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### Notice + Comment CP

#### Text: The United States federal government should delegate antitrust rulemaking authority to a new expert agency. The agency should begin notice-and-comment rulemaking to rescind its presumption against extraterritoriality because of comity in antitrust cases involving anticompetitive business practices by the private sector in the People’s Republic of China.

#### Solves the case + engages notice and comment

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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 ---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.

### Advantage CP

#### The United States federal government should:

#### -Negotiate through President-to-President talks a new hotline that communicates through text and receive-only modes and links United States national security officials with the national security officials of the United States and the People’s Republic of China.

#### -Substantially increase federal spending on research and development of 5G and 6G, encourage the adoption and use of the Prague Proposals, and repurpose mid-band spectrum for 5G.

#### The United States Supreme Court should not require clear evidence of Congressional intent to overcome the presumption against extraterritoriality.

#### The CP solves Comity – their evidence

Emory reads yellow

Gardner 16 “RJR Nabisco and the Runaway Canon” Maggie Gardner - Assistant Professor of Law at Cornell School of Law, OCT 22, 2016, 102 Va. L. Rev. Online 134, Volume 102, <https://www.virginialawreview.org/articles/rjr-nabisco-and-runaway-canon/>

I. The Modern Presumption Against Extraterritoriality

Though considered a “longstanding principle of American law,”[17] the presumption against extraterritoriality fell into disuse after the 1940s.[18] The Restatement (Third) of Foreign Relations Law, published in 1987, did not even bother to include it.[19] But starting in the 1990s, the Rehnquist and Roberts Courts turned back to the presumption as a means for curbing the scope of transnational litigation in U.S. courts.[20]

When the Court in 1991 breathed new life into the presumption in Equal Employment Opportunity Commission v. Arabian American Oil Co. (Aramco),[21] however, it also transformed it.[22] On the one hand, Aramco invoked the old presumption as it had last been defined half a century earlier: It is a tool, the Court explained, “whereby unexpressed congressional intent may be ascertained,”[23] with judges looking for “language in the [relevant Act] [that] gives any indication of a congressional purpose to extend its coverage” beyond U.S. territory.[24] But on the other hand, and in the same breath, Aramco required an “affirmative intention of the Congress clearly expressed” before a statute could be construed to apply extraterritorially.[25]

This language came from a separate line of cases applying the Charming Betsy[26] canon. As Professor John Knox has explained, that canon assumes Congress does not intend to violate international law and thus requires Congress to indicate clearly when it is doing so.[27] This conflation of the traditional presumption with Charming Betsy’s stricter requirement has predictably led to the presumption increasingly resembling a clear statement rule—even while the Court continues to insist that it is not.[28] In 1993, the Court required “clear evidence of congressional intent” to overcome the presumption.[29] By 2010, the Court could state more bluntly, “[w]hen a statute gives no clear indication of an extraterritorial application, it has none.”[30] And in RJR Nabisco, the Court phrased the inquiry as how far Congress “has affirmatively and unmistakably instructed” the statute to reach.[31]

Along the way, the Court has formalized the modern presumption into a two-step inquiry.[32] At step one, a judge must look for this “clear indication” of extraterritorial effect.[33] If the judge does not find such an indication—that is, if the presumption is not rebutted—then the judge continues to step two, in which she determines the “focus” of the statute.[34] For a case to fall under the statute’s ambit, its connections to the United States must match the statute’s “focus.”[35]

Like the ratcheting up of the language required to overcome the presumption, this two-step framework moves the presumption further away from the purported search for congressional intent.[36] As Professor Lea Brilmayer has explained, step one requires Congress to be emphatic when it wishes its statutes to apply abroad, while at step two, judges get to decide what domestic contacts count in which cases (determining the “focus” of a statute, after all, is a rather mushy directive).[37] And while it is helpful to give judges such a clear structure for thinking about how to handle transnational cases, that guidance has been lopsided: The Court has not provided similar guidance on what to do when the presumption is rebutted.[38]

RJR Nabisco presented such an opportunity, as the Justices unanimously agreed that RICO’s substantive provisions do extend extraterritorially.[39] RICO targets “racketeering activity,” which is comprised of certain state or federal criminal offenses that the RICO statute terms “predicate acts.”[40] These predicate acts, listed in 18 U.S.C. § 1961, include some crimes that explicitly reach conduct beyond U.S. borders.[41] Section 1962—the heart of RICO—prohibits four different ways by which a “pattern of racketeering activity” may be used to infiltrate, control, or operate an “enterprise.”[42] Because § 1962 incorporates § 1961’s definition of racketeering activity, which in turn incorporates other explicitly extraterritorial statutes, the Court had no trouble concluding that § 1962 reaches foreign racketeering activity, at least in some cases.[43]

The next step should have been to consider whether this extraterritorial statute was nonetheless subject to other limits, whether on its own terms or due to other comity-based doctrines.[44] Instead, the Court announced a new requirement that the presumption be applied separately to every statutory provision, whether substantive, remedial, or jurisdictional.[45] Based on that requirement, the four-Justice majority applied the presumption separately to RICO’s private right of action, found in § 1964(c),[46] and concluded that it did not independently overcome the presumption.[47] Thus a “private RICO plaintiff . . . must allege and prove a domestic injury to its business or property.”[48] That second application of the presumption was ill considered and provides a problematic model for the lower courts.

II. The Runaway Canon

The majority’s application of the presumption to RICO’s private right of action was ill considered along at least two dimensions. First, the majority rejected two standard legislative methods by which Congress could efficiently signal its extraterritorial intent. Second, the new requirement that Congress express its extraterritorial intent in every provision of a statute reflects an unrealistic understanding of how Congress works. In the hands of the RJR Nabisco majority, the presumption has become less a method for interpreting statutes than a pronouncement on the proper scope of access to U.S. courts, a pronouncement that Congress must labor to displace.[49]

#### Also solves US-China war

Pape 14 - Robert A. Pape Professor of Political Science Director of the Chicago Project on Security and Terrorism University of Chicago (“Establishing a Workable US-China Hotline (CHILINK)” April 30, 2014 <http://d3qi0qp55mx5f5.cloudfront.net/cpost/i/docs/Pape_Policy_Memo.pdf>) RMT

V. New US-China Hotline The proposed US-Chinese hotline would differ from the status quo in three main ways:  Negotiated at the presidential level  NSC-NCS communication  Text and receive-only modes To establish a workable communication link, CHILINK would be proposed and negotiated through direct President-to-President talks so that each leader might establish some personal stake in the hotline, and thus be more inclined to employ it in crisis situations. This is a departure from previous hotline attempts; the Assistant Deputy Secretary of Defense for East Asia negotiated the 2008 agreement. CHILINK would link the US National Security Council with the new Chinese National Security Council. This development is of critical importance; the muddling of Chinese hierarchy and authority, especially between the civilian and military branches, has been the primary cause of failure of previous hotlines. The new Chinese National Security Council, based upon the American model, consolidates authority on both foreign and domestic security issues into one body. Its inception, therefore, provides the perfect opportunity for a renewed hotline proposal. CHILINK would utilize text-only communication, reducing miscommunication that can arise through rapid translation or facial expressions. As with the US-Russia hotline, CHILINK would employ multiple links to ensure delivery of messages. To eliminate the chance of mixed signaling, however, only the National Security Council of each country would have the ability to send hotline messages. The rest would be receive-only machines. As one of China’s primary concerns in regards to a hotline with the United States is the appearance of negotiation, this solution minimizes this perception. Accordingly, a receive-only avenue may facilitate communication beyond the early stages of a crisis.

