **geography**, which may make war less likely. North Korean artillery points directly at Seoul, just 35 miles from the demilitarized zone (DMZ). South Korea may oppose a war, which could influence U.S. behavior. North Korea also borders China, a powerful country whose economic support keeps North Korea afloat. But China faces its own geographic reality with respect to North Korea, and China is increasingly frustrated with North Korea’s behavior. In the event of war, **China does not want refugees** flooding across the border into China. Yet China also does not want a unified Korean Peninsula with U.S. troops on its border. Indeed, in the Korean War, the United States tested geographic constraints by pushing beyond the prewar dividing line, the 38th parallel, in an attempt to unify Korea. China intervened to prevent such an outcome, and the conflict stopped where it started. All sides know that a war would be a huge and difficult military and political problem. So there are strong incentives to try to **deter** the other side, **rather than escalate**. U.S. and North Korean leaders have reason to make war even less likely Although the focus on Trump and Kim almost always suggests that their behavior increases the risk of war, they actually have strong **incentives to reduce the prospect of war**. Despite rhetoric about North Korea’s irrationality, Kim’s pursuit of nuclear weapons and long-range missiles was **rational**. **He wants to stay in power**, and nuclear weapons constitute invasion insurance. But a war probably would **spell the end of the regime**, giving North Korea **little reason to start a war**. On the U.S. side, few wars probably have been war-gamed more than a conflict on the Korean Peninsula. U.S. decision-makers know how costly a war might be. Knowledge of these **costs makes war less likely**. A leader-driven war would have to overcome strong **structural pressures**.

## Conduct Adv

### AT: Military AI

#### Small firms fail---DOD won’t take them because they don’t trust their capacity or resources

#### No readiness nor deterrence.

John Mueller 21, Adjunct Professor of Political Science and Senior Research Scientist at the Mershon Center for International Security Studies, "Proliferation, Terrorism, Humanitarian Intervention, and Other Problems," in The Stupidity of War: American Foreign Policy and the Case for Complacency, 02/17/2021, pg. 183-184.

Over the course of the last several decades, alarmists have often focused on potential dangers presented by rogue states, as they came to be called in the 1990s. These were led by such devils du jour as Nasser, Sukarno, Castro, Gaddafi, Khomeini, Kim Il-sung, Saddam Hussein, Milosˇevic´, and Ahmadinijad, all of whom have since faded into history’s dustbin.66 Today the alarm has been directed at Iran as discussed in Chapter 6 and also at North Korea as discussed in this one. However, neither country really threatens to commit major direct military aggression. Iran, in fact, has eschewed the practice for several centuries.

Nonetheless, it might make some sense to maintain a capacity to institute containment and deterrence efforts carried out in formal or informal coalition with concerned neighboring countries – and there are quite a few of these in each case. However, the military requirements for effective containment by their neighbors, by the United States, and by the broader world community are far from monumental and do not necessarily require the United States to maintain large forces-in-being for the remote eventuality.

This is suggested by the experience with the Gulf War of 1991 when military force was successfully applied to deal with a rogue venture – the conquest by Saddam Hussein’s Iraq of neighboring Kuwait. As noted earlier, Iraq’s invasion was rare to the point of being unique: it was the only case since World War II in which one United Nations country has invaded another with the intention of incorporating it into its own territory. It scarcely appears, as laid out in Chapter 3, that Iraq’s pathetic forces required a large force to be thrown at them to decide to withdraw: over a period of half a year, they did not erect anything resembling an effective defensive system and, when the chips were down, they proved to lack not only defenses, but strategy, tactics, leadership, and morale as well.

Countries opposed to provocative rogue behavior do not need to have a large force-in-being because there would be plenty of time to build one up (should it come to that) if other measures such as economic sanctions and diplomatic forays (including appeasement) fail to persuade.

### AT: Cyber Impact

#### No catastrophic cyberattacks---25 years of empirics prove they stay low-level and non-escalatory.

Lewis 20---senior vice president and director of the Technology Policy Program at the Center for Strategic and International Studies). Lewis, James. 2020. “Dismissing Cyber Catastrophe.” Center for Strategic & International Studies. August 17, 2020. https://www.csis.org/analysis/dismissing-cyber-catastrophe.

A catastrophic cyberattack was first predicted in the mid-1990s. Since then, predictions of a catastrophe have appeared regularly and have entered the popular consciousness. As a trope, a cyber catastrophe captures our imagination, but as analysis, it remains entirely imaginary and is of dubious value as a basis for policymaking. There has never been a catastrophic cyberattack. To qualify as a catastrophe, an event must produce damaging mass effect, including casualties and destruction. The fires that swept across California last summer were a catastrophe. Covid-19 has been a catastrophe, especially in countries with inadequate responses. With man-made actions, however, a catastrophe is harder to produce than it may seem, and for cyberattacks a catastrophe requires organizational and technical skills most actors still do not possess. It requires planning, reconnaissance to find vulnerabilities, and then acquiring or building attack tools—things that require resources and experience. To achieve mass effect, either a few central targets (like an electrical grid) need to be hit or multiple targets would have to be hit simultaneously (as is the case with urban water systems), something that is itself an operational challenge. It is easier to imagine a catastrophe than to produce it. The 2003 East Coast blackout is the archetype for an attack on the U.S. electrical grid. No one died in this blackout, and services were restored in a few days. As electric production is digitized, vulnerability increases, but many electrical companies have made cybersecurity a priority. Similarly, at water treatment plants, the chemicals used to purify water are controlled in ways that make mass releases difficult. In any case, it would take a massive amount of chemicals to poison large rivers or lakes, more than most companies keep on hand, and any release would quickly be diluted. More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are: Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals. There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.) No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare. State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war. This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation. The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability. One major failing of catastrophe scenarios is that they discount the robustness and resilience of modern economies. These economies present multiple targets and configurations; they are harder to damage through cyberattack than they look, given the growing (albeit incomplete) attention to cybersecurity; and experience shows that people compensate for damage and quickly repair or rebuild. This was one of the counterintuitive lessons of the Strategic Bombing Survey. Pre-war planning assumed that civilian morale and production would crumple under aerial bombardment. In fact, the opposite occurred. Resistance hardened and production was restored.1 This is a short overview of why catastrophe is unlikely. Several longer CSIS reports go into the reasons in some detail. Past performance may not necessarily predict the future, but after 25 years without a single catastrophic cyberattack, we should invoke the concept cautiously, if at all. Why then, it is raised so often? Some of the explanation for the emphasis on cyber catastrophe is hortatory. When the author of one of the first reports (in the 1990s) to sound the alarm over cyber catastrophe was asked later why he had warned of a cyber Pearl Harbor when it was clear this was not going to happen, his reply was that he hoped to scare people into action. "Catastrophe is nigh; we must act" was possibly a reasonable strategy 22 years ago, but no longer. The resilience of historical events to remain culturally significant must be taken into account for an objective assessment of cyber warfare, and this will require the United States to discard some hypothetical scenarios. The long experience of living under the shadow of nuclear annihilation still shapes American thinking and conditions the United States to expect extreme outcomes. American thinking is also shaped by the experience of 9/11, a wrenching attack that caught the United States by surprise. Fears of another 9/11 reinforce the memory of nuclear war in driving the catastrophe trope, but when applied to cyberattack, these scenarios do not track with operational requirements or the nature of opponent strategy and planning. The contours of cyber warfare are emerging, but they are not always what we discuss. Better policy will require greater objectivity.

#### No cyberwar---answers all their scenarios.

Jeremy Rabkin & John Yoo 17. Rabkin is a Professor of Law at the Antonin Scalia Law School, George Mason University; Yoo is currently the Emanuel S. Heller Professor of Law at the University of California, Berkeley. 09/12/2017. “CHAPTER 6 Cyber Weapons.” Striking Power: How Cyber, Robots, and Space Weapons Change the Rules for War, Encounter Books.

It is possible for a “virus” to disable the hardware elements of a network, as happened in the Shamoon attack. The effects of such an attack are costly, especially if they crash electric power supplies or delete important government data. But those well-known costs will encourage governments and corporations to back up valuable data in several places and build redundancies into vital control systems. Such safeguards would mean cyber attacks cause temporary inconvenience, but are not likely to cause widespread, permanent damage. If an attacker wants to turn off the lights everywhere, there are easier ways than cyber-based attacks. Alarms over shutting down computer networks overlook their resiliency. Computers are immensely complicated and hence inherently temperamental. Designers of computer systems have always known that. At any one time, some computers in commercial networks may be experiencing technical difficulties—as air travelers know from experience trying to acquire boarding passes from “self-help” kiosks. Network designers build their systems to work even when significant portions of the hardware 42 and software go offline. Such resiliency would pose a serious obstacle to the success of a cyber attack. As new risks become known, network engineers will build in more robust defenses. Finally, even if nations could build cyber weapons that could shut down networks on a large scale, they may never use them. Such a weapon could be equally dangerous for the attacker as for the defender if its effects spread beyond the target system. The more networked an attacker’s economy and military, the more exposed it will be to such harms. Even if the attacker could deploy a prophylactic defense for its own computers, it would still need those computers to communicate with external networks in other countries. A world paralyzed by computer problems would prevent the attacking nation from reaping the benefits of the Internet. Unless it were prepared to isolate itself from the world economy for a lengthy period of time, a nation would not likely deploy an all-destructive cyber weapon. To think of cyber as a weapon of mass destruction is like noticing that a laptop computer is light enough to swing, while also encased in unyielding metal, and then to conclude that a laptop computer is well suited to deploy as a war club. That conclusion is not demonstrably false. But it misses the main point. The most attractive aspect of cyber operations from a tactical standpoint is that they can be customized, allowing attacks to be highly focused and ratcheted up or dialed back, according to circumstances. Their most effective use is when they are used for espionage and covert action goals, rather than strategic strikes. Their military value will come as an aid to other forms of hostilities, such as diplomatic and economic pressure or kinetic attacks. Cyber weapons have far more value as a more precisely tuned means of coercion between nations, rather than as a weapon of mass destruction.

# 2NC

## 2NC---Capitalism K

### 2NC---Overview

#### 1---Competitiveness---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.

Christos Boukalas 15**.** research fellow in Cardiff Law School, PhD in state theory from Lancaster University [“Class war-on-terror: counterterrorism, accumulation, crisis,” *Critical Studies on Terrorism*, Vol. 8, No. 1, 2015, p. 55-71, Accessed Online through Emory Libraries]

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.

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.

#### 3---Democracy Add on– inequality drives populism, innovation displaces jobs, globalization undercuts accountability – COVID magnifies all.

Milner 21 [Helen V. Milner is the B. C. Forbes Professor of Public Affairs at the Woodrow Wilson School of Public and International Affairs at Princeton University, where she is also the Director of the Niehaus Center for Globalization and Governance. International Studies Quarterly, 10 July 2021, <https://doi.org/10.1093/isq/sqab056> //shree]

How do Globalization and Democracy Interact? The delineation of these essential elements of democracy is important because it tells us where to look for problems in the relationship with capitalism. If capitalism makes achieving these elements more difficult or impossible, then the two institutions will clash. Instead of reinforcing one another, they will undermine each other. Hence, one view is that without serious restrictions on capitalism, democracy will be imperiled. On the other hand, some claim that without restrictions on democracy, capitalism could be imperiled. From Marx onward, numerous scholars have claimed that democracy has been limited in order to preserve capitalism. For Marx, the institutions of the state were built to protect capitalism; democracy was just the “dictatorship of the bourgeois” hiding behind a veil. The capitalist state was designed to protect the collective interests of the capitalist class against the working class and against the short-sighted behavior of individual capitalists; thus the state had some autonomy.12 But for Marx and many Marxists, democracy itself was a sham set up to protect capitalism. More recently, Slobodian argues that the entire neoliberal system of international institutions set up since the 1950s has served to protect capitalism against democracy: the entire “neoliberal project focused on designing institutions–not to liberate markets but to encase them, to inoculate capitalism against the threat of democracy” (Slobodian 2018, 2). For many on the left of the political spectrum, capitalism makes democracy impure at best and impossible at worst. For others from the right, government intervention in the economy even decided democratically can ruin capitalism and thus destroy individual freedom. Laissez-faire doctrine advocated the most limited interference of politics in the matters of the economy. Hayek (1976) among many feared that any government intervention corrupted capitalism and that only the most minimal state was desirable. “The system of private property is the most important guaranty of freedom, not only for those who own property, but scarcely less for those who do not . . . If all the means of production were vested in a single hand, . . . whoever exercises this control has complete power over us” (Hayek 1976, 103). Freedom is the highest goal, but capitalism—not democracy—brings freedom. The protection of private property was necessary for democracy in the first place.13 Economic conservatives such as Hayek decried government intervention in the economy and the creation of large social welfare systems. The balance between unregulated markets and government intervention has long been a central issue in politics. This balance has been changing over time, especially as globalization has spread. Global capitalism seems to have given capitalists a stronger hand relative to either labor or the state (Bates and Lien 1985). Laissez-faire and austerity have gained in prominence as labor unions have shrunk, center left parties have declined, and social welfare spending and redistribution have fallen out of favor (Blyth 2013). Political Equality and Economic Inequality As noted above, an essential element of democracy is the idea of political equality. All adult citizens should be treated equally by the state and should have equal political rights. What political equality means may be debated, but citizens do expect some kind of equal treatment by their government. The problem this runs into is the economic inequality generated by capitalism (Piketty 2014). Economic inequality has increased very substantially within countries across most of the world since the 1990s (Bourguignon 2015). This rise has been especially notable in the advanced industrial countries, particularly the United States and UK. While rates of absolute poverty across the world have plummeted, one particularly contentious issue is whether globalization has fueled the rise in within-country inequalities. For example, the Gini index for income distribution in the United States has worsened steadily from 0.36 in 1970 to 0.41 in 2015 (Lahoti, Jayadev, and Reddy 2016). By 2008, the level of inequality in the United States, as measured by the share of family income for the top 10 percent, had returned to the highest levels recorded in the early twentieth century (Bourguignon 2015, 48). The middle four deciles of the income distribution in the United States saw a similar decline in income share from 1980 (0.46) to 2014 (0.40). However, growth in inequality in Europe has been less pronounced with the income share of the middle four deciles sharply dropping in the UK and more moderately decreasing in Germany and France (Blanchet, Chancel, and Gethin 2019). While unemployment in the United States has been low, wage growth especially in the middle and low skill occupations has been very limited in the past few decades. “Since 2000, [US] weekly wages have risen 3% (in real terms) among workers in the lowest tenth of the earnings distribution and 4.3% among the lowest quarter. But among people in the top tenth of the distribution, real wages have risen a cumulative 15.7%, . . . nearly five times the usual weekly earnings of the bottom tenth” (Desilver 2018).14 In the United States by 2010, the top 10 percent of the income distribution has received over half of all wage gains during the past 30 years, and the top 1 percent and 0.01 percent had received most of that (Bourguignon 2015, 49). In Europe, slow wage growth has been combined in many countries with high unemployment. In many of the OECD countries, the concentration of wealth, as opposed to income, is even more stark and has grown worse as well. International trade appears to have amplified inequality in developed countries by deepening the high-skill and low skill labor divide (Wood 1994; Ebenstein et al. 2013). Surprisingly, there is some evidence this is happening in the developing world as well (Harrison and Hanson 1999). The problem is that this period of rising within country inequality corresponds to the period of globalization’s fastest growth. It looks as if, and perhaps is the case that, they are related.15 But the impression is that globalization has benefited a small elite and not the whole society or even the middle class. The majority is losing and this should not happen in a democracy. The sense that the system is rigged and only the rich benefit from openness is pervasive and growing. Anger and resentment are rising in publics as they see only a small segment of society gaining from globalization, and as everyone else becomes a relative loser (Galston 2018).16 The pervasive sense is that elites have captured the political system and opened up the economy to external forces that benefit only the rich and well connected. Inequality also seems to drive support for a main policy advocated by populist parties, that is, for protectionism, thus challenging the foundations of the liberal global order (Lü, Scheve, and Slaughter 2010). Another issue is that any sense of political equality is hard to sustain when economic inequality is large. If the wealthy have, or are seen to have, special access to political leaders and more influence over elections because of their money, then political equality is undermined. As Przeworski says, “When groups compete for political influence, when money enters politics, economic power gets transformed into political power, and political power in turn becomes instrumental to economic power ....Access of money to politics is the scourge of democracy” (Przeworski 2016, 5). Research suggests that the rich do have more access and influence over politics (Bartels 2008; Gilens 2012). As the rich become richer, their influence magnifies, policy diverges more from the median voter’s preferences, and democracy seems less and less legitimate to the average citizen. If globalization is linked to rising inequality, then we may fear for democracy because research shows that democracy does not do well in conditions of high inequality (Boix 2003; Ziblatt 2008).17 Globalization may then indirectly undermine support for democracy as it enables greater economic inequality (Elkjær and Iversen 2020). It is important to note that the Covid-19 pandemic seems to be increasing inequality as it rages in different countries. High-skill workers have maintained their jobs and avoided the virus by telecommuting. Lower skill workers who are usually paid less have been more likely to lose their jobs and get sick (Davis, Ghent, and Gregory 2021; Deaton 2021). And large firms with abundant capital have expanded as their small rivals are driven out of business by the pandemic closures (Bartik et al. 2020) Capital is being concentrated even more by this plague. It has also increased individual insecurity and reduced social capital as people cannot congregate and socialize. Creative Destruction and Economic Insecurity Capitalism is marked by rapid change and technological advances. As many have noted, it is a very dynamic system that incentivizes change, upgrading, and innovation. In the process, however, it destroys the old, the familiar, and the once lucrative. Schumpeter termed this essential dynamic, creative destruction (Schumpeter 1942). There is also evidence that innovations and adoption of new technologies spread in waves over time, sometimes leading to deep and rapid changes (Milner and Solstad 2021). These technological revolutions then produce side effects in social and political life. The first industrial revolution from about 1760 to 1830 saw a spurt of activity around iron and steel, coal, and steam engines (Mokyr 2009). The second industrial revolution from the 1870s to early 1900s again brought a surge in new technologies including railroads, mass assembly, automobiles, telegraph and radio, and electricity (Gordon 2017). Recently we have witnessed another technological revolution, the so-called digital revolution, and it is now having widespread effects. It is not just disruptions to labor markets that matter, but also shocks to information and communications systems, changes in social organization and disruptions of existing institutions. These rapid changes create insecurity for people who are, or believe they will be, negatively affected.18 This personal insecurity is likely to have political ramifications, especially when social protection is weak (Mughan 2007; Margalit 2011; Hacker, Rehm, and Schlesinger 2013; Rehm 2016). Capitalism has brought forth many changes in markets, especially in labor markets over time. Old industries die and new ones emerge, but labor and capital are often slow to keep pace with these changes. Boix (2019) argues that first period of globalization in the late nineteenth century and early twentieth century was accompanied by technological change which generated more jobs than it displaced. This earlier wave of disruption was job inducing, and the new technology then was complementary to labor. The second period of globalization occurring recently is different; the new technologies are job displacing and substitute for labor. These two conditions produce very different politics. Boix (2019), however, still thinks that democracy can persist in this second period, as do others who see democracy as extremely resilient (Iversen and Soskice 2019). But many others are more pessimistic, worrying that the effects of technology now are enhancing inequality and destroying decent jobs (Baldwin 2019). A primary example has been the rise and fall of manufacturing industries, especially in the advanced industrial countries. Industrial employment as a percentage of the civilian labor force has dropped from 38.8 percent in 1970, 25 percent in 2007, and falling to 18.8 percent in 2016 among the original 23 OECD countries (Armingeon et al. 2019). Offshoring has been a main ingredient in this process, and more recently the development of global value chains across borders has accelerated these changes. This deindustrialization has generated much economic insecurity as higher wage-paying, blue-collar jobs have disappeared with it (Hacker 2008; Milberg and Winkler 2013). In addition, the new jobs produced have often been inferior to the old ones lost; this inferiority concerns not just wages but also the terms of employment, which have become less secure and more temporary in the so-called gig economy. “Employment precariousness,” or the lack of a “decent job,” is another aspect of this technological revolution (Lorey 2015). “Fixed-term employment contracts, temporary work and part-time work in developed countries, and informal jobs with irregular working hours, low earnings and uncertain futures in developing countries” (Bourguignon 2015, 63), which are the telltale indicators of this precariousness, have grown greatly. “In France, employment precariousness has increased significantly over the last twenty years, from 8% in 1990 to 12% of total employment in the 2000s” (Bourguignon 2015, 63–64). Skill-biased technological change and trade with the developing world have been largely responsible, as they have helped fuel offshoring and global value chains (Michaels, Natraj, and Van Reenen 2014; Doraszelski and Jaumandreu 2018). Hence, despite the fact that unemployment in many developed countries had fallen to low levels before the pandemic, personal insecurity has been pervasive because wages and working conditions have worsened, especially for lower skilled workers. Global capitalism produces a double dose of technological change. Capitalism itself is very disruptive, but on a global scale it accelerates this change. Research shows that few countries innovate and that most adopt innovations from elsewhere (Keller 2004). The speed of this adoption varies from country to country and over time, but globally-integrated markets make these changes more rapid and widespread (Mokyr 1994; Taylor 2016; Milner and Solstad 2021). The third technological revolution then also is different because it is probably the fastest and most wide-ranging. It has brought even more economic anxiety and insecurity than past revolutions. The insecurity generated by capitalism has long been noted. Furthermore, capitalism on a global scale seems to amplify this insecurity since international capital and labor flows may be ever more politically destabilizing (Scheve and Slaughter 2004). Economic crises like the global financial one of 2008–2009, which often are fostered by globalization, exacerbate this insecurity as well. Indeed, the creation of social welfare states was intended to help damp down this anxiety and reduce the frictions associated with economic change and crises. Polanyi (1957) long ago noted that left exposed to unregulated markets, people would turn away from democracy and toward extreme political solutions. The risks and insecurities generated by capitalism needed to be alleviated by social protection. The idea was to “embed” markets in social and political relations by having governments intervene to provide compensation to people affected by market volatility. After World War II, markets for capital and labor flows across borders were regulated as trade was slowly liberalized, and stability and growth with redistribution were paramount for the advanced industrial democracies until the 1980s. After World War II, embedded liberalism in the Western world was the compromise that arose to make democracy and capitalism compatible (Ruggie 1982). As noted by Lim (2020, 67–68), “Studies of Western democratic countries have found that citizens who are exposed to the risks and uncertainties of global capitalism demand greater social protection from their government (Burgoon 2001; Cusack, Iversen, and Rehm 2006; Walter 2010; Margalit 2011). Empirical analyses also have revealed that more open economies tended to have larger public spending to compensate for and insure against the vagaries of an open economy (Garrett 1995; Rodrik 1997, 1998; Rickard 2012; Nooruddin and Rudra 2014).” Others show that technological adoption is faster and acceptance of new technologies is higher when welfare state generosity is greater (Lim 2020). Up to the 1990s, the embedded liberalism compromise seemed to be reconciling democracy and global capitalism. Embedded liberalism, however, has come under sustained pressure as globalization has advanced. The combination of slowing or declining welfare efforts plus the growth of globalization have increased insecurity and reduced support for people facing it. Scholars have pointed to these changes as being a source of the rise of populism and the extreme right in various countries. Margalit (2011) shows that where job losses from foreign competition were high, incumbent politicians in the United States were more likely to lose and especially so if the job losses were not compensated. Autor et al. (2020) provide evidence that the trade shock from Chinese entry into the WTO led to increasing political polarization in the United States. Jensen, Quinn, and Weymouth (2017, 1) demonstrate that “increasing imports (exports) [in a region] are associated with decreasing (increasing) [US] presidential incumbent vote shares.” Colantone and Stanig (2018a,b) provide data showing that support for right-wing, nationalist and populist parties and for Brexit came from areas hardest hit by globalization, in particular trade shocks and immigration. Burgoon (2001) points out that the backlash against globalization is less in areas where social welfare provision is highest. Milner (2018, 2021), on the other hand, argues that in areas with more trade flows support for extreme right parties is stronger and that social welfare provision does not seem to temper this political backlash against globalization any longer. As globalization has proceeded and welfare states have not expanded to match this, personal insecurity has grown and its political consequences are increasingly manifest. As Rodrik (1997) noted, increasing global economic integration produces more public demands on governments for social protection while concurrently undermining their ability to supply these policies because they require considerable public expenditure, which globalization may prevent. Insecurity can also be a product of the new information technologies today. The gig economy is in part made possible by such technologies. Surveillance technology may make people feel safer, but it may also enable governments to monitor their citizens and create new fears. While social media may enhance accountability pressures, it may also generate confusion and fake news. Many new sources of information have become easily available, often creating political and social problems. There is deep concern that new information technologies have helped disseminate populist political views. Social media in particular can undermine confidence in and the legitimacy of mainstream parties and leaders by transmitting false and damaging views of them (Tucker et al. 2017). International interference to exert political influence may also be easier to accomplish and disguise with these technologies. Creating confusion about what the facts are, disseminating fringe views as if they were credible, and sowing doubt about the validity and legitimacy of key democratic practices like elections are all means for generating greater insecurity and boosting populist support. Global Interdependence Deep integration of national economies through trade, capital markets, and immigration poses direct challenges for democracy. Above, I noted the indirect ways that globalization might undermine support for democracy, first by increasing inequality and second by fostering faster technological change. But globalization may also have more direct effects. I discuss three such effects here: increasing economic policy constraints on the government; pushing convergence on economic policy choices; and creating more need for international cooperation and governance. Each of these means that governments have less control over the economy, less room for partisan competition, and less autonomy. Globalization seems to produce three inter-related processes that might undermine support for democracy. As trade, capital, and labor flows grow in importance, governments become increasingly constrained; governments can always opt out of this but the costs of doing so rise as globalization proceeds. First, globalization can undercut the government’s ability to direct the economy. The government’s policy instruments become more limited and less effective. With an open economy, macroeconomic policy and exchange rate policy become more interdependent and less effective, especially for smaller economies (Frieden and Rogowski 1996; Broz and Frieden 2001). As countries joined the WTO and signed preferential trade agreements, trade policy and investment policy have become more constrained as well. Fiscal policy in an open economy also loses some of its effect as it flows across borders. While some scholars have noted that larger and more developed countries have more room to maneuver (Mosley 2003), others have noted the shrinking field of policy choice and autonomy open to countries (Rodrik 1997, 2011). Policy autonomy and efficacy matter for democracies because the public often judges governments and parties on the basis of economic outcomes (Kosmidis 2018; Duch and Stevenson 2010, 2008). When governments lose the ability to direct the economy, democratic accountability is weakened and so is its legitimacy (Hellwig 2001; Hellwig and Samuels 2007; Hellwig 2015). A second process that might undercut democracy is the policy convergence and consensus that has grown with globalization. As governments around the world increasingly liberalized trade and opened their capital markets, policy converged and consensus grew across parties about the value of openness and to some extent deregulation as well as austerity. Differences among left and right centrist parties on their platforms diminished, and publics began to view all mainstream parties as very similar (Sen and Barry 2020; Ward et al. 2015). Globalization may force parties to converge on their economic policies, restricting parties’ ability to differentiate themselves and thus to effectively compete against other parties on economic issues.19 The consensus over economic policies and globalization has left many European Social Democratic parties losing vote share and public support (Mair 2000). This convergence has created an opening for extreme right and populist parties to generate support.20 As (Mughan, Bean, and McAllister 2003, 619) points out,“By virtue of their commitment to economic internationalization, the established parties of government are blamed by populists for turning a blind eye and a deaf ear to workers’ legitimate concerns for their job security in an increasingly global, competitive, and volatile labor market. Blaming it on established parties’ commitment to economic globalization, in other words, right-wing populist parties have commonly sought electoral advantage by turning job insecurity into a political issue.” If vigorous party competition along programmatic lines is central to democracy, then globalization may be undermining it. And lack of partisan competition among centrist parties may enable more extreme parties to gain support. The third element is that globalization has also raised pressure on governments to coordinate their polices to eliminate externalities (Milner 1997). A more open economy implies a greater need to cooperate and coordinate with other countries. The past 30 years have seen many international regimes and institutions created to deal with global problems, all of which have constrained governments even more. The IMF, World Bank, OECD, EU, WTO, regional development banks, and many preferential trade agreements are the major examples of these multilateral economic institutions; each of which produces norms, rules, and procedures that members are expected to follow. They constrain government policy choices domestically; they appear to impose decisions from unelected international elites on the public; and they push all parties who might be in government to adopt similar policies. Many of these have generated popular dissatisfaction and resentment, being seen as undemocratic and as undermining democracy and its legitimacy at home. The EU is a prime example of this complaint about “democratic deficits”; EU decision-making is often seen as too elite- and interest group-driven, and too distant from public preferences (Follesdal and Hix 2006; Mair 2007). Brexit as a vote against international cooperation and extensive coordination is a reflection of this public perception of the EU. The nationalist backlash that has animated populist parties recently builds off of this anxiety over and distaste toward global governance. The cosmopolitan elites that supposedly direct international institutions are seen as having made bad decisions (e.g., the financial crisis) and as holding preferences far removed from those of the average national voter. Populist leaders thus call for a return to national priorities and a rejection of global cooperation, as the quote from Marine Le Pen at the start of this article illustrates. As Mughan, Bean, and McAllister (2003, 619) points out, “the economic basis of their [populist parties’] appeal [lies] in their rejection of the postwar social democratic consensus. Taking as a starting date the end of the Second World War we can, with a nod to national variations, pick out four elements that have characterised the domestic politics of Western Europe in the ensuing four decades: social democracy, corporatism, the welfare state and Keynesianism. It is on the fertile ground of the foundering of these four pillars that the new (populist) parties have taken root.” Globalization by making international cooperation ever more necessary thus contributes to legitimacy problems for mainstream political parties and may generate public dissatisfaction with their governments and democracy.

### 2NC---AT: Framework

#### 4) Invert your standard for solvency. That’s enough to vote neg, even if the alt solves nothing.

Eugene McCarraher 19. [Eugene; 11/12/19; 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, 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: 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

### 2NC---AT: Tailored Competition/No Link

#### Capitalists can’t save us from capitalism. The concept of New Bismark “tailored competition” undermines the alt’s remaking of the system and leads to more monopolies, environmental exploitation, and colonialism.

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Making the Reforms of the New Bismarcks Count The New Bismarcks seek to head off socialist progress — they recognize that it may threaten the liberal order. As well-meaning as they may be, their fundamental flaw is their belief that the market can solve the problems it has created, just as their conceit is that they know how to make sure it does. The measures they propose — extending modest state support to those who need it and blunting the market’s sharpest edges — are welcome insofar as they further efforts to mobilize populations for economic justice. Ultimately, however these measures are insufficient, and they always will be. Market logic is market logic; capitalism is premised upon the private ownership of the means of production, the extraction of wealth from workers, and its concentration in the hands of capitalists. Profit is the point; more is always better. The rules, formal and informal, that make the private market possible ensure that those who can extract wealth from workers and the state will maximize the amount they can accumulate. This impels production (and consumption), for the sake of accumulation, by whatever means is most effective at producing goods as cheaply as possible — especially when it comes to labor costs. It also means externalizing as many liabilities as possible, ensuring the commodification of its own fixes. For instance, Carney exerts considerable energy discussing ways in which the market can address climate change. Of course, this is the self-same global market that enabled 100 fossil fuel companies, state and non-state, to produce [“nearly 1 trillion tonnes of greenhouse gas emissions”](https://b8f65cb373b1b7b15feb-c70d8ead6ced550b4d987d7c03fcdd1d.ssl.cf3.rackcdn.com/cms/reports/documents/000/002/327/original/Carbon-Majors-Report-2017.pdf?1499691240) — more than seventy percent of the emissions since the late 1980s. The New Bismarcks’ fundamental flaw is their belief that the market can solve the problems it has created. It is also the same market that has just now, far too late, begun to accept insufficient, market-based remediation such as carbon offsets and [carbon pricing](https://www.jacobinmag.com/2021/04/canada-carbon-emissions-tax-climate-change) within the [flawed](https://theconversation.com/climate-scientists-concept-of-net-zero-is-a-dangerous-trap-157368) and insufficient paradigm of net-zero. This is not a market that will cede its hegemony. The problems created by the free market — such as exploitation, extraction, externalization, monopoly, and colonialism — are not a closely-guarded secret. Adam Smith recognized many of them in the eighteenth century and Karl Marx anatomized them in the nineteenth. Attempts to restrain and reform the free market within the capitalist paradigm, and to undermine socialists and communists who seek to remake the system, have been around for centuries now. Over the course of the twentieth century, we have seen important life-improving and life-saving reforms, but the fundamental problems of inequality, exploitation, and environmental catastrophe have remained. These problems now exist on a global scale. Why will a market fix work now? Why should this time be any different? Despite the best wishes and intentions, genuine or cynical, of a few, it is simply not going to happen — not in any substantive way, at least. It won’t because it can’t. The logic of the free market — exploitative, extractive, externalizing, monopolistic, colonial — is not a bug, it’s a feature. A kinder, gentler capitalist market based on more constructive values would cease to be a capitalist market. Despite Bismarck’s efforts, socialists and trade unionists in Germany [continued to gain ground](https://www.jacobinmag.com/2019/12/otto-von-bismarck-germany-social-democratic-party-spd) after the chancellor introduced welfare programs. In this century, we must ensure that the reforms of the new Bismarcks have similar effects. Liberal reforms should mark the beginning of wider, structural changes that will upend capitalism and usher in economic democracy, shifting power from the few to the many. Only radical socialist political and economic reforms, buttressed by participatory democratic institutions, are sufficient to address inequalities of wealth and power, democratic decline, and climate change. These transformations will have to come about alongside — sometimes in partnership with, sometimes in tension with — electoral politics. We should not reject efforts at the ballot box as we struggle to introduce new institutions, practices, and norms. The work of respecting, realizing, extending, and upholding the values that the New Bismarcks claim to support but can neither achieve nor uphold demands a suite of strategies and sites of engagement. We must springboard from their reforms while protecting ourselves from being outflanked on the Left by these stewards of the liberal order.

### 2NC---AT: No Link

#### Platforms Link – legal debates over data and anti-trust are in cahoots with algorithmic capitalism that increases efficiency of markets thru granular surveillance

Stockman 21 [James Stockman – Doctoral Tutor and PhD Candidate at the University of Sussex, “Pathologies of Reason in Computational Capitalism: A Speculative Diagnosis of Our Computational Worldview,” in *Pathology Diagnosis and Social Research: New Applications and Explorations*, p.47-49]

In this chapter I argue that due to the rapid transformation of society effected by computational technology we are witnessing a change in how reason is both understood (from humanistic to calculative) and how it is used (algorithmically). The question is, how are we to theorise these changes and grasp the challenges presented by digital technologies? At the individual level we are all familiar with the changing forms of action we undertake in response to intimate digital devices (e.g. smartphones, laptops, and tables). However ,at a societal level, I am interested in attempting to track a shift in social rationality towards pathological forms. To this end, my aim is to use social pathology diagnosis as a heuristic through which to critique what I am calling a ‘computational worldview’. By computational worldview I refer to the widespread belief that the world can be best understood and acted upon through computational categories and processes. Theorised by Golumbia under the rubric of ‘computationalism’ (2009) and by Berry as ‘computationality’ (2011, 2014), I want to suggest that this worldview has become entangled with a ‘networked’ constellation of right-wing thought and action. Reframed here with the Frankfurt Schhol1 as a late modern articulation of socially deficient reason, I aim to embed this analysis within a critique of computational capitalism. While social pathology diagnosis is central to critical theory (Freyenhagen, 2015: 131), it has seldom been articulated in relation to computational capitalism.2 Indeed, we might say with Honneth that ‘[t]here is an atmosphere of the outdated and antiquated, of the irretrievably lost, which surrounds the grand historical and philosophical ideas of Critical Theory’ (2009: 19). However, in a world in which computational metaphors, methods, and categories increasingly inform how we live and think within society (Chun, 2011), I want to suggest the importance of social pathology diagnosis as a tool with which to both politicise comptutation and interrogate its claims to rationality. These objectives are of particular importance in the context of late modern societies. Firstly, a central component of post-Foridsm has been the ‘softwarisation’ of the economy (Manovich, 2013). Here, rapid advances in computational power have been harnessed to enable the extraction of value based on the capacity to construct, visualize, analyse, and intervene in networked systems. Rather than ushering in a new age of decentralised liberation, network analytics and data-intensive science have today converged with capitalism in the formation of unprecedented constellations of corporate power. Secondly, the connecting up of multiple technologies – e.g. mobile devices, sensors, APIs, cloud computing, apps, and social media3 – has enabled the discretisation of the world into real-time data streams. This confluence of forces has not only enabled the rise of highly granular surveillance and persuasion-based architectures, but also the emergence of algorithmic and highly exploitative regimes of gig economy-based practices (e.g. Amazon Mechanical Turk, Appen, Uber, Deliveroo) (Irani, 2015), each of which have been furnished with justificatory discourses which converge on the promise to root out and obviate any and all inefficiencies. However, if we take the ideology of ‘smartness’ in the context of the city, it is evident that this cybernetic vision of human-machine interaction threatens to optimize away democracy (Halpern, 2014). Lastly, ‘principles from software engineering [are increasingly] offered up for social engineering, with open source identified as an exemplar principle of organization, platforms as future models for governance, calculation substituted for thought, and social media networks replacing community’ (Berry, 2020). Taken together, these processes signal the computationalisation of society, whereby software ‘codifies the world into rules, routines, algorithms and databases, and then uses these to do work in the world to render aspects of everyday life programmable’ (Kitchin, 2011: 945). Thoerised by some as evidence of our entry into a post-digital era, it no longer makes sense to put the real (offline) against the virtual (online) (Berry, 2014: 47; Floridi, 2015). The lifeworld is a digital milieu. This novel situation raises serious questions regarding how best to approach the critique of computation. Thus far, in the political sphere this critique has tended to oscillate between legalistic debates on data and as of yet toothless calls for anti-trust legislation.4 While important, these approaches have often bypassed a critical engagement with the epistemic foundations of computational power and their social implications. It is here that I want to gesture towards the efficacy of social pathology diagnosis as an approach to thinking about these issues.

### 2NC---AT: Cap Sustainable

#### Decoupling fails.

Ehrenreich ‘21 [Ben Ehrenreich. Journalist, author of Desert Notebooks: A Roadmap for the End of Time. “We’re Hurtling Toward Global Suicide.” The New Republic. 3-18-21. <https://newrepublic.com/article/161575/climate-change-effects-hurtling-toward-global-suicide> //shree]

A strange sort of faith lies at the core of mainstream climate advocacy—a largely unexamined belief that the very system that got us into this mess is the one that will get us out of it. For a community putatively committed to scientific empiricism, this is an extraordinary conviction. Despite reams of increasingly apocalyptic research, and despite 25 years of largely fruitless international climate negotiations, carbon emissions have continued to rise, and temperatures along with them. We are at nearly 1.2 degrees Celsius of warming already—more than 2 degrees Fahrenheit over preindustrial averages—and three-tenths of a degree away from blowing the Paris accord’s aspiration to limit warming to a still-calamitous 1.5 degrees Celsius. Scientists now expect us to hit that threshold in about 10 years, and large swaths of the Arctic have been in actual flames for two summers running, but most governments with the option to do so are still feeding the beast that got us here. Even with the grim opportunity presented by the Covid-19 pandemic, which slowed the economy so much that growth in fossil fuel production dropped an almost unprecedented 7 percent last year, governments—ours very much included—have so far dumped much more stimulus spending into high-carbon industries than into renewable energy. It’s as if our economic system, and the politics it breeds, will not allow us to diverge from the straight path to self-obliteration. The faith nonetheless persists: The market will provide. It has not done so yet, but renewables are perhaps finally cheap enough—cheaper at last than conventional energy sources—that the transition is now inevitable. So the credo goes. The change that is coming will be largely technological: a bold new era of “green growth.” Modern societies erected on dirty coal and oil can be jacked up and shifted to cleaner forms of energy like an old house in need of a new foundation. Government may have a larger role in this transition than neoliberal dogma has recently allowed, but its primary task will still be to encourage innovation and feed the markets by shepherding the resulting growth. It is no coincidence that some version of this faith, so all-pervasive now that it does not register as a piety, has been reshaping the planet for almost precisely as long as fossil energy—first coal, then oil—has been altering the atmosphere. Capitalism is guided by a carbon creed, an ecstatic vision of a market that chugs along eternally, needing only new inputs—the earth itself, commodified as minerals, or water, housing, health care, or almost any living thing—to spew out wealth that can be shoveled back into the machine, converting more and more of the biosphere into zeros in a digital account: more fleshless, magical money that can be invested once again. If appetites are bottomless, and apparently they are, shouldn’t growth be endless too? The market’s grip on the political imagination so effectively blinds us to alternatives that we are unable fully to grasp that this is the basic script that the new administration is following. Even the Green New Deal does not substantively diverge from it. The climate crisis, an existential threat to planetary life, must be sold to Wall Street and the public at large as a growth opportunity. On January 31, John Kerry, acting as Biden’s new climate envoy, enthused to CNN’s Fareed Zakaria about “literally millions of jobs” that would soon be created, about all the “new products coming online,” and about oil companies’ newfound passion for “carbon capture and storage and so forth.” The private sector, he said, “has already made the decision that there is money to be made here, that’s capitalism, and they are investing in that future.” If that makes you nervous, it shouldn’t, Kerry insisted. The changes ahead would be like the analog-to-digital shift of the 1990s, only better: “the important point, Fareed, for people to really focus on is it’s a very exciting economic transition.” If Kerry struck a cheerier tone than that of the doomsaying consensus in the scientific community, it wasn’t just a question of polishing a turd. “Green growth” is mainstream climate discourse. A “green transition” that does not significantly alter existing economic structures—or their vast inequities—is still, for most climate advocates, the only imaginable way forward. Kerry was speaking a made-for-TV version of the sole language available to him—one that in its most basic assumptions excludes the possibility of fundamental social transformation, and of any heresy that casts doubt on the Great God Growth. The one thing all those thousands of scientists agree on is our only hope—that the economic structures that mediate our relation to the planet must be profoundly altered—is the one thing that Kerry and Biden are quite careful not to consider at all. In climate policy jargon, the crucial concept is “decoupling.” The notion lies deep in the hidden heart of the “sustainable development goals” held dear by international bodies such as the United Nations and the World Bank: Economic growth can be safely divorced from the ecological damage that it has heretofore almost universally wreaked. If the train of capital appears to be hurtling us toward the abyss, we can cut the engine loose and cruise someplace more comfortable: same train, same speed, different destination. Like millions of clean-tech jobs and a crisis-induced transition magically unlocking unimaginable wealth, it is an attractive and reassuring idea. The only problem is that there is next to no evidence that anything analogous has ever occurred, or that it is likely to occur in the future. Examples of successful decoupling tend to involve shifts in the location rather than the nature of industrial production: Rich countries green their economies by offshoring the manufacture of the goods they consume to China and countries in the global south, which they can then chastise for their lax emissions standards. But Earth’s atmosphere is not divided by national boundaries. Greenhouse gases cause the same degree of global warming no matter where they are produced, and to the extent that this kind of decoupling is a meaningful measure of anything, it is only of the colonial relations that still set the terms for the shell game of global capital. What policy wonks call “absolute decoupling”—the only kind that would do the climate any good—turns out to be a fantasy akin to a perpetual motion machine, a chimera of growth unhindered by material constraints. One recent analysis of 835 peer-reviewed articles on the subject found that the kind of massive and speedy reductions in emissions that would be necessary to halt global warming “cannot be achieved through observed decoupling rates.” The mechanism on which mainstream climate policy is betting the future of the species, and on which the possibility of green growth rests, appears to be a fiction. This fiction is nonetheless fundamental to the very math used by international climate institutions. In 2018, the Intergovernmental Panel on Climate Change’s benchmark Special Report on Global Warming of 1.5oC—which announced in no uncertain terms that global emissions must be decreased by nearly half by 2030 and reach net zero by 2050 to avoid cataclysm at an almost unthinkable scale—set out a number of possible scenarios for policymakers to consider. It relied on algorithmic models linking greenhouse gas emissions and their climate impacts to various socioeconomic “pathways.” Whatever other variables they accounted for, though, all of the scenarios envisioned by the IPCC assumed the continuation of economic growth comparable to the past half-century’s. Even as they acknowledged levels of atmospheric carbon unseen in the last three million years, they were unable to conceive of an economy that does not perpetually expand. Fredric Jameson’s oft-cited dictum that it is easier to imagine the end of the world than the end of capitalism was baked into the actual modeling. At the same time, all but one of the ­IPCC’s scenarios that envision us successfully limiting warming to 1.5 degrees Celsius rely on the use of technology to remove carbon from the atmosphere after the fact. (The one exception involves converting an area more than half the size of the United States to forest. None of the scenarios imagines that we can reach the 1.5 degrees Celsius target by cutting emissions alone.) But the technology in question is at this point largely speculative. “No proposed technology is close to deployment at scale,” the report’s authors concede, and “there is substantial uncertainty” about possible “adverse effects” on the environment. The international body, in other words, is more willing to gamble on potentially destructive technologies that do not currently exist than to even run the math on a more substantive economic transformation. A version of this same wager animates the Biden climate plan, which, as Canada, the European Union, the U.K., and South Korea all have, commits to “net-zero emissions no later than 2050.” (China plans to reach the same goal by 2060.) This sounds like great news, and is without doubt worlds better than the status quo ante of no ambitions at all. But “net zero” is a slippery notion. It does not mean zero at all. To avoid exceeding 1.5 degrees Celsius of warming, emissions need to fall 7.6 percent every year for the next 10 years. Even with the pandemic-induced slowdown, global emissions shrank only 6.4 percent in 2020. Since, as Biden reassured a nervous oil industry during the campaign, “We’re not getting rid of fossil fuels for a long time,” net-zero calculations assume some degree of “overshoot”—i.e., they stipulate that we’re not going to be able to cut emissions fast enough, and that we’ll therefore have to rely on those same untested carbon removal technologies to eventually bring us to zero. But a planet is not a balance sheet. The climate has tipping points—the collapse of the Antarctic and Greenland ice sheets and the Himalayan glaciers, the deterioration of Atlantic Ocean currents, the melting of the permafrost, the transition of the Amazon from rain forest to savannah. We are perilously close to hitting some of them already: In February, 31 people were killed and 165 went missing when a chunk of a Himalayan glacier broke off, releasing an explosive burst of meltwater and debris. In the most nightmarish scenario, which could be tripped with less than 2 degrees Celsius (3.6 degrees Fahrenheit) of warming, those tipping points could begin to trigger one another and cascade, locking us in, as one widely cited study put it, to “conditions that would be inhospitable to current human societies and to many other contemporary species.” Without major emissions cuts, we may reach 2 degrees Celsius of warming before 2050. That’s a heavy risk to bet against, but there it is, pulsing away inside the net-zero promises that not only politicians but corporate boards have been proudly rolling out. Over the last two years, more and more corporations in fossil fuel–intensive industries—BP, Shell, Maersk, GM, Ford, Volkswagen, at least a dozen major airlines—have made similar pledges. Shell’s plan alone would require tree planting over an area nearly the size of Brazil. By the estimate of the NGO ActionAid, “there is simply not enough available land on the planet to accommodate all of the combined corporate and government ‘net zero’ plans” for offsets and carbon-sinking tree plantations. To save this planet, it appears we’ll need another one. This is what currently counts as pragmatism.

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.

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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.

# 2NC---Platform Advantage

### 2NC---Alternative Solves

#### Antitrust against the Tech sector’s “anti-competitive” business practices builds legitimacy for capitalism “for the people” – it’s circumvented thru offshoring, unsustainable, ensures extinction thru eco crisis. Only the Alt solves.

Kwet 20 [Michael Kwet is a Visiting Fellow of the Information Society Project at Yale Law School. “A Digital Tech New Deal to break up Big Tech.” Al Jazeera. 10-26-20. https://www.aljazeera.com/opinions/2020/10/26/a-digital-tech-new-deal-to-break-up-big-tech]

In July, the CEOs of Google, Apple, Facebook and Amazon appeared before Congress in an “historic” antitrust hearing. The event was met with great fanfare from the press. In early October, the United States House Judiciary Committee published a 450-page report criticising the anti-competitive business practices of the four giants and recommending new measures to “restore competition” to the market. Mainstream “tech critics” across the political spectrum of the so-called “techlash” are celebrating this antitrust agenda led by the US Congress and the intellectuals informing the hearings. They see nothing wrong with the American legal system reshaping corporations that dominate markets outside US borders. After all, they accept the notion that the US “owns” the world and see capitalism as the only system imaginable. For them, the reformist goal to “restore” a “capitalism for the people” is seen as the proper way to fix Big Tech. The Americans are joined by European power elites, who are seeking to curb the dominance of Big Tech as part of an effort to increase market share for European companies. Yet the solution to American Big Tech corporations dominating markets across the world cannot come from the American or European pro-capital legal systems. Rather, it has to be a collective effort by the international community, focused on bottom-first redistribution for the Global South, as part of a global transformation towards a sustainable green economy. The new progressives and neo-Brandeisian antitrust To understand Big Tech antitrust in the US, we need to understand its origins. The movement was spearheaded by a group of US legal scholars, sometimes called the neo-Brandeisians, named after Supreme Court Justice Louis Brandeis (1856-1941). As a young lawyer and legal scholar, Brandeis focused on social justice issues and financial power. As corporations restricted competition through “trusts”, he became concerned with how monopoly power could undermine democracy and harm society. His work inspired “antitrust” legislation banning unfair business practices in the US. Decades later, in the 1970s, a conservative group of legal scholars sought to restrict the scope of antitrust in the US. These neoliberals of the Chicago School, led by legal scholar Robert Bork, argued that antitrust should be narrowly concerned with economic efficiency, largely measured by lower prices for consumers. Inspired by the likes of Bork, US courts began ruling that “consumer welfare”, rather than broad concerns about democracy and power, should be the focus of antitrust. Over the past few years, neo-Brandeisian scholars dug into legal history and argued, correctly, that the neoliberal antitrust framework does not work for Big Tech. Its business model cannot always be measured by the price that consumers pay for a firm’s product (eg Facebook, Twitter, and YouTube are “free”), and broader concerns around democracy and equality should inform antitrust. In order to fix Big Tech, they insist, we need to think broadly about antitrust and antimonopoly, much like Louis Brandeis did a century ago. While this all sounds great, a closer look at what neo-Brandesians offer reveals two significant problems with it: one, they want the US to legislate for a problem that concerns the whole world; two, they still insist on a capitalist solution which is incompatible with notions of global social justice and environmental protection. Big Tech is global Neo-Brandeisian scholars intend to restructure Big Tech within a framework of US law, spearheaded by US thinkers. However, the firms they want to regulate have a global reach that harms people outside of the US as well. In fact, the central business model of Big Tech is digital colonialism. Google, Amazon, Facebook, Apple, Microsoft (GAFAM) are worth more than $5 trillion in total and much of it is profit coming from abroad. For example, less than half of Facebook’s revenues come from the US and Canada, while nine of its top 10 user bases are from Global South countries, totalling 957 million users. The US, by comparison, has 190 million users. Most revenue for Apple and Google comes from outside the US as well, and almost half of Microsoft’s revenue comes from abroad. A large majority of Amazon’s total revenue comes from its US operations, but it is expanding globally, and its Amazon Web Services dominate the global cloud market. If we zoom in on individual countries, the scale of the problem becomes even clearer. A small country may provide a tiny fraction of GAFAM’s revenue, but the giants still capture a large share of various markets in that country. For example, in South Africa, Google controls 70 percent of local online advertising, and social media – led by Facebook – another 12 percent. South Africa’s largest media groups take just 8 percent of the pie. Some 84 percent of smartphones in South Africa use Google Android operating systems, while 15 percent – Apple; 72 percent of desktop computers have Microsoft Windows, while 17 percent – Apple. Other products and services, such as e-hailing, streaming entertainment, search, cloud and office suites are also dominated by American firms. This dynamic repeats throughout the world. US tech reformers have little to say about the global nature of US tech transnationals, or about why laws regulated by the US government should reshape the core structure of global behemoths. Most of them also no longer discuss how the partnership between the National Security Agency and Big Tech promotes American military imperial interests outside of the US. The best neo-Brandeisian scholars can argue is that their proposals would weaken the stranglehold of the Silicon Valley beyond US borders. But this is not enough to resolve the problem and does nothing to address the looming environmental catastrophe we are facing. ‘Kinder capitalism’ does not work US tech reformers assume that market competition – supplemented by new privacy laws, public utility regulation, and some publicly subsidised, non-profit alternatives – is the solution to the power of monopoly. However, they do not address the problem of how private property in a capitalist marketplace creates inequality in the first place. Would “competitive markets” really benefit the Global South? Competition means beating other people out, and poorer people and nations are naturally disadvantaged in such a competition. After “restoring competition” to the tech economy, those who will dominate as “new market entrants” on the “open” internet will still be companies from richer countries: the US, European powers, China, etc, not low-income countries like Zimbabwe, Bolivia or Cambodia. And within low-income countries, the well-resourced classes will capture any new market opportunities that an antitrust push in the US may open. Indeed, reformers assume we can restore “competitive capitalism” while we are staring at the abyss of permanent environmental destruction. Proponents of capitalism maintain that we can grow our way to poverty alleviation and innovate to stop climate change and environmental degradation. But estimates show that under the growth model of the past few decades, the global economy would require a 175-fold increase in global consumption and production just to bring billions of poor people up to a meagre $5 per day. And in the process, we would most definitely destroy the environment. Degrowth researchers have demonstrated that capitalism is fatally flawed. A capitalist economy focuses on profit and growth, which increases greenhouse gas emissions overheating the planet and leads to over-extraction of material resources, which results in ecological collapses. The richest nations are dependent on material extraction from the poorest. High-income countries have the worst material footprint, with a consumption level of about 26 tonnes per person per year, when the sustainable level is about eight tonnes per person globally. Low-income countries consume about two tonnes per person per year. The Big Tech industry contributes to environmental destruction in several ways. E-waste now accounts for five percent of all global waste, and it is growing, in large part because gadgets are built with short lifespans. Instead of designing products that can last a long time, Big Tech has lobbied to kill “right to repair” laws, which would allow consumers to get their devices repaired or buy spare parts from third parties. What is more, Big Tech directly contributes to inequality by extracting wealth from the poor and concentrating in the hands of a few US-based executives, shareholders and highly paid professionals. At the same time, it exploits workers and often denies them safe and dignified working conditions. Digital capitalists also encourage consumerism through ads and monetise surveillance, which is destroying privacy, with grave consequences for civil rights and liberties. Private ownership of the means of computation – software code, infrastructure and the internet – is required to extract money for content, force ads on audiences and spy on users. If the people own and control the digital environment, they would opt to share knowledge freely, reject ads and protect their privacy. Solutions: Tech for Extinction Rebellion It goes without saying that any solution for the digital economy must be part and parcel of a sustainable green economy. This, in turn, requires rapid wealth and income redistribution and degrowth. It is a monumental task. Fortunately, there are some reasonable ways forward. First, we can phase out copyright paywalls and patents. Such a move would enjoy the support of activists in the Global South and Global North, and would make the world’s scientific and cultural knowledge available to all people, irrespective of their ability to pay. Of course, equitable information sharing and generation also requires resources to bridge the digital divide and make use of scientific knowledge. Second, software can be placed under strong free and open-source licences, online services can be decentralised, interoperable and owned by communities, while internet infrastructure can be fully socialised as communal property. The global Free Software Movement and activist scholars have already built a preliminary foundation and framework for moving in this direction. Third, an eco-socialist Digital Tech New Deal has to be implemented to reorient the tech economy away from profit and towards satisfying the needs of the people. This requires socialising financial, intellectual and physical property. As first steps, we could impose heavy taxes on the rich to fund a global digital commons, produce plans to phase out private ownership of information and the means of computation, support workers and mandate economic redistribution to the global poor, and build a privacy-by-design tech ecosystem. All of this must be done within the confines of a sustainable economy. These solutions need to be part of the global movement for wealth redistribution, reparations, and democratisation. In South Africa, we are building a People’s Tech for People’s Power movement to drive this agenda forward, through popular education and the formation of solidarity networks to launch actions against Big Tech and digital capitalism. There already is a good historical precedent for global action against Big Tech. During South Africa’s apartheid era, people around the world initiated boycotts, divestment and sanctions (BDS) against corporations like IBM and Hewlett-Packard, which aided and abetted the apartheid state and businesses. US corporations, in response, pushed a reformist agenda called the Sullivan Principles said to improve racial equality for workers. But anti-apartheid activists rejected the move as corporate propaganda designed to manufacture consent while US corporations continued to profit from apartheid misery. Today, the US resembles the South African apartheid state, but on a global scale. Its high-tech military projects power across the world, its diplomats impose strong intellectual property protections at the World Trade Organization, its imperialist anti-immigrant policies control the movement of people and capital, and its tech corporations dominate nearly every industry vertical outside of mainland China, all while creating a global police state. We do not need 21st century Sullivan Principles to save digital capitalism. We need digital socialism, reparations and democratisation of tech for a global green economy. This is a matter of survival for the whole human race. If the Americans cannot get on board with this, the rest of the world may have to unite behind targeted BDS actions centred on Silicon Valley and its supporters in the US.

#### Platform cooperatives movement in the Commons solves the abuses of tech platforms.

Silke Helfrich & David Bollier 19. Helfrich studied romance languages and pedagogy at the Karl-Marx-University in Leipzig, served as head of Heinrich Böll Foundation Thuringia and head of the regional office of Heinrich Böll Foundation for Central America, Cuba and Mexico. Bollier worked in policy advocacy with a Member of Congress, the auto safety regulatory agency, and public-interest organizations, and co-founded Public Knowledge, a Washington advocacy organization for the public’s stake in the Internet, telecom, and copyright policy.“ Free, Fair, and Alive : The Insurgent Power of the Commons” July 2019.

Platform Cooperatives Digital networks have immense capacity to enable sharing and cooperation. Unfortunately, tech companies have captured much of these social energies for their own purposes, namely, to carry out the usual work of capitalism on powerful platforms. They call the result the “sharing economy” and “gig economy,” but in fact it is simply a new species of markets designed for microrentals, piecemeal labor, data mining, and consumerism. Platforms like TaskRabbit and Mechanical Turk have re-introduced piecework on a massive scale by offering pennies for a variety of microtasks that computers can’t perform, such as image tagging, transcription, and data cleaning. Other platforms entice us into converting our cars, apartments, and private time into rentable assets to compensate for our plunging incomes. As sophisticated computer algorithms constantly ratchet down wages for “independent contractors,” it is eroding the very possibility of stable jobs with benefits. To counter these trends, the platform cooperatives movement arose in 2015 as a field of experimentation. Its goal is to try to develop more socially constructive websites and mobile apps. If people can own and manage their own platforms as cooperatives, argues Trebor Scholz, one of the catalysts of the movement, they will be able to reap greater long-term benefits and control in the face of well-capitalized tech giants like Uber and Airbnb. “What if we owned our own version of Facebook, Spotify, or Netflix?” writes Scholz. “What if the photographers at Shutterstock.com could own the platform where their photos are being sold?”30 A number of efforts are underway to do just that. The idea is to help producers and users co-own member-driven websites for distributing stock photography, streaming music, and other artworks. Another type of platform cooperative is apps codeveloped by city governments and local users. Seoul, South Korea, for example, has been developing a Munibnb platform to enable apartment rentals on better terms than Airbnb, with revenues earmarked for public services. The app is also intended to prevent the conversion of stable rental properties into “ghost neighborhoods” used mostly by tourists, a problem afflicting many major world cities like Amsterdam, London, and Barcelona. While still an emerging strategy, platform coops hold great promise for preventing monopoly, exploitation, and data surveillance in digital spaces. They can also help democratize ownership and control over platforms, and assure greater self-determination for working conditions.

### 2NC---AT: Innovation

#### Profit stifles innovation Propriety rights, no incentive for R&D.

Vanessa A .Bee 18 Senior Litigation Counsel at the Consumer Financial Protection Bureau with a JD from Harvard Law. Innovation Under Socialism. 10-24-2018. <https://www.currentaffairs.org/2018/10/innovation-under-socialism>

But prioritizing profit is a double-edged sword that can hamper innovation. Owning the proprietary rights allows private firms to block workers—through anti-competitive tools like non-compete agreements, patents, and licenses—who put labor into the innovation process from applying the extensive technical expertise and intimate understanding of the product to improve the innovation substantially. This becomes especially relevant once the workers leave the firm division in which they worked, or leave the firm altogether. Understandably, this lack of control and ownership will cause some workers, however passionate they may be about a project, to be less willing to maximize their contribution to the innovation.

Of course, the so-called nimbleness that allows firms to make drastic changes like mass layoffs is extremely harmful to the workers. This is no fluke. The capitalist economy thrives on a reserve army of labor. Inching closer to full employment makes workers scarcer, which empowers the labor force as a whole to bargain for higher wages and better work conditions. These threaten the firm’s bottom line. So, the capitalist economy is structured to maintain the balance of power towards the owners of capital. Positions that pay well (and less than well) come with the precariousness of at-will employment and disappearing union power. A constant pool of unemployed labor is maintained through layoffs and other tactics like higher interest rates, which the government will compel to help slow growth and thereby hiring. This system harms the potential for innovation, too.

The fear of losing work can dissuade workers from taking risks, experimenting, or speaking up as they identify items that could improve a taken approach—all actions that foster innovation. Meanwhile, thousands of individuals who could be contributing to the innovative process are instead involuntarily un-employed. This model also encourages monopolization, as concentrating market power gives private firms the most control over how much profit they can extract. But squashing competition that could contribute fresh ideas hurts every phase of the innovation process, while giving workers in fewer workplaces space to innovate.

Deferring to profit causes many areas of R&D to go unexplored. Private firms have less reason to invest in innovations likely to be made universally available for free if managers or investors do not see much upside for the firm’s bottom line. In theory, the slack in private research can be picked up by the public sector. In reality, however, decades of austerity measures  threaten the public’s ability to underwrite risky and inefficient research. Both the Democratic and Republican parties increasingly adhere to a neoliberal ideology that vilifies “big government,” promotes running government like a business, pretends that government budgets should mirror household budgets or the private firm’s balance sheet, and rams privatization under the guises of so-called public-private partnerships and private subcontractors.

In the United States, public investment in R&D has been trending downward. As documented in a 2014 report from the Information Technology & Innovation Foundation, “[f]rom 2010 to 2013, federal R&D spending fell from $158.8 to $133.2 billion … Between 2003 and 2008, state funding for university research, as a share of GDP, dropped on average by 2 percent. States such as Arizona and Utah saw decreases of 49 percent and 24 percent respectively.” Even if public investment in the least profitable aspect of research suddenly surged, in our current model, the private sector continues to be the primary driver of development, production, and distribution. Where there remains little potential for profit, private firms will be reluctant to advance to the next phases of the innovation process. Public-private projects raise similar concerns. Coordinated efforts can increase private investment by spreading some costs and risk to the public. But to attract private partners in the first place, the public sector has a greater incentive to prioritize R&D projects with more financial upsides.

This is how the quest for profits and tight grip over proprietary rights, both important features of the capitalist model, discourage risk. Innovations are bound for plateauing after a few years, as firms increasingly favor minor aesthetic tweaks and updates over bold ideas while preventing other avenues of innovation from blossoming. At the same time, massive amounts of capital continue to float into the hands of a few. The price of innovating under capitalism is then both decreased innovation and decreased equality. The idea that this approach to innovation must be our best and only option is a delusion.

### 2NC---AT: Sanctions

#### Sanctions don’t prevent conflict

Keyvan Shafiei 20, Iranian American Ph.D. Candidate in the Philosophy Department at Georgetown University 2/5/2020, “Sanctions Are Not an Alternative to War”, https://prospect.org/world/iran-us-sanctions-not-an-alternative-to-war/

In this sense, the claim that economic sanctions are a peaceful alternative to military warfare is simply untrue. For one, the comparison is somewhat of a “category error”—military action and economic sanctions are categorically different kinds of interventions, and thus the comparison is ill-conceived to begin with. But even if we grant a claim like Mnuchin’s—namely, that sanctions are intended as the peaceful alternative to military confrontation—the suffering that both forms of action produce are similarly extensive. This observation was borne out in Iraq. In the 1990s, American experiments (carried out by the United Nations) with economic sanctions against Iraq resulted in a death toll of around 576,000 Iraqi children. This is a ghastly and staggering number, comparable in proportions only to the destruction and death that takes place during military incursions.

On the other hand, if the point of sanctions is merely to enforce international discipline and rule-following, then such economic pressure rarely “works.” According to a recent comprehensive survey, sanctions achieve their intended disciplinary results a mere 34 percent of the time—hundreds of thousands of lives can be destroyed for odds worse than a coin toss. In the case of Iran, for instance, every round of sanctions in the last two years has only bolstered the Iranian regime’s determination to stand up to the West. And similar effects can be observed in Venezuela, Russia, Turkey, and North Korea. What is unmistakable, then, is that targeted sanctions often grossly miss their targets, resulting instead in humanitarian crises that hurt innocent civilians.

In short, when politicians say sanctions are the most reliable means to achieving international peace, we shouldn’t believe them.

# 1NR

## 1NR---Conduct Advantage

### AT: Military AI

#### Other tech shortfalls ensures that there’s no military readiness

Serbu 17 ― Jared Serbu, journalist at Federal News Radio, 2017. (“Military readiness problems can’t be fixed overnight, Defense chiefs warn”, Federal News Radio, February 8th, 2017, Available Online at: <https://federalnewsradio.com/defense/2017/02/military-readiness-problems-cant-fixed-overnight-defense-chiefs-warn/> Accessed 9-17-17)

But they emphasized that the problems they currently face are the result of several consecutive years of budget chaos, including a sudden sequestration in 2013, persistent underfunding of key functions like base maintenance and pilot training and shoddy treatment of the mostly civilian workforce that’s tasked with keeping ships, tanks and airplanes in good repair. In short, the military’s readiness problems are serious, were developed over the course of many years and can’t be fixed overnight, they said.

### AT: Cyber Impact---2NC

#### No spillover---it’ll be confined to the cyber realm, lack of attribution, time cools off pressure, and kinetic deterrence---empirics prove

* no retaliation – Estonia, Russia, Georgia, Israel, Syria, stuxnet – people retaliate, but not kinetically
* cyber-war is more like a raid than a war – this 1) means response will at most be the same forum and 2) it usually doesn’t cause counter-raides – drone strieks, 2007 israel cyberhack syria, china invade Vietnam in 1979, israel w/ Palestine, india w/ Pakistan
* lack of attribution – only reason stuxnet was even partially retaliated to was bc we publicized it – nobody knows who’s attacking, so they don’t respond – no need to be diversionary
* time – takes a ton of time to attribute/solve the hack, that gives leaders time to cool off
* nobody retaliates kinetically because they’ll get wrecked – but retaliating in cyber establishes deterrence bc it’s difficult to assess another country’s capabilities so we can’t be sure if we’d crush them

**Libicki ’14** (Martin; 9/1/2014; PhD in economics from the University of California Berkeley and Master’s in city and regional planning from the University of California Berkeley; “Is Cyberwar Good for Peace? [par Martin Libicki],” <https://www.observatoire-fic.com/is-cyberwar-good-for-peace/>; Date Accessed: 8/16/2017; DS)

The assumption that cyberwar is a cool war also rests on the presumption that what starts in cyberspace will stay in cyberspace; there will be no escalation into kinetic conflict. Clearly the chance of escalation that crosses domains is greater than zero, but for cyber war to lose its cool status requires that the risks of escalation into kinetic conflict for a cyberattack be substantially less than similar risks associated with a comparable kinetic attack. The thin history we have of cyberattacks does not suggest that a cyberattack will necessarily be followed by much of anything at all. The Russian[11] 2007 attacks on Estonia which crippled public and major private web sites was followed by Estonia’s complaints and NATO’s unwillingness to deem this an Article V attack (triggering collective self-defense measures) but it led to nothing violent or even close.[12] If Georgia had reacted kinetically to the cyberattacks on it in 2008, it would have been difficult to distinguish such actions from the war Georgia was forced to fight following its invasion by Russian forces. The 2007 Israeli air strike on a purported nuclear facility in Syria may have been facilitated by an opening cyberattack on Syrian air defenses but Syria did not respond at all to the cyberattack or the raid itself. Iran did not react kinetically to Stuxnet, even if it created cyberwar cadres that may have been implicated in carrying out denial-of-service attacks on banks[13] in the United States (from whence, supposedly, Stuxnet), but also attacks which trashed computers in Saudi Arabia (specifically, Aramco[14]) and Qatar (specifically, RasGas[15]), neither of which could be plausibly accused of complicity in creating Stuxnet. Similarly, the United States carried out no kinetic attack in response to the aforementioned denial-of-service attacks on banks that its intelligence community ascribed to Iran. To be fair, cyberattacks unaccompanied by the outbreak of war are easier to liken to a raid than a war. In a raid, forces cross borders, wreak their mischief, and go home. In a war, they intend to stay permanently or turn what they have taken (be it territory or the entire country) over to those they deem their allies. It is very difficult of conceive of a cyberattack that can change the head of state and even harder to conceive of one that can conquer all or even part of another country. In worst-case scenarios, a cyberattack can disrupt life and maybe even break some machines. But they do not persist unless the cost of eradicating them – for instance, by doing a system reboot, or replacing infected machines with uninfected machines – exceeds the cost of tolerating their presence. It is worth remembering that there is no forced entry in cyberspace. Almost all wars tend to be two-side engagements because the attacked side has no option but to fight or surrender. In a raid, there is a third option to offer, at most, some resistance but not pursue the attacker for fear of worse. Thus, not all raids lead to counter-raids. The aforementioned 2007 Israeli raid on Syria did not. The many U.S. drone strikes have not, so far. China invaded Vietnam in 1979, wreaked damage, caused casualties, and departed having, in its mind, taught Vietnam a lesson. Vietnam did not return the favor by invading China. Neither did India in 1962 under similar circumstances. Granted, some nations do respond. Arabs and Israelis traded raids in the decade or so after Israel declared independence (1948); Palestinians and Israelis traded attacks over the last three decades, as well. Both Koreas sent raiding parties across the 38th parallel in the years prior to North Korea’s 1950 invasion. The history of raids escalating into open conflict (as distinguished from raids preceding open conflict as was the Korean case) is also thin. Two other difficulties associated with attribution and the difficulties of disarming the attacker are likely to reduce the pressure to retaliate, much less, escalate in response to a cyberattack. Difficulties of attribution are likely to have two related effects. The first is that the target may not be so certain about who did it – or at least not be certain of its ability to convince third parties such as other countries who did it – to validate a response. The second is that if it takes too much time to analyze the attack to the point where it can determine (and make the case about) who did it with the requisite confidence, the political pressure for vengeance may have cooled and the politico-military situation that warranted retaliation may have changed (e.g., yesterday’s foe might be today’s partner). The impetus to respond can also be reduced if the public has little idea about the identity of the attacker and even the fact of the attack (e.g., the failure to function is not obvious to the outside). Until the New York Times reported on Stuxnet, the public did not know that Iran had been attacked (it is not clear whether anyone in Iran actually understood that they were being attacked before it was reported). If no one knows that two parties are trading blows in the dark, there is much less requirement to appear strong as a way of establishing third-party deterrence. The difficulty of disarming the other side’s cyberwar capabilities removes another reason for responding to a cyberattack. A kinetic response to a kinetic attack can be justified, not only as a way to reinforce deterrence, but also as a way to reduce the attacker’s ability to carry out further attacks; it does so by killing opposing forces and destroying military equipment, ancillary supplies and infrastructure, especially staging areas. A cyber response can only be justified in terms of deterrence because it is very difficult for a cyberattack to permanently or even temporarily damage the other side’s ability to carry out cyberattacks, which require little more than hackers, information, computing equipment, software, and network connections.[16] Granted, the target country may conclude that it may win some relief from cyberattack by carrying out a kinetic attack on the attacker’s cyberwar corps. Such actions cannot be ruled out[17] — but suffice it to say that at least the tools of a cyberattack cannot be identified from afar in the same way that the tools of a kinetic attack can be. Alternatively, the target can convince itself that the only way to rid itself of the cyberattack menace is to change the regime that governs the attacking country. If the sole aim of such logic is to minimize the likelihood of future damage to the target country, it can be convincing only by substantially underestimating the cost and risk of war or substantially overestimating the inconvenience associated with adopting other measures to improve cyber-security. Finally, and in lieu of regime change, the escalation path from a cyberattack into a kinetic response also crosses a threshold that does not come up when the original provocation and the response were both kinetic. It is unclear whether this threshold is more like a speed bump or a yawning abyss, but it is clearly present. It should therefore seem obvious that a cyberattack is less likely to result in a kinetic response than an equivalent kinetic attack would have. However, this raises the question of what constitutes equivalence. Assessing kinetic damage when it is damage to you is a straightforward exercise. Assessing the damage from a cyberattack that leads to the widespread corruption of information systems requires knowing what systems have, in fact, been corrupted (something that, ironically, the attacker may have a better handle on). A target country that has been spooked by a cyberattack into imagining that the real damage is a multiple of the visible damage may well overreact (at least initially until it realizes over time which of its systems is or is not behaving as if they had been corrupted). In sum, although the risks of violent escalation following a cyberattack are nonzero, the **odds are against it**, in isolation and particularly in comparison to a kinetic attack of similar magnitude.

#### Cyber-attacks won’t escalate---collateral damage, international blowback, reciprocal use, and empirics---robust quantitative data proves

Gudgel 16 [Ph.D. Candidate in Public Policy with a Focus on U.S. Cybersecurity Policy at George Mason Universty [John E. Gudgel, “Cyber War versus Cyber Realities: Cyber Conflict in the International System” *Small Wars & Insurgencies*, Taylor and Francis Group, Date Accessed: 4-16-17]

Valeriano and Maness view cyber conflict through the lens of international relations and primarily focus on cyber interactions among states and directed towards states in the realm of foreign policy. They argue: ‘while cyberspace is a separate domain, it is not unconnected from the normal political domain that is the genesis of conflicts’ (p. 15). Following an introductory chapter outlining the contours of the cyber conflict world, eight subsequent chapters build and defend their theoretical framework for the analysis and prediction of cyber conflict in the international system. One of their major conclusions is that ‘cyber conflict has not changed how states operate, it has not led to a revolution in military affairs, and the fears associated with the tactic are overblown’ (p. 209).

A key component of the authors’ framework described in Chapter 3 is their Theory of Cyber Restraint that holds that due to fears of collateral damage, blowback, and replication states will restrain themselves from unleashing the full weight of their cyber capabilities. In delineating this theory, Valeriano and Maness stake out a clear middle path between authors such as Richard Clarke and Robert Knake who believe that cyber war has already begun,2 and Thomas Rid who contends that cyber war will never take place.3 They frame their approach as cyber moderation: the concept that cyber conflict will occur, but that the conflicts themselves will be trivial and will not significantly change state behavior (p. 39). From their theory and approach, they then propose nine hypotheses on interstate cyber interactions.

One of the primary contributions of the authors’ research is the construction of an open source and peer-vetted database of cyber incidents and disputes between countries called the Dyadic Cyber Incident and Dispute Dataset (DCID). The 1.0 version of the dataset currently contains 111 cyber incidents (defined as short-term isolated cyber operations) and 45 cyber disputes (defined as longer-term operations that can contain several incidents) between state-to-state rivals over an 11-year period (2001 to 2011) including 21 cyber incidents and 5 cyber disputes between China and the United States. In creating this dataset, the authors recognized the attribution problem and only included incidents and disputes where state-based involvement was explicit and evident (p. 84).

Using this dataset, Valeriano and Maness in Chapters 4 and 5 quantitatively analyze interstate cyber actions including the ‘scope, length, and damage inflicted by cyber disputes among rival states’ (p. 78) from 2001 to 2011. Some of the research questions they address include: What factors might predict the occurrence, targets, and level of severity in cyber conflict between states? What are the foreign policy implications of cyber conflict? Do cyber incidents influence and lead to more conflictual relations?

What they found was ‘that the actual magnitude and pace of cyber disputes among rivals do not match popular perception; only 20 of 126 active rivals have engaged in cyber conflict, and their interactions have been limited in terms of magnitude and frequency’ (p. 18). Further, they found that most cyber incidents are regional (e.g. India–Pakistan), focused predominately on espionage and low-level

DDoS attacks, and were largely ineffective in getting states to change behavior. There was also little evidence of state-supported or sponsored groups utilizing cyber terrorism. They back up their quantitative data with a series of case studies looking at the most significant recent cyber conflicts involving state (Chapter 6) and non-state (Chapter 7) actors. They then propose a system of rules and norms in cyberspace based on the Just War tradition (Chapter 8).

#### Russian cyberattacks thump.

David E. Sanger and Nicole Perlroth 12-17. National security correspondent for the New York Times. Cybersecurity reporter for New York Times. "More Hacking Attacks Found as Officials Warn of ‘Grave Risk’ to U.S. Government". New York Times. 12-17-2020. https://www.nytimes.com/2020/12/17/us/politics/russia-cyber-hack-trump.html. accessed 12-21-2020 //ART

Federal officials issued an urgent warning on Thursday that hackers who American intelligence agencies believed were working for the Kremlin used a far wider variety of tools than previously known to penetrate government systems, and said that the cyber offensive was “a grave risk to the federal government.”

The discovery suggests that the scope of the hacking, which appears to extend beyond nuclear laboratories and Pentagon, Treasury and Commerce Department systems, complicates the challenge for federal investigators as they try to assess the damage and understand what had been stolen.

Minutes after the statement from the cybersecurity arm of the Department of Homeland Security, President-elect Joseph R. Biden Jr. warned that his administration would impose “substantial costs” on those responsible. “A good defense isn’t enough; we need to disrupt and deter our adversaries from undertaking significant cyberattacks in the first place,” Mr. Biden said, adding, “I will not stand idly by in the face of cyberassaults on our nation.” President Trump has yet to say anything about the attack.

Echoing the government’s warning, Microsoft said Thursday that it had identified 40 companies, government agencies and think tanks that the suspected Russian hackers, at a minimum, had infiltrated. Nearly half are private technology firms, Microsoft said, many of them cybersecurity firms, like FireEye, that are charged with securing vast sections of the public and private sector.

“It’s still early days, but we have already identified 40 victims — more than anyone else has stated so far — and believe that number should rise substantially,” Brad Smith, Microsoft’s president, said in an interview on Thursday. “There are more nongovernmental victims than there are governmental victims, with a big focus on I.T. companies, especially in the security industry.”

The Energy Department and its National Nuclear Security Administration, which maintains the American nuclear stockpile, were compromised as part of the larger attack, but its investigation found the hack did not affect “mission-essential national security functions,” Shaylyn Hynes, a Department of Energy spokeswoman, said in a statement.

“At this point, the investigation has found that the malware has been isolated to business networks only,” Ms. Hynes said. The hack of the nuclear agency was reported earlier by Politico.

Officials have yet to publicly name the attacker responsible, but intelligence agencies have told Congress that they believe it was carried out by the S.V.R., an elite Russian intelligence agency. A Microsoft “heat map” of infections shows that the vast majority — 80 percent — are in the United States, while Russia shows no infections at all.

The government warning, issued by the Cybersecurity and Infrastructure Security Agency, did not detail the new ways that the hackers got into the government systems. But it confirmed suspicions expressed this week by FireEye, a cybersecurity firm, that there were almost certainly other routes that the attackers had found to get into networks on which the day-to-day business of the United States depend.

FireEye was the first to inform the government that the suspected Russian hackers had, since at least March, infected the periodic software updates issued by a company called SolarWinds, which makes critical network monitoring software used by the government, hundreds of Fortune 500 companies and firms that oversee critical infrastructure, including the power grid.

Investigators and other officials say they believe the goal of the Russian attack was traditional espionage, the sort the National Security Agency and other agencies regularly conduct on foreign networks. But the extent and depth of the hacking raise concerns that hackers could ultimately use their access to shutter American systems, corrupt or destroy data, or take command of computer systems that run industrial processes. So far, though, there has been no evidence of that happening.

The alert was a clear sign of a new realization of urgency by the government. After playing down the episode — in addition to Mr. Trump’s silence, Secretary of State Mike Pompeo has deflected the hacking as one of the many daily attacks on the federal government, suggesting China was the biggest offender — the government’s new alert left no doubt the assessment had changed.

“This adversary has demonstrated an ability to exploit software supply chains and shown significant knowledge of Windows networks,” the alert said.

“It is likely that the adversary has additional initial access vectors and tactics, techniques and procedures,” which, it said, “have not yet been discovered.”

Investigators say it could take months to unravel the extent to which American networks and the technology supply chain are compromised.

In an interview on Thursday, Mr. Smith, of Microsoft, said the supply-chain element made the attack perhaps the gravest cyberattack against the United States in years.

“Governments have long spied on each other but there is a growing and critical recognition that there needs to be a clear set of rules that put certain techniques off limits,” Mr. Smith said. “One of the things that needs to be off limits is a broad supply chain attack that creates a vulnerability for the world that other forms of traditional espionage do not.”

Reuters reported Thursday that Microsoft was itself compromised in the attack, a claim that Mr. Smith emphatically denied Thursday. “We have no indication of that,” he said. Officials say that with only one month left in its tenure, the Trump administration is planning to simply hand off what appears to be the biggest cybersecurity breach of federal networks in more than two decades. Mr. Biden’s statement said he had instructed his transition team to learn as much as possible about “what appears to be a massive cybersecurity breach affecting potentially thousands of victims.” “I want to be clear: My administration will make cybersecurity a top priority at every level of government — and we will make dealing with this breach a top priority from the moment we take office,” Mr. Biden said, adding that he plans to impose “substantial costs on those responsible.”

The Cybersecurity and Infrastructure Security Agency’s warning came days after Microsoft took emergency action along with FireEye to halt the communication between the SolarWinds network management software and a command-and-control center that the Russians were using to send instructions to their malware using a so-called kill switch.

That shut off further penetration. But it is of no help to organizations that have already been penetrated by an attacker who has been planting back doors in their systems since March. And the key line in the warning said that the SolarWinds “supply chain compromise is not the only initial infection vector” that was used to get into federal systems. That suggests other software, also used by the government, has been infected and used for access by foreign spies.

Across federal agencies, the private sector and the utility companies that oversee the power grid, forensic investigators were still trying to unravel the extent of the compromise. But security teams say the relief some felt that they did not use the compromised systems turned to panic on Thursday, as they learned other third-party applications may have been compromised.

## 1NR---FTC DA

### 1NR---OV

#### **1. Algorithmic bias risks nuke war.**

Elsa B. Kania 17. Adjunct fellow with the Technology and National Security Program at the Center for a New American Security, 11/15/17. “The critical human element in the machine age of warfare.” https://thebulletin.org/2017/11/the-critical-human-element-in-the-machine-age-of-warfare/

Today, however, the human in question might be considerably less willing to question the machine. The known human tendency towards greater reliance on computer-generated or automated recommendations from intelligent decision-support systems can result in compromised decision-making. This dynamic—known as automation bias or the overreliance on automation that results in complacency—may become more pervasive, as humans accustom themselves to relying more and more upon algorithmic judgment in day-to-day life.

In some cases, the introduction of algorithms could reveal and mitigate human cognitive biases. However, the risks of algorithmic bias have become increasingly apparent. In a societal context, “biased” algorithms have resulted in discrimination; in military applications, the effects could be lethal. In this regard, the use of autonomous weapons necessarily conveys operational risk. Even greater degrees of automation—such as with the introduction of machine learning in systems not directly involved in decisions of lethal force (e.g., early warning and intelligence)—could contribute to a range of risks.

Friendly fire—and worse. As multiple militaries have begun to use AI to enhance their capabilities on the battlefield, several deadly mistakes have shown the risks of automation and semi-autonomous systems, even when human operators are notionally in the loop. In 1988, the USS Vincennes shot down an Iranian passenger jet in the Persian Gulf after the ship’s Aegis radar-and-fire-control system incorrectly identified the civilian airplane as a military fighter jet. In this case, the crew responsible for decision-making failed to recognize this inaccuracy in the system—in part because of the complexities of the user interface—and trusted the Aegis targeting system too much to challenge its determination. Similarly, in 2003, the US Army’s Patriot air defense system, which is highly automated with high levels of complexity, was involved in two incidents of fratricide. In these stances, “naïve” trust in the system and the lack of adequate preparation for its operators resulted in fatal, unintended engagements.

As the US, Chinese, and other militaries seek to leverage AI to support applications that include early warning, automatic target recognition, intelligence analysis, and command decision-making, it is critical that they learn from such prior errors, close calls, and tragedies. In Petrov’s successful intervention, his intuition and willingness to question the system averted a nuclear war. In the case of the USS Vincennes and the Patriot system, human operators placed too much trust in and relied too heavily on complex, automated systems. It is clear that the mitigation of errors associated with highly automated and autonomous systems requires a greater focus on this human dimension.

#### 2. Algorithmic bias in AI is an existential threat---turns their Military AI Impact

Mara Hvistendahl 19 – correspondent with Science magazine, 3/28/19. “Can we stop AI outsmarting humanity?” <https://www.theguardian.com/technology/2019/mar/28/can-we-stop-robots-outsmarting-humanity-artificial-intelligence-singularity>

Existential risks – or X-risks, as Tallinn calls them – are threats to humanity’s survival. In addition to AI, the 20-odd researchers at CSER study climate change, nuclear war and bioweapons. But, to Tallinn, those other disciplines “are really just gateway drugs”. Concern about more widely accepted threats, such as climate change, might draw people in. The horror of superintelligent machines taking over the world, he hopes, will convince them to stay. He was visiting Cambridge for a conference because he wants the academic community to take AI safety more seriously.

At Jesus College, our dining companions were a random assortment of conference-goers, including a woman from Hong Kong who was studying robotics and a British man who graduated from Cambridge in the 1960s. The older man asked everybody at the table where they attended university. (Tallinn’s answer, Estonia’s University of Tartu, did not impress him.) He then tried to steer the conversation toward the news. Tallinn looked at him blankly. “I am not interested in near-term risks,” he said.

Tallinn changed the topic to the threat of superintelligence. When not talking to other programmers, he defaults to metaphors, and he ran through his suite of them: advanced AI can dispose of us as swiftly as humans chop down trees. Superintelligence is to us what we are to gorillas.

An AI would need a body to take over, the older man said. Without some kind of physical casing, how could it possibly gain physical control?

Tallinn had another metaphor ready: “Put me in a basement with an internet connection, and I could do a lot of damage,” he said. Then he took a bite of risotto.

Every AI, whether it’s a Roomba or one of its potential world-dominating descendants, is driven by outcomes. Programmers assign these goals, along with a series of rules on how to pursue them. Advanced AI wouldn’t necessarily need to be given the goal of world domination in order to achieve it – it could just be accidental. And the history of computer programming is rife with small errors that sparked catastrophes. In 2010, for example, when a trader with the mutual-fund company Waddell & Reed sold thousands of futures contracts, the firm’s software left out a key variable from the algorithm that helped execute the trade. The result was the trillion-dollar US “flash crash”.

The researchers Tallinn funds believe that if the reward structure of a superhuman AI is not properly programmed, even benign objectives could have insidious ends. One well-known example, laid out by the Oxford University philosopher Nick Bostrom in his book Superintelligence, is a fictional agent directed to make as many paperclips as possible. The AI might decide that the atoms in human bodies would be better put to use as raw material.

Tallinn’s views have their share of detractors, even among the community of people concerned with AI safety. Some object that it is too early to worry about restricting superintelligent AI when we don’t yet understand it. Others say that focusing on rogue technological actors diverts attention from the most urgent problems facing the field, like the fact that the majority of algorithms are designed by white men, or based on data biased toward them. “We’re in danger of building a world that we don’t want to live in if we don’t address those challenges in the near term,” said Terah Lyons, executive director of the Partnership on AI, a technology industry consortium focused on AI safety and other issues. (Several of the institutes Tallinn backs are members.) But, she added, some of the near-term challenges facing researchers, such as weeding out algorithmic bias, are precursors to ones that humanity might see with super-intelligent AI.

Tallinn isn’t so convinced. He counters that superintelligent AI brings unique threats. Ultimately, he hopes that the AI community might follow the lead of the anti-nuclear movement in the 1940s. In the wake of the bombings of Hiroshima and Nagasaki, scientists banded together to try to limit further nuclear testing. “The Manhattan Project scientists could have said: ‘Look, we are doing innovation here, and innovation is always good, so let’s just plunge ahead,’” he told me. “But they were more responsible than that.”

#### 3. Link turns case. Expanded antitrust enforcement of anticompetitive practices causes backlash.

Alison Jones 20. Professor of Law at King's College London, with William E. Kovacic, March, “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy.” The Antitrust Bulletin. https://journals.sagepub.com/doi/full/10.1177/0003603X20912884

One possible solution to rigidities that have developed in Sherman Act jurisprudence is for the FTC to rely more heavily on the prosecution, through its own administrative process, of cases based on Section 5 of the FTC Act and its prohibition of “unfair methods of competition.”93 This section allows the FTC94 to tackle not only anticompetitive practices prohibited by the other antitrust statutes but also conduct constituting incipient violations of those statutes or behavior that exceeds their reach. The latter is possible where the conduct does not infringe the letter of the antitrust laws but contradicts their basic spirit or public policy.95

There is no doubt therefore that Section 5 was designed as an expansion joint in the U.S. antitrust system. It seems unlikely to us, nonetheless, that a majority of FTC’s current members will be minded to use it in this way. Further, even if they were to be, the reality is that such an application may encounter difficulties. Since its creation in 1914, the FTC has never prevailed before the Supreme Court in any case challenging dominant firm misconduct, whether premised on Section 2 of the Sherman Act or purely on Section 5 of the FTC Act.96 The last FTC success in federal court in a case predicated solely on Section 5 occurred in the late 1960s.97

The FTC’s record of limited success with Section 5 has not been for want of trying. In the 1970s, the FTC undertook an ambitious program to make the enforcement of claims predicated on the distinctive reach of Section 5, a foundation to develop “competition policy in its broadest sense.”98 The agency’s Section 5 agenda yielded some successes,99 but also a large number of litigation failures involving cases to address subtle forms of coordination in oligopolies, to impose new obligations on dominant firms, and to dissolve shared monopolies.100 The agency’s program elicited powerful legislative backlash from a Congress that once supported FTC’s trailblazing initiatives but turned against it as the Commission’s efforts to obtain dramatic structural remedies unfolded.101

### AT: No Resources Now

#### 1. Increase in scrutiny.

Charles Glover et al. 8/16/21. Privacy and cybersecurity attorney at Sheppard Mullin, with Kari Rollins and Liisa Thomas. “FTC Signals Focus on Healthcare and Technology Platforms, Among Others.” https://www.jdsupra.com/legalnews/ftc-signals-focus-on-healthcare-and-2513825/

The FTC recently voted to authorize the use of compulsory processes—the FTC’s primary investigatory tools—on what it calls “key law enforcement priorities.” The resolutions allow investigators to take actions like issuing subpoenas and civil investigations demands (commonly referred to as “CIDs”) in a variety of areas. Of note is the inclusion of both healthcare markets and technology platforms, signaling a potential FTC interest in those sectors.

These resolutions compliment the agency’s existing authority to investigate deceptive or unfair acts, and comes on the heels of the blow the FTC suffered as a result of the Supreme Court’s AMG decision. For those in the healthcare and technology platform space, this may signal an increase in privacy and data security scrutiny by the FTC.

#### 2. Key priority is privacy and data scrutiny.

Liisa Thomas 8/12/21. Partner and Leader of the Privacy and Cybersecurity Practice Group @ Sheppard Mullin, with Kari Rollins & Charles Glover, “FTC Signals Focus on Healthcare and Technology Platforms, Among Others.” https://www.eyeonprivacy.com/2021/08/ftc-healthcare-technology-platforms/

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#### FTC can handle current caseload, but barely---the aff tips it over the edge.

David McLaughlin 7/28/21 – Reporter at Bloomberg, with Anna Edgerton, “FTC’s Khan Says Merger Wave Is Straining Agency Resources.” https://www.bloomberg.com/news/articles/2021-07-28/ftc-s-khan-says-merger-wave-is-straining-agency-resources

The head of the U.S. Federal Trade Commission said the antitrust agency is struggling to handle a merger boom that is rapidly consolidating industries across the economy. Chair Lina Khan told House lawmakers at a hearing Wednesday that antitrust officials are processing the highest number of merger filings in two decades. “Although the FTC is working to review many of these deals, the sheer volume of transactions is significantly straining commission resources,” Khan said. “I am deeply concerned that the current merger boom will further exacerbate deep asymmetries of power across our economy, further enabling abuses.” Khan’s remarks to a panel of the House Energy & Commerce Committee marked her first appearance before Congress since becoming chair of the agency in June. The merger wave is one of three main problems facing the agency, Khan told lawmakers. She also cited a Supreme Court decision that made it harder for the agency to recover money for consumers harmed by scams and deceptive practices by businesses and warned about the increase of fraud during the coronavirus pandemic that has been “supercharged by digital platforms.”

#### 3. They’re taking it slow now---will implement the new agenda over time.

Ben Brody 7/30/21 – senior reporter at Protocol, formerly covered tech policy and lobbying at Bloomberg News. “Lina Khan wants to hear from you: The new FTC chair is trying to get herself, and the sometimes timid tech-regulating agency she oversees, up to speed while she still can.” https://www.protocol.com/policy/khan-ftc-momentum

For now, though, Congress and the White House seem inclined to back the FTC in corralling tech after years of companies facing virtually no regulation and insisting they've done nothing wrong. The gridlocked Congress, for instance, has looked to the FTC on issues like privacy and competition. President Joe Biden, in naming Khan as chair, seemed to take for granted the criticisms that the FTC has for decades been too timid and intellectually out-gunned under Democratic and Republican administrations alike.

In July, Biden even issued his own sweeping order on competition, which Khan called "a hugely significant document." Then there have been her own efforts — to speed up rule-makings, to remove the agency's self-imposed limits on its powers over "unfair methods of competition," to issue guidance boosting consumers' rights to repair their devices and to clear the way to require more disclosure of future deals from those who break the merger laws. The monthly open meetings are new, too.

"It's, what — week five, week six for us?" she said, adding that she's giving herself the rest of the summer to "understand how the agency works" and get a sense of what's already being worked on so she can implement her agenda.

Khan is hardly working alone. The agency's chief technologist recently floated the idea of forcing companies to give up algorithms built on data abuses and restructuring companies that "sacrifice security" illegally. Khan and the other commissioners also spent Wednesday testifying in a congressional hearing about what kinds of additional consumer protection powers and funding the agency is seeking.

It's a long and ambitious set of changes to have rolled out in just a few weeks, far more than the bread-and-butter patrolling for scams and potentially anticompetitive mergers that has defined the FTC's efforts in recent decades. And those are just the things Khan will talk about. She and an aide declined to answer questions about the Facebook case, which the FTC must re-file by mid-August to continue, or its Amazon investigations, or the two companies' efforts to have her recuse herself from their cases because of her prior work in law journals and Congress.

### AT: Turn – Jones

#### 1. FTC is cash-strapped---the plan destroys other enforcement priorities.

Nicolás Rivero 21. Technology reporter at Quartz. “Biden’s antitrust crusaders can’t crusade without Congress.” 3/11/21. https://qz.com/1982437/lina-khan-and-tim-wu-need-congress-to-push-their-antitrust-agenda/

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

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

#### 2. Limited resources force tradeoffs in enforcement decisions.

Bernard (Barry) A. Nigro Jr. et al., 21 – Chair of Fried Frank's Global Antitrust and Competition Department, former Principal Deputy Assistant Attorney General at the DOJ, with Nathaniel L. Asker and Aleksandr B. Livshits, 1/5/21. “Managing Antitrust Risk in the Biden Administration.” Fried Frank Antitrust & Competition Law Alert. https://www.friedfrank.com/siteFiles/Publications/FFAntitrustAggressiveAntitrustEnforcement01052021.pdf

Further, despite a record number of litigated cases, the budget at the antitrust agencies is insufficient to match the rhetoric of more enforcement. The DOJ had 25% fewer full-time employees in 2019 than it had 10 years earlier9 and the FTC recently imposed a hiring freeze. With limited resources, the agencies are forced to make important tradeoffs in deciding what matters to challenge, settle, or walk away from. Indeed, Commissioner Wilson reportedly voted against bringing a lawsuit to block CoStar’s acquisition of RentPath, in part, because of limited FTC resources.10 Although the agencies will receive a modest budget increase for the current fiscal year,11 it is far short of what some think is needed.12 As antitrust enforcement has become a bipartisan issue, a significant increase in the antitrust agencies’ budgets in the future is likely.

#### 3. It directly undermines privacy enforcement.

David Hyman 19 – Professor at Georgetown University Law Center, with William E. Kovacic, “Implementing Privacy Policy: Who Should Do What?” 29 Fordham Intell. Prop. Media & Ent. L.J. 1117 (2019). https://ir.lawnet.fordham.edu/iplj/vol29/iss4/3

The case for making an enhanced FTC the national privacy regulator is straightforward. Of all U.S. privacy implementation institutions, the FTC has unequaled capacity in the form of expert case handling and policy teams and physical resources (including the development, over the past decade, of an internet laboratory to do high-quality forensic work, and the hiring of technology experts to assist in that effort). The agency’s capacity also is the product of extensive experience in applying its UDAP authority and enforcing statutes such as the FCRA and COPPA. The FTC has a broad portfolio of policy instruments (litigation, rulemaking, consumer and business education, data collection, the preparation of reports, the convening of conferences), and it has demonstrated its ability to use all of them to good effect in the privacy domain. The FTC’s stature as an independent agency gives it additional credibility in the eyes of foreign officials, who generally distrust the vesting of privacy powers in an executive department.

Within an enhanced FTC, privacy policy implementation also would be informed by the Commission’s larger experience with consumer protection. The FTC’s privacy unit is one part of its Bureau of Consumer Protection, rather than being a self-contained bureau. This reflected the institution’s reasonable view that the effort to safeguard consumer interests in “privacy” was one dimension of “consumer protection,” rather than a wholly distinct policy realm. Our impression is that many matters that involve privacy issues also raise problems that fit within other areas of the FTC’s consumer protection program. The analysis of the “privacy” issue often benefits from perspectives developed in the course of applying the agency’s deception and unfairness authority in other cases. The intertwining of privacy issues with other consumer protection concerns in many scenarios has important implications for how the mandate of a privacy agency should be defined. In whatever setting one ultimately might place a “privacy” mandate, we would expect that the host agency would have a mandate that incorporates powers that traditionally have been associated with the FTC’s broader consumer protection program.83

The FTC’s expertise in antitrust should also help it develop and enforce privacy policy. Enforcing antitrust law has given the FTC ongoing involvement in multiple high-tech markets—as well as an understanding of how competition can motivate companies to offer better privacy protections. The FTC’s work in both consumer protection and antitrust draws upon a Bureau of Economics with over 80 PhDs in economics.84 The Bureau of Economics has developed considerable skill in sub-disciplines (including behavioral economics) with special application to privacy issues.

Of course, inputs are not the same thing as outputs. The FTC has not always achieved the full integration of perspectives that the combination of these institutional capacities would permit. And, although there are policy complementarities across the domains of antitrust, consumer protection, and privacy, this combination of functions is not an unmixed blessing. An agency with all three functions might seek to use its position as a gatekeeper with respect to one policy domain to leverage concessions from firms over which it exercises oversight in another domain.85 Such temptations have been present when the FTC has applied its antitrust powers to review mergers involving companies in the information services sector.86

Finally, there is the possibility that any one of these functions might be diminished if all three are contained in the same agency. An agency focused solely on privacy will make privacy policy its single concern. An agency responsible for antitrust, consumer protection, and privacy is likely to find itself making tradeoffs as it sets priorities for how to use its resources.

### AT: Brody

#### 2. The FTC doesn’t have the resources for expanded antitrust enforcement.

Alex Kantrowitz 20 – Silicon Valley-based journalist covering Big Tech and society, 9/17/20. “‘It’s Ridiculous’: Underfunded U.S. Regulators Can’t Keep Fighting the Tech Giants Like This.” https://onezero.medium.com/its-ridiculous-underfunded-u-s-regulators-can-t-keep-fighting-the-tech-giants-like-this-3b57487b4d63

As politicians, the press, and the public scrutinize the tech giants and grow wary of their power, the most important organizations tasked with restraining them — the U.S. regulatory agencies — aren’t getting enough funding to do the job. “The agencies are severely resource-constrained,” Michael Kades, an-ex FTC trial lawyer who spent 11 years at the agency, told Big Technology. The Federal Trade Commission and Department of Justice’s antitrust division have a combined annual budget below what Facebook makes in three days. The FTC runs on less than $350 million per year, the DOJ’s antitrust division on less than $200 million. Facebook made $18 billion last quarter alone. The funding disparity between the tech giants and their regulators leads to an unbalanced fight, current and ex-staffers said: The agencies can’t investigate the tech giants to the extent they’d like. They might shy away from complex cases fearing a resource-draining battle. And when they investigate the tech giants, they often see former colleagues with intricate knowledge of their strategy and ability to act (or lack thereof) representing these companies. Without significant budget increases, the tech giants may well continue to act unrestrained with little fear of repercussions. “DOJ is under-resourced, FTC it’s ridiculous,” one ex DOJ-staffer told Big Technology. This doesn’t mean these agencies are entirely hamstrung; they can typically marshall the resources to bring a clear-cut case. “They want to win,” one ex-FTC official said. “If it’s really egregious, and they find that in discovery, the attorneys are going to put a case together and go after it.” But when you can only take up a limited number of cases due to resource constraints, things inevitably slip through. “When I was there, the privacy wing had maybe 50 people, and that’s probably generous. That’s lawyers, support staff, everyone,” Justin Brookman, the former policy director at the FTC’s office of technology research and investigation, told Big Technology. “If they were to bring a case, that would tie up half the resources of the group. And they had two litigations ongoing and that took up most of everyone’s time.” The agency’s budget has barely increased since Brookman left in 2017, while the tech giants have added trillions of dollars to their market caps. Inside the FTC and DOJ, employees are aware of the tech giants’ ability to fight, and the corporations’ budgets tend to live inside their heads. “Facebook will have the ability to raise every single issue, if they want to,” Kades said. “It doesn’t have to be a winner, doesn’t have to be close to winner. If they wanted to take this position in litigation, they can make every procedural maneuver difficult, they can not cooperate on discovery, they can fight on scheduling, they don’t have to win even half of those, but it would just suck up resources.” The ability to do this, not even the action itself, can impact regulators’ thinking. Agency staffers are typically mission-driven and knowingly work for salaries below private-sector rates, but the resource-rich tech giants are now poaching directly from agencies at a rate remarkable even for Washington’s revolving door between the private and public sector.

#### 3. The FTC is looking to avoid added prohibitions.

MARIANELA LOPEZ-GALDOS 21. Global Competition Counsel at the Computer & Communications Industry Association, 7/28/21. “Policy Decisions of Antitrust Institutions Series: The Future of the FTC and Its Perils.” https://www.project-disco.org/competition/072821-policy-decisions-of-antitrust-institutions-series-the-future-of-the-ftc-and-its-perils/

But most importantly, the Section 5 Policy Guidelines acted as the guardrails to avoid situations where the FTC, in an effort to expand its enforcement authority, would lose many antitrust stand-alone Section 5 cases in court, to the detriment of the institution itself. Indeed, the Section 5 Policy Guidelines were the result of lessons learned throughout the history of the FTC and represented a tool to avoid history repeating itself. In this respect, it is important to recall that back in the 70s, under Chairman Pertschuck, and in the following years, the FTC suffered immensely due to disparities between enforcement promises and implementation capabilities. Much of the institutional suffering came from the agency not self-imposing limitations and standards to bring cases under Section 5 of the FTC Act which led to numerous litigation losses, consequential institutional reputational damage, and lack of political support.

#### 4. 2018 mergers litigation proves the finite resources link.

David McCabe 18. Tech policy reporter for Axios, 5/7/18. “Mergers are spiking, but antitrust cop funding isn't.” https://www.axios.com/antitrust-doj-ftc-funding-2f69ed8c-b486-4a08-ab57-d3535ae43b52.html

Why it matters: A wave of mega-mergers touching many facets of daily life, from T-Mobile’s merger with Sprint to CVS’s purchase of Aetna, will test the Justice Department's and Federal Trade Commission’s ability to examine smaller or more novel cases, antitrust experts say.

What they’re saying: “You have finite resources in terms of people power, so if you are spending all of your time litigating big mergers … there might be some investigations where decisions might have to be made about which investigations you can pursue,” said Caroline Holland, who was a senior staffer in DOJ’s Antitrust Division under President Obama and is now a Mozilla fellow.

#### Increased antitrust enforcement incentivizes data-driven competition, which trades off with privacy enforcement

Erika M. Douglas 21. Assistant Professor at Temple University Beasley School of Law. “The New Antitrust/Data Privacy Law Interface.” 1/18/21. https://www.yalelawjournal.org/forum/the-new-antitrustdata-privacy-law-interface

Second, non-complementarity raises the problem of antitrust law and data privacy law pursuing opposing interests. Data privacy does not exist only as an element of quality within antitrust analysis. Data privacy law is also a distinct area of doctrine that, at times, pursues interest at odds with the antitrust goal of promoting competition. In that sense, data privacy law is much like intellectual property or consumer protection law. The difference is that, while we have long examined these other interfaces with antitrust law,45 we have scarcely begun to consider the equivalent interaction with data privacy law. The remainder of this Essay addresses this second dilemma, because it is novel and it is not addressed by existing theories. Separatist and integrationist theories both lack an explanation of how antitrust law interacts with data privacy law in its capacity as a distinct area of legal doctrine. Though separatist theory acknowledges privacy as a distinct area of law, it assumes away any interaction by insisting that antitrust and data privacy are separate. But, the fact that two areas of law are doctrinally separate does not preclude their meeting. Separate doctrinal areas of law often interact with antitrust law. It is correct to say, for example, that antitrust law and patent law are historically and doctrinally separate, but equally correct to observe the significant judicial and scholarly thought devoted to their interaction. Likewise, antitrust law and consumer protection law are separate in U.S. legal doctrine, but interact at their edges.46 The same is now true for data privacy law and antitrust law. Integrationist theory leaves a similar gap. When there is no privacy-as-quality competition, integrationist theory dismisses data privacy as outside the ambit of antitrust analysis. In fact, data privacy may remain highly relevant, as a separate area of law that seeks disparate treatment of consumer data and reduces competition. The central disagreement between the two existing theories is whether data privacy is properly considered a factor in antitrust analysis. This is a valid question. However, it is not the only question at this intersection of law. Regardless of whether or not data privacy is integrated into antitrust analysis as a quality-type factor, it remains true that these two areas of law may intersect. To be clear, this is not an argument that there is a hard conflict of law wherein antitrust law requires action that privacy law prohibits (or vice versa).47 Rather, it is a contention that these two areas of law are increasingly interacting, and, at times, that they pursue opposing interests. In the digital economy, this potential for antitrust and data privacy to pursue opposing interests is particularly apparent. From an antitrust perspective, consumer data plays an undeniably significant role in digital competition. Leading digital platforms rely on collection and analysis of masses of data about consumers to drive their services, like search and social media—and to drive their profits as well.48 The companies that collect and monetize digital data in the smartest ways win the race to compete, attracting users, and benefit from the network effects that characterize many of these online services. New theories of anti-competitive harm focus on this data-driven competition, and the power gained by digital platforms through their control and accumulation of data.49 From a data privacy perspective, much of that same information is personally identifiable and thus limited in its collection, use, and sale by the FTC’s new common law of data privacy. The FTC’s enforcement of section 5 has long been directed at internet companies, including the digital platforms that collect and use our data to compete. When privacy law restricts the collection and use of information, that creates potential tradeoffs with the benefits of data-driven competition. For example, Catherine Tucker observes that increased privacy regulation decreases data sharing between firms, which she predicts will reduce competition in online advertising.50 Early research on the General Data Protection Regulation (GDPR), a tough new European data privacy protection law, suggests that improved consumer control over personal data may also reduce competition in consumer data-intensive markets, because it limits data sharing.51 The FTC itself has begun to recognize this tradeoff between data competition and privacy.52 Enforcers, courts and digital platforms are left with two opposing legal pressures on the treatment of personal data. What happens if data privacy law encourages conduct that antitrust law or policy discourages, or even prohibits? When, and to what extent, should competition be traded at the margins for data privacy—or vice versa? The preoccupation with complementarity in existing theories has left enforcers, courts and companies with little insight on how to address these questions. This is not to say that complementarity is an inaccurate description of the antitrust/data privacy interface—only that it is incomplete. As described above on the prevailing views, the interests of both areas of law can certainly be complementary. Nor does this Essay contend that every new antitrust case will pit data competition against data privacy, or even that most cases will. Information at issue in a given case may well be non-personal and unprotected by data privacy law. Or, competition may be driven by factors other than data in a particular market. However, it is precisely the cases of tension, not complementarity, that will present agencies and courts with the most complex analytical challenges. Those cases will demand new analysis of tradeoffs between antitrust law and data privacy law. Further, those cases are likely to involve the complex businesses of digital platforms, which operate at the new nexus of antitrust and data privacy law. Despite this layered complexity, non-complementary interactions of privacy and antitrust have seen scant attention.

#### Antitrust enforcement directly threatens privacy enforcement.

Andrea Vittorio 21. Reporter, Bloomberg Law, 6/17. “Lina Khan Brings Scrutiny to Big Tech Data Dominance as FTC Chair.” https://news.bloomberglaw.com/tech-and-telecom-law/khan-to-bring-scrutiny-to-big-techs-data-dominance-as-ftc-chair

The Federal Trade Commission’s new chairwoman, Lina Khan, is expected to examine how consumer data collection contributes to the dominance of U.S. tech giants as the head of the agency. Khan takes the helm at the commission as privacy advocates, including Consumer Reports and the Electronic Privacy Information Center, push for the agency to flex its enforcement powers and tap into its rulemaking abilities to safeguard consumer data. Khan, previously a professor at Columbia Law School, has a reputation as an advocate of aggressive antitrust enforcement against big tech platforms. She’s tied consumer privacy to antitrust policy, with a focus on the way tech companies’ dominance depends on data and how that allows for its misuse. The intersection of competition and privacy policy could test Khan’s views on potential tensions between the two, according to Justin Brookman, a former FTC official who’s now director of consumer privacy and technology policy at Consumer Reports. Moves that promote tech company competition can sideline privacy and vice versa, he said, pointing to a recent decision by Alphabet Inc.'s Google to phase out third-party tracking cookies used to target ads online. The policy is seen as promoting privacy but hamstringing ad-tech companies that compete with Google. “It will be interesting to see where Lina comes down on that” kind of privacy-competition conflict, Brookman said.