# Wiki Doc---Round 4---NU 21

## 1NC

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#### Anti-trust pacifies the working class, buys time to mystify unsustainable accumulation, and maps competition onto subjectivity, devaluing 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.

#### 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

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#### Infrastructure will pass now but can be derailed.

Laura Tyson & Lenny Mendonca 9-14-2021, Laura Tyson, former chair of the US president's Council of Economic Advisers, is professor of the Graduate School at the Haas School of Business and chair of the Blum Centre Board of Trustees at the University of California, Berkeley. Lenny Mendonca, senior partner emeritus at McKinsey & Company, is a former chief economic and business adviser to Governor Gavin Newsom of California and chair of the California High-Speed Rail Authority "Why America must go big on infrastructure," Jordan Times, https://www.jordantimes.com/opinion/project-syndicate/why-america-must-go-big-infrastructure

Economists across the political spectrum have long advocated an increase in infrastructure investment in the United States. Now, Congress is debating infrastructure spending packages that would secure the current economic recovery and boost potential growth over the next decade. Despite deep partisan divisions on most other issues, the Senate recently passed the $1 trillion Infrastructure Investment and Jobs Act (IIJA) by a large majority. The bill now must pass the House of Representatives, where Speaker Nancy Pelosi has secured an agreement for a vote by the end of September. Approval looks likely but is by no means certain, given complete lack of support from House Republicans and ongoing divisions among House Democrats.

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

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

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

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

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

#### Infrastructure bill key to cyber security

Cat Zakrzewski, 8-14-2021, "The Senate’s $1 trillion infrastructure bill includes funding to secure Americans’ water systems and power grids from cyberattacks," https://www.washingtonpost.com/technology/2021/08/14/cybersecurity-infrastructure-senate-legislation/

A Senate bill intended to shore up the nation’s roads, pipes and electric grid includes billions to protect that aging infrastructure from cyberattacks.

With a series of high-profile ransomware attacks fresh in their minds, U.S. Senate negotiators wove cybersecurity investments throughout the bipartisan $1 trillion infrastructure proposal, which passed the Senate in a 69-to-30 vote on Tuesday and now moves to the House for a vote. The allocations are a reflection of the growing realization in Congress that a computer attack could leave Americans without water, power or other essentials.

“This is an incredibly serious threat to this country that’s only growing more serious,” said Sen. Angus King (I-Maine).

The Colonial Pipeline ransomware attack in May was a wake-up call that gave lawmakers and the public “a taste of what is potentially in store,” King said. The attack disrupted fuel supplies in the eastern United States, prompting gasoline shortages and panicked buying that affected millions for days.

The Colonial hack was just one in a series of attacks on lawmakers’ minds. King said he is particularly wary of attacks on the more than 100,000 public water systems in the United States, especially after a hacker in February took control of a water treatment facility in Oldsmar, Fla. The intruder raised the levels of sodium hydroxide to a hazardous point that could have sickened residents. An operator noticed the rising levels and was able to quickly intervene, but the incident highlighted the broader weaknesses at the facilities responsible for ensuring Americans have clean drinking water.

To King, one of the Senate negotiators, these incidents underlined that cybersecurity has to be a part of any work the government does on infrastructure, from broadband to power grids.

The bill directs the Federal Highway Administration to create a new tool to help transportation authorities better detect and respond to cyber attacks, which could range from ransomware attacks on transportation departments or hacks of traffic lights and road signs. It makes emergency funding available to respond to digital attacks on public water systems and makes grants available that can be used to help some water systems increase their ability to deal with cyberattacks as well as natural hazards and extreme weather.

It also calls on the Federal Energy Regulatory Commission to develop incentives to ensure that electric utilities are investing in cybersecurity and sharing data about potential threats.

The bill also authorizes nearly $2 billion in spending for specific cybersecurity initiatives, such as the creation of a $1 billion grant program to provide federal cybersecurity assistance to state and local governments, which experts say are among the most vulnerable institutions to ransomware attacks. The bill also would fund a new cyber director office, so that the federal government can better coordinate its response to major hacks, and would create a $100 million response and recovery fund, which the Department of Homeland Security could use to support both private companies and governments’ recoveries from cyberattacks.

The infusion of funding follows years of warnings from across the federal government of the vulnerability of U.S. critical infrastructure to cyberattacks. A year ago, the National Security Agency and the Cybersecurity and Infrastructure Security Agency warned that critical infrastructure systems, including energy, transportation and water systems, make “attractive targets for foreign powers attempting to do harm to U.S. interests or retaliate for perceived U.S. aggression.”

#### Cyberattacks go nuclear.

Michael T. Klare 19. Professor emeritus of peace and world security studies at Hampshire College and senior visiting fellow at the Arms Control Association. “Cyber Battles, Nuclear Outcomes? Dangerous New Pathways to Escalation.” https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation

Another initiative incorporated in the strategy document also aroused concern: the claim that an enemy cyberattack on U.S. nuclear command, control, and communications (NC3) facilities would constitute a “non-nuclear strategic attack” of sufficient magnitude to justify the use of nuclear weapons in response.

Under the Obama administration’s NPR report, released in April 2010, the circumstances under which the United States would consider responding to non-nuclear attacks with nuclear weapons were said to be few. “The United States will continue to…reduce the role of nuclear weapons in deterring non-nuclear attacks,” the report stated. Although little was said about what sort of non-nuclear attacks might be deemed severe enough to justify a nuclear response, cyberstrikes were not identified as one of these. The 2018 NPR report, however, portrayed a very different environment, one in which nuclear combat is seen as increasingly possible and in which non-nuclear strategic threats, especially in cyberspace, were viewed as sufficiently menacing to justify a nuclear response. Speaking of Russian technological progress, for example, the draft version of the Trump administration’s NPR report stated, “To…correct any Russian misperceptions of advantage, the president will have an expanding range of limited and graduated [nuclear] options to credibly deter Russian nuclear or non-nuclear strategic attacks, which could now include attacks against U.S. NC3, in space and cyberspace.”1

The notion that a cyberattack on U.S. digital systems, even those used for nuclear weapons, would constitute sufficient grounds to launch a nuclear attack was seen by many observers as a dangerous shift in policy, greatly increasing the risk of accidental or inadvertent nuclear escalation in a crisis. “The entire broadening of the landscape for nuclear deterrence is a very fundamental step in the wrong direction,” said former Secretary of Energy Ernest Moniz. “I think the idea of nuclear deterrence of cyberattacks, broadly, certainly does not make any sense.”2

Despite such admonitions, the Pentagon reaffirmed its views on the links between cyberattacks and nuclear weapons use when it released the final version of the NPR report in February 2018. The official text now states that the president must possess a spectrum of nuclear weapons with which to respond to “attacks against U.S. NC3,” and it identifies cyberattacks as one form of non-nuclear strategic warfare that could trigger a nuclear response.

That cyberwarfare had risen to this level of threat, the 2018 NPR report indicated, was a product of the enhanced cybercapabilities of potential adversaries and of the creeping obsolescence of many existing U.S. NC3 systems. To overcome these vulnerabilities, it called for substantial investment in an upgraded NC3 infrastructure. Not mentioned, however, were extensive U.S. efforts to employ cybertools to infiltrate and potentially incapacitate the NC3 systems of likely adversaries, including Russia, China, and North Korea.

For the past several years, the U.S. Department of Defense has been exploring how it could employ its own very robust cyberattack capabilities to compromise or destroy enemy missiles from such states as North Korea before they can be fired, a strategy sometimes called “left of launch.”3 Russia and China can assume, on this basis, that their own launch facilities are being probed for such vulnerabilities, presumably leading them to adopt escalatory policies such as those espoused in the 2018 NPR report. Wherever one looks, therefore, the links between cyberwar and nuclear war are growing.

The Nuclear-Cyber Connection

These links exist because the NC3 systems of the United States and other nuclear-armed states are heavily dependent on computers and other digital processors for virtually every aspect of their operation and because those systems are highly vulnerable to cyberattack. Every nuclear force is composed, most basically, of weapons, early-warning radars, launch facilities, and the top officials, usually presidents or prime ministers, empowered to initiate a nuclear exchange. Connecting them all, however, is an extended network of communications and data-processing systems, all reliant on cyberspace. Warning systems, ground- and space-based, must constantly watch for and analyze possible enemy missile launches. Data on actual threats must rapidly be communicated to decision-makers, who must then weigh possible responses and communicate chosen outcomes to launch facilities, which in turn must provide attack vectors to delivery systems. All of this involves operations in cyberspace, and it is in this domain that great power rivals seek vulnerabilities to exploit in a constant struggle for advantage.

The use of cyberspace to gain an advantage over adversaries takes many forms and is not always aimed at nuclear systems. China has been accused of engaging in widespread cyberespionage to steal technical secrets from U.S. firms for economic and military advantages. Russia has been accused, most extensively in the Robert Mueller report, of exploiting cyberspace to interfere in the 2016 U.S. presidential election. Nonstate actors, including terrorist groups such as al Qaeda and the Islamic State group, have used the internet for recruiting combatants and spreading fear. Criminal groups, including some thought to be allied with state actors, such as North Korea, have used cyberspace to extort money from banks, municipalities, and individuals.4 Attacks such as these occupy most of the time and attention of civilian and military cybersecurity organizations that attempt to thwart such attacks. Yet for those who worry about strategic stability and the risks of nuclear escalation, it is the threat of cyberattacks on NC3 systems that provokes the greatest concern.

This concern stems from the fact that, despite the immense effort devoted to protecting NC3 systems from cyberattack, no enterprise that relies so extensively on computers and cyberspace can be made 100 percent invulnerable to attack. This is so because such systems employ many devices and operating systems of various origins and vintages, most incorporating numerous software updates and “patches” over time, offering multiple vectors for attack. Electronic components can also be modified by hostile actors during production, transit, or insertion; and the whole system itself is dependent to a considerable degree on the electrical grid, which itself is vulnerable to cyberattack and is far less protected. Experienced “cyberwarriors” of every major power have been working for years to probe for weaknesses in these systems and in many cases have devised cyberweapons, typically, malicious software (malware) and computer viruses, to exploit those weaknesses for military advantage.5

Although activity in cyberspace is much more difficult to detect and track than conventional military operations, enough information has become public to indicate that the major nuclear powers, notably China, Russia, and the United States, along with such secondary powers as Iran and North Korea, have established extensive cyberwarfare capabilities and engage in offensive cyberoperations on a regular basis, often aimed at critical military infrastructure. “Cyberspace is a contested environment where we are in constant contact with adversaries,” General Paul M. Nakasone, commander of the U.S. Cyber Command (Cybercom), told the Senate Armed Services Committee in February 2019. “We see near-peer competitors [China and Russia] conducting sustained campaigns below the level of armed conflict to erode American strength and gain strategic advantage.”

Although eager to speak of adversary threats to U.S. interests, Nakasone was noticeably but not surprisingly reluctant to say much about U.S. offensive operations in cyberspace. He acknowledged, however, that Cybercom took such action to disrupt possible Russian interference in the 2018 midterm elections. “We created a persistent presence in cyberspace to monitor adversary actions and crafted tools and tactics to frustrate their efforts,” he testified in February. According to press accounts, this included a cyberattack aimed at paralyzing the Internet Research Agency, a “troll farm” in St. Petersburg said to have been deeply involved in generating disruptive propaganda during the 2016 presidential elections.6

Other press investigations have disclosed two other offensive operations undertaken by the United States. One called “Olympic Games” was intended to disrupt Iran’s drive to increase its uranium-enrichment capacity by sabotaging the centrifuges used in the process by infecting them with the so-called Stuxnet virus. Another left of launch effort was intended to cause malfunctions in North Korean missile tests.7 Although not aimed at either of the U.S. principal nuclear adversaries, those two attacks demonstrated a willingness and capacity to conduct cyberattacks on the nuclear infrastructure of other states.

Efforts by strategic rivals of the United States to infiltrate and eventually degrade U.S. nuclear infrastructure are far less documented but thought to be no less prevalent. Russia, for example, is believed to have planted malware in the U.S. electrical utility grid, possibly with the intent of cutting off the flow of electricity to critical NC3 facilities in the event of a major crisis.8 Indeed, every major power, including the United States, is believed to have crafted cyberweapons aimed at critical NC3 components and to have implanted malware in enemy systems for potential use in some future confrontation.

Pathways to Escalation

Knowing that the NC3 systems of the major powers are constantly being probed for weaknesses and probably infested with malware designed to be activated in a crisis, what does this say about the risks of escalation from a nonkinetic battle, that is, one fought without traditional weaponry, to a kinetic one, at first using conventional weapons and then, potentially, nuclear ones? None of this can be predicted in advance, but those analysts who have studied the subject worry about the emergence of dangerous new pathways for escalation. Indeed, several such scenarios have been identified.9

The first and possibly most dangerous path to escalation would arise from the early use of cyberweapons in a great power crisis to paralyze the vital command, control, and communications capabilities of an adversary, many of which serve nuclear and conventional forces. In the “fog of war” that would naturally ensue from such an encounter, the recipient of such an attack might fear more punishing follow-up kinetic attacks, possibly including the use of nuclear weapons, and, fearing the loss of its own arsenal, launch its weapons immediately. This might occur, for example, in a confrontation between NATO and Russian forces in east and central Europe or between U.S. and Chinese forces in the Asia-Pacific region.

Speaking of a possible confrontation in Europe, for example, James N. Miller Jr. and Richard Fontaine wrote that “both sides would have overwhelming incentives to go early with offensive cyber and counter-space capabilities to negate the other side’s military capabilities or advantages.” If these early attacks succeeded, “it could result in huge military and coercive advantage for the attacker.” This might induce the recipient of such attacks to back down, affording its rival a major victory at very low cost. Alternatively, however, the recipient might view the attacks on its critical command, control, and communications infrastructure as the prelude to a full-scale attack aimed at neutralizing its nuclear capabilities and choose to strike first. “It is worth considering,” Miller and Fontaine concluded, “how even a very limited attack or incident could set both sides on a slippery slope to rapid escalation.”10

What makes the insertion of latent malware in an adversary’s NC3 systems so dangerous is that it may not even need to be activated to increase the risk of nuclear escalation. If a nuclear-armed state comes to believe that its critical systems are infested with enemy malware, its leaders might not trust the information provided by its early-warning systems in a crisis and might misconstrue the nature of an enemy attack, leading them to overreact and possibly launch their nuclear weapons out of fear they are at risk of a preemptive strike.

“The uncertainty caused by the unique character of a cyber threat could jeopardize the credibility of the nuclear deterrent and undermine strategic stability in ways that advances in nuclear and conventional weapons do not,” Page O. Stoutland and Samantha Pitts-Kiefer wrote in 2018 paper for the Nuclear Threat Initiative. “[T]he introduction of a flaw or malicious code into nuclear weapons through the supply chain that compromises the effectiveness of those weapons could lead to a lack of confidence in the nuclear deterrent,” undermining strategic stability.11 Without confidence in the reliability of its nuclear weapons infrastructure, a nuclear-armed state may misinterpret confusing signals from its early-warning systems and, fearing the worst, launch its own nuclear weapons rather than lose them to an enemy’s first strike. This makes the scenario proffered in the 2018 NPR report, of a nuclear response to an enemy cyberattack, that much more alarming.

### Off

Delegation CP

#### The United States federal government should delegate antitrust rulemaking authority to a new expert agency. The agency should begin notice-and-comment rulemaking to adopt the principle of separating platforms from commerce for platforms in the private sector.

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

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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.

### Off

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)).

#### Economic alliance is key to Indo-Pacific cyber security---only coop allows them to leverage technology.

Patrick M. Cronin 4/15/21. Asia-Pacific Security Chair @ Hudson. "U.S.-Japan Alliance in Full Bloom". https://www.hudson.org/research/16835-u-s-japan-alliance-in-full-bloom

Even if seldom mentioned by name, China is the unmistakable fulcrum around which alliance policy on all issues turns. Competition with China is primarily economic and technological, but these issues often spill over into security and human rights.

Economically, a rebounding U.S. economy and Japan will collaborate to strengthen the resilience of vital supply chains. Semiconductor chips are essential for all electronics, and Suga and Biden are determined to ensure their availability. Equally, the U.S. and Japan have an opportunity to leverage their two-year-old digital trade agreement to help negotiate a multilateral accord and establish high international standards for finance and commerce in the cyber age.

As a dominant player in semiconductor manufacturing and a member of APEC and the World Trade Organization, Taiwanshould play a part in both supply chain security and digital trading standards. Indeed, bolstering Taiwan’s place in the global economy of other democracies is a far better means of thwarting Beijing’s intimidation strategy against Taiwan than just sailing near the Taiwan Strait with an aircraft carrier.

The commanding heights of the 21st century economy center on technology. So, while the United States and Japan retain a strong interest in economic cooperation with China, those relations become considerably sharper over leading-edge technologies such as 5G telecommunications, artificial intelligence and quantum computing. Biden and Suga should showcase their commitment, not against China, but in favor of technological innovation and secure connectivity.

An excellent way for the alliance to demonstrate a commitment to practical technology cooperation would be to work together to expand investment in 5G Open Radio Access Networks (ORAN). Given the concerns surrounding allowing China to dominate fifth-generation telecommunications infrastructure, the United States and Japan need to scale up a cloud-based software alternative. The good news is that Japan’s Rakuten is already a leader in demonstrating ORAN’s feasibility, and there is bipartisan support in Congress for increasing U.S. investment in modular 5G.

The alliance also requires deeper cooperation on cybersecurity. Of five issues highlighted at the recent 2 + 2 meeting between U.S. and Japan defense and foreign ministers, cyberspace was the most traditional national security issue. Japan is inching closer toward becoming a de facto sixth member of the Five Eyes intelligence-sharing arrangement, and the Biden administration should encourage that trajectory. A stronger digital alliance can, in turn, advance cyber resilience throughout the Indo-Pacific region.

#### Extinction---Indo-Pak nuclear war.

Ahyousha Khan 20. "Research Associate" at Islamabad Based Think-tank "Strategic Vision Institute". "Artificial Intelligence without Cyber Resilience in South Asia". South Asia Journal. 7-16-2020. http://southasiajournal.net/artificial-intelligence-without-cyber-resilience-in-south-asia/

With increased dependence on information technology and rapid digitization of systems, term cybersecurity gained momentum. However, these systems not only need to be securitized but they should be resilient against the threats. Cyber resilience is the ability of the system to operate during an attack and achieve a minimum level of operationalization while responding to an attack. It also enables the system to develop a back-up system that works in case of attack. Cyber resilience is a step forward from cybersecurity because it not only ensures the security of the system, but also identifies the threats to it and then proposes the system that could work amidst such attacks. Most military systems are resilient against kinetic attacks because resilience and survivability go hand in hand. But, with modernizations in the military, it is necessary that the state’s cyber networks which are working on artificial intelligence must be resilient against kinetic and non-kinetic attack.

Today states are in a race to use the AI in their military systems to achieve maximum military gains and denying their adversary the same. The situation is not so different in South Asia where two nuclear rivals of the region are paving the way towards the use of artificial intelligence for military purposes. India has developed the Center for Artificial Intelligence and Robotics (CAIR) in DRDO, with the aim to develop AI within the military systems to improve geographical information system technology, decision support systems, and object detection and mapping. Moreover, companies like Bharat Electronics Limited (BEL) are already in the process of developing and incorporating AI into military equipment. This includes an AI-enabled patrol robot developed by BEL built in the hope to be utilized by the Indian military. Moreover, in 2019 India’s Gen. Bipin Rawat said adversary in the north is spending a huge amount on AI and cyber warfare, so we cannot be left behind in this race. It is mostly projected by the Indian policymakers and many international scholars that India is facing adversaries at two fronts (China-Pakistan), to justify India’s military expenditure and modernization. However, recently, events like Galwan Valley clash evidently exposed that India’s military capabilities are mostly against Pakistan. Moreover, South Asia’s security dynamics are heavily characterized by the action-reaction chain. To avoid the security dilemma vis-à-vis India, Pakistan would also invest in AI. At the moment Pakistan has also started working towards achieving expertise in AI. In 2019 President of Pakistan launched PIAIC with a focus on the development of skills in AI to strengthen economy and defence systems. Moreover, there are centers like the National Center of Artificial Intelligence and the Department of Robotics and Intelligent Machine Learning in NUST, which are working to improve AI-based knowledge in Pakistan. Besides that Pakistan recently launched a program named “Digital Pakistan” to increase access and connectivity, digital infrastructure, e-government, digital killing, and training and introduce innovation and entrepreneurship.

There are many studies done on the implications of AI on nuclear deterrence and strategic stability in South Asia. These studies highlight that due to prevalent asymmetry in the conventional military build-up, the introduction of AI into military technology would worsen the already fragile deterrence stability of the region. This assumption is based on the argument that due to AI in reconnaissance systems, high-level intelligence collection would affect the survivability of nuclear weapons, which is based on diversification and concealment. However, AI would also enable both states to have more response options in a short time with the help of decision-making tools in case of a crisis, especially in aerial battles.

Moreover, both states are moving towards the massive digitalization of their military systems and society without building cyber-resilient systems. Resilience can be built against vulnerabilities like human factors, massive speed of the systems, protection, and storage of data and advanced persistent threats (ATPs). Artificial intelligence-based systems must be incorporated in societies and militaries along with mechanisms to strengthen the cybersecurity systems. A front runner in AI like the US has also expressed concerns over the need for modern equipment to operate on “internet-like networks” and subsequently increased vulnerabilities due to their applicability. Therefore, military modernization can happen effectively through cyber resiliency in military systems, network processes, and cyber architecture. A cyber-resilient system would enable the state to develop a system that would remain functional during a phishing attack. Steps like cyber deception, agility, and clone defense could increase resilience in the existing systems. This is important to understand in already lacking strategic stability, military systems based on artificial intelligence would be an ideal target of AI advanced persistent threats in South Asia.

Therefore, as the process of digitalization is increasing in the Pakistan-India equation, it is also becoming very important that both states should develop resilience in their cyber systems so that the technologies could give them an advantage rather than becoming a security peril for them.

### Off

Regs CP

#### The United States federal government should adopt the principle of separating platforms from commerce for platforms in the private sector through non-antitrust regulations.

#### The counterplan PICs out of anti-trust legislation and the FTC and DOJ as enforcers---other agencies’ regulations solve.

Lawrence Fullerton et al. 08. Joel M Mitnick, William V Reiss, George C Karamanos and Owen H Smith. Sidley Austin LLP. Vertical Agreements The regulation of distribution practices in 34 jurisdictions worldwide. “United States.” https://www.sidley.com/-/media/files/publications/2008/03/getting-the-deal-through--vertical-agreements-2008/files/view-united-states-chapter/fileattachment/united-states-21.pdf

5 What entity or agency is responsible for enforcing prohibitions on anticompetitive vertical restraints? Do governments or ministers have a role?

The Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DoJ) are the two federal agencies responsible for the enforcement of federal antitrust laws. The FTC and the DoJ have jurisdiction to investigate many of the same types of conduct, and therefore have adopted a clearance procedure pursuant to which matters are handled by whichever agency has the most expertise in a particular area.

Additionally, other agencies, such as the Securities and Exchange Commission and Federal Communications Commission, maintain oversight authority over regulated industries pursuant to various federal statutes, and therefore may review vertical restraints for anti-competitive effects.

### Off

States CP

#### The 50 states, DC, and all relevant territories should uniformly adopt the principle of separating platforms from commerce for platforms in the private sector.

#### 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.

### Dependency Trap---1NC

#### Lack of infrastructure outweighs.

First ’21 [Harry; Professor of Trade Regulation @ NYU; “Digital Platforms and Competition Policy in Developing Countries”; <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3864953>; AS]

C. Does Competition Law Matter for Innovation in Developing Countries?

There are many factors that might lead one to be skeptical about whether competition law provides much value added when it comes to increasing innovation in developing countries. Infrastructure support for innovation generally, and for digital products and services specifically, may be more of a hurdle for innovation than weak competition law enforcement. Competition law enforcement agencies have had difficulty incorporating innovation into antitrust policy even in major developed economies; how much more so for resource‐starved agencies in developing countries? Perhaps it would be better to let the major enforcement agencies take the lead, particularly when the major digital platforms are involved, on the assumption that changes in structure or business practices will likely spill over to developing countries in any event.

---DARTMOUTH’S CARD STARTS---

Despite these caveats, it would be unwise for agencies in developing countries to ignore innovation issues in competition law enforcement. Developing countries have particular policy concerns that may seem less important to developed countries. One major concern, of course, is economic development, for which innovation may be a critical driver, particularly if we view innovation in a less technology‐centric way. Another major concern is inclusive economic growth, making certain that the gains from markets are distributed more widely rather than less, particularly when it comes to groups that have faced discrimination or have not adequately participated in the economy. A third concern is sovereignty, to make sure that a developing economy is not dominated by outside economic interests. Competition enforcement that increases innovation, particularly through an emphasis on competitive rivalry in dynamic markets, offers the possibility of advancing all three goals.

II. Digital Platform Use in Developing Countries

A. An Overview

Digital platforms are in widespread use in developing countries. The major U.S. digital platforms tend to be ubiquitous—in South Africa, for example, nearly half of all Internet users use Facebook, YouTube, and WhatsApp39— but there are also more local platforms in developing countries that are of significant size.40

Digital platforms can be categorized in different ways. Most common is to categorize them by the type of service they offer; the proposed EU Digital Markets Act, for example, has eight categories of “core platform service,” such as search engines, social networks, and operating systems.41 This type of categorization is similar to product markets as analyzed under competition law. A more functional approach divides digital platforms into transaction platforms and innovation platforms.42 Transaction platforms are generally multi‐sided and “support exchanges between a number of different parties,” Amazon and Uber being good examples. Innovation platforms (sometimes called technology or engineering platforms) provide components that a firms in a sector can use in common for their interactions. Computer operating systems and technology standards are good examples of these platforms.43

Entrepreneurs in developing countries have generally not created innovation platforms.44 Rather, they have used platform technologies created elsewhere to offer products that are distributed digitally, mostly on a relatively localized basis, that is, within the home country of the entrepreneur. Platform technologies are thus tools for these enterprises, allowing them to create new products and distribute them more efficiently. Even if entrepreneurs in developing countries do not create the tools, however, their use of platform technologies can still be market‐creating or sustaining and thereby qualify as innovation that can drive economic growth.

As the following examples will show, whether platforms are successful depends on many factors beyond competition law enforcement. Indeed, at the moment, competition law violations may not as yet have emerged. The question, though, is whether competition policy can play a role in keeping digital platform tools accessible and digital product markets competitive.

B. Mapping Platform Use in Africa: Four Areas

1. Online retail sales

Online retail sale of physical products and services is developing in Africa, but slowly. In South Africa, for example, e‐commerce is estimated to have only approximately 1‐2 percent of total retail sales, in comparison to 18 percent in the UK, with customers generally being higher income earners mostly concentrated in metropolitan areas.45 Nevertheless, throughout Africa a wide range of products are sold through online retail platforms, including food, consumer electronics, fashion, and apparel.46

Retailers use platforms in three ways. First, traditional brick‐and‐mortar stores use internet sales as a complement to their sales in physical stores; this has given major retailers a strong presence in online retail selling.47 Second, some sellers have an online presence only, selling their products at retail on various digital platforms. The “most ubiquitous” digital enterprises in Africa are e‐commerce sites that present their products on Facebook.48 Third, Africa‐based platforms offer marketplace services for other retailers. Takealot in South Africa has become the largest online retail marketplace in South Africa, for example, with more traffic than international competitors such as Amazon or eBay.49 It has also begun integrating into offering its own exclusive brands in competition with other retailers on the platform, raising potential concerns for self‐preferencing.50

Online retail sellers in Africa, particularly small and medium business enterprises, face a set of challenges that make it difficult to compete successfully. Online advertising is critical for these enterprises, but the two main advertising channels are Facebook and Google, and their use is expensive and complex for smaller businesses.51 Most e‐ commerce payment transactions are made by credit card, but fees can be high, payments can be slow, and concern for fraud has been high.52 Delivery may require investments in expensive assets to assure delivery (trucks, motorcycles, warehouses), particularly if the postal service is unreliable.53 On the other hand, the expense of drop‐ shipping international packages, the unreliability of the postal service, the relatively small size and geographical isolation of many African countries can make it difficult for international platforms like Amazon to compete successfully with local e‐commerce sites.54

2. Value chains

Companies in Africa use digital platforms to participate in “value chains,” that is, as intermediate transactors in the production and sale of goods and services. The ultimate consumer in the chain may be located outside the country or inside. For many African countries, participation in global value chains has been seen as an important way to stimulate economic growth, particularly if small and medium size businesses are the beneficiaries of such participation.55

The extent to which digital platforms have increased such participation by African firms is unclear. A study of value chains in Kenya and Rwanda examined how tourism firms integrated with international tourism sites to provide booking availability and service information, but found that their participation was often limited by a lack of technical skills and by the platforms’ managerial requirements.56 A study of small‐scale fresh fruit and vegetable farmers in Tanzania and Kenya focused on the use of certain basic platform technologies (mobile phones, Internet, and Facebook) to access payment systems, get pricing and production information, and reach export markets. Such usage was actually rather small (only 11 percent of farmers surveyed). Although the use of cellphones was helpful to small farmers in many local markets, reaching export markets required use of the Internet more than the use of basic cellphones, a step that excluded farmers who lacked sophistication (technical and linguistic).57

The difficulties of establishing digital value chains is not just limited by access to technology. More tractably for competition law, existing market structures and entrenched competitors may stand in the way as well.

A good example is the effort to create an online tea auction market in Mombasa, Kenya. The Mombasa Tea Auction provides the link between East African tea processors and international buyers.58 Kenya is the world’s leading exporter of tea and tea is Kenya’s number one foreign exchange earner.59 Tea is transported from highland areas in Africa to storage warehouses in Mombasa, where it is subsequently auctioned. Two groups have been the main intermediaries between growers and buyers in this process—tea brokers and storage warehouses—and only tea brokers could negotiate with buyers in the auction. Sellers made payments to the auction and then collected the tea from the warehouses for export. About 95% of tea exported from Kenya was sold through the Mombasa Tea Auction.

Asian competitors had been using online auctions but the Mombasa Tea Auction was done in person. Recognizing the auction’s inefficiencies, in 2012 an effort was made by the East African Tea Trade Association (EATTA) to introduce an online auction system. EATTA has 200 members from 10 African countries (mostly in East Africa) and includes all groups in the industry (producers, buyers, brokers, warehouses, and packers). Intermediaries were most opposed to an online auction, particularly the brokers who were believed to have controlled the in‐person auction and feared disintermediation.60 Interestingly, the brokers also feared that buyers would find it easier to collude when they didn’t have to place bids in an open auction, perhaps a not misplaced worry given a later antitrust suit against EATTA for fixing brokers’ and warehouse owners’ fees in the tea auction.61

After a trial run of an online auction, the EATTA members voted against its continuation. Apparently the brokers were able to convince smaller producers, whose only link to these markets was through the brokers, that an online auction would harm the brokers and thereby harm them.62 It was not until 2019 that an online tea auction became operational.63

3. FinTech

Financial technology products (“fintech”) operate as multisided platforms connecting buyers and sellers of financial services using the internet, mobile devices, software technology, and/or cloud services.64 Fintech products can cover aspects of banking, digital currencies, insurance, lending, money transfers, and payments. Fintech products can be deeply disruptive of existing banking and financial services but they can also offer platform infrastructure for many businesses. As such, fintech products are widely used throughout Africa.

Probably the most widely‐lauded fintech product in Africa is M‐Pesa, the payments service that runs on mobile phones.65 M‐Pesa was launched in 2007 by Vodafone, the U.K.‐based telecom company, in partnership with two African mobile phone system operators, Safaricom in Kenya and Vodacom in Tanzania.66 M‐Pesa “allows users to deposit money into an account stored on their cell phones, to send balances using SMS technology to other users (including sellers of goods and services), and to redeem deposits for regular money.”67 There is no charge for depositing the cash with the mobile phone company; charges are deducted when “e‐float” or “e‐money” is sent to recipients or when cash is withdrawn.68

M‐Pesa spread quickly following its introduction, with 10,000 new registrations by the end of its first year; two years later there were 7.7 million M‐Pesa registered accounts.69 In its first ten years the service expanded to ten countries, including one in Eastern Europe. By that time 21 percent of all adults in Sub‐Saharan Africa had a mobile money account; 73 percent of the population of Kenya and more than 50 percent of the population of Uganda and Zimbabwe used mobile money.

For all of M‐Pesa’s important success, its growth has actually been fairly limited, as has been the growth of fintech firms generally, which “have been slow to penetrate other sectors and other countries.”70 M‐Pesa has been limited by the fact that it operates a low‐tech service, using basic cellphones and text technology but not relying on more advanced smartphones.71 Thus it has proved less attractive in countries like South Africa that already had more advanced smartphone use and a “much more advanced banking network” that was able to meet the needs that M‐Pesa met.72 M‐ Pesa’s technological limits also made it less attractive for integrating its mobile payments API into other software applications.73

Whether the slow diffusion of fintech in Africa is a result of technological impediments or competitor resistance is unclear. One author concludes that the “largest impediment to more rapid FinTech growth appears to be the electrical and communications infrastructure in many developing countries, which have only limited, unreliable access to broadband Internet connections and smartphone handsets.”74 There is little doubt that these infrastructure issues affect the ability of digital platforms to thrive in Africa, but it may also be the case that the powerful financial companies can create legal roadblocks to fintech entry as well as try to preempt that entry by offering products similar to what potentially disruptive fintech entrants are offering. Indeed, this may be the case in South Africa. As the South Africa Competition Commission points out, one approach is for incumbents to accommodate the competitive threat by partnering with the upstart fintech firm: “the Fintech firm commits to remain small, providing the incumbent with its offerings whilst being able to ride on the scale, distribution channels and licenses of the traditional bank.”75 Another possibility is for the incumbent to acquire the fintech firm outright. A third is for the incumbent firm to compete with the fintech’s offerings, potentially leading to anticompetitive actions such as denying the fintech firm needed access to infrastructure assets.76

4. Sharing platforms

Sharing platforms are used by a wide variety of businesses in Africa. The South Africa Competition Commission defines these platforms as offering “short‐term peer‐to‐ peer transactions to share the use of idle assets and services or to facilitate collaboration.”77 Sharing platforms include not only firms that allow owners of vehicles and accommodations to “share” them with users, but also allows the sharing of work spaces, money (loans), clothing, and free‐lance services.78

Sharing platforms is an area in which the major international companies face competition with local enterprises. In the ride‐hailing segment, for example, Uber’s entry into African markets triggered the spread of mobile mapping technology for collecting location data from mobile vehicles. This allowed local companies to develop their own products suited to the needs of customers in different cities and countries, “giving themselves an edge over foreign services.”79 In South Africa, for example, Taxi Live and Mr D Foods (both South African firms) compete with Uber for taxi ride‐hailing and food delivery; Afri Ride, a South African company, competes by allowing commuters or drivers to offer unoccupied seats on their trips.80 In Kenya Little Cab competed with Uber by accepting M‐Pesa payments.81

Even with the existence of local companies, international firms appear to be the major competitors in most of these sharing platform markets. In a survey of users in Nairobi, Little Cab, four years after its entry, was running a distant third to the international platforms, Uber and Bolt.82 A 2020 survey in South Africa showed that three of the fifteen most popular applications in South Africa were international ride‐sharing platforms; none of the platforms in the survey was South African or African.83

The competitive problems that firms in sharing platform markets face do not appear to be the result of the exercise of anticompetitive conduct by dominant firms. Of course, as in developed countries, these platform companies do face opposition from the traditional operators in the fields that the platforms challenge. In the ride‐sharing market, for example, the metered taxi industry has responded to Uber’s entry in ways that are similar to the responses in developed countries. Taxi drivers have tried to physically block Uber drivers;84 they have also tried to invoke government action to stop Uber from engaging in certain business practices.85 But they have also tried to meet the challenge with the more competitive response of developing their own apps to connect passengers to metered taxis.86

C. Conclusion

The mapping just presented of digital platform use in Africa is by no means complete. Digital platforms are being developed in many other areas. In agriculture, for example, Kenya‐based mobile apps have been launched to help farmers better manage crops such as cassava, maize, and potatoes.87 In health care, there is a long list of available apps: “Hello Doctor” provides free essential medical information in 10 African countries; FD Detector (developed by five teenage girls from Nigeria) detects fake drugs by using bar codes; mTrac allows health care workers in Uganda to submit weekly health data via SMS; Omomi provides women in Nigeria with maternal and child health information and connects them to doctors.88

Even though the overview is necessarily incomplete, the picture that does emerge shows that digital platforms do hold out the promise not just of extending traditional industries into new means of distribution. Digital technologies also hold out the promise of dealing with certain problems that are more acute in developing countries (although not absent in developed countries). Access to capital can be increased through fintech applications; business transactions can be facilitated if payment systems are more secure; small enterprises can reach markets more efficiently if digital platforms are available and open; health care information and data can be shared more easily where mobile applications are available. Many of these improvements are more incremental than fundamental, but they all lead to better market‐driven outcomes.

III. Lessons For Competition Policy For Digital Platforms

It is not surprising that even a brief survey of the adoption of digital platforms in Africa shows that their use is both important and spreading. To a large degree these platform technologies are tools for a variety of improvements in the production and distribution of old and new products. The ability to use these tools to create new offerings is an important aspect of innovation.

Developed countries now seem obsessed with the power of the major platforms over many aspects of our economy and life. Developing countries seem less obsessed but, in a significant way, more dependent. Mobile technology is a key tool for delivering new digital products, but this technology often comes with a hidden “tax” imposed by developed world patent holders that control the standards on which these devices (now smartphones) are based and set the fees for licensing those standards.89 Developed world competition law enforcers seem powerless to control this pricing power; we wouldn’t expect developing world enforcers to do better. This tax, however, may be more critical in economies where the incomes are lower and smartphone use more limited.

What about the power of the GAFA? Although the use of Google and Facebook products is clearly ubiquitous, Apple and Amazon seem less powerful. In particular, Amazon’s business model puts it at a disadvantage in many developing economies, where shipping costs, tariffs, and delivery systems give local online sellers an edge.

Facebook and Google, but especially Facebook, loom larger. Search is important for delivering advertising, but Facebook, combined with WhatsApp, is vital not only for digital advertising but for digital presence. Sellers have come to rely on Facebook for connecting to consumers and establishing a network of users with whom to communicate and from whom to get information and data. Entrepreneurs in the developing world have complained about Facebook and Google’s high advertising rates, but with Facebook the problem goes deeper. Should Facebook or WhatsApp change their terms of use in some way, there would be little that developing countries could do. If Australia is having trouble controlling Facebook, what would we expect from countries with fewer users and smaller economies?90

This means that the first lesson for competition policy toward digital platforms is actually aimed at developed countries. If antitrust authorities in the U.S. are successful in their litigation against Facebook and Google, at least some thought should be given to how the remedies sought will affect developing countries.91 Although consideration of extraterritorial effects is not part of the case against these companies, remedy is broader. Positive spillovers should be part of the governments’ calculus.

---DARTMOUTH’S CARD ENDS---

The second lesson is that competition law enforcement may not be the most critical driver of platform innovation in developing countries. Many commentators have pointed out that basic physical infrastructure is primary—better Internet access, more broadband service, less expensive smartphones—as is better managerial training and even better ability to use English. Competition law enforcement is a good tool to keep things from getting worse, but not necessarily the best tool to make things better.92

The third lesson is that the hope that digital platforms will allow local small and medium sized businesses more access to global value chains remains just that, a hope. Local marketplace platforms don’t yet have a global reach and key international platforms have proven difficult to access, but not because of any anticompetitive conduct. Developing country competition law enforcers should still be alert to anticompetitive practices, like self‐preferencing, but not for the purpose of driving exports. Impact on local markets and local business should be reason enough to act.

#### Their “digital divide” impact is about authoritarian blocks not access---plan can’t solve incentives for China to make a separate internet.

Wong ’20 [Johnson; Graduate School of Public and International Affairs @ UOttowa; “Digital Divide: Geotechnology, Politics and the International System”; <https://ruor.uottawa.ca/bitstream/10393/41017/1/WONG%2C%20Johnson%2020205.pdf>; AS]

Governing cyberspace

This fundamental difference in understanding how 5G technological innovation as a tool of the state reflected in cultural norms is at the crux of the digital divide in the international system. The principles that guide ICANN which seek a “multi-stakeholder, community-based and consensus-driven approach” to the governance of the Internet, is anathema to the harmonious and strong central state championed by autocrats and their allies. The liberal governance model of technological innovation based on pluralism, freedom and consensus, are linked to Western democracy which in turn challenges the legitimacy of the authoritarian rule of the state. To maintain their political power, and unable to escape the trappings of technological modernity, China, Russia and other authoritarians will be determined to build a separate “other”-net to compete with the Western version, and in some cases, surpass it. Muller argues,

The proclaimed differences are in interpretation and implementation, with China emphasizing the issue of priorities and progressive realization and rejecting the liberal model not as such, but the notion that it is the only model. In one respect, this reflects the indeterminacy and generality of the rhetoric of the ‘international community’. However, it also raises the question of the nature of the international community. In some liberal views, all roads lead to liberal democracy along more or less western models. However, a truly pluralist international society which accommodates cultural diversity and accepts the principle of self-determination, would accept that countries can also take a different development path, as emphasized by China (Muller, 2015, 236).

While modern liberal democracies seek to accommodate diverse perspectives and build a plural political order, geopolitical interests based on nationalistic factors continue to dominate the discourse (Sidorenko, 2015, 1260). Even within liberal governments themselves, various data protection laws are becoming a point of contention between countries, with the European Union taking a more teleological vision about its universal development model and placing its model above geopolitical power politics and nationalism, to encompass a historical imperative that they believe should be replicated around the world (Browning, 2016, 110). The irony is that a liberal system that values and respects plurality should accept equal but alternative value systems as legitimate (Muller, 2015, 219).

Digital sovereignty and the primacy of alliances

The three drivers mentioned above, 5G standardization, strategic economic dependency, and competing normative values, are transforming the international system and will result in a digital divide. Globalization continues to increase socio-economic transactions between states, and the growth of cyberspace has created economic value from consumer data. Various state operators compete with each other for consumer dollars while, at the same time, the need to cooperate to connect their networks with each other – using internationally recognized protocols – is creating tension between the public good of a seamless system, and the private interests of operators and the state (O’Hara and Hall, 2020, 10). Controversies related to 5G standard-setting by companies that are supposed to be impartial are contributing to a difficult process for all major players involved. Huawei, the leading Chinese operator that is participating on the 5G standard-setting consortium, has been repeatedly accused of being under the influence of the central Chinese state party. This poses a challenge in the existing liberal model of standardsetting for, if Huawei succeeds in its efforts to control the technical standards of 5G, will secure for the Chinese state a much bigger stake (and control) of the 5G patent licensing system. Once standards have been set and essential patents defined, companies must build to the agreed standards and pay royalties to patent licensees as required (Triolo, 2018, 10). These are supposed to be separate – and most importantly, independent – processes, but there is little doubt among the international 5G and telecommunications community that the Chinese state is directing Huawei in order to obtain a substantial stake in the upcoming technological transition in order to secure its political and economic ambitions. It is important to note that once standards are set, governments and companies will be compelled to follow them or risk being non-interoperable with the rest of the world. In some cases, this is the strategic vision for China: By controlling the vast majority of 5G licensing patents and creating networked systems that only work with Chinese-branded equipment, it will be able to project its digital power abroad and force compliance. Without access to Chinese equipment, and a licensee payment system that is indebted to a Chinese state-backed company, antagonistic states will quickly become isolated and find themselves cut off. Sidorenko argues that, “The world is becoming more unified, but not safer; traditional regional conflicts are escalating into geopolitical conflicts ushered by the phenomena of globalization and all the changes and nuances it brings to the economic, political, socio-cultural and spiritual spheres” (Sidorenko, 2015, 1261).

The relativity by which actors are able to influence the political discourse and debate state sovereignty has never before been so uncertain, with the digital world becoming the new arena for states to challenge existing norms, values and economic systems of the past. The digital realm offers a different variation of sovereignty challengers that include the dynamics of nonstate actors, such as private companies, civil society, non-governmental organizations, and even individuals, to question the legitimacy of the state and its relationship to external actors and those within the state (Timmers, 2019, 12; Adonis, 2019, 268). The fundamental challenge and struggle for states to maintain their independence in this space relies upon the extent to which state control of the technological tools, systems and structures are within their influence, and the extent to which they are able to maintain the independence of their national security networks without being isolated from the rest of the world.

Therefore, to achieve this global network based on common standards and shared values, an alliance of liked-minded partners is needed to buttress this digital divide. Timmers says, “Like-mindedness is based on shared values, whether these pertain to the individual (such as respect for privacy and autonomy) or to economy (liberal market economy) or to society and democracy (independent judiciary, freedom of expression, free elections) or to international relations (respect for the system of sovereign states and multilateralism). A wide range of governance tools can be mobilized for supervision, decision-making, and certification” (Timmers, 2019, 15). In the context of the digital divide, countries allied with authoritarian regimes will align their 5G technical standards, find commonalities in terms of political structure, and seek to share in the economic union driven by the divide. Alliances – especially historical alliances – will play a key role in accelerating this digital divide through collaboration between liked-minded states on both sides of the gap. The alliance between cooperating states will not just be an alliance of authoritarians – rather, it will be based on a common set of values and norms shared by the people and state government. These norms and values, as previously mentioned, will originate primarily from common values about the role of the state, its obligations to its peoples, and the extent that it is seen as legitimate by its citizens. Even in democracies, it is feasible for a country to ally itself with China if it finds that it shares more in common with the CCP than the US.

#### Expand the scope of antitrust refers exclusively to formal law not enforcement---the plan is circumvented.

Sinisa Milosevic et al. 18. Commission for Protection of Competition, The Republic of Serbia. Dejan Trifunovic, Faculty of Economics, University of Belgrade, Belgrade, The Republic of Serbia. Jelena Popovic Markopoulos, Commission for Protection of Competition, The Republic of Serbia. “The Impact of the Competition Policy on Economic Development in the Case of Developing Countries”. Economic Horizons, May - August 2018, Volume 20, Number 2, 153 – 167. http://scindeks-clanci.ceon.rs/data/pdf/1450-863X/2018/1450-863X1802157M.pdf

The paper that analyzes the impact of the competition policy on the GDP growth in developing and developed countries in the Solow growth model framework is T. C. Ma’s (2011). The presence and scope of the competition policy is captured by the SCOPE variable that is defined in the paper by K. N. Hylton and F. Deng (2007). The overall effectiveness of the government’s application of policies, not only of the competition policy, is captured by the EFFICIENCY variable that is defined in the paper by D. Kaufmann, A. Kraay and M. Mastruzzi (2009). The results show that the SCOPE variable is not significant and the formal existence of the competition law cannot influence economic growth. The interacting variable of SCOPE x EFFICIENCY is named EFFLAW. For poor countries, the coefficient for this variable is 0.04 and is significant, whereas for rich countries the coefficient is 0.064 and is also significant. Therefore, the competition law must be complemented with the effective enforcement of this policy.

#### Antitrust fails---expanding scope opens the floodgates to litigation and makes enforcement impossible.

Geoffrey Manne, 18. International Center for Law & Economics president & founder, Congressional Documents and Publications, “Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing; "A Comparative Look at Competition Law Approaches to Monopoly and Abuse of Dominance in the US and EU."; Testimony by Geoffrey Manne, President and Founder, International Center for Law and Economics,” December 19, 2018. Lexis, accessed 6-1-21

II. The specious lure of excessively discretionary antitrust

Antitrust is an attractive regulatory tool for a number of reasons. As noted above, the vague, terse language of the Sherman Act readily lends itself to "interpretation" imbuing it with virtually limit-less scope. Indeed, the urge to treat antitrust as a legal Swiss Army knife capable of correcting all manner of social and economic ills is apparently difficult to resist. Conflating size with market power, and market power with political power, many recent calls for regulation of the tech indus-try are framed in antitrust terms, even though they are mostly rooted in nothing recognizable as modern, economically informed antitrust legal claims or analysis. But that attraction is precisely why we should care about the scope, process, and economics of anti-trust and the extent of its politicization. Antitrust in the US has largely resisted the relentless effort to politicize it. Despite being rooted in vague and potentially expansive statutory language, US anti-trust is economically grounded, evolutionary, and limited to a set of achievable social welfare goals. In the EU, by contrast, these sorts of constraints are far weaker. Whether or not that is suitable for the particular political and historical circumstances of the EU is a separate question. But, undoubt-edly, applying a controversial legal regime to the United States -- a markedly different jurisdiction with a unique governance structure -- and upsetting more than a century of legal, technological, and social development, is deeply problematic. This conclusion is in no way altered by the fact that US antitrust law has become the outlier of global antitrust enforcement, compared to the EU's more "consensual" approach. n26 What matters is a policy's actual results, not whether it is widely adopted; the world is full of debunked beliefs that were once widely shared. And it is far from certain that the widespread adoption of the EU model is in any way indicative of superior results. It is equally (or even more) plausible that this model has proliferated because it naturally accommodates politically useful populist narratives -- such as "big is bad," robin hood fallacies and robber baron myths -- that are constrained by the US's more evidence-based and rational antitrust decision-making. n27 America's isolation might thus be a testament to its success rather than an emblem of its failure. But even if by some chance the European approach proved to be optimal for many other countries in the world, it is still dubious that its adoption would lead to improved economic performance in the United States. As has already been alluded to, the unique features of the US legal regime make it unlikely that the best policy for the EU would also happen to be the best one for America. The EU's more aggressive pursuit of technology platforms under its antitrust laws demonstrates many of the problems with its approach in general. I urge this subcommittee to consider not just whether the EU approach seems to permit the government to reach a preconceived outcome -- i.e., placing large tech platforms under increased antitrust scrutiny -- but whether it is truly desirable at all to emulate the EU's approach and to try to reach the goals of EU competition policy under US antitrust law. Endorsing the European approach to antitrust, in a naive attempt to bring high-pro-file cases against large Internet platforms, would prioritize political expediency over the rule of law. It would open the floodgates of antitrust litigation and facilitate deleterious tendencies, such as non-economic decision-making, rent-seeking, regulatory capture, and politically motivated enforce-ment. Bringing US antitrust enforcement in line with that of the EU would thus unlock a veritable Pan-dora's box of concerns that are currently kept in check. Chief among them is the use of antitrust laws to evade democratically and judicially established rules and legal precedent. When consider-ing this question, it is important to see beyond any particular set of firms that enforcement offi-cials and politicians may currently be targeting. An antitrust law expanded to consider the full scope of soft concerns that the EU aims at will not be employed against only politically disfavored companies, companies in other jurisdictions, or in order to expediently "solve" otherwise political problems. Once antitrust is expanded beyond its economic constraints and imbued with political content, it ceases to be a uniquely valuable tool for addressing real economic harms to consumers, and becomes a tool for routing around legislative and judicial constraints**.**

#### No impact to the LIO.

Graham Allison 18. Professor of Government at Harvard. “The Myth of the Liberal Order.” Foreign Affairs 97.4: 124-133

Among the debates that have swept the U.S. foreign policy community since the beginning of the Trump administration, alarm about the fate of the liberal international rules-based order has emerged as one of the few fixed points. From the international relations scholar G. John Ikenberry's claim that "for seven decades the world has been dominated by a western liberal order" to U.S. Vice President Joe Biden's call in the final days of the Obama administration to "act urgently to defend the liberal international order," this banner waves atop most discussions of the United States' role in the world. About this order, the reigning consensus makes three core claims. First, that the liberal order has been the principal cause of the so-called long peace among great powers for the past seven decades. Second, that constructing this order has been the main driver of U.S. engagement in the world over that period. And third, that U.S. President Donald Trump is the primary threat to the liberal order-and thus to world peace. The political scientist Joseph Nye, for example, has written, "The demonstrable success of the order in helping secure and stabilize the world over the past seven decades has led to a strong consensus that defending, deepening, and extending this system has been and continues to be the central task of U.S. foreign policy." Nye has gone so far as to assert: "I am not worried by the rise of China. I am more worried by the rise of Trump." Although all these propositions contain some truth, each is more wrong than right. The "long peace" was the not the result of a liberal order but the byproduct of the dangerous balance of power between the Soviet Union and the United States during the four and a half decades of the Cold War and then of a brief period of U.S. dominance. U.S. engagement in the world has been driven not by the desire to advance liberalism abroad or to build an international order but by the need to do what was necessary to preserve liberal democracy at home. And although Trump is undermining key elements of the current order, he is far from the biggest threat to global stability. These misconceptions about the liberal order's causes and consequences lead its advocates to call for the United States to strengthen the order by clinging to pillars from the past and rolling back authoritarianism around the globe. Yet rather than seek to return to an imagined past in which the United States molded the world in its image, Washington should limit its efforts to ensuring sufficient order abroad to allow it to concentrate on reconstructing a viable liberal democracy at home. CONCEPTUAL JELL-O The ambiguity of each of the terms in the phrase "liberal international rules-based order" creates a slipperiness that allows the concept to be applied to almost any situation. When, in 2017, members of the World Economic Forum in Davos crowned Chinese President Xi Jinping the leader of the liberal economic order-even though he heads the most protectionist, mercantilist, and predatory major economy in the world-they revealed that, at least in this context, the word "liberal" has come unhinged.

### Competitiveness---1NC

#### The plan means we lose to China.

Robert D. Atkinson and Michael Lind 18. president of the Information Technology and Innovation Foundation. visiting professor at the University of Texas Johnson School of Public Affairs. Commentary: Who Wins After U.S. Antitrust Regulators Attack? China. Fortune. 3-29-2018. https://fortune.com/2018/03/29/commentary-who-wins-after-u-s-antitrust-regulators-attack-china/

Unfortunately, this kind of reverse industrial policy in the name of antitrust continues. In 2016, the Federal Trade Commission required that the semiconductor maker NXP divest its RF (radio frequency) power business as a condition for its $11.8 billion acquisition of U.S.-based Freescale Semiconductor Ltd. While this was done with a focus on the consumer, it opened up the business for acquisition by the Chinese investment company Jianguang Asset Management Co. Ltd., which has financial backing from the Chinese government. Just like that, thanks to an action undertaken by the U.S. government, critical U.S. technology capabilities went to China.

The lesson from this tale of unintended consequences for current antitrust enforcement is clear: It is time to stop ignoring potential adverse consequences of U.S. antitrust policy for America’s international competitiveness. Antitrust policies may be justified in terms of limiting anti-competitive behavior that hurts other firms in the U.S. economy. But when antitrust judgments weaken U.S. firms, allowing foreign firms and nations to free-ride on American R&D in order to catch up with and sometimes eliminate entire U.S. firms and industries, the result is to enrich other countries at America’s expense.

Maintaining American technological primacy in key industries should be a key consideration of U.S. antitrust policy—not just reducing concentration ratios in particular industries. The Justice Department and FTC appear to have little interest or capacity to consider the effects of their actions on U.S. international competitiveness. Going forward, when they decide to take action affecting a leading U.S. innovation-based firm, experts on the broader national interest in maintaining global competitiveness should have a seat at the table.

It is time for antitrust policy regarding firms in advanced technology industries to be carried out in coordination with the Commerce Department. The alternative is to allow antitrust actions, which are supposed to benefit all Americans, to backfire by helping foreign rivals bring American firms and industries down.

#### Breaking up big tech fails to help small businesses.

Zachary Karabell, 20. WIRED contributor and president of River Twice Research. “Don't Break Up Big Tech.” January 23, 2020. https://www.wired.com/story/dont-break-up-big-tech/

It’s debatable whether antitrust enforcement has **ever** been particularly effective. Even a charitable reading of its legacy suggests that the first effect of disrupting Big Tech might be to enrich the oligopoly’s shareholders, which is certainly not what advocates would want. In fact, as I argued in that earlier WIRED column, industrial conglomerates often spin off businesses strategically. For instance, United Technologies is about to cut loose its multibillion-dollar divisions Otis Elevators and Carrier (one of the world’s largest HVAC companies) as a means of unlocking shareholder value. One wonders why Silicon Valley executives haven’t gone down this path; perhaps the mantras of integration and a hubristic belief that they will never actually be forced to break up has shut down consideration of those strategies. Would a forced breakup at least be effective at dispersing power? Let’s say that Facebook were strong-armed into disassembling itself. Its logical components would be legacy Facebook (individual pages), Facebook for business, Instagram, WhatsApp, and Oculus. You might be able to slice it even thinner, but assume Facebook would become five companies. Facebook currently has a market capitalization of just over $600 billion. That total market cap wouldn’t be divided equally among the five new companies; WhatsApp might struggle given its lack of discernible income, while Instagram might soar. It’s likely, however, that the resulting businesses would have a combined valuation greater than $600 billion, assuming it follows past patterns and that the tech industry remains robust. Now imagine each of the Big Tech giants gets disassembled in this way. We might end up with a landscape of 30 companies instead of half a dozen. A quintupling of industry players would, by definition, create a more competitive field

. But competition in the antitrust framework, stretching back to the original Sherman Anti-Trust Bill in 1890 and then subsequent legislation such as the Clayton Bill in 1914, is not a virtue or need in and of itself. It is the means to a set of ends—namely, “economic liberty,” unfettered trade, lower prices, and better services for consumers. By itself, competition does not guarantee anything. Meanwhile, it’s hard to see how going from six companies to 30 would give consumers any more choice of services or more control over their data, or how it would help to nurture small businesses and lower costs to consumers and society. Perhaps there would be openings for companies with different business models, ones that brand themselves as valuing privacy and empowering individual ownership of data. This can’t be ruled out, but the nature of data selling and data mining is so embedded in the current models of most IT companies that it is very hard to see how such businesses could thrive unless they charged more to consumers than consumers have so far been willing to pay. In the meantime, the 30 new megacompanies would still have immense competitive advantages over smaller startups.

#### Breaking up big tech doesn’t solve competition

Ken Fisher, 21. Founder, Executive Chairman and co-CIO of Fisher Investments, authored 11 books and is a widely published global investment columnist. “Don't Break Up Big Tech - Let the 'Invisible Hand' Do It.” August 4, 2021. https://www.realclearmarkets.com/articles/2021/08/04/dont\_break\_up\_big\_tech\_-\_let\_the\_invisible\_hand\_do\_it\_788500.html

Break up Big Tech! So cry pundits and politicos alike. They claim these humongous firms stifle competition and innovation while greedily gobbling endless profits. With Congress relatively gridlocked, the sweeping regulation critics seek is unlikely. It’s also unnecessary, even harmful. Why? Big Tech’s wild success doesn’t thwart competition. It sparks it! This feature of capitalism’s “invisible hand” will eventually keep today’s titans in check while creating innovation—without wrecking markets. Here is why. Since COVID-driven shutdowns forced economic activity online, soaring Tech stock market values turbocharged calls for a sector takedown. The S&P 500’s six largest constituents are in Tech or Tech-like industries (like Amazon and Facebook). Their market value: almost $9 trillion—nearly 25% of the S&P. Critics fear a new Gilded Age of behemoth “trusts” dominating everything down to your hangnail—an ogre-ish oligopoly. State governments and competitors already target Apple, Facebook and Google with antitrust lawsuits. Democrats and many Republicans back slews of new regulations of varied forms. All this in the name of boosting competition. As I have long preached from here to Timbuktu and back, markets hate uncertainty. So if governments will whack the ogres, why are these targeted Tech titans’ stocks so hot? Gridlock! As I explained in March, Congressional Democrats’ tiny margins mean the slightest dissent kills legislation. Some California Democrats already oppose Tech clampdowns they fear threaten their state’s major employers and state tax revenue. Regulation proponents have little time: Few Congressional sessions remain before the fiscal year’s September 30 close, with dastardly debt ceiling issues, infrastructure babble and reconciliation spending dominating debate. Then midterm campaigning starts. Many in ideologically 50 – 50 districts will shun big changes lest they irk swing voters—doubly true in more than a dozen states where pending redistricting leaves constituencies literally undetermined. Then, too, the ogre’s kajillionaire founders, managers and assistant flunky ogres will surely pour enough cash into election campaign coffers to buy their way out of any proposed legislative purgatory. I am being facetious saying that, but there are shreds of reality in it. Markets won’t ignore this. They pre-price everything we all know. After early-year lag, US Tech stocks soared 16.6% since mid-May, trouncing the S&P 500’s 8.6%. The Tech-like Interactive Media & Services industry—part of the Communication Services sector and home of social media firms and search engines—jumped 23.3%. The Consumer Discretionary sector’s Internet & Direct Marketing Retail industry is up 15.6%. Translation: Markets see past the nonsense. Trust them. Markets are far more trustworthy than politicians or pundits. Still, never fear: a failed Big Tech crackdown doesn’t mean America slinks toward any form of anticompetitive FAANG-dominated future. Should problems be real (as opposed to the imagined-yet-consensus view common among the elitist crowd), in time, capitalism’s “invisible hand” will throttle these firms’ power better than any regulations could—just as modern economics’ founder Adam Smith envisioned. Hugeness doesn’t eliminate competition, Smith found—it inspires it. If the ogres get out of hand, that motivates new firms seeking disruptive opportunity. It just takes time. If these danged ogres gouge customers, provide shoddy products or fail to innovate and compete, customers inevitably take their business to the new disruptors who seemingly appear by magic from nowhere to nibble away the ogres from their hangnails up. Don’t take Smith’s word for it—or mine. Consider the 50 years through 2019’s end, to eliminate pandemic skew. In 1969, IBM was America’s largest public firm. Its $41.5 billion market cap dwarfed second-place AT&T’s $26.7 billion. General Motors, Eastman Kodak, Exxon, Sears, Texaco, Xerox, GE and Gulf Oil followed, in that order. A decade later, half of that top 10 turned over. IBM was still #1, but by just $1 billion over AT&T. The oil industry dominated, riding repeat Arab oil crises’ surging prices to claim 6 of the top 10 spots. Fast forward to 1999. Dominant Microsoft now tripled IBM’s market cap. Eastman Kodak, Xerox and Sears? Relics. The oil industry had transformed—only newly merged Exxon Mobil cracked America’s 10 biggest stocks. Chevron—less than a third of Gulf and Texaco’s combined market value in 1969—had swallowed up the former and was about to gobble the latter. Showing actual antitrust action lacked the invisible hand’s power, AT&T remained the 8th-largest public firm even after regulators made it ditch Ma Bell. By 2019, IBM wasn’t even among America’s 50 largest firms. Only 2 of 1999’s biggies—Microsoft and Walmart—remained top 10. Microsoft did despite continual antitrust threats—proving they aren’t auto-bearish. Free markets drive this constant top tier churn and burn. Too big is actually its own arteriosclerosis. Excess bigness creates bureaucracy—which morphs pretty darned pronto into bureaucrazy. New competitors disruptively emerge with newer technology disrupting via better products or greater efficiency—making the ogres’ offerings rusty relics. That is what capitalism does. Always! If you don’t believe that, you have a long-term personal investing future worse than any ogre could deliver. Those unable to adapt fade. New leaders replace them. The advances provide consumers endless benefit. It will happen to today’s Tech titans. Not overnight, of course. But look beyond myopic visions skewed by recency bias to grasp the invisible hand’s power. Gradual shifts let markets digest changes bit-by-bit, giving investors abundant time to adjust. So don’t sweat legislative or regulatory threats. Meanwhile, love today’s Big Tech stocks. But not forever. Adam Smith’s invisible hand will come. Just be patient in stock market time, not politician and newspaper time.

### Terror Turn---1NC

#### The plan disrupts effective surveillance---breaking up big tech undermines information necessary to stop terror attacks.

Jon Bateman 19. Fellow in the Cyber Policy Initiative of the Technology and International Affairs Program at the Carnegie Endowment for International Peace. JD from Harvard Law School, BA from Johns Hopkins. “The Antitrust Threat to National Security.” https://www.wsj.com/articles/the-antitrust-threat-to-national-security-11571784197

But there are dangers in restructuring any U.S. industry. One of the most serious remains largely unrecognized: national-security risk. Despite their faults, tech companies contribute directly to American military and intelligence operations. Their titanic scale can itself be an asset. Any responsible antitrust debate must address the national security risks of breaking up Big Tech—and the parallel risks of keeping these companies intact. Consider cloud computing. The Defense Department is planning a massive global cloud called JEDI. Unlike corporate clouds, the “war cloud” must support life-or-death missions on austere battlefields despite virtual or physical onslaughts. The Pentagon found only two eligible bidders: Amazon and Microsoft. Three defense secretaries, a federal judge and the Government Accountability Office have upheld this bidding process. It is no coincidence the two eligible bidders have a combined market value of $1.9 trillion. Vast resources were needed to fund global networks of hardened data centers linked by undersea cables. The U.S. military’s unique demands required companies of unique scale. Yet one JEDI bidder faces a concerted breakup campaign (Amazon), and the other was nearly dissolved in 2001 (Microsoft). Scale also matters in intelligence collection. The Foreign Intelligence Surveillance Act compels U.S. companies to hand over data on suspected foreign agents. U.S. intelligence analysts increasingly rely on FISA to monitor terrorist communications or warn of cyberattacks. Tech giants have particular FISA value because their sheer popularity attracts users from around the world, including hostile actors. The largest tech companies provide some of the fastest-growing intelligence streams. Splitting up Big Tech would reduce its intelligence value. First, smaller companies would lose global market share to foreign rivals such as Alibaba or Baidu, which can ignore FISA. Small U.S. sites can’t leverage the “network effect,” a gravitational force that helps large sites stay dominant. Intelligence collected from small sites would also be less useful. They see only narrow slices of online activity, whereas tech giants track users across sprawling internet ecosystems. Dismantling these ecosystems would put greater burden on intelligence agencies to “connect the dots” of potential threats.

#### That information is key to hindsight and foresight---absent that, attacks are inevitable.

Pierre Hines 20. Defense Council Member at the Truman Center. “HERE’S HOW METADATA ON BILLIONS OF PHONE CALLS PREDICTS TERRORIST ATTACKS.” <http://trumancenter.org/doctrine-blog/heres-how-metadata-on-billions-of-phone-calls-predicts-terrorist-attacks/>.

One of major benefits of metadata is that it provides hindsight—it gives intelligence analysts a retrospective view of a sequence of events. As Deputy Director Boyce discussed, the ability to analyze previous communications allowed the FBI to reopen the 9/11 investigation and determine who was linked to that attack. It is important to recognize that terrorist attacks are not orchestrated overnight; they take months or years to plan. Therefore, if the intelligence community only catches wind of an attack halfway into the terrorists’ planning cycle, or even after a terrorist attack has taken place, metadata might be the only source of information that captures the sequence of events leading up to an attack. Once a terrorist suspect has been identified or once an attack has taken place, intelligence analysts can use powerful software to sift through metadata to determine which numbers, IP addresses, or individuals are associated with the suspect. Moreover, phone numbers and IP addresses sometimes serve as a proxy for the general location of where the planning has taken place. This ability to narrow down the location of terrorists can help determine whether the intelligence community is dealing with a domestic or international threat.

Even more useful than hindsight is a crystal ball that gives the intelligence community a look into the future. Simply knowing how many individuals are in a chat room, how many individuals have contacted a particular phone user, or how many individuals are on an email chain could serve as an indicator of how many terrorists are involved in a plot. Furthermore, knowing when a suspect communicates can help identify his patterns of behavior. For instance, metadata can help establish whether a suspect communicates sporadically or on a set pattern (e.g., making a call every Saturday at 2 p.m.). Any deviation from that pattern could indicate that the plan changed at a certain point; any phone number or email address used consistently and then not at all could indicate that a suspect has stopped communicating with an associate. Additionally, a rapid increase in communication could indicate that an attack is about to happen.

#### Extinction---terrorists will use CBRNs.

Richard Schoeberl 18. Program Chair of Criminology and Homeland Security at Martin Methodist College; over 22 years of security and law enforcement experience, including the FBI and the CIA’s National Counterterrorism Center; acting unit chief of the International Terrorism Operations Section. “CBRNE Weapons & Islamic State – A Bad Combination.” Domestic Preparedness. 4/25/2018. https://www.domesticpreparedness.com/resilience/cbrne-weapons-islamic-state-a-bad-combination/

**CBRNE – chemical, biological, radiological, nuclear, and explosive**

The black market would be a clear path for the Islamic State to obtain materials that could be used in a CBRNE attack. In 2015, the Federal Bureau of Investigation (FBI) and Moldovan investigators ran a sting operation against a suspected arms smuggler in Moldovia attempting to sell to what he thought was a representative from the Islamic State high-grade uranium (Cesium 137). The smuggler was intentionally seeking a Middle Eastern buyer, so the weapon could be used on “the Americans.” As indicated in the recent 2018 Worldwide Threat Assessment Intelligence report, produced by the Director of National Intelligence, both state and non-state actors have already demonstrated the development and use of CBRNE weaponry. The report emphasizes that, “chemical materials and technologies – almost always dual-use – move easily in the globalized economy, as do personnel with the scientific expertise to design and use them for legitimate and illegitimate purposes.” The Islamic State is the first non-state actor to combine a projectile delivery system with a banned chemical warfare agent, according to the Combating Terrorism Center. According to a NATO Review report, there is a “very real – but not yet fully identified risk – of foreign fighters in the Islamic State’s ranks using chemical, biological, radiological or nuclear (CBRN) materials as weapons of terror against the West.” Like al-Qaida, the Islamic State has also sought the use of chemical and biological weapons. Although al-Qaida’s efforts were merely aspirational at best, the Islamic State actually achieved the goal of chemical weapon acquisition. During congressional testimony in 2016, the then Director of National Intelligence James Clapper stated that the Islamic State’s use of chemical weapons is the first time a terrorist organization has done such since 1995, when the organization Aum Shinrikyo used sarin gas on the subway in Tokyo. The United Nations has been investigating the use of chemical weapons in Syria and Iraq and have concluded the Islamic State has acquired and used chemical weapons on many occasions. According to the 2018 Worldwide Threat Assessment, the Islamic State has been previously linked to sulfur mustard attacks and several chemical weapons attacks within Syria and Iraq. Experts believe the Islamic State’s arsenal of weapons includes mustard gas and chlorine. Michael Morell, former Central Intelligence Agency (CIA) deputy and acting director, stated that “ISIS has for some time said that they want to acquire weapons of mass destruction and to use them and they’ve actually been able to manufacture chemical weapons in Iraq and Syria and use them on the battlefield.” Following a thwarted attack in Paris, France, in 2015, then French Prime Minister Manuel Valls discussed before Parliament the possibility of the Islamic State using CBRNE weaponry against the West, saying, “I say it with all the precautions needed. But we know and bear in mind that there is also a risk of chemical or bacteriological weapons.” The West has reason to be with the Islamic State’s desire to employ CBRNE attacks. A laptop was recovered in the battlefield in 2014 from an Islamic State stronghold inside Syria. Information within the laptop, aside from jihadist instructional propaganda on bomb making, was a 19-page instructional document discussing the development of biological weapons and instructions on how to weaponize the bubonic plague. The laptop also contained a 26-page fatwa on the use of weapons of mass destruction and a passage from Saudi jihadi cleric Nasir al-Fahd stating, “If Muslims cannot defeat the kafir (unbelievers) in a different way, it is permissible to use weapons of mass destruction, even if it kills all of them and wipes them and their descendants off the face of the Earth.” Officials believe the laptop belongs to a Tunisian national who was studying chemistry and physics and was teaching himself biological weaponry. According to NATO Review, an unsettling concern is that the Islamic State had previously stolen 90 pounds of enriched uranium from Mosul University in Iraq. Although it would be extremely difficult for a member or someone pledging their allegiance to the Islamic State to smuggle a CBRNE weapon into the country, the fear looming is that someone already in the country who is radicalized is provided instructions on how to build such weapons. The 2018 Worldwide Threat Assessment Intelligence report stressed that the United States will likely see an increase in homegrown extremism and many will “continue to be inspired by a variety of sources, including terrorist propaganda as well as in response to perceived grievances related to U.S. Government actions.” The Islamic State, known for the “do-it-yourself” propaganda magazine Rumiya, has previously sparked the increase in knife welding and vehicle attacks across the globe by promoting the use of these “homegrown” style attacks through explicit instructions in its popular online magazine. Although a recent issue of Rumiya has not been published instructing how to carry out specific CBRNE attacks in the United States, there has been increased “chatter” intercepted by U.S. Intelligence indicating that the Islamic State has been discussing how to replicate in the United States the deadly chlorine and mustard gas attacks previously carried out in Iraq and Syria. “I think we need to be more worried about them making it here. This stuff is difficult to transport, it’s difficult to get it by customs and immigration. I think it’s more likely that they send the recipe here to their followers and they make it here,” according to Michael Morell, former CIA deputy and acting director. Although the development of this type of weaponry requires advanced technology and sophisticatedly trained personnel, those could be more readily available in the United States as opposed to the battlegrounds in Iraq and Syria. According to the Combating Terrorism Center, a chemical attack by the Islamic State cannot be ruled out should the organization seek to deploy a rudimentary poison gas device in the United States. In 2017, Australian counterterrorism officials disrupted a plot where four men, directed by the Islamic State, planned to use an improvised chemical dispersion device containing hydrogen sulfide. A clear demonstration of the Islamic State’s ambition to use CBRNE attacks in the West, following the model of those carried out by the terrorist organization in Iraq and Syria. The threat of CBRNE use by the Islamic State within the United States is more than plausible. The Department of Homeland Security (DHS) is actively working to thwart this threat, according to DHS official Col. Lonnie Carlson: “We’re putting capabilities out in the field right now to counter this threat that 6 months ago, we probably never would have thought of happening … the bottom line is … the threat is real.” There certainly is an undeniable threat by unknown knowns within the United States. Unfortunately, the threats can come from those inspired and radicalized by the Islamic State – homegrown or those returning from the battlefield in Iraq and Syria – regardless, the threat is real and disturbing.

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The Islamic State has made use of a widely available industrial chemical – chlorine – abroad and likely could employ the same scenario within the borders of the United States. The use of encrypted technology is increasingly concerning with terrorist groups using encryption that allows them not only the opportunity to radicalize followers online communicate anonymously, but additionally serve as an online institution for furthering the education of wannabe jihadists. Recently, the Islamic State published on its Furat Wilayah channel (encrypted messaging app Telegram), an English-language series promoting lone-wolf jihad encouraging would-be jihadists and supporters to inject food for sale in markets with cyanide poison. Fortunately, thus far in the West, the majority of homegrown terrorists plotting attacks have selected only methods that have not included the employment of CBRNE. However, today’s fearful climate foreshadows looming plots. Although it is perhaps difficult to determine how realistic a chemical attack is from terrorist organizations, the probability rises, mirroring growing fears.

## 2NC

### Cap K---2NC

#### Disciplining DA – Invert your standard for solvency – “feasibility” concerns are propaganda and inculcate violent subjectivity.

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.

#### 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

#### Boom & Bust: Market competition inevitably creates economic busts and proves capitalism’s contradiction.

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

When Things Fall Apart

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 3. Turns case---Off-shoring: Domestic competition necessitates global consolidation and protectionism.

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

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

#### A – History

Walt 20. [Stephen, Robert and Renée Belfer professor of international relations at Harvard University and a columnist for Foreign Policy. Will a Global Depression Trigger Another World War?. Foreign Policy. 5-13-2020. https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/]

On balance, however, I do not think that even the extraordinary economic conditions we are witnessing today are going to have much impact on the likelihood of war. Why? First of all, if depressions were a powerful cause of war, there would be a lot more of the latter. To take one example, the United States has suffered 40 or more recessions since the country was founded, yet it has fought perhaps 20 interstate wars, most of them unrelated to the state of the economy. To paraphrase the economist Paul Samuelson’s famous quip about the stock market, if recessions were a powerful cause of war, they would have predicted “nine out of the last five (or fewer).”

Second, states do not start wars unless they believe they will win a quick and relatively cheap victory. As John Mearsheimer showed in his classic book Conventional Deterrence, national leaders avoid war when they are convinced it will be long, bloody, costly, and uncertain. To choose war, political leaders have to convince themselves they can either win a quick, cheap, and decisive victory or achieve some limited objective at low cost. Europe went to war in 1914 with each side believing it would win a rapid and easy victory, and Nazi Germany developed the strategy of blitzkrieg in order to subdue its foes as quickly and cheaply as possible. Iraq attacked Iran in 1980 because Saddam believed the Islamic Republic was in disarray and would be easy to defeat, and George W. Bush invaded Iraq in 2003 convinced the war would be short, successful, and pay for itself.

The fact that each of these leaders miscalculated badly does not alter the main point: No matter what a country’s economic condition might be, its leaders will not go to war unless they think they can do so quickly, cheaply, and with a reasonable probability of success.

Third, and most important, the primary motivation for most wars is the desire for security, not economic gain. For this reason, the odds of war increase when states believe the long-term balance of power may be shifting against them, when they are convinced that adversaries are unalterably hostile and cannot be accommodated, and when they are confident they can reverse the unfavorable trends and establish a secure position if they act now. The historian A.J.P. Taylor once observed that “every war between Great Powers [between 1848 and 1918] … started as a preventive war, not as a war of conquest,” and that remains true of most wars fought since then.

The bottom line: Economic conditions (i.e., a depression) may affect the broader political environment in which decisions for war or peace are made, but they are only one factor among many and rarely the most significant. Even if the COVID-19 pandemic has large, lasting, and negative effects on the world economy—as seems quite likely—it is not likely to affect the probability of war very much, especially in the short term.

#### B – COVID proves – receding from globalization is peace inducing

Walt 20. [Stephen, Robert and Renée Belfer professor of international relations at Harvard University and a columnist for Foreign Policy. Will a Global Depression Trigger Another World War?. Foreign Policy. 5-13-2020. https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/]

But war could still be much less likely. The Massachusetts Institute of Technology’s Barry Posen has already considered the likely impact of the current pandemic on the probability of war, and he believes COVID-19 is more likely to promote peace instead. He argues that the current pandemic is affecting all the major powers adversely, which means it isn’t creating tempting windows of opportunity for unaffected states while leaving others weaker and therefore vulnerable. Instead, it is making all governments more pessimistic about their short- to medium-term prospects. Because states often go to war out of sense of overconfidence (however misplaced it sometimes turns out to be), pandemic-induced pessimism should be conducive to peace.

Moreover, by its very nature war requires states to assemble lots of people in close proximity—at training camps, military bases, mobilization areas, ships at sea, etc.—and that’s not something you want to do in the middle of a pandemic. For the moment at least, beleaguered governments of all types are focusing on convincing their citizens they are doing everything in their power to protect the public from the disease. Taken together, these considerations might explain why even an impulsive and headstrong warmaker like Saudi Arabia’s Mohammed bin Salman has gotten more interested in winding down his brutal and unsuccessful military campaign in Yemen.

Posen adds that COVID-19 is also likely to reduce international trade in the short to medium term. Those who believe economic interdependence is a powerful barrier to war might be alarmed by this development, but he points out that trade issues have been a source of considerable friction in recent years—especially between the United States and China—and a degree of decoupling might reduce tensions somewhat and cause the odds of war to recede.

For these reasons, the pandemic itself may be conducive to peace. But what about the relationship between broader economic conditions and the likelihood of war? Might a few leaders still convince themselves that provoking a crisis and going to war could still advance either long-term national interests or their own political fortunes? Are the other paths by which a deep and sustained economic downturn might make serious global conflict more likely?

One familiar argument is the so-called diversionary (or “scapegoat”) theory of war. It suggests that leaders who are worried about their popularity at home will try to divert attention from their failures by provoking a crisis with a foreign power and maybe even using force against it. Drawing on this logic, some Americans now worry that President Donald Trump will decide to attack a country like Iran or Venezuela in the run-up to the presidential election and especially if he thinks he’s likely to lose.

This outcome strikes me as unlikely, even if one ignores the logical and empirical flaws in the theory itself. War is always a gamble, and should things go badly—even a little bit—it would hammer the last nail in the coffin of Trump’s declining fortunes. Moreover, none of the countries Trump might consider going after pose an imminent threat to U.S. security, and even his staunchest supporters may wonder why he is wasting time and money going after Iran or Venezuela at a moment when thousands of Americans are dying preventable deaths at home. Even a successful military action won’t put Americans back to work, create the sort of testing-and-tracing regime that competent governments around the world have been able to implement already, or hasten the development of a vaccine. The same logic is likely to guide the decisions of other world leaders too.

#### C – Alt stabilizes the economy

Kallis et al 18 [Giorgos. ICTA, Autonomous University of Barcelona. Vasilis Kostakis. ICREA. Steffen Lange. Ragnar Nurkse School of Innovation and Governance and Berkman Klein Center for Internet & Society, Harvard University. Barbara Muraca. Institute for Ecological Economy Research. Susan Paulson. College of Liberal Arts, Oregon State University. Matthias Schmelzer. Center for Latin American Studies. Research On Degrowth. Annual Review of Environment and Resources. 2018. 43. 298-299]

Although literature explicitly addressing degrowth economics is young (65), economists have long raised similar questions. Classical economists considered the concept of a stationary state, where economic growth eventually and unintentionally ends, be it due to limits to the division of labor (Smith) or a confined supply of land (Ricardo). Whereas Smith and Ricardo painted a dark picture of the stationary state in contexts with high levels of economic inequality, Mill argued that distributional policies could lead to a high degree of social welfare (66). Economists may share politicians’ obsession with growth, but there is nothing in neoclassical models to suggest that zero or negative growth is incompatible with full employment or economic stability. In recent years, several authors have investigated no-growth economies in the context of established macroeconomic theories. From a neoclassical supply-side perspective, Irmen (67) shows that market economies do not always generate growth, nor do they need growth to function. Lange (68) tests several models and shows that the major condition for stable degrowth is a decline in the supply of production factors—labor and/or natural resources—and a reduction of working hours (51). Heikkinen (69) and Bilancini & D’Alessandro (70) develop neoclassical models in which decreases in labor supply lead to stable degrowth with increasing social welfare, as consumption losses are overcompensated by more free time, allowing enjoyment of nonmaterial relational goods. In Keynesian models, the primary condition for an end of growth is constant aggregate demand. Fontana & Sawyer (71) emphasize the role of investments: If firms invest less, wage income stabilizes and growth is low. Exploring conditions for a stable steady-state, Lange (68) examines the economic circle the other way around: The central condition for zero growth is nonincreasing demand by households and government, which leads to low levels of investment by firms. In this model, nongrowing economies have zero net investments and savings and a constant sum of consumption and government spending. Lack of growth does not mean lack of change. Zero change in net investments may entail increased investments in one sector (e.g., renewable energies), compensated by disinvestment in another (e.g., coal). Fontana & Sawyer (71) show that with government deficit, private savings can still be positive. High levels of employment can be achieved in nongrowing economies by reducing average working hours, shifting employment toward labor intensive sectors, and/or redirecting technological change to increase resource rather than labor productivity (68).

#### Red innovation solves – mutual funds, dividends, public projects, larger and more creative workforce

Bee 18 [Vanessa A. Bee. 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> ]

In this market socialist society, most shares are pooled into highly regulated mutual funds, which then pursue different investment strategies when trading them on a highly regulated stock exchange. This exchange helps monitor the performance of the firm managers and assess which innovations are performing strongly. To avoid the concentration of market power and capital, the government sets the bar for how much stock any stakeholder can hold in any firm and industry. It also sets the minimum and maximum amount of dividends that each person can receive annually. As the economy grows, dividends can be adjusted to increase by a percentage, or commensurate with inflation. Surplus resulting from distributing only part of the profits allows the more profitable firms to subsidize innovative, but less profitable, activities. In addition, this regime does not tolerate anti-competitive contracts like restrictive employment agreements, strict license agreements, and long patents (although inventions may be attributable to their inventors and may be rewarded through other means like prizes, bonus compensation, or simply very short patents periods).

The model could incorporate elements of democratically-planned, participatory socialism, which emphasizes democracy and individual autonomy in the workplace. Economist David Kotz believes that particular features of this model could foster innovation performance:

First, the main features of the overall economic plan would be determined by a democratic process … Second, the planning and coordination of the economy would take place … by industry boards and local and regional negotiated coordination bodies that have representation of all affected constituencies, including workers, consumers, suppliers, the local community, and even “cause” groups such as environmentalists, job safety activists, feminists, etc.

Among other topics, these representative boards could vote on compensation minimums and maximums, to prevent innovation from supporting socioeconomic inequality and unfair social divisions of labor. This injection of democracy would give ordinary people a larger say in the direction of the markets, and what areas they think would benefit from more investment in innovation.

The second ingredient of innovation, capital, is guaranteed in the market socialist economy. Freed of its neoliberal handcuffs, the government can designate funding towards various innovative projects at a greater rate than it does now. Banks jointly owned by the government and other non-private stakeholders would provide entrepreneurs with access to capital for projects through loans with terms more generous than private lenders offer now. The firms owned by government, worker co-operatives, ordinary people, and other publicly-owned firms can also raise capital from each other as wealth is distributed more equally. In such a world, more individuals can pool their resources to invest in particular innovative projects rather than a recurring cast of millionaires.

Market socialism would easily deliver the third ingredient of innovation: human capital. Such an economy has no need for a reserve army of labor. While profit is encouraged, its primary function is increasing the pool of resources and cash distributable to workers and non-workers. It does not come at the price of providing generous wages, as dividends to shareholders are capped no matter how well the firm performs. In fact, this society could make a democratic decision to compensate people in positions on the lower band of wages with more in unearned income, out of the same pool of profits.

When applied earnestly, the principles of socialism are also incompatible with mass incarceration, discrimination, uncompensated caregiving, highly restrictive immigration policies, and other social practices that exclude large numbers of workers from participating in our capitalist economy. Add a fairer distribution of public resources among individuals and communities, along with more free or heavily subsidized goods like education, and a market socialist economy could really see an increase in the availability and skills in the pool of workers. Freeing more people to join the innovative process would naturally foster more innovation.

Lastly, innovation can only thrive if the innovation process affords individuals chances to be creative and the right conditions to motivate them. Studies on what fosters creativity show that workers who rate highly on creativity indexes perform best when they are given challenging work, a good measure of autonomy, and supportive and caring supervisors who can provide substantive and constructive feedback. The same study, however, shows that workers who are by nature less creative tend to be happier in less complex positions. Neither worker is, or should be, superior to the other. On the contrary, the innovation process has plenty of room for all types of workers with varying degrees of innate creativity. The core principles of socialism, however, do suggest that this economic system is better suited for supporting creative workers than capitalism.

#### A – Propriety rights, no incentive for R&D

Bee 18 [Vanessa A. Bee. 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.

#### B – Inequality, work times, fear of shareholder suits

Bee 20 [Vanessa A. Bee. Senior Litigation Counsel at the Consumer Financial Protection Bureau with a JD from Harvard Law. Would We Have Already Had a COVID-19 Vaccine Under Socialism?. No Publication. 4-20-2020. https://inthesetimes.com/features/covid-19-coronavirus-vaccine-capitalism-socialism-innovation.html]

STIFLING WORKERS, STIFLING CREATIVITY

Many of the most sophisticated innovations of our time, from groundbreaking drugs to smart car technology, have depended on a deep pool of creative labor. But the idea that capitalism allows the bestsuited workers to join that pool is wishful thinking. As journalist Chris Hayes writes in Twilight of the Elites: America After Meritocracy, meritocracy “can only truly come to flower in a society that starts out with a relatively high degree of equality.” From 1979 to 2015, the annual average household income of the top 1% grew five times faster than that of the bottom 90th percentile. The reality is that deep inequalities in how this country’s wealth is distributed make meritocracy all but a myth. Some people can afford to attend college and access spaces where discovery is encouraged, moving into a “creative pipeline,” while their poorer peers go right into the workforce or juggle demanding classes with work schedules. While some with great innate talent for innovation end up in these coveted creative jobs, many more—poor and workingclass—are pushed by financial necessity into positions mismatched to their potential.

In theory, one doesn’t need a creative-focused job to innovate. But creativity requires a certain freedom— an ability to “waste” time, to work nonlinearly, to experiment and repeatedly fail. Capitalism’s constant dictate to maximize productivity leaves people with little time to spare, at work or at home—especially in poor and working-class households: The bottom fifth of earners have seen their work hours increase by 24.3% since 1979, compared to 3.6% for the top fifth.

Being in a more precarious financial position, or in a job with little security, also discourages workers from taking risks, even when the risks might lead to innovation. The precarity makes it difficult to approach one’s supervisors and ask for sick days, let alone personal time to go down rabbit holes. It makes it frightening to change fields or spend money on any project that might result in even more precarity.

Notably, the corporate structure itself has been known to stifle creation. Many corporate firms are under the effective control of shareholders, to whom managers owe a fiduciary duty to maximize profits. Shareholders who believe this duty has been breached typically have the right to sue the corporation. While this power can be used for the greater good—note how Tesla was sued by shareholders in response to its poor safety record—it also opens the door to shortsighted shareholders. One DuPont shareholder, for example, demanded the chemical company “not invest a single dollar in research that will not generate a positive return within f ive years.” What’s more, according to a 2017 working paper by the Institute for New Economic Thinking, “Many of America’s largest corporations, Pfizer and Merck among them, routinely distribute more than 100% of profits to shareholders, generating the extra cash by reducing reserves, selling off assets, taking on debt or laying off employees.”

Even the most creative of workers who make it into innovative roles in the private sector may find themselves starved of resources. As professors Chen Lin and Sibo Liu of the University of Hong Kong, and Gustavo Manso of the University of California, Berkeley, explain in a 2018 study, the threat of shareholder litigation generally discourages managers from “experimenting [with] new ideas,” which acts as an “uncontrolled tax on innovation.”

#### New link – human nature is propaganda

**Spritzler** ‘**12** [John Spritzler holds a Doctor of Science degree in Biostatistics from the Harvard School of Public Health "human nature," New Democracy World. <http://newdemocracyworld.org/culture/human_nature.html>]

Human nature is not the same as capitalist nature, no matter what the capitalists want us to believe. Human beings create cultures. Cultures embody values about how relations between people ought to be. Being selfish or sharing is a behavioral choice determined in large part by one's culture.

Conflicting cultures have developed, especially conflicting class cultures. Classes of human beings have arisen that dominate, oppress and exploit other human beings, and they have created a culture that legitimizes and even glorifies their oppressive relation to others. But these oppressive classes that survive by taking economic wealth from those who actually produce it are numerically small. The majority of human beings whose labor produces all the wealth of society have developed a very different culture.

The culture of the people who produce the wealth of society is different because we are a social species; we produce the things and services we need for survival and for our comfort and enjoyment only by cooperating with others. Cooperation requires mutual trust. The reason why the Golden Rule is universally honored as the basis of morality (as discussed here), and the reason why it is therefore incorporated into every major religion, is because it is the basis for establishing the trust that cooperation and hence human survival requires.

There is a class culture that says to be selfish. And there is a conflicting class culture, enshrined in the Golden Rule, that says to share.

It is well known by anthropologists that hunter-gatherer societies are extremely egalitarian. For example in the journal, Current Anthropology, Vol. 35, No 2 (April 1994) online here, on page 176 one reads, "Yet the universality of egalitarianism in hunter-gatherers suggests that it is an ancient, evolved human pattern." This Big Fact contradicts the Big Lie that human nature is innately selfish and that inequality is simply what human nature inevitably produces.

In this regard it is worth reading a passage from Peter Kropotkin's Mutual Aid: A Factor of Evolution. In his chapter, "Mutual Aid Among Savages," he writes about the "Hottentots, who are but a little more developed than the bushmen":

"Lubbock describes them as 'the filthiest animals.' and filthy they really are. A fur suspended to the neck and worn till it falls to pieces is all their dress; their huts are a few sticks assembled together and covered with mats, with no kind of furniture within. And though they kept oxen and sheep, and seem to have known the use of iron before they made acquaintance with the Europeans, they still occupy one of the lowest degrees of the human scale. And yet those who knew them highly praised their sociability and readiness to aid each other. If anything is given to a Hottentot, he at once divides it among all present--a habit which, as is known, so much struck Darwin among all Fuegians. He cannot eat alone, and, however hungry, he calls those who pass by to share his food. And when Kolben expressed his astonishment thereat, he received the answer: 'That is Hottentot manner.' But this is not Hottentot manner only: it is an all but universal habit among the 'savages.' Kolben, who knew the Hottentots well and did not pass by their defects in silence, could not praise their tribal morality highly enough.

"'Their word is sacred,' he wrote. They know 'nothing of the corruptness and faithless arts of Europe.,' 'They live in great tranquility and are seldom at war with their neighbors.' They are 'all kindness and goodwill to one another....One of the greatest pleasures of the Hottentots certainly lies in their gifts and good offices to one another,' 'The integrity of the Hottentots, their strictness and celerity in the exercise of justice, and their chastity, are things to which they excel all or most nations in the world.'"

The Hottentots are, of course, the same species as us. Their innate human nature enabled them to develop an extremely egalitarian culture. That means that our innate human nature (whatever it may be) enables us to do the same, contrary to the Big Lie of capitalism.

Some defend the Big Lie by arguing that human nature may permit egalitarianism within a tribe, but it also causes tribes to wage war against each other. But the anthropological evidence does not support the assertion, made by the Nobel Peace Prize laureate and Warmonger in Chief, Barack Obama, that "war appeared with the first man." As John Horgan writes in his The End of War:

"The Homo genus emerged about 2 million years ago and Homo sapiens about two hundred thousand years ago. But the oldest clear-cut relic of lethal group aggression is not millions or hundreds of thousands of years old. It is a 13,000-year-old gravesite along the Nile River in the Jebel Sahaba region of Sudan. Excavated in the 1960s, the site contains fifty-nine skeletons,twenty-four of which bear marks of violence, such as embedded projectile points.

"What's more, the Jebel Sahaba site is an outlier. Most of the other evidence for warfare dates back no more than 10,000 years. The oldest known homicide victim--as opposed to war casualty--was a young man who lived 20,000 years ago along the Nile...

"Sarah Blaffer Hrdy, an anthropologist and authority on both primates and early humans, believes that our human and proto-human ancestors were at least occasionally violent. Given how often fights occur among virtually all primates, including humans, 'we can be fairly certain that lethal aggression occasionally broke out' in the Paleolithic era, she says. 'It would be amazing if it did not.' But Hrdy sees no persuasive evidence that war--which she defines as 'organized aggression between groups with the intent of killing those in other groups'--is either ancient or innate." [pg. 30-31]

Nor does it require living in primitive conditions for egalitarianism to arise. The modern labor movement, with all its strikes and campaigns for things like the Eight Hour Day, and the social movements against racial discrimination (e.g., the U.S. Civil Rights Movement and the Global Anti-Apartheid Movement) are all examples of the mass support for making the world more equal.

The fact that when polled, most Americans say they want health care to be a right of all people, and furthermore say they would agree to paying higher taxes to make it so, cannot be explained by any theory that includes the capitalist Big Lie about human nature being mainly motivated by self-interest.

Workers often continue their labor strikes far beyond the point when they have any chance at all of making up in higher wages all of the wages they have already lost during the strike, not to mention homes foreclosed for lack of money to make the mortgage payments and cars repossessed. This was the case in the Hormel meatpackers strike in the 1980s in Minnesota. Why do they do this? A striker explained why this way, as recounted by Dave Stratman in his We CAN Change the World (pdf):

"Like the British miners, the striking meatpackers understood that far more was at stake than their specific demands. In a speech to supporters in Boston in February, 1986, Pete Winkels, business agent of Local P-9, made this clear: 'Our people are never going to get back what we've already lost financially. We know that. But we're fighting for our families and for the next generation. And we're not going to give up.'

"Since it was precisely the strikers and their families who suffered the economic and emotional costs of the strike, the explanation that "we're fighting for our families and for the next generation" has to be interpreted in a class context. "For the next generation" was a phrase the strikers used again and again to describe why they were fighting, as if these words encapsulated their feelings about creating a future very different from where things seem headed, not just for their immediate families, but for other people like themselves."

The Hormel strike, and many others like it, was a struggle to make the world more equal; as a fight for merely personal self-interest it would have been crazy to continue the strike, as the strikers well knew.

During the Spanish Revolution that involved millions of people in almost half of Spain in 1936-9 peasants expropriated the land from the rich landowners. They invariably decided to own it collectively instead of dividing it up into parcels to be owned individually. Some collectives abolished money altogether and those that didn't made changes in the direction of economic equality, such as paying people according to the size of their family instead of their education or job type. If the Big Lie of human nature were true it would be very difficult to explain how this could have happened. But it did happen. Economic production by these egalitarian collectives actually increased, by the way, refuting the notion that nobody works in an egalitarian society.

From the most common everyday acts of kindness, such as people I see everyday getting up and giving their seat on the subway to an elderly person, to epic struggles for equality, there is abundant proof that the capitalist assertion about human nature being the same as capitalist nature is flat out false. There are countless Big Facts that refute it.

A Big Lie Requires Big Propaganda

It takes great effort to keep a Big Lie afloat. Let's look at one way the capitalists try to do it.

George Orwell joined the Spanish Revolution and wrote about it in his Homage to Catalonia, which describes an egalitarian society created by the Spanish people at this time. Of course Orwell also wrote Animal Farm to warn the world that Communists in the Soviet Union, for all their talk about equality, were just as bad as the capitalists, and wanted a world in which "some are more equal than others." Orwell was not making a statement about human nature; he was making a statement about Communists. Almost every American school child has read Animal Farm or at least has heard the famous line about how the Pigs were more equal than others. But virtually no American learned in our public schools about even the existence of Homage to Catalonia, never mind read it. Instead they are given Animal Farm and encouraged to view it as a wise book about human nature being selfish. They are also given Lord of the Flies by Nobel Prize-winning William Golding, a book whose theme is that human nature is vicious and selfish.

This is no accident. The capitalists need to work very hard to keep people ignorant about the truth of human nature. They need people to hear the Big Lie repeated over and over, so they will accept, as "natural" and "inevitable," the greed-based unequal society that capitalists love so dearly. After reading Animal Farm and Lord of the Flies, many of our youth go to colleges where the number one major is "Business." Here they learn to accept and work with the fundamental premises of economics and marketing, all versions of the Big Lie about human nature. Those who become teachers learn that the purpose of education is to enable American children to compete with non-Americans in the world economy when they leave school, again the premise being that competing against others and looking out for #1 is what life is all about--it's human nature.

#### 3. Yes global buy in – appeals to feasibility is propaganda

Tavan 21 [Luca. Writer for the RedFlag Australia. Worldwide revolution is possible and necessary. No Publication. 3-7-2021. https://redflag.org.au/article/worldwide-revolution-possible-and-necessary]

From the moment Marx and Engels urged workers of the world to unite at the climax of the Communist Manifesto, the goal of international revolution has been at the core of Marxist politics.

International revolution isn’t just a romantic dream, but an urgent necessity. It’s the only means by which capitalism can be permanently uprooted and replaced with socialism. This is because capitalism, unlike previous class societies, is a globally integrated system. “For the first time in history”, wrote British Marxist Colin Barker of this phenomenon, “capitalism has created a genuinely world society, where all our lives are entwined together in a common history and a common fate”.

Capitalism has linked every nation in a global chain of production. Take your mobile phone for example. It was likely assembled in China, using computer chips manufactured in Taiwan, powered by coal exported from Australia and produced with minerals mined in the Democratic Republic of Congo according to specifications developed in Europe or the United States. No single country produces all the things necessary to satisfy its population’s needs, unlike the various forms of society that came before capitalism, which were mostly self-sufficient and organised around small local economies.

Capitalism was established as a world system through immense robbery and violence—from the international slave trade, which fuelled the Industrial Revolution, to the murderous colonisation of what is now Australia. That same violence is today used by states to defend their imperialist interests, and discipline any movements that get in their way. Movements that aspire to national independence or that back left-wing reformist governments have been demolished with the aid of the great capitalist powers countless times in the past century, from the overthrow of the Allende government in Chile in 1973 to the 2019 Bolivian coup.

Revolutionary movements that attempt to overturn the entire capitalist system face a much more severe response. This was confirmed by the defeat of the Russian Revolution. In 1917 workers, radicalised by years of war and economic crisis, overthrew the tsarist regime and eventually took power into their own hands. In response, the capitalist powers of the world united to crush the workers’ state, in alliance with reactionaries who wanted to restore the tsarist regime. Unless revolutions can spread internationally and challenge the imperialist powers that have an interest in destroying them, they will be crushed.

A heroic effort by Russian workers and peasants fought off 16 foreign invading armies, but at a great cost. The working class was decimated, the factories were depopulated, and the radical working-class democracy that had been built withered. The isolation and poverty imposed on Russia made building socialism an impossibility, and a new Stalinist regime emerged that reversed most of the gains of the revolution.

Because Russian revolutionary socialists who pinned their hopes on spreading revolution across the globe were ultimately defeated, their example is used by defenders of capitalism as a cautionary tale today: that a worldwide revolution against the system is an impossible dream.

But capitalism’s global nature means that revolts tend to spread across national borders. Workers today share increasingly similar experiences: conditions of work, forms of consumption, lifestyles and political cultures. And the global integration of production serves to transmit struggle from one country to another. In 1974, for instance, resistance to the brutal military dictatorship in Chile spread to East Kilbride, Scotland, of all places. Workers at the Rolls Royce factory there learned that the engines they were repairing were being used by the Chilean air force to drop bombs on workers resisting the coup. They downed tools and refused to work on the engines, keeping them out of the hands of the military junta for four years.

While nationalism still has a powerful hold on the consciousness of many, it’s increasingly clear that the real line of polarisation across the globe is between the minority ruling class and the majority working class. And when revolts break out in one part of the world, people can identify with the causes and motivations of their struggles, and draw comparisons with their own situation. “Languages remain different,” observed UK Marxist Chris Harman in 1992, “but what they say is increasingly the same”. Harman’s words ring true in every wave of political radicalisation.

1968 is remembered as a year of global revolt, when millions of workers, students and oppressed people drew inspiration from each other’s movements. Activists in the US were radicalised by the heroic resistance of the Vietnamese people to American imperialism. Irish civil rights activists emulated the militant politics of the Black Panthers. When students and workers united to launch a massive general strike in France in May, it taught student radicals in Australia that they needed to link up with the power of the organised working class in order to win.

The movements of 1968 united people across superficially very different societies. For decades, Cold War common sense had dictated that the greatest divide on the planet was between Western liberal capitalism and Stalinist “Communism”. But in 1968, both sides of the iron curtain exploded in revolt. The triggers for the struggles may have been different, but they were all responses to similar issues: inequality, exploitation and war, imposed by monstrous bureaucratic states.

In 2011, a poor Tunisian street vendor set himself alight to protest against police harassment. Within days, his act had inspired anti-government protests across the country. Within weeks, the protests escalated into a regional revolt that challenged regimes across the Arab world. One small act tapped into resentment against inequality, unemployment and state violence that engulfed an entire region. The radical wave spread even further: at a massive demonstration against an anti-union bill in the US city of Madison, Wisconsin, a man held up a poster with a picture of Egyptian dictator Hosni Mubarak beside Republican Governor Scott Walker. The caption read: “One dictator down. One to go”. The Arab revolutions went on to inspire the Occupy movement, which spread to more than 80 countries.

Today, more than ever, insurgent social movements and working-class uprisings are spurring action in other parts of the world—from Hong Kong to Chile, from Lebanon to France. One placard at a memorial for protesters murdered while resisting the military coup in Myanmar took up Marx’s incitement: “Workers of the world unite, you have nothing to lose but your chains”.

While the Russian Revolution is cynically held up by capitalist ideologists as the ultimate argument against international revolution, it actually proves the opposite. It shows that the goal is not only necessary, but also that it’s possible. The news of workers seizing power in Russia, overthrowing their capitalist government and declaring their withdrawal from WWI, created shock waves across the planet. Workers in Germany rose in revolt a year later, ending the war for good and building soviets, a form of radical working-class democracy inspired by the Russian example. This was followed by uprisings in France, Italy and Hungary.

The revolutionary wave spread further. A classified British government report from 1919 noted a “very widespread feeling among workers that thrones have become anachronisms, and that the Soviet may be the best form of Government for a democracy”.

The rising tide of radicalism had an impact in Australia too. Meatworkers in the Queensland city of Townsville donned red jumpers, stormed the local police station to free jailed unionists, and placed the city under workers’ control. The editor of the conservative Townsville Daily Bulletin lamented: “Townsville for the last year or so has been developing Bolshevism ... the mob management of affairs in this city, differs very little, from the Petrograd and Moscow brand”.

The Russian Bolsheviks, the revolutionary working-class party that led the revolution to victory in 1917, didn’t just passively wait for revolutions elsewhere. They actively organised to spread the revolt. In 1919, they established the Communist International, an organisation for debate, discussion and coordination between different revolutionary workers’ parties. Revolutionaries in Russia, Italy, France, Germany, the US, Australia and elsewhere attempted to clarify and develop a strategy for overthrowing capitalism everywhere. In none of these countries was there a party like the Bolsheviks, steeled in years of organising working-class struggle to overthrow the state, and capable of leading a revolution. But for a number of years, workers came close to overthrowing capitalism in several countries.

In periods of stability, when social conservatism dominates, international revolution can seem like a pipe dream. Defenders of the status quo actively work to reinforce this illusion. But history proves that the crises that the system generates are international, and that they will inevitably provoke international resistance.

Capitalism is a global system. It requires a global movement to tear it up, root and branch. But it also makes global revolution more possible, and more likely. The most important thing that socialists can do, whether you live in Hong Kong or France, Myanmar or Australia, is to get stuck into organising for it today.

#### Cap competition causes resource shortages---existential crises.

John Gibbons 21. Environmental journalist and co-author of the Routledge International Handbook of Environmental Journalism. Resolving the paradox of satisfying the needs of all while using far less energy. Irish Times. 5-6-2021. https://www.irishtimes.com/news/science/resolving-the-paradox-of-satisfying-the-needs-of-all-while-using-far-less-energy-1.4542693

‘Drastic changes’

“Our intention is to imagine a world that is fundamentally transformed, where state-of-the-art technologies merge with drastic changes in demand to bring energy (and material) consumption as low as possible, while providing decent material conditions and basic services for all”, the authors state. Only through such a radical transformation, they add, can human needs be met within critical planetary boundaries.

At present, those daring to suggest alternatives to our current model of constant economic growth or promoting steady state economics are likely to be dismissed as new age cultists or “degrowth fetishists” trying to make everyone poor.

The new study, according to lead author, Joel Millward-Hopkins of the University of Leeds, “offers a response to the cliched populist objection that environmentalists are proposing that we return to living in caves”.

The paper points out that “inequality and especially affluence, are now widely recognised as core drivers of environmental damage”. Consider that in the year since the Covid-19 pandemic began, the collective wealth of the world’s billionaires has ballooned by some $3.9 trillion (€3.2 trillion) while hundreds of millions of the world’s poorest people were plunged deeper into poverty and financial insecurity as a result of the pandemic.

Trickle-down economics

This further debunks the concept known as trickle-down economics, the notion that tax breaks for the wealthy would somehow flow towards wider society. Resources are instead being rapidly siphoned upwards towards the already wealthy and economically powerful.

The paper points out that current levels of energy usage “underpin numerous existential crises, resource scarcity and the geopolitical instabilities these issues can catalyse, especially in a growth-dependent global economy”. While there have been significant improvements in energy efficiency, these have “largely served to boost productivity and enable further growth”.

Crucially, beyond a certain point, increases in energy use in a given society deliver little or no additional benefits to that society. The study envisages, with the aid of technologies, radical demand-side transformations that largely eliminate excessive consumption and focuses available resources instead on providing the conditions required for flourishing. These include basic physical health and safety, access to clean air and safe water, good quality (largely plant-based) nutrition, and the opportunity for social and political participation.

Resolving the paradox of how to satisfy the needs of all while using far less energy and fewer resources depends on sharp global reductions in meat-eating, down by some 85 per cent in rich countries. A massive expansion of public transport globally would greatly reduce energy and emissions while allowing people to meet their transport needs without the expense of owning and running resource-intensive private cars.

Globally, much of the existing housing stock needs to be replaced over time with modern buildings with very low heating and cooling energy requirements. This would be another vital step in achieving decent living conditions with far less energy than at present.

#### 3. War w/ calculi that enable conflict---alt solves.

Wills et al 20 [Wills. Professor of History, Brooklyn College, CUNY. Joseph Entin, Professor of American Studies, Brooklyn College, CUNY. Richard Ohmann, Professor Emeritus of English, Wesleyan University. “’Resist, Rethink, and Restructure’: Teaching About Capitalism, War, and Empire in a Time of COVID-19.” *Radical Teacher* (117): 5-6. DOI: 10.5195/rt.2020.792]

Moreover, endless spending on war has had dire consequences for those living within the United States and its territories. With monopoly capitalists, systems integrators, and military-intelligence contractors exercising undue influence over both federal and state spending, the United States has created international chaos and a “Homeland Security Bubble” on the verge of collapse. With the Bush administration gutting the Federal Emergency Management Agency (FEMA) and increasing its military-surveillance-prison budget year-after-year, the world has watched in horror as the United States fails to protect people within its own borders, beginning with Hurricane Katrina and thereafter showing its inability to meet the challenges of the next in a series of climate disasters. As the ongoing deregulation of the financial services sector continued during the first decade of the 21st century, George W. Bush also called upon Americans to mortgage their futures on consumption as a patriotic duty. When combined with risky financial instruments, and billion-dollar markets opened up for small- and medium-sized “Homeland Security” providers in North America, Internet and other forms of consumption also created the context for a real-estate bubble that collapsed in 2006 and ushered in the Great Recession of 2008. To make U.S. war-making less visible as the Obama administration focused on restoring an economy teetering on the brink of another depression, drone strikes became more common even if spending on the military declined from a then-high of $824 billion in 2008 to $621 in 2016.9

Over the past twenty years, the response to every crisis, at both the federal as well as state and local levels, has consistently centered on funding for war, policing, and surveillance, tax cuts for the ultra-wealthy, and austerity programs that have eviscerated budgets for public health, transportation, education, and other social-essential services. The Trump administration has merely made things much, much worse: “re-branding” the United States from a mythological nation of immigrants who welcome all-comers to a walled society intolerant of anyone other than those who are white, fomenting what Americans have described under right-wing dictatorships as “death squads” (white nationalists, the police, the military, second amendment revisionists, and others) to engage in an all-out war against black and brown people, and advancing a more rabid doctrine of private property rights at the expense of Americans, the undocumented, the global population, and other “barriers” to expansion as the country plunges more deeply into the authoritarian state Trump and his enablers fetish, no matter the cost. The 25 May 2020 public lynching of George Floyd by members of the Minneapolis Police Department is symptomatic of a much longer history, one we desperately need to unpack, not only for those who already understand that this nation needs structural change, but also for those who still refuse to come to terms with the United States’ catastrophic trajectory.

Drawing on his 20-year experience in studying, writing, and teaching about war, Vine provides a thoughtful and comprehensive list of suggestions about how we might more effectively engage people from a variety of backgrounds, respecting those we meet in the classroom where we find them, then gently guiding them through the mythology, misinformation, and mystification of the post-9/11 rationale for militarization, and on to alternative visions of the future. In addition to the many proposals and resources he offers, Vine suggests that we need to show how much wars have cost, and the trade-offs of war spending, including comparisons of military spending versus spending on universal free education and the eradication of student debt. He additionally cautions that we need to focus on the system rather than the soldier, making capitalism, settler-colonialism, Native Americans and indigenous communities, people of color, U.S. territories and overseas colonies and military bases, and the human toll of war and empire visible in ways that expose militarization as neither natural nor inevitable no matter the time period. Employing intersectionality more broadly also allows us to make displacement, racism, sexism, and hypermasculinity more visible, along with the militarization of policing in communities of color and poor neighborhoods, along the U.S.-Mexican border, and within white supremacist militia movements. At the same time, it offers the opportunity to connect these phenomena to dissent and anti-war, civil rights, and other social movements focused on “climate justice, universal health care, labor, racial justice, gender equality, and LGBTQI+ rights.” Doing so will have the added benefit of countering the historical amnesia and clouds of forgetfulness that have infused education in the United States.

Much of this work can be done, Vine suggests, by assigning research projects focused on investigating the long arm of institutions involved in the military-industrial-academic-prison-surveillance complex, and by turning classrooms into “war clinics,” ones that take people out of the classroom to work with various groups, including but not limited to Code Pink, the Costs of War Project, the Institute for Policy Studies, veterans groups, and anti-recruitment/war/military base movements. We would also suggest that readers of Radical Teacher delve into Vine’s latest book—The United States of War: A Global History of America’s Conflicts, from Columbus to the Islamic State (University of California Press, 2020)—along with Daniel Immerwahr’s How to Hide an Empire: A Short History of the United States (Vintage, 2020), both excellent primers about how the United States—along with the global capital markets, multinational corporations, and international organizations it has long dominated—has deepened the integration of an increasingly globalized military-industrial-intelligence complex.

All of this might seem like a heavy lift, but as we know from our own experiences on campus and beyond it, those who embrace capitalism as an article of faith do not necessarily know what it means or implies. Once defined and unpacked, however, capitalism’s profit motive, insatiable appetite for expansion, and internal contradictions make clearer the ways in which inhabitants of the United States, particularly since World War II, have slowly but surely acquiesced to the “privatization and militarization of everything,” to the belief that the nation’s imperial ambitions are for the greater good of humanity, that the benefits and conveniences of surveillance technologies developed for the military (the computer, the Internet, GPS tracking, drones, and so on) outweigh the costs; that is, until they learn about the provenance of the U.S. command economy, examine the numbers, and realize that they can never again unsee the bedeviling trade-offs they have unwittingly sanctioned: warmaking for profit versus healthcare and education; resource extraction versus environmental protections; surveillance versus convenience; and the snare and delusion that technologies can solve our larger political, social, and economic problems versus actually tackling them through structural change. As sociologist Vincent Mosco observed after the dot.com bubble burst at the turn of the 21st century, “Myth is not a gloss on reality; it embodies its own reality. These views are especially difficult for people to swallow as the chorus grows for the view that we are entering a new age, a time so significant that it merits the conclusion that we have entered ‘the end of history.’” But he also asserted that such myths fail “to consider the potential for a profound contradiction between the idea of a liberal democracy and the growing control of the world’s political economy by the concentrated power of its largest businesses.”10 As the rest of the essays in this volume make clear, we may live in the present, but we carry our histories with us; and therefore need to confront those histories, make them more visible, if we hope to change course.

As a complement to Vine’s piece, William J. Astore shares his decades-long experiences as a retired lieutenant colonel, professor of history, academic administrator, author of books on Vietnam and the aerospace industry, and regular contributor to various publications, including TomDispatch.com, CounterPunch, and Truthout. His “Militarism and Education in America” makes another vital pedagogical intervention. Astore emphasizes the need for critical thinking about and resistance to what he describes as the “soft militarism” of American society, including but hardly limited to the commodification of an education “infused with militarism,” and a popular culture of films, literature, and performative acts that celebrate war and spectacular feats of violence. He also unveils many of the other ways in which the military influences education, including the hiring of retired generals and admirals to run universities “even though they have no experience in education,” military fly-overs at football games and other militaristic displays and celebrations, ROTC recruiting at high schools and on college campuses, funding to universities that push them to become “feeders to the military-industrial complex and the wider intelligence community,” pension plans heavily invested in military expansion, and every other act that sells education as a commodity “for private gain rather than a process of learning for the public good.” Among the antidotes he recommends, Astore suggests antiwar comic/graphic books that can reach wider audiences, “impact maps” that show the military suppliers who have entered states in which campus communities live, research into the “revolving door” between senior military officers and major defense contractors, and collaborative projects with organizations such as Veterans for Peace and About Face: Veterans Against the War.

As the rest of the essays in this volume make clear, we may live in the present, but we carry our histories with us; and therefore need to confront those histories, make them more visible, if we hope to change course.

#### 1. Ag collapse – short term.

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

The Triassic-Permian ‘great dying’ was a megaphase change taking place through pulses lasting for tens of thousands of years, separated by interludes of hundreds of thousands of years, if not millions. The current mass extinction event is a megaphase change taking place in microphase time.

Mass extinction is punctuated by the production of what the environmentalist Jonathan Lymbery calls ‘dead zones’: the conversion of wild ecosystems into dead monocultures. In Sumatra, these dead zones are made by burning rainforest and, amid the stench of death, planting palm crop. The palm oil is used in foods and household items, while the nut is used in animal feed. It is secured with barbed wire, and treated with poison, to prevent the crop from being eaten. Surviving animal life, and surrounding human communities, are pushed to the edges, to the brink of extinction. Agricultural workers are abused, underpaid, even enslaved. This is an example of what Moore would call ‘cheap food’, where the ‘value composition’ of the goods, the amount of waged labour necessary to produce each item is ‘below the systemwide average for all commodities’. In this case, a ‘cheap nature’ is produced by a distinctly capitalist form of territorialisation, wherein forestry is converted through deforestation into palm monoculture, while ‘cheap labour’ is secured partly through the dispossession of neighbouring human communities. More calories with less socially-necessary labour-time is cheap food.

Cheap is not, of course, the same thing as efficient. Food production is, alongside fuel, a fulcrum of the capitalist organisation of work-energetics. It is one that, as with fossil fuels, wastes an incredible amount of the energy it extracts. According to the FAO (Food and Agriculture Organization of the United Nations), 30 per cent of cereals grown for human and animal consumption are wasted, along with almost half of all root crops, fruits and vegetables. To conclude from this grotesque squander that a ‘more efficient’ capitalism would ‘solve the problem’ of ‘the environment’ would be to fail to understand waste, capitalism and ecology: that the first is intrinsic to the second; that the second, whatever the degree to which it is inflected by the first, is inimical to the third.

Capitalism also directly undermines its own productivity, precisely through its industrially-produced biospheric destruction. According to the UN, for example, there are at most sixty harvests remaining before the world’s soils are too exhausted to feed the planet. This edaphic impoverishment is a product, not a byproduct. It is the predictable, and long-predicted, consequence of intensive agriculture, over-grazing and the destruction of natural features (such as trees) that prevent erosion. Likewise, the death-drop of insect biomass, the decline of pollinating bees, are hastened by the extensive use of pesticides and fertilisers. Capitalist food production can only evade the problem – a problem, in its terms, of accumulation – either by establishing new ‘cheap natures’ through such means as deforestation, or by extracting rent from competitor producers through such means as intellectual property rights. For instance, since 1994’s notorious TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights), through the rules of UPOV (Union for the Protection of New Plant Varieties), particularly the notorious UPOV 1991, and in the face of local fightbacks from Guatemala to Ghana, the World Trade Organisation has enforced property agreements outlawing the saving of seeds from one season to the next, thus sharply raising costs for farmers producing 70 per cent of the global food supply.

#### 2. 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

#### 3. Mineral cycles – that’s Allinson – copper, lithium, manganese hit bottlenecks. Tipping points happen before we know them AND goods are not substitutable.

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

Endless growth will generate minerals scarcity within decades

The EV transition is, in short, a massive industrial project. Electrification of roads and rail will require upgraded smart grids, complex routes connected to high power lines, and regular battery-swap stations. The paper explores several scenarios to explore how such a transition would take place.

In a continuing GDP growth scenario, the authors note that the economy begins to stagnate “due to peak oil limits at around 2025-2040,” but GDP is able to continue growing thanks to the EV transition. This shows that the reduction in liquid fuels in transportation can play a powerful role in avoiding “energy shortages in the economy as a whole.”

But then the economy hits the limits of mineral and material production to sustain this electric transition—in just three decades. And this is even with high levels of minerals recycling.

By 2050, in this scenario, the EV transition will “require higher amounts of copper, lithium and manganese than current reserves. For the cases of copper and manganese the depletion is mainly due to the demand from the rest of the economy,” but most lithium demand “is for EV batteries,” and this alone “depletes its estimated global reserves.”

Mineral depletion takes place even with “a very high increase in recycling rates” in a continuing GDP growth scenario.

In one such scenario, the authors apply what they consider to be realistic upper level recycling rates of 57 percent, 30 percent and 74 percent to copper, lithium and manganese respectively. These are based on extremely optimistic projections of recycling capabilities relative to their costs.

But still they find that even these high recycling rates wouldn’t prevent depletion of all current estimated reserves by 2050. The conclusion corroborates findings of other studies, estimating an expected bottleneck for lithium by 2042-2045 and for manganese by 2038-2050.

Actual bottlenecks could come even earlier because existing studies—including the MEDEAS model—don’t account for material requirements needed for internal wiring, the EV motor, EV chargers, building and maintaining the grid to connect and charge EV batteries, the catenaries to electrify the railways, as well as inherent difficulties in recycling metals.

#### 4. 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.

#### Peer review consensus of 835 studies say success cherrypicks data – no political will for innovation

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.

### Competitiveness---2NC

#### Cap turns China War – capitalism is a global oligarchy that creates geopolitical tensions with China, ensures military conflict

Cecilia Rikap 21. Professor of Economics and Coordinator of YSI States and Markets Working Group, Institute for New Economic Thinking. “The Interplays of the United States, China and their Intellectual Monopolies.” *Capitalism, Power and Innovation Intellectual Monopoly Capitalism Uncovered*. Routledge. 2021. 77-80.

As Strange (1996) anticipated, the decline of the state’s power vis-à-vis corporations can be partly explained by the acceleration of technological change, which tilts the scale in favour of corporations. As identified by Feenberg (2010, p. 5) “political democracy is largely overshadowed by the enormous power wielded by the masters of technical systems”. Indeed, we should consider that powerful intellectual monopolies pass over their home states in specific contexts or respects.11 With this in mind we reconceived core states as one of capitalism’s multiple powerful actors.

Beyond explicit confrontations, since intellectual monopolies organize and plan production and innovation networks taking place in different countries, they generate an overlap of political realms with sometimes contradictory rules and norms. Who oversees production and innovation inside the networks organized by intellectual monopolies? The latter or the different states where intellectual monopolies’ production or innovation networks are based? To whom subordinate firms and other organizations are accountable for their actions? Their state or the intellectual monopoly coordinating the network? The simple answer is both. The complicated part is to identify what happens when they are in contradiction, and what are the consequences of this complex set of power structures for workers and subordinated organizations.

Intellectual monopolies have replaced state functions as policymakers. An extreme example recently disclosed is Eric Schmidt, Alphabet’s former executive chairman, advising the US federal government while still managing Alphabet. He was the chair of the US Defense Innovation Board, which recommended the use of artificial intelligence to the US Department of Defense. He also chaired the National Security Commission on Artificial Intelligence which advises the US Congress on analogous topics (Klein, 2020).

The government’s threat over China is – at least to some extent – driven by US data-driven intellectual monopolies’ concern over Chinese rivals like Alibaba, Tencent and Huawei. The CEOs of Google, Amazon, Facebook and Apple made this clear in their testimonies in the 2020 US Congress Hearing. As a remedy, Schmidt had been pushing for more public investment in research related to artificial intelligence and tech-enabling infrastructure (such as 5G) (Klein, 2020). Furthermore, these data-driven intellectual monopolies make their own rules and norms for their digital republics and, to some degree, replace the role of states. Facebook’s founder and chief executive, Mark Zuckerberg, states it clearly

Every day, platforms like Facebook have to make trade-offs on important social values – between free expression and safety, privacy and law enforcement, and between creating open systems and locking down data.12

(Mark Zuckerberg, Feb 16, 2020)

And immediately afterwards, he advocates for more public regulations and informs that Facebook is working together with different governments to that end. A similar claim was raised by Sundar Pichai, arguing that artificial intelligence needs to be regulated.13

The division of power is not clear, given that corporate power and planning capacities go beyond national frontiers and beyond the capital they own. Overall, there is a legal vacuum in the reach of each state’s power and where the power of the intellectual monopoly controlling a portion of global production and innovation begins. This vacuum allows intellectual monopolies to expand their power and profits.

Another source of conflict between intellectual monopolies and core states concerns the relative absence of the usual benefits of being home to big corporations: employment generation and tax payments. Considering their earnings, global leading corporations do not generate in their home countries expected employment due to outsourcing and offshoring (of production and innovation), which is particularly the case of US and also European intellectual monopolies. This has contributed to the rise in inequalities in these regions. The consequent social distress put pressure on stringent regulations. In the US, we referred in Section 2.1 to the 2017 Tax and Jobs Act (Public Law 115-97), but changes have not been significant.

US intellectual monopolies are masters of tax avoidance. As we mentioned before, operations leading to lower tax bills and financialized profits are easier for companies with higher shares of intangible over tangible assets. Offshoring IPRs to countries where corporations are not required to pay taxes for their intellectual property is a mechanism frequently used to divert profits to tax havens (Bryan et al., 2017) (see Chapter 7 on Apple’s case). By the end of 2016, the top ten companies in terms of offshored savings were: Apple, Microsoft, Cisco, Oracle, Alphabet, Johnson & Johnson, Pfizer, Qualcomm, Amgen and Merck (Pozsar, 2018).

In China, whose global intellectual monopolies sprang from the sustained stimulus and protection of its state, the latter’s central planning capacity is starting to find limits vis-à-vis new intellectual monopolies. These corporations were not born as the chosen ones by the state, but still enjoyed the benefits of China’s protectionism. The recent case of Bytedance provides a good example. The company was spending its Chinese profits to expand its unprofitable business in the US when the US government banned its blockbuster TikTok app. Bytedance was not among Beijing’s favoured companies, among others, because of the difficulties in controlling the videos uploaded to TikTok (Yang, 2020). Regardless of the end of the story between TikTok, the US and Chinese governments and US intellectual monopolies as potential buyers for part of TikTok’s business, what the case put forward was a possible surge of clashes between emerging Chinese (data-driven) intellectual monopolies and their state. Indeed, in late 2020 the Chinese state delayed Ant Group’s IPO, followed by the introduction of antitrust regulation for digital companies.

Meanwhile, Europe remained focused on increasing regulations on foreign data-driven intellectual monopolies, including different accusations of excessive market power and unfair competition. Unlike previous stages in capitalism, Europe risks playing in the subordinate side, where the peripheries have historically been and generally remain. Germany’s fear of falling behind the US and China’s tech giants should also be read as a broader European concern to lag (far) behind those core economies.14 Overall, Europe and Japan are latecomers of the digital economy, and this space is being filled primarily by China, emerging as a digital technological power (UNCTAD, 2019). Moreover, with a drop of eight companies between March 2009 and December 2019, Europe’s share of global top 100 corporations in market capitalization fell from 27% to 15%. This drop was taken over by the US (PWC, 2020). Regulating the digital economy could thus be seen as Europe’s geopolitical rebalancing move.15

5 Final remarks

In this chapter, we argued that core states and certain corporations built a mutually beneficial relationship. We identified US and Chinese policies that contributed to the emergence and spread of global intellectual monopolies. Likewise, we elaborated on how these corporate leaders sustain and expand their respective countries’ geopolitical power. Nevertheless, we also addressed states’ concerns and the overall tensions of the juxtaposition of power between core states and intellectual monopolies.

The US state cannot afford to lose its intellectual monopolies since its global hegemon power significantly depends on those companies. Likewise, it cannot afford to let its intellectual monopolies be given their consequences for income and wealth concentration resulting in increasing social unrest. From the US state perspective, the technological war with China is necessary to remain the only superpower. Nevertheless, this conflict is also a powerful device to redirect public attention and blame – as it has always been the case of the United States – an “other” of the internal consequences of home (and global) capitalism.

Neither can the Chinese state afford to lose its alliance with its intellectual monopolies. Its national innovation system and geopolitical power are based on a strong partnership – although not without tensions – between China’s state and intellectual monopolies, the only ones challenging the US and its intellectual monopolies.

All in all, the US and Chinese states have benefited from their respective intellectual monopolies to build and reinforce their geopolitical power. Meanwhile, in the rest of the world, knowledge and data extractivisms are further expanding inequalities, diminishing social well-being and curtailing development opportunities (see Chapters 11–13). The resulting world scenario is a ticking bomb.

A missing piece in this puzzle that will be addressed in future research concerns integrating international organizations to our analysis, seeking to understand how intellectual monopolies influence them and their role as arenas of core states’ contest for global hegemony. Let us just point out that each time the US withdraws from international coordination, China moves forward. Remarkably, during Trump’s administration, the US withdrew from international treaties and organizations, putting into question its historical openness. A possible interpretation could be that the hegemon fosters an open world economy but as far as it benefits from it.

To conclude, beyond the focus on the US and China, this chapter has also made self-evident that unfolding the interplay between state and corporate power is always context-dependent. While in some contexts the state rules over global leader corporations, the latter overcome even core states’ power in other contexts. As capitalism develops through the interplay of its powerful actors, it is not possible to anticipate concrete outcomes of such a multifaceted relationship. Neither can we anticipate the counter-hegemonic tendencies that, as Cox (1981) emphasized, generally emerge to oppose the state and world order structures of capitalism. The institutions that will lead the counter-offensive to intellectual monopoly capitalism remains to be seen.

### Dependency Trap---2NC

#### Cap turns democracy – inequality drives populism, innovation displaces jobs, globalization undercuts accountability – COVID magnifies all.

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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.

#### Its about divide between great powers not developing countries

Wong ’20 [Johnson; Graduate School of Public and International Affairs @ UOttowa; “Digital Divide: Geotechnology, Politics and the International System”; <https://ruor.uottawa.ca/bitstream/10393/41017/1/WONG%2C%20Johnson%2020205.pdf>; AS]

Thus, this paper will examine how geotechnology will underpin and accelerate a digital divide between the great powers which will fundamentally alter the international system. The first section of this paper will describe the key drivers of this disruption from a technological, economic and cultural perspective. The first part will broadly explain what is 5G and the importance of this technology within the paradigm of great power politics; then, there will be an analysis of key economic sources of conflict, particularly the central role of China in the global manufacturing supply chain; the last part will take a comparative view of values as they relate to the development of technology, and how culture contributes to the divide between liberal democracies and authoritarian states. The second section of this paper will examine how these drivers impact the notion of sovereignty, and how global alliances will accelerate the bifurcation of global systems, including technological standards and the Internet itself. The final section of the paper will describe this emerging international system and how the digital divide could manifest, raise important criticisms of this analysis, and answer the question as to whether this future is inevitable.

#### Wong concludes its inevitable.

Wong ’20 [Johnson; Graduate School of Public and International Affairs @ UOttowa; “Digital Divide: Geotechnology, Politics and the International System”; <https://ruor.uottawa.ca/bitstream/10393/41017/1/WONG%2C%20Johnson%2020205.pdf>; AS]

Despite the power of institutions and the strength of international organizations to resolve conflicts, the digital divide brought on by technology, economic self-interest, and centuries of culture, will necessarily disrupt the existing international system. Even within Western liberal democratic countries, there continues to be significant systemic confrontations as long-running grievances remain unresolved, such as historical racial divisions, the surge in right-wing populism, and a growing inequality gap. Internationally, there is a shift in the character and ability of international institutions themselves to resolve disputes through existing mechanisms, such as the ABM treaty, the CFE treaty, and the INF treaty. These are a few examples of the breakdown of existing international constructs (Hall, 2019, 4). At the same time, China will continue to offer, in partnership with its Russian and other Eurasian allies, an alternative political model that will emphasize the values and qualities which are important to those societies: social stability, economic prosperity, and national strength. Zhao summarizes this argument “In the final analysis, there is a choice between a Confucius capitalist China that is trying to integrate with a socially and ecologically unsustainable planetary capitalist order and a renewed socialist China that is leading a post-capitalist and post-consumerist, sustainable developmental path as part and parcel of an alternative globalization” (Zhao, 2013, 27). The separation between capitalism and political liberalism is an intentional strategy meant to demonstrate that state governance can be effective without political change. The Chinese model will also emphasize regional strength while avoiding ideas about global tyranny so long as the US continues to be portrayed as an international bully and troublemaker that acts with impunity. On the character about the Internet itself, the seeds of doubt had already been made in various forums: “At the Forum of Independent Local and Regional Media in 2014, Putin labeled the Internet ‘a special CIA project’, adding that the United States wanted to retain their monopoly over it” (Budnitsky and Jia, 2018, 607). The digital divide will become another point of division to separate the global community this century, and as a means for authoritarians to consolidate power. While military conflict may be avoidable, cyberconflict and the use of hybrid warfare – involving careful coordination between state and non-state actors – may take place more often as state forces engage online in efforts to upset the new status quo. The benefits of technology, such as 5G and beyond, may also challenge trends and perspectives about values and culture on both sides as societies and the role of technology to support individual, corporate or state interests evolve.

---DARTMOUTH’S CARD ENDS---

Despite the conviction I have about the inevitably of an impending digital divide, it also raises the question as to whether this re-ordering of the international system is a permanent feature or is merely a phase in the development cycle of states. The Western liberal economic order has lasted more than a half-century and brought some of the greatest economic prosperity and positive humanism to the world, all without a catastrophic global war. Is it then possible that in spite of a competing cyber-alliance, states can find common ground and avert a disastrous global conflict? While history does not provide many examples of peaceful transitions of power within the international system, we are living in unprecedented times.

## 1NR

### Delegation CP---1NR

#### Participation must be prior and considered---its key to legitimacy of rules and participation.

Rohit Chopra and Lina Khan 20. Rohit Chopra, Commissioner, Federal Trade Commission. And Lina M. Khan, Academic Fellow, Columbia Law School; Counsel, Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary; former Legal Fellow, Federal Trade Commission. “The Case for "Unfair Methods of Competition" Rulemaking”. The University of Chicago Law Review , Vol. 87, No. 2 (March 2020), pp. 357-380. https://www.jstor.org/stable/10.2307/26892415

And third, rulemaking would enable the Commission to establish rules through a transparent and participatory process, ensuring that everyone who may be affected by a new rule has the opportunity to weigh in on it, granting the rule greater legitimacy.49 APA procedures require that an agency provide the public with meaningful opportunity to comment on the rule’s content through the submission of written “data, views, or arguments.”50 The agency must then consider and address all submitted comments before issuing the final rule. If an agency adopts a rule without observing these procedures, a court may strike down the rule.51

This process is far more participatory than adjudication. Unlike judges, who are confined to the trial record when developing precedent-setting rules and standards, the Commission can put forth rules after considering a comprehensive set of information and analysis.52 Notably, this would also allow the FTC to draw on its own informational advantage—namely, its ability to collect and aggregate information and to study market trends and industry practices over the long term and outside the context of litigation.53 Drawing on this expertise to develop rules will help antitrust enforcement and policymaking better reflect empirical realities and better keep pace with evolving business practices.

#### Admin law is precedent setting---genuine consultation now becomes inalienable---the plan and perm signal nullification is legitimate.

Giulio Napolitano 14. Professor of Administrative Law, Law Department, University of Roma Tre. "Conflicts and strategies in administrative law". OUP Academic. 8-1-2014. https://academic.oup.com/icon/article/12/2/357/710357

Conflicts in administrative law are not a single-battle war. Every move of an actor responds to the moves made by others. That’s why administrative law is a repeated interactions game. Each move is incremental and path-dependent. Devices and mechanisms set up in the previous round cannot be easily and fully dismantled.

Let’s take the example of independent authorities. Once they are established in order to insulate the implementation of specific policies from the influence of the government or from the pressure from local interests, it becomes difficult to abolish them: even when the rule-making power comes back into the hands of national legislators or executives. As a consequence, reactions must be fine-tuned and sophisticated. The preferred solutions will be, for instance, the transfer of a specific power from the regulatory agency to the executive, or the submission of some sensible prerogatives of the independent body to ex ante directives or ex post approval by a political actor.36

Further, procedural rights are difficult to withdraw: even more than organizational devices. Once they have been recognized, even if sometimes for purely instrumental reasons of fire-alarm signaling, they become sanctified as inalienable rights.37 That’s why adjustments and reactions must be interstitial: the right to be heard and other prerogatives of private actors cannot be nullified. Changing time limit for comments, enlarging or restricting addressees of participatory rights, shifting the burden of proof from the acting agency to private parties, and vice-versa, are among the most preferred solutions.

#### Input key---the aff creates a democratic deficit.

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

The institutional aspects of today’s antitrust enterprise, however, are increasingly out of balance, threatening the democratic, economic, and political goals of the antitrust laws.5 The shift that Hofstadter first described has led to an antitrust system captured by lawyers and economists advancing their own self-referential goals, free of political control and economic accountability. Some of this professional control is inevitable, of course, because antitrust is a system of legal ordering of economic relationships. But antitrust is also public law designed to serve public ends. Today’s unbalanced system puts too much control in the hands of technical experts, moving antitrust enforcement too far away from its democratic roots.

We characterize the result of this shift toward technocracy as antitrust’s democracy deficit.6 We draw upon the concept of a democracy deficit from the literature analyzing and critiquing the European Union (EU) and the World Trade Organization (WTO).7 The term has generally been used to refer to policymaking by unaccountable and nontransparent technocratic institutions far removed from democratic (or national) control.8 The concern over a democracy deficit has led Europeans to develop the principle of subsidiarity, which seeks to direct lawmaking and enforcement, where possible, to the level of government closest to the people affected by the decisions.9 Similar concerns have led the WTO to open its dispute resolution proceedings to participation by nongovernmental organizations and other affected parties.10

The concern for democratic decision making has also been reflected in a new interest in global administrative law and the importance of basic principles of transparency and due process as a way to control the administrative state.11 This interest in administrative law principles has likewise led to a closer examination of how well antitrust conforms to due process and institutional norms.12

Our concern over antitrust’s move away from more democratically controlled institutions toward greater reliance on technical experts is not just animated by a theoretical preference for democracy. As lawyers know, institutional arrangements affect outcomes. A preference for democratic institutions implicitly assumes that more democratically arranged institutions will, in general, produce preferable antitrust policies and outcomes. We think this is particularly true today, when the imbalance between democratic control and technocratic control has put antitrust on a thin diet of efficiency, one that has weakened antitrust’s ability to control corporate power. Nevertheless, our concern about a democracy deficit does not lead us to a full-throated embrace of William Jennings Bryan–style populism.13 Political values change over time with changes in the social sciences and the world more generally. Rather, we think that by redressing the democracy deficit we can move the needle back toward policies that reflect more general political understandings and views of antitrust policy, even if not all the way back to the nineteenth century.

#### Public engagement is key to prevent monopoly power---participation is the only way to promote competition and decenter dominant firms.

Rohit Chopra and Lina Khan 20. Rohit Chopra, Commissioner, Federal Trade Commission. And Lina M. Khan, Academic Fellow, Columbia Law School; Counsel, Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary; former Legal Fellow, Federal Trade Commission. “The Case for "Unfair Methods of Competition" Rulemaking”. The University of Chicago Law Review , Vol. 87, No. 2 (March 2020), pp. 357-380. https://www.jstor.org/stable/10.2307/26892415

Lastly, the current approach deprives both the public and market participants of any real opportunity to participate in the creation of substantive antitrust rules.23 The exclusive reliance on case-by-case adjudication leaves broad swaths of market participants watching from the sidelines, lacking an opportunity to contribute their perspective, their analysis, or their expertise, except through one-off amicus briefs.24 Nascent firms and startups are especially likely to be left out—despite the vital role they play in the competition ecosystem—given that they do not comprise a significant portion of the parties represented in litigated matters, and they usually lack the resources to engage in amicus activity. Furthermore future entrants, whose interests should be carefully considered in all aspects of competition law and policy, have no voice.

Firms, entrepreneurs, workers, and consumers across our economy vary wildly in their experiences and perspectives on market conduct. Enforcement and regulation of business conduct can more successfully promote competition when it incorporates more voices and evidence from across the marketplace.

The ambiguity of the laws, the administrative and resource burdens of enforcing them, and the exclusivity of the current process tend to advantage incumbents and suppress market entry. For example, when courts disagree with one another on the legality of particular conduct, new entrants are likely to eschew the practice, since the threat of litigation could prove fatal at an early stage. Incumbents, by contrast, will be more likely to conduct a cost-benefit analysis of engaging in a potentially unlawful practice, since they are likely to have higher tolerance for protracted litigation and deeper pockets to fund it. Continued ambiguity and complexity also create business opportunities for lawyers, economists, and lobbyists, who effectively profit from the lack of clarity.

#### The turn outweighs solvency---process is more important than law.

Ganesh Sitaraman 18. the Co-founder and Director of Policy for the Great Democracy Initiative. He is also a professor of law at Vanderbilt University. Sitaraman served as policy director to Senator Elizabeth Warren during her Senate campaign, and then as her senior counsel in the U.S. Senate. “Taking Antitrust Away from the Courts: A Structural Approach to Reversing the Second Age of Monopoly Power”. https://ir.vanderbilt.edu/xmlui/bitstream/handle/1803/9447/Taking%20Antitrust%20Away%20from%20the%20Courts.pdf?sequence=1&isAllowed=y

Reversing the second age of monopoly power requires a complete re-thinking of both what antimonopoly law should achieve and how it should be enforced. This includes reforming the ideology that drives antimonopoly policy and the substance of the laws, as well as rethinking the structure of antitrust agencies and the role of other arms of government in promoting antimonopoly policy. There is an emerging body of work on the substance of antitrust laws, but little thought has been given to how the structure of antitrust policymaking and enforcement should change. Even the best antitrust laws will fail if we do not reverse the unaccountable and diffuse system of implementation and enforcement.

This report offers a blueprint for reforming the structural aspects of antitrust lawmaking. The central philosophy behind these reforms is to replace the common-law, court-centered process of making antitrust policy with a politically-accountable process that relies on expertise and transparent, reasoned decision-making through an agency. Taking antitrust away from the courts means reforming the structure of the antitrust agencies and clarifying the authorities those agencies have. Power and accountability should be aligned, as is the case in most other parts of the Executive Branch, and the agency that makes competition policy should have both the authority to act and should be held more readily accountable for its actions.

Justia 21. "Notice and Comment Process for Agency Rulemaking". Updated: May 2021. Accessed: 8/26/2021. https://www.justia.com/administrative-law/rulemaking-writing-agency-regulations/notice-and-comment/

Agencies must consider all “relevant matter presented” during the comment period, and they must respond in some form to all comments received. They are not, however, required to take any specific action with regard to the rule itself. The publication of the final rule must include analyses of any relevant data or other materials submitted by the public and a justification of the form of the final rule in light of the comments the agency received.

If opposition to the proposed rule is exceptionally large or strident, the agency may decide to make substantial modifications and start the process over by publishing a new notice and opening a new comment period. Otherwise, the agency will publish its final findings along with the rule, which is codified in the Code of Federal Regulations.

#### 1---“Resolved”---means certain.

Webster’s Revised Dictionary 1996 ((1.) RESOLVED MEANS “HAVING A FIXED PURPOSE; DETERMINED; RESOLUTE”)

#### 2---“Should”---mandates certainty.

Court of Appeals of Arizona, Division 1, Department D. 02. IN RE: the Marriage of Vanessa A. McNUTT, Petitioner-Appellee, v. Shane M. McNUTT, Respondent-Appellant. No. 1 CA-CV 01-0255. Decided: June 27, 2002 https://caselaw.findlaw.com/az-court-of-appeals/1315322.html

¶ 26 The word “should” is most commonly used to express obligation or duty.   See The American Heritage Dictionary 1670 (3d ed.1992).   We conclude that, based on the intent of the Guidelines and the interest of parents in the allocation of the federal tax exemption, the word “should” as used in § 25 of the Guidelines is mandatory rather than discretionary.   See Lincoln v. Lincoln, 155 Ariz. 272, 276, 746 P.2d 13, 17 (App.1987) (holding that the trial court abused its discretion by refusing to allocate the dependency exemption).   Thus, the trial court abused its discretion by failing to allocate the federal tax exemption, and we direct the trial court to allocate the exemption on remand.

#### 3---“Substantial”---means full not merely possible.

Words & Phrases 64 (40 W&P 759)

The words “outward, open, actual, visible, substantial, and exclusive,” in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain; absolute; real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including admitting, or pertaining to any others; undivided; sole; opposed to inclusive.

#### \*4---“Prohibitions”---eliminates all possibility that the activity is legal---the counterplan is a restriction.

PEDIAA 15. “Difference Between Prohibited and Restricted”. https://pediaa.com/difference-between-prohibited-and-restricted/

Main Difference – Prohibited vs. Restricted

Prohibited and Restricted are used in reference to limitations and prevention. However, they cannot be used interchangeably as there is a distinct difference between them. Prohibited is used when we are talking about an impossibility. Restricted is used when we are talking about something that has specific conditions. The main difference between prohibited and restricted is that prohibited means something is formally forbidden by law or authority whereas restricted means something is put under control or limits.

What Does Prohibited Mean

Prohibited is a variant of the verb prohibit. Prohibited can be taken as the past tense and past participle of prohibiting as well as an adjective. Prohibited means that something is formally forbidden by law or authority. When we say ‘smoking is prohibited’, it means that smoking is not allowed at all, there are no exceptions. Prohibit indicates an impossibility. This gives out the idea that it is not at all possible under any condition or circumstance. The term Prohibited goods is used to refer to items that are not allowed to enter or exit certain countries. For example, the government of South America lists Narcotic and habit-forming drugs in any form, Poison and other toxic substances, Fully automatic, military and unnumbered weapons, explosives and fireworks as prohibited goods. The following sentences will further explain the use of prohibited.

Inter-racial marriages were not prohibited by the government.

He was proved guilty of using prohibited substances.

No one was allowed to enter the grounds; entry was prohibited.

Prohibited imports are the items that are not allowed to enter a country.Difference Between Prohibited and Restricted

What Does Restricted Mean

Restrict means to put under limits or control. Restricted can be either used as the past tense of restrict or as an adjective meaning limited. When we say something is restricted, it means that limits or conditions have been added to it. It does not mean that it is completely impossible. For example, Restricted goods are allowed to enter or exit a country under certain circumstances. A written permission can help you to import or export that item. Likewise, a restricted area does not mean that people are not allowed to enter; it means that a special permission is required to enter the place. Restricted information refers to information that are not disclosed to the general public for security purposes.

The new regulations restricted the free movement of people.

The club was restricted to its members and their family members.

Only the highest military personnel had access to the restricted area.

American scientists had only restricted access to the area.Main difference - Prohibited vs Restricted

Difference Between Prohibited and Restricted

Meaning

Prohibited means banned or forbidden.

Restricted means limited in extent, number, scope, or action

Possibility

Prohibited means that there is no possibility of doing something.

Restricted means that something can be done under certain conditions.

Adjective

Prohibited functions as an adjective derived from prohibit.

Restricted functions as an adjective derived from restrict.

Past tense

Prohibited is the past tense and past participle of prohibit.

Restricted is the past tense and past participle of restrict.

#### 5---“Expansion” to “antitrust law” must be binding and immediate.

Anu Bradford and Adam Chilton 19. Anu Bradford, Henry L. Moses Professor of Law and International Organization, Columbia Law School. Adam S. Chilton, Assistant Professor of Law and Walter Mander Research Scholar. “Competition Law Gone Global: Introducing the Comparative Competition Law and Enforcement Datasets.” Codebook for Version 1. “Comparative Competition Law Dataset”. “CCL\_Law\_Data\_Ver1.dta”. Journal of Empirical Legal Studies 16(2): 411-443.

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| --- | --- |
| Threshold for a “law” that triggers coding | Code all laws, regulations, and constitutional provisions on competition that appear to be legally binding. Ask yourself whether the competition agency could rely on this particular document as a legal basis for bringing an enforcement action or reaching a certain decision. If the document is a mere notice of enforcement priorities, a white paper on planned (future) changes in remedies, or a guideline elaborating on how the agency approaches the questions of market definition, etc., exclude the document from the set of laws that you code. As the name of the document (Regulation v. Guideline) is not always conclusive in revealing its legal status, this may require you to read through the text of a document, or do some additional background investigation to determine whether it should be coded. If you are uncertain, reach out to Lead Coders for guidance – this can be very tricky to determine, particularly as you get used to the survey instrument and coding procedure. |

#### 6---“Expand the scope”---doesn’t occur until a case is won.

Gibson Dunn 21. Lawfirm. Gibson Dunn partner Howard S. Hogan served as an expert witness for 1-800 Contacts. "Second Circuit Issues Important Ruling on Trademark Settlements and Antitrust/IP Interface". Gibson Dunn. 6-14-2021. https://www.gibsondunn.com/second-circuit-issues-important-ruling-on-trademark-settlements-and-antitrust-ip-interface/

Finally, the decision in 1-800 Contacts also serves as a reminder that, in an era in which commentators are encouraging more aggressive and novel antitrust enforcement, the federal judiciary remains the ultimate arbiter of federal antitrust policy. Enforcers seeking to expand the scope of U.S. antitrust law must do more than bring novel cases—they must also prove their cases with hard facts in a court of law.

#### Counterplan solves clarity and certainty.

Rohit Chopra and Lina Khan 20. Rohit Chopra, Commissioner, Federal Trade Commission. And Lina M. Khan, Academic Fellow, Columbia Law School; Counsel, Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary; former Legal Fellow, Federal Trade Commission. “The Case for "Unfair Methods of Competition" Rulemaking”. The University of Chicago Law Review , Vol. 87, No. 2 (March 2020), pp. 357-380. https://www.jstor.org/stable/10.2307/26892415

Rulemaking would advance clarity and certainty about what types of conduct constitute—or do not constitute—an “unfair method of competition.”64 Commission studies of specific industries and business practices would guide which practices the FTC should use rulemaking to address. Indeed, as an enforcer and regulator across industries, the Commission is uniquely positioned to identify practices that it determines are anticompetitive. Below we offer two other considerations that could weigh in favor of FTC rulemaking.

#### The CP takes less than 60 days.

Prepared by the Office of the Federal Register. “A Guide to the Rulemaking Process”. https://www.federalregister.gov/uploads/2011/01/the\_rulemaking\_process.pdf

What is the time period for the public to submit comments?

In general, agencies will specify a comment period ranging from 30 to 60 days in the “Dates” Section of the Federal Register document, but the time period can vary. For complex rulemakings, agencies may provide for longer time periods, such as 180 days or more. Agencies may also use shorter comment periods when that can be justified.

#### 1---Optimal policymaking---comparison of policymaking settings is key.

C. Scott Hemphill 09. Associate Professor and Milton Handler Fellow, Columbia Law School. “An Aggregate Approach to Antitrust: Using New Data and Rulemaking to Preserve Drug Competition”. Columbia Law Review. https://poseidon01.ssrn.com/delivery.php?ID=588125096113080096106002107108097121035031077054017013065114020077027104102087029081118107106002104019004112030074020109103121006086087059083005011081071001076076040034056104112070118104110067012020072022093015084126127025065066072121017026087065093&EXT=pdf&INDEX=TRUE

B. Antitrust Rulemaking

The previous section advocates a focused increase in the FTC’s “competition policy research and development.”174 If the FTC accepted the suggestion, it would eventually reach a firm, empirically grounded conclusion about the optimal policy for side deals, and thus either confirm or reject the conclusion reached in Part II. That conclusion could be deployed in a variety of policymaking settings, including litigation brought by the Agency, amicus practice, and advocacy for congressional legislation. This section considers a further possibility, that a comprehensive aggregate study of settlement practice could form the basis for substantive policymaking by the Agency in the form of rulemaking.

There is of course an enormous literature on the choice of courts versus agencies, adjudication versus rulemaking, and rules versus standards, and this Article does not engage the full complexity of those debates. My goal here is simply to suggest how the virtues of an aggregate perspective on settlement practice shift the balance in a way that favors agency rulemaking. In other words, the settlement issue highlights certain advantages of moving away from a court-centered model of antitrust law.

#### 2---Literature---rulemaking is an enormous debate---deleting it is unpredictable and anti-educational.

Rohit Chopra and Lina Khan 20. Rohit Chopra, Commissioner, Federal Trade Commission. And Lina M. Khan, Academic Fellow, Columbia Law School; Counsel, Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary; former Legal Fellow, Federal Trade Commission. “The Case for "Unfair Methods of Competition" Rulemaking”. The University of Chicago Law Review , Vol. 87, No. 2 (March 2020), pp. 357-380. https://www.jstor.org/stable/10.2307/26892415

We agree that relying solely on adjudication to define the substance of § 5 has generated persistent ambiguity. However, relying on courtroom battles to create precedents that set expectations for the marketplace is not the only vehicle through which the Commission can establish what conduct constitutes an “unfair method of competition.” The Commission has in its arsenal a far more effective tool that would provide greater notice to the marketplace and that is developed through a more transparent and participatory process: rulemaking. Through engaging in rulemaking, the Commission could define “unfair methods of competition” through processes established by the Administrative Procedure Act38 (APA).39

There is an enormous body of literature on the choice between adjudication and rulemaking, and this Essay does not seek to fully address the various trade-offs.40 Instead, our goal is to reflect on the current state of antitrust enforcement and consider ways to address the ambiguity, burdens, and democratic deficiency that we discuss above.