#### And 5G

CSIS 21. “CSIS Working Group on Trust and Security in 5G Networks.” 3/1/2021. <https://www.csis.org/analysis/accelerating-5g-united-states>

This 5G strategy offers a comprehensive approach to network technologies, building on the strength of the United States to innovate and invest while designing government policies to support and complement those strengths. The report is the work of a group of experts and provides ideas and recommendations on how to speed infrastructure deployment, how to ensure supply chain security, and how to accelerate 5G use. Our recommendations include: Accelerate spectrum repurposing. Compared to other countries, the United States is doing well in allocating high-band and low-band spectrum for 5G. However, it lags in the allocation of mid-band spectrum. The United States needs to repurpose mid-band spectrum for 5G using auctions, spectrum sharing technologies, and compensation for agencies if they need to relocate. The recent C-band auction, while expensive, was an important step in providing the spectrum needed for American 5G networks. Remove regulatory obstacles. Telecommunications regulation in the United States is a complex blend of federal and local authorities. The interpretation and implementation of those rules by some local governments has often been inconsistent. The next administration should continue efforts to remove regulatory obstacles, accelerate deployment, and identify those instances where federal law should supersede local regulation to provide uniform national rules. Promote supply chain trust. The two keys to supply chain trust are promoting supplier diversity and creating risk management strategies for technology acquirers. The work of the Department of Homeland Security’s Information and Communications Technology Supply Chain Risk Management Task Force provides guidance on supply chain security, and the United States can encourage the adoption and use of the Prague Proposals, including the criteria developed by this working group, for governments and network owners or operators to determine trustworthiness and security. An essential action for building trust is for the Federal Communications Commission (FCC) to move ahead with Rip and Replace, using the $1.9 billion recently provided by Congress. Directly counter predatory practices. Use transparency and diplomatic pressure to counter predatory practices. The United States should make transparency and accountability for predatory trade practices a central part of 5G policy. In other areas, it has been helpful to intervene privately with foreign governments or to make public instances of foreign corrupt practices. The United States and its partners should expose Chinese misbehavior, such as illicit subsidies, and assign intelligence resources to identify predatory behavior. Redirect American and allied export credits. One major advantage Huawei has is that its prices are subsidized, making them artificially low. We do not need to match Chinese subsidies, but we do need to reduce the financial burden of not buying from Huawei. Cooperative policies with Japan, Australia, Korea, and the European Union to use foreign assistance, co-financing, and export support in the developing world for 5G infrastructure can accomplish this but require reforms to ExIm Bank rules and procedures. Make 5G security part of a larger cybersecurity strategy. Building on the work already done in the European Union, a 5G cybersecurity strategy should look beyond supply chain security to build cooperative mechanisms among allies for cybersecurity. This requires closer intelligence, technology, and security partnerships with countries that share the assessment of the risk of using untrustworthy Chinese network technologies. The foundation for this partnership is the Five Eyes, Nordic countries, Japan, and other nations that share our concerns. Increase federal spending in support of 5G and 6G. Federal spending on R&D is crucial in a competition with China. The private sector already invests heavily in 5G research. The next administration should identity those areas where there are R&D shortfalls. Remedying these shortfalls requires providing substantially more funding to the National Science Foundation. Important areas for R&D investment include spectrum sharing, developing new waveforms, and finding new approaches to 5G security. Congress should allocate sufficient funds for R&D and test beds and encourage collaboration among government, service providers, and cloud service providers.

### Cap K

#### Capitalism is terminally unsustainable – failure to embrace an alternative guarantees imminent collapse into fascism

Robert Freeman 20. founder of The Global Uplift Project which builds small-scale infrastructure projects in the developing world to improve humanity’s capacity for self-development, B.S. from Santa Clara University and an M.B.A. from Stanford University.” Common Dreams. 12/14/2020. https://www.commondreams.org/views/2020/12/14/its-time-we-called-it-what-it-fascism

When the economy in a democratic but capitalist country fails, there are two alternatives. You can modify the economic system. Or, you can modify the political system. When you modify the economic system (capitalism) but retain the political system (democracy), you have the arrangement the U.S. has lived under since capitalism failed in the 1930s, in the Great Depression. The other alternative is where the economic system (capitalism) is retained but the political system (democracy) is discarded and replaced with authoritarianism. This is fascism and is what happened in Germany, also in the 1930s. The battle between capitalism and democracy is the conflict that is being fought out in the U.S. right now. The epic thrash we’re witnessing is because the forces of capitalism, seeing a terminal economic crash approaching, are attempting to preemptively replace democracy with authoritarianism—fascism—so that they can control the outcome. A quick look at history shows us the pattern. In the 1930s, the U.S. experienced the greatest economic collapse in its history, the Great Depression. GDP fell by 25%. Bread lines became an iconic feature of the urban American landscape. Franklin D. Roosevelt put in place economic policies to mitigate the damage and prevent future collapses. He put tens of millions of people to work through “alphabetical agencies” such as the Civilian Conservation Corps, the National Industrial Recovery Act, and the Works Progress Administration. He imposed FDIC requirements on banks and insured investor’ deposits. He separated commercial banking from investment banking and created unemployment insurance and Social Security. The sum of Roosevelt’s policies saved capitalism from its own inadvertently attempted suicide. But not everybody was happy with Roosevelt’s reforms. A cabal of disgruntled bankers attempted a fascist coup d’ etat. It failed, because the man they had recruited to lead the coup, retired Marine General Smedley Butler, ratted them out to Congress. But the very fact of the attempted coup showed just how far capitalists will go to avoid constraints put on them by democracy. Clearly, Roosevelt’s reforms worked. He modified the economy from a purely capitalistic orientation, giving it “guard rails” that would prevent another collapse. But he kept the country’s small-d democratic political institutions intact. The result was one of the most buoyant periods of both economic and political progress the world has ever seen. The other model of what happens when a capitalist economy fails is Weimar Germany, also in the 1930s. Germany had suffered three economic debacles in just over a decade. Those were the loss in World War I, the Great Inflation of the 1920s, and the Great Depression, the same Great Depression Roosevelt confronted. But the German response could not have been more different than Roosevelt’s. Where Roosevelt had kept the political system intact but modified the economic system, Germany did the opposite. In January 1933, just 32 days before FDR was inaugurated, German president Paul von Hindenburg appointed Adolph Hitler Chancellor. Hitler had promised German elites that he would crush the civil unrest that had been borne of economic collapse. He kept his promise. Hitler kept the capitalist system intact, funneling tens of billions of dollars to weapons makers, financiers, and industrialists. But he dismantled German democracy. He banned competing political parties, suspended civil liberties, outlawed trade unions, had thousands of political opponents murdered, and imposed martial law. This was fascism—the operation of government for the benefit of corporations and the wealthy. We all know what happened next. What can these two polar responses to capitalist economic collapse tell us about the situation in the U.S. today? The U.S. economy has been in a four-decades long engineered decline, which is now accelerating. The owners of capital have intentionally de-industrialized the economy in order to get their money out. This has put tens of millions of formerly high paid workers out of work. At the same time, they engineered a massive transfer of wealth from the working and middle classes to the very wealthiest. This was Reagan’s supply-side economics. The data tell the story. A 2020 study by the RAND Corporation shows that between 1975 and 2018, $50 TRILLION of combined income was transferred from the lowest 90% of income earners to the top 1%. It’s the greatest episode of internal looting from one class to another within the same society, ever recorded. This is the root cause of the widespread, blistering rage that manifests today as Trumpism. The immediate problem with this scheme was that it didn’t leave enough income and purchasing power in the hands of people to clear the markets. Unless something was done to restore the lost liquidity, the economy would fall into prolonged recession, or depression. The work-around was that the government began borrowing money at a prodigious rate to plug the holes in aggregate demand that its income transfers had created. Again, the data tell the story. In 1981, when Ronald Reagan took power, the national debt stood at $1 trillion. In its first 204 years, that was the total amount the country had needed to borrow. Twelve years later, when Reagan’s Vice President, George H.W. Bush left office, the debt had quadrupled to $4 trillion. This is the amount that was needed to offset the transfers and the loss of tax payments to the government that resulted from Reagan’s upward redistributive policies. But that was only the beginning. By 2001, when George W. Bush took office, the debt had reached $5.7 trillion, a large but still manageable sum. Like Reagan, Bush cut taxes on the wealthy, not once but twice. The result was that when he left office, the debt had essentially doubled, reaching $11 trillion. Since then, it has more than doubled again, to more than $27 trillion today. It’s unfathomable, but it is the measure of the degree of damage that Reagan’s policies inflicted and continue to inflict on the economy. This year alone, the government has had to borrow more than $4 trillion just to keep the ship of the economy afloat. That is four times what the country had had to borrow in its first 204 years, combined. It’s almost $11 billion every day. To put that into perspective, a few years ago, the Chinese government made a one-time investment of $10 billion to build a national quantum computing research center. It has produced a computer that appears to be a trillion times more powerful than any existing supercomputer in the world. If successful, it will be game over for all other countries using conventional computers to run their economies, or militaries. Again, the amount invested to accomplish this was less than one day’s borrowing by the U.S. government today. But even $11 billion of borrowing a day is not enough to keep the economy aright. More than 30 million Americans are out of work today. Last week, an additional 1.4 million filed for unemployment insurance. More than 8 million have been added to the poverty roles since the COVID crisis began. As many as 15 million households with 40 million people face potential eviction when January rent comes due. Almost half of all small businesses—48%—fear they may have to shut down permanently. Miles-long bread lines (now in cars) have returned as an iconic scar on the American urban landscape. When the whole thing finally collapses nobody can precisely say, but it cannot be far off. The U.S. is actuarially bankrupt, meaning that there is no plausible scenario under which these debts can possibly be paid. At some point, lenders will stop lending. When that happens, the government will be unable to deliver essential services and will have to impose martial law to contain the resulting disorder. The COVID lockdowns we’re now living under are a dry run for that time. Remember, Donald Trump knew in great detail in January just how deadly the virus was, and just how easily transmissible it is. He intentionally kept this information from the public while relentlessly undermining any competent public health response. To put this into perspective, Japan has had a total of 2,462 COVID deaths since the pandemic started. The U.S. is having more than that number EVERY DAY and the rate is increasing. This is not an accident. It is not even simply incompetence. It is intentional. The wealthy know all of this. That’s why they’ve taken their money out of the U.S. economy and stashed it in Swiss bank accounts, in tax havens in the Cayman islands, in new factories and shopping malls and tilt-up cities in east Asia, and in hedge funds investing in anything except the rehabilitation of the U.S. economy and its workforce. Anywhere where their money is out of reach of the U.S. government and its ability to tax. It’s why they have sponsored Donald Trump and his swelling legions of brownshirts and traitorous Republican congressmen to try to overturn the 2020 presidential election. For decades, they were able to carry out their suppression of democracy through such pedestrian means as gerrymandering, purging of voter rolls, closing polling places in minority neighborhoods, voter intimidation, and more. But even those devices are no longer sufficient. They can see the awakening consciousness of the masses and know that as long as democracy is still functioning there remains the possibility that their decades-long heist could be reversed. They are intent that that will not happen. They will happily destroy the country—meaning democracy—in favor of fascism rather than have to surrender their ill-gotten gains. And we should be clear, this is not simply a 2020 phenomenon. They are playing a long game where, even if they don’t win this year, they will continue their assault until their end is achieved: democracy is destroyed. They will be back in 2022 and 2024 more savvy than ever. They’ve learned the weak points of our system and will attack at the level of county registrars of voters, state Secretaries of State, state legislatures, and any other weak points they can manipulate or intimidate to destroy functioning democracy. The truly insidious goal is to destroy the public’s faith in democracy itself, so that that selfsame public will not defend the core institution on which the very country is premised. They have been remarkably successful at this, with some 70 million people believing that the election was rigged and that Donald Trump should be installed as an effective dictator, despite the fact that he conspicuously lost the popular vote by over 7 million votes, and the electoral college by 74 votes, a “landslide” as he called the exact same tally in 2016. The mainstream media have been the central actors selling this decades-long campaign of dispossession, deceit, and destruction. Every day for 40+ years, while $50 trillion was being covertly, systematically sluiced from the 90% to the 1%, they’ve served as cultural pacifiers, agents of diversion, happy chatterers, cooing to the populace that everything was fine, just as it was supposed to be, that America is the Exceptional country, and any doubt about that reflected not political or economic insight, certainly not moral courage, but moral failing, perhaps even treason, on the part of the doubter. The media remains the primary agent of deception and deflection still today. They locate all of the impetus for the democratic overthrow now underway in the person of Donald Trump himself. This is an easy sale because Trump is so palpably repellent, so pathetically insecure and in need of constant attention, and so psychotically disturbed in his vehement insistence that he won the election and that democracy must be overturned so that that “fact” can be actualized. Trump is the political roadside wreck that we can’t stop rubbernecking and the media milk this for all it’s worth. In truth, however, the impetus to overturn the democracy is decades old, is very deeply rooted, is vastly more sophisticated than Trump, and is only now coming to its apotheosis. It originates in the owners of great wealth, just as it did in the Great Depression, whether in the U.S. or in Germany. They are the ones who own the media and hire buffoons like Trump for their ability to deflect rage from the failed economic system, and redirect it onto manufactured targets like the “deep state,” race, “socialist liberals” and other imaginary but useful boogie men. The 126 quisling congressmen who have pushed Trump’s failed Texas lawsuit are not mainly afraid of Trump, as the media would have us believe. Trump will soon (we can only hope) be in jail where he will be deprived of his Twitter megaphone. The bootlickers are afraid of losing the campaign contributions of these “malefactors of great wealth,” as Roosevelt called them. They have been called to do what they have been bought to do and they must comply. They are cowards, traitors, truly moral midgets, but they can count. The coup d’ etat to replace democracy with fascism is undeniably underway and will not relent until it has succeeded. It will be decided by which side can turn out more people onto the streets once the announcement is made. Right now, it looks like the right, the fascists, with their stormtrooper thugs and gun-toting goons, armed with rage over reason and resentment over reality, have the momentum. They certainly have the agitation, don’t they. We’ll soon find out how much the rest of the country really loves it when we see whether they will fight to save it.

#### Anti-trust is a psy op to pacify the working class, mystify accumulation, and reinvigorate belief in capitalist competition

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 principles 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

### FTC DA

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

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

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

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

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

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

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

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

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

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

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

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

### Relations

#### Can’t solve alt causes to deteriorating relations like Chinese Naval exercises or Japan Nuclear Umbrella

#### US-China relations are resilient – no chance they go to war

Levy 5-26 (Phil, Senior Fellow on the Global Economy at the Chicago Council on Global Affairs, and teach International Business Strategy at Northwestern University’s Kellogg School of Management, “Three Visions For U.S.-China Trade Relations”, Forbes, 5-26-19, <https://www.forbes.com/sites/phillevy/2019/05/26/three-visions-for-u-s-china-trade-relations/#c8398d2583d9>)

Yet, in each case, the Trump administration quickly relented. For ZTE, a year ago, President Trump soon tweeted: President Xi of China, and I, are working together to give massive Chinese phone company, ZTE, a way to get back into business, fast. Too many jobs in China lost. Commerce Department has been instructed to get it done!” Then, for Huawei this past week, the Commerce Department followed up the executive order by granting the company a temporary license. Then, President Trump said that he might resolve the Huawei dispute as part of a trade agreement with China. So, an alternative message becomes clear: it is diplomatically and commercially costly to disentangle from China, so the United States will seek out a compromise. The only problem with this clear message, of course, is that it directly contradicts the initial clear message that China was an unacceptable partner. It may help to sort out the confusion by considering what a consistent vision of the U.S.-China economic relationship might look like. We can start with two admittedly-extreme cases. China Compliant. This is a vision in which China does whatever the United States says, both politically and economically. This may seem absurd – the United States does not enjoy such a relationship with any independent country. Yet U.S. demands for Chinese reform reached deep into China’s political system. They also covered issues ranging from Chinese macroeconomic policy to trade barriers to state-owned enterprises to China’s ability to apply subsidies. (The Trump administration opposes subsidies, except when they are politically necessary to maintain support in the United States). Further, the recent breakdown in trade talks with China reportedly followed a dispute over whether China would write U.S. demands into Chinese law. Responding to such demands, Chinese state media just accused the United States of trying to “colonize global business.” China Apart. This seemed to be the goal of the initial telecommunication excommunication. It was consistent with official administration statements about how it was a mistake to let China into the World Trade Organization in 2001. This was also the tone of the National Security Strategy of 2017, which said China was a strategic competitor that aimed to challenge American power, influence, and interests, and erode U.S. security and prosperity. Peter Navarro, a top White House trade adviser, initially caught the President’s attention through his book Death by China. In this extreme vision, the United States tries to wall off China.

#### China perceives the aff as containment – it’s seen as punishing Chinese companies

#### No violent China rise, territorial conflict, or economic war

Yan Xuetong, Distinguished Professor and Dean of the Institute of International Relations at Tsinghua University, 19 "The Age of Uneasy Peace," <https://www.foreignaffairs.com/articles/china/2018-12-11/age-uneasy-peace>

What kind of world order will this bring? Contrary to what more alarmist voices have suggested, **a bipolar U.S.-Chinese world will** not be a world on the brink of apocalyptic war. This is in large part because China’s ambitions for the coming years are much narrower than many in the Western foreign policy establishment tend to assume. Rather than unseating the United States as the world’s premier superpower, Chinese foreign policy in the coming decade will largely focus on maintaining the conditions necessary for the country’s continued economic growth—a focus that will likely push leaders in Beijing to **steer clear of open confrontation** with the United States or its primary allies. Instead, the coming bipolarity will be an era of uneasy peace between the two superpowers. Both sides will build up their militaries but remain careful to manage tensions before they boil over into outright conflict. And rather than vie for global supremacy through opposing alliances, **Beijing and Washington will largely carry out their competition in the** [**economic**](https://www.foreignaffairs.com/articles/china/2018-11-27/there-no-grand-bargain-china) **and** [**technological**](https://www.foreignaffairs.com/articles/united-states/2018-10-19/can-pentagon-win-ai-arms-race) **realms**. At the same time, U.S.-Chinese bipolarity will likely spell the end of sustained multilateralism outside strictly economic realms, as the combination of nationalist populism in the West and China’s commitment to national sovereignty will leave little space for the kind of political integration and norm setting that was once the hallmark of liberal internationalism. WHAT: CHINA WANTS China’s growing influence on the world stage has as much to do with the United States’ abdication of its global leadership under President Donald Trump as with China’s own economic rise. In material terms, the gap between the two countries has [not narrowed by much](https://www.foreignaffairs.com/articles/china/2018-09-21/stop-obsessing-about-china) in recent years: since 2015, China’s GDP growth has slowed to less than seven percent a year, and recent estimates put U.S. growth above the three percent mark. In the same period, the value of the renminbi has decreased by about ten percent against the U.S. dollar, undercutting China’s import capacity and its currency’s global strength. What has changed a great deal, however, is the expectation that the United States will continue to promote—through diplomacy and, if necessary, military power—an international order built for the most part around liberal internationalist principles. Under Trump, the country has broken with this tradition, questioning the value of free trade and embracing a virulent, no-holds-barred nationalism. The Trump administration is modernizing the U.S. nuclear arsenal, attempting to strong-arm friends and foes alike, and withdrawing from several international accords and institutions. In 2018 alone, it ditched the Intermediate-Range Nuclear Forces Treaty, the [nuclear deal with Iran](https://www.foreignaffairs.com/articles/2018-08-13/how-we-got-iran-deal), and the UN Human Rights Council. It is still unclear if this retrenchment is just a momentary lapse—a short-lived aberration from the norm—or a new U.S. foreign policy paradigm that could out-live Trump’s tenure. But the global fallout of Trumpism has already pushed some countries toward China in ways that would have seemed inconceivable a few years ago. Take Japanese Prime Minister Shinzo Abe, who effectively reversed Japan’s relations with China, from barely hidden hostility to [cooperation](https://www.scmp.com/news/china/diplomacy/article/2170436/china-japan-moving-competition-cooperation-leaders-say), during a state visit to Beijing in October 2018, when China and Japan signed over 50 agreements on economic cooperation. Meanwhile, structural factors keep widening the gap between the two global front-runners, China and the United States, and the rest of the world. Already, the two countries’ military spending dwarfs everybody else’s. By 2023, the U.S. defense budget may reach $800 billion, and the Chinese one may exceed $300 billion, whereas no other global power will spend more than $80 billion on its forces. The question, then, is not whether a bipolar U.S.-Chinese order will come to be but what this order will look like. At the top of Beijing’s priorities **is a liberal economic order built on free trade**. China’s economic transformation over the past decades from an agricultural society to a major global powerhouse—and the world’s second-largest economy—was built on exports. The country has slowly worked its way up the value chain, its exports beginning to compete with those of highly advanced economies. Now as then, these **exports are the lifeblood of the Chinese economy:** they ensure a consistent trade surplus, and the jobs they create are a vital engine of domestic social stability. There is no indication that **this will change** in the coming decade. Even amid escalating trade tensions between Beijing and Washington, China’s overall export volume continued to grow in 2018. **U.S. tariffs may sting**, **but they will neither change Beijing’s fundamental incentives nor portend a general turn away from global free trade on its part**. Quite to the contrary: because China’s exports are vital to its economic and political success, one should expect Beijing to double down **on its attempts to gain and maintain access to foreign markets**. This strategic impetus is at the heart of the much-touted [Belt and Road Initiative](https://www.foreignaffairs.com/articles/china/2018-10-24/why-democracies-are-turning-against-belt-and-road), through which China hopes to develop a vast network of land and sea routes that will connect its export hubs to far-flung markets. As of August 2018, some 70 countries and organizations had signed contracts with China for projects related to the initiative, and this number is set to increase in the coming years. At its 2017 National Congress, the Chinese Communist Party went so far as to enshrine a commitment to the initiative in its constitution—a signal that the party views the infrastructure project as more than a regular foreign policy. China is also willing to further open its domestic markets to foreign goods in exchange for greater access abroad. Just in time for a major trade fair in Shanghai in November 2018—designed to showcase the country’s potential as a destination for foreign goods—China lowered its general tariff from 10.5 percent to 7.8 percent. Given this enthusiasm for the global economy, the image of a revisionist China that has gained traction in many Western capitals is misleading. **Beijing relies on a global network of trade ties**, so it is loath to court direct confrontation **with the United State**s. Chinese leaders fear—not without reason—that such a confrontation might cut off its access to U.S. markets and lead U.S. allies to band together against China rather than stay neutral, stripping it of important economic partnerships and valuable diplomatic connections. As a result, **caution**, not assertiveness or aggressiveness, will be the order of the day **in Beijing’s foreign policy in the coming years**. Even as it continues to modernize and expand its military, **China will** carefully avoid pressing issues **that might lead to war with the United States, such as those related to the South China Sea, cybersecurity, and the weaponization of space**. NEW RULES? Indeed, much as Chinese leaders hope to be on par with their counterparts in Washington, they worry about the strategic implications of a bipolar U.S.-Chinese order. American leaders balk at the idea of relinquishing their position at the top of the global food chain and will likely go to great lengths to avoid having to accommodate China. Officials in Beijing, in no hurry to become the sole object of Washington’s [apprehension](https://www.foreignaffairs.com/articles/united-states/2018-02-13/china-reckoning) and scorn, would much rather see a multipolar world in which other challenges—and challengers—force the United States to cooperate with China. Chinese leaders worry about the strategic implications of a bipolar U.S.-Chinese order. In fact, the United States’ own rise in the nineteenth and early twentieth centuries provides something of a model for how the coming power transition may take place. Because the United Kingdom, the world’s undisputed hegemon at the time, was preoccupied with fending off a challenger in its vicinity—Germany—it did not bother much to contain the rise of a much bigger rival across the pond. China is hoping for a similar dynamic now, and recent history suggests it could indeed play out. In the early months of George W. Bush’s presidency, for instance, relations between Beijing and Washington were souring over regional disputes in the South China Sea, reaching a boiling point when a Chinese air force pilot died in a midair collision with a U.S. surveillance plane in April 2001. Following the 9/11 attacks a few months later, however, Washington came to see China as a useful strategic partner in its global fight against terrorism, and relations improved significantly over the rest of Bush’s two terms. Today, unfortunately, the list of common threats that could force the two countries to cooperate is short. After 17 years of counterterrorism campaigns, the sense of urgency that once surrounded the issue has faded. Climate change is just as unlikely to make the list of top threats anytime soon. The most plausible scenario is that a new global economic crisis in the coming years will push U.S. and Chinese leaders to shelve their disagreements for a moment to avoid economic calamity—but this, too, remains a hypothetical. To make matters worse, some points of potential conflict are here to stay—chief among them [Taiwan](https://www.foreignaffairs.com/articles/asia/2018-07-27/storm-brewing-taiwan-strait). Relations between Beijing and Taipei, already tense, have taken a turn for the worse in recent years. Taiwan’s current government, elected in 2016, has questioned the notion that mainland China and Taiwan form a single country, also known as the “one China” principle. A future government in Taipei might well push for de jure independence. Yet a Taiwanese independence referendum likely constitutes a redline for Beijing and may prompt it to take military action. If the United States were to respond by coming to Taiwan’s aid, a military intervention by Beijing could easily spiral into a full-fledged U.S.-Chinese war. To avoid such a crisis, Beijing is determined to nip any Taiwanese independence aspirations in the bud by political and economic means. As a result, it is likely to continue lobbying third countries to cut off their diplomatic ties with Taipei, an approach it has already taken with several Latin American countries. Cautious or not, China set somewhat different emphases in its approach to norms that undergird the international order. In particular, a more powerful China will push for a stronger emphasis on national sovereignty in international law. In recent years, some have [interpreted](https://www.ft.com/content/67ec2ec0-dca2-11e6-9d7c-be108f1c1dce) public statements by Chinese leaders in support of globalization as a sign that Beijing seeks to fashion itself as the global liberal order’s new custodian, yet such sweeping interpretations are wishful thinking: China is merely signaling its support for a liberal economic order, not for ever-increasing political integration. Beijing remains fearful of outside interference, particularly relating to Hong Kong, Taiwan, Tibet, and [Xinjiang](https://www.foreignaffairs.com/articles/china/2018-06-20/reeducation-returns-china), as well as on matters of press freedom and online regulations. As a result, it views national sovereignty, rather than international responsibilities and norms, as the fundamental principle on which the international order should rest. Even as a new superpower in the coming decade, China will therefore pursue a less interventionist foreign policy than the United States did at the apex of its power. Consider the case of Afghanistan: even though it is an open secret that the United States expects the Chinese military to shoulder some of the burden of maintaining stability there after U.S. troops leave the country, the Chinese government has shown no interest in this idea. Increased Chinese clout may also bring attempts to promote a vision of world order that draws on ancient Chinese philosophical traditions and theories of statecraft. One term in particular has been making the rounds in Beijing: wangdao, or “humane authority.” The word represents a view of China as an enlightened, benevolent hegemon whose power and legitimacy derive from its ability to fulfill other countries’ security and economic needs—in exchange for their acquiescence to Chinese leadership. BIPOLARITY IN PRACTICE Given the long shadow of nuclear escalation, **the** [**risk of a direct war**](https://www.foreignaffairs.com/articles/china/2018-10-15/beijings-nuclear-option) **between China and the United States will** remain minimal, even as military, technological, and economic competition between them intensifies. Efforts on both sides to build ever more effective antimissile shields are unlikely to change this, since neither China nor the United States can improve its antimissile systems to the point of making the country completely impervious to a nuclear counterattack. If anything, the United States’ withdrawal from the Intermediate-Range Nuclear Forces Treaty will encourage both sides to build up their nuclear forces and improve their second-strike capabilities, ensuring that neither side will be confident it can launch a nuclear attack on the other without suffering a devastating retaliation. The threat of nuclear war will also keep Chinese tensions with other nuclear-armed powers, such as India, from escalating into outright war. Proxy wars, however, cannot be ruled out, nor can military skirmishes among lesser states. In fact, the latter are likely to become more frequent, as the two superpowers’ restraint may embolden some smaller states to resolve local conflicts by force. Russia, in particular, may not shy away from war as it tries to regain its superpower status and maintain its influence in eastern Europe and the Middle East. Faced with calls to reform the UN Security Council, fraying powers such as France and the United Kingdom may seek to buttress their claim to permanent membership in the council through military interventions abroad. In the Middle East, meanwhile, the struggle for regional dominance among Iran, Turkey, and Saudi Arabia shows no signs of abating. Across the globe, secessionist conflicts and terrorist attacks will continue to occur, the latter especially if competition between China and the United States reduces their cooperation on counterterrorism measures. China’s emphasis on national sovereignty, together with Western societies’ turn away from globalism, will deal an additional blow to multilateralism. In the economic realm, export-driven economies, such as China, Germany, and Japan, will ensure the survival of a global liberal trade regime built on free-trade agreements and membership in the World Trade Organization—no matter what path the United States takes. On other matters of global governance, however, cooperation is likely to stall. Even if a future U.S. administration led a renewed push toward multilateralism and international norm setting, China’s status as a junior superpower would make it difficult for the United States to sustain the strong leadership that has traditionally spurred such initiatives in the past. Differences in ideology and clashing security interests will prevent Beijing and Washington from leading jointly, but neither will have enough economic or military clout to lead on its own. To the extent that multilateral initiatives persist in such a world, they will be limited to either side’s respective sphere of influence. China’s emphasis on national sovereignty, together with Western societies’ turn away from globalism, will deal an additional blow to multilateralism. The European Union is already fraying, and a number of European countries have reintroduced border controls. In the coming decade, similar developments will come to pass in other domains. As technological innovation becomes the primary source of wealth, countries will become ever more protective of their intellectual property. Many countries are also tightening control of capital flows as they brace for a global economic slump in the near future. And as concerns over immigration and unemployment threaten to undermine Western governments’ legitimacy, more and more countries will increase visa restrictions for foreign workers. Unlike the order that prevailed during the Cold War, a bipolar U.S.-Chinese order will be shaped by fluid, issue-specific alliances **rather than rigid opposing blocs** divided along clear ideological lines. Since the immediate risk of a U.S.-Chinese war is vanishingly small, **neither side appears willing to build or maintain an extensive**—and expensive—**network of alliances**. China still avoids forming explicit alliances, and the United States regularly complains about free-riding allies. Moreover, neither side is currently able to offer a grand narrative or global vision appealing to large majorities at home, let alone to a large number of states. For some time to come, then, **U.S.-Chinese bipolarity will not be an ideologically driven, existential conflict over the fundamental nature of the global order**; rather, it will be a competition over consumer markets and technological advantages, playing out in disputes about the norms and rules governing trade, investment, employment, exchange rates, and intellectual property. And rather than form clearly defined military-economic blocs, most states will adopt a two-track foreign policy, siding with the United States on some issues and China on others. Western allies, for instance, are still closely aligned with the United States on traditional security matters inside NATO, and Australia, India, and Japan have supported the U.S. strategy in the Indo-Pacific. At the same time, these states still maintain close trade and investment relations with China, and several of them have sided with Beijing in trying to reform the World Trade Organization. This two-track strategy shows just how far down the road to bipolarity the world has already advanced. And the fundamental driver of this process—the raw economic and military clout on which American and, increasingly, Chinese dominance rests—will further cement Beijing’s and Washington’s status as the two global heavyweights in the coming decade. **Whether or not the United States recovers from its Trumpian fever and leads a renewed push for global liberalism is**, ultimately, of little consequence to the outcome: **opposed in their strategic interests but evenly matched in their power, China and the United States will be unable to challenge each other directly and settle the struggle for supremacy definitively**. As during the Cold War, each side’s nuclear warheads will prevent proxy conflicts from easily escalating into a direct confrontation between the two superpowers. More important still, **China’s leadership is** acutely aware of the benefits **its country derives from the status quo**, for now—**it is chief among the conditions for China’s continued economic and soft-power expansion**—**and will** avoid **putting these** benefits on the line anytime soon, unless China’s core interests are in the balance. Chinese leaders will therefore work hard to avoid setting off alarm bells in already jittery Western capitals, and their foreign policy in the coming years will reflect this objective. **Expect recurring tensions and fierce competition, yes, but** not a descent into global chaos.

### Comity

#### New antitrust is applied globally---offends allies

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

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

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

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

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

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

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

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

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

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

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

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

IV. Extraterritorial antitrust and foreign deregulation

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

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

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

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

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

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

II. Extraterritorial Application of U.S. Antitrust Laws

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

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

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

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

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

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

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

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

#### Japan economic alliance is key to prevent Chinese challenges

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

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

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

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

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

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

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

#### Security assistance is inevitable and the squo – Congress can use extraterritorial oversight on non-antitrust issues – proven by security assistance to Israel

### Competition

#### Kania doesn’t say 5G causes war- just that it would make cyber attacks more effective if a war broke out for other reasons.

#### No reason anti-trust is key. Cards are about competitiveness generally and other barriers. 1AC ev says US is too far behind to catch up- Yellow

Kania ‘19 [Elsa; 11/7/19; Adjunct Senior Fellow with the Technology and National Security Program at the Center for a New American Security, research focuses on Chinese military innovation in emerging technologies, PhD student in Harvard University's Department of Government; CNAS; "Securing Our 5G Future: The Competitive Challenge and Considerations for U.S. Policy," <https://www.cnas.org/publications/reports/securing-our-5g-future>]

The Promise of 5G

Today’s advances in fifth-generation telecommunications (5G) promise a transformational technology critical to enabling the next industrial revolution. This new generation of mobile communications constitutes a vital platform and digital backbone for massive increases in connectivity that will have far-reaching implications.1 5G is far more than simply a faster iteration of 4G; it represents a paradigm change.2 The benefits of 5G include its very high speed, low latency, and high throughput. While the jump from 3G to 4G enabled the current mobile economy, the leap from 4G to 5G will open up entirely new economic opportunities and applications. 5G will enable data flows at vastly greater speed and volume than today’s 4G networks, perhaps 100 or more times faster.3 Future smart cities will rely on 5G, autonomous vehicles will depend on this increased connectivity, future manufacturing will leverage 5G for improved automation, and even agriculture could benefit from these advances.4 The development and deployment of 5G are rapidly progressing, with a growing number of 5G pilots worldwide, including 92 pilots expected to launch in the United States by the end of 2019.5 5G technologies are on track for widespread commercialization in the 2020s and could generate great value across multiple industries.6 American policymakers must recognize the imperative of leading in and embracing the potential of 5G to ensure future American competitiveness.

5G has emerged as a new frontier for U.S.-China rivalry. Today, China seems poised to become a global leader in 5G deployment and could succeed in seizing a key first-mover advantage in this industry.7 The United States may be situated in a position of relative disadvantage, by some assessments.8 However, the state of play in 5G is highly complex, and assessments of who is leading can vary,9 depending upon the metrics considered.10 The Trump administration has claimed, “America is now leading the global race to deploy secure and reliable 5G.”11 Typically, national competitiveness in 5G can be evaluated based on a number of factors, including the availability of spectrum, robustness of the overall industry players, investments in the construction of the requisite infrastructure for 5G, and commercial deployments of 5G networks.12 U.S. carriers are moving more quickly to deploy “nonstandalone” 5G networks that build upon existing 4G infrastructure.13 There has also been recent progress in making greater amounts of spectrum available in the United States, primarily in the high-band, namely mmWave, range.14 By contrast, China has invested more heavily in the fiber and physical infrastructure required for standalone 5G, which could require intense capital expenditures. Chinese companies are primarily pursuing options for 5G involving midband spectrum, which might prove more promising for large-scale realization of 5G.15 In 5G, the first movers and early adopters may benefit from being able to promote an industrial and commercial ecosystem designed to build upon their 5G networks.16

The question of who develops and controls the core technologies that are foundational for 5G has great significance for its future trajectory. Today, 5G remains at a fairly nascent stage in its development.17 5G is continuing to progress through groundbreaking research and inventions that resolve complex scientific issues involving speed, capacity, security, and reliability. The technical standards that will enable interoperability and facilitate the widespread commercialization of these technologies are still taking shape through the global standards-setting process known as the 3rd Generation Partnership Project (3GPP), a consortium of telecom associations and other organizations.18 When it comes to the foundation of critical technology standards through which 5G is being defined, only a small subset of companies can be considered among the leading contributors to these standards based on the capabilities of their technologies, which involve technical documents that establish new technology requirements and design solutions to meet those requirements. 5G standards establish the blueprint of this future communications infrastructure. Currently, in this process, key leaders include U.S.-based Qualcomm; China’s champion, Huawei;19 Nokia, headquartered in Finland; Ericsson, a Swedish company; and Samsung, a South Korean conglomerate, which are the major contributors to patents and standards. However, few American companies rank at present among the primary players in the construction of certain requisite equipment for 5G, particularly radio access networks.20 The current degree of consolidation exacerbates the risks of market failure.21 There are reasons for serious concern about the long-term viability and diversity of supply chains in this industry.

5G has the potential to provide benefits for future economic development. The advent of 5G may contribute trillions to the world economy over the next several decades,22 setting the stage for new advances in productivity and innovation.23 The hitherto unparalleled connectivity that 5G will provide is integral to realizing the full potential of the “internet of things” (IoT) and artificial intelligence (AI) technologies in the real world. 5G can enable new industries and contribute to a dynamic digital economy.24 Moreover, 5G networks also possess promising military applications.25 Such increases in speed and connectivity could facilitate data fusion and improved situational awareness to enhance command and control,26 providing significant operational advantages on the future battlefield.27 Given the importance of 5G for national competitiveness, it is hardly surprising that 5G is often characterized as a “race,” even an “arms race,” between China and the United States. However, 5G is more of a marathon, rather than a sprint, insofar as its operationalization will play out over at least a decade to come. In the process, security will be more important than speed in establishing a durable foundation for 5G’s future. While the development and deployment of 5G are endeavors that involve intense rivalries among countries and companies, the realization of 5G equally requires cooperation and interoperability. U.S. strategy should concentrate on promoting the security, collaboration, and healthy competition that are so vital to the future of 5G. The China Challenge in 5G The Chinese government has been actively mobilizing to contest global leadership in 5G, while rapidly progressing in the nationwide deployment of this foundational technology. While the U.S. government has only recently started to concentrate on 5G,28 the origins of China’s efforts can be traced to as early as 2007, when the State Council approved a “major special project” on next-generation telecommunications,29 pursuant to the National Medium-and Long-Term Science and Technology Plan Outline (2006-2020).30 The United States had been relatively dominant in 4G, and China initially lagged behind and struggled more in 3G and 4G. Chinese leaders have been determined to leapfrog ahead in 5G through pursuing, and since arguably achieving, a first-mover advantage.31 Concurrently, the Chinese government has undertaken significant investments in building up a more robust digital infrastructure of fiber optic networks that are important to facilitate the large-scale deployment of 5G.32 China’s science and technology plans and research initiatives, from the 863 Plan to “Internet Plus” and the National Strategic Emerging Industries Development Plan,33 have supported advances in 4G and 5G. In China today, robust activities in research, development, and commercialization extend across universities, companies, and even a number of defense industry conglomerates.34 Meanwhile, the IMT-2020 promotion group, established by the Chinese government in 2013, has coordinated efforts among state agencies and industry stakeholders to support research and development, as well as testing and standards, for 5G.35 The Chinese government has also undertaken a proactive and coordinated approach to spectrum management and reallocation, involving military and industry stakeholders, to prepare for widespread 5G deployment through licensing and deconfliction of the requisite spectrum.36 There are not only no comparable efforts in the United States but also no existing mechanisms to replicate and implement such a strategy.

China’s efforts in 5G are estimated to amount to hundreds of billions of dollars across a combination of government funding and commercial investments.37 Since 2015, China has outspent the United States by over $24 billion overall, according to one estimate.38 This massive mobilization of resources has enabled rapid construction of the requisite infrastructure for standalone 5G, such as base stations, in which China Tower has proved to be a key player.39 For 2019, China is planning to accelerate efforts in 5G and to dedicate 57 percent (or about $146 billion) of $256 billion planned spending on technology to 5G.40 China is also launching a number of pilot projects to explore its potential across various industries, such as smart transport, industrial internet, and health care. As of 2019, 5G is already entering widespread precommercial deployment in a number of cities, including Beijing and Shanghai. For instance, the city of Shenzhen, which is home to Huawei, has become a major center for 5G development, intending to fully deploy 5G by late 2019.41 By 2020, full commercial deployment is on track to launch.42 Seemingly in response to U.S. pressures on Huawei and seeking to bolster its progress in 5G, the Chinese government has accelerated its timetable for issuing official licenses to China Mobile, China Unicom, and China Telecom, as well as China Broadcasting Network Corp.,for mid-band spectrum.43 Moreover, the Chinese government has provided carriers with low-cost spectrum and cheap land to facilitate deployment.44

The Chinese government and leading Chinese enterprises are actively promoting commercial deployment and experimentation with new applications of 5G. By 2025, an estimated 430 million people in China will have access to 5G, accounting for one-third of the world’s total 5G users.45 China is also developing early applications of AI and 5G applications in health care. In March 2019, the People’s Liberation Army (PLA) General Hospital, in collaboration with China Mobile and Huawei, engaged in the world’s first remote brain surgery using 5G.46 The precise, real-time control that 5G provides can facilitate telemedicine at greater distances, which enables world-class surgeons to reach patients in rural or remote regions that lack the requisite medical services.47 The Chinese government is also concentrating on applications of AI in industrial internet, including for advanced manufacturing.48

China’s attempts to advance 5G still confront certain challenges, notably the discrepancy between the high expectations for 5G relative to the current maturity of the technology. For instance, despite the tremendous enthusiasm for its potential, 5G requires significant investments in the near term, but the future business models that will enable 5G to become profitable for operators remain unclear. For the 2020 to 2030 time frame, expenditures of Chinese network operators on 5G could reach $411 billion, according to an authoritative estimate from China’s Ministry of Industry and Information Technology.49 China’s 5G era may be well underway, but the long-term trajectory of this state-driven approach to 5G remains to be seen. These sizable investments may be inefficient but could prove effective in driving development and establishing market predominance nonetheless.50 The United States has yet to commit to any funding or national initiatives in 5G that are close to comparable in scope and scale.51

For China, Huawei is a national champion that has been at the heart of the 5G agenda from the start. Although it claims to be a private company, an assertion that has been challenged because its structure of ownership is opaque and contested,52 Huawei has a history of strong state support and apparent linkages to the Chinese military and intelligence that start with its founder and persist to the present.53 Since 2009, Huawei has invested massively in research and development of next-generation telecommunications.54 The company plans to sustain and increase its investments in 5G with an annual R&D budget that may exceed $15 billion and could reach $20 billion in the years to come.55 Huawei seems and claims to be on course to become dominant in 5G, establishing new pilots and partnerships around the world, from Asia to Africa and across much of Europe.56 The company is building upon its established presence in 4G networks, which already amounts to nearly a third of the global telecommunications market.57 Huawei is one of the few players for now that can provide mature, cost-effective equipment and systems integration for 5G, such as radio access networks and base stations. Huawei has shipped over 150,000 5G base stations worldwide as of June 2019.58 Despite persistent security concerns, Huawei has continued to expand its reach, currently boasting a total of 50 commercial 5G contracts that span at least 30 countries, particularly a significant proportion in Europe.59 Huawei has also signed a deal to develop 5G in Russia as of June 2019.60 In addition, Huawei commands the greatest number of patents in 5G,61 which amount to 1,529 in total as of late 2018, with the closest contender, Nokia, holding 1,397 patents.62 However, estimates vary.63 Of course, although these numbers are significant indicators of Huawei’s prominence in 5G, pure patent counts should not be interpreted as an indication that Huawei is the clear leader, despite the company’s claims to the contrary.64 In this regard, although Huawei should be recognized as a formidable contender, its apparent leadership is hardly unassailable.

China may possess certain systemic advantages in 5G development and particularly deployment. The Chinese government has facilitated active and highly coordinated engagement in the establishment of global 5G standards, particularly through the IMT-2020 promotion group.65 Huawei has clearly exerted a strong influence in the adoption of standards for 5G,66 including those that benefit its own technologies. For example, Huawei particularly advocated for the adoption of Polar Code, a technique for the channel coding that is necessary to ensure accuracy, efficiency, and redundancy for data in digital communications.67 Huawei has made 11,423 contributions to 5G standards,68 while its wholly owned subsidiary HiSilicon has added 7,248 contributions, according to estimates from December 2018.69 This compares with 10,351 from Ericsson, 6,878 from Nokia, and 4,493 contributions from Qualcomm.70 It is important to remember that quantity is not always synonymous with quality or relative impact.71 However, these numbers are certainly indicative of very forceful Chinese participation in the process, which has involved high-level representation from Chinese companies, their involvement in positions of leadership, and apparent coordination in promoting certain options.72 By some accounts, Huawei is seen as a constructive contributor in a process that has been fairly collaborative.73 Yet there have also been persistent concerns that Huawei has been attempting to “flood” the process,74 including by taking on a high share of positions in decision-making on 3GPP panels, to establish unique sway.75

The Chinese government recognizes technical standards as a matter of strategic importance and has prioritized the promotion of Chinese intellectual property (IP) in the 3GPP 5G standards. This strong emphasis on shaping standards could facilitate successful deployment and commercialization of 5G technologies by Chinese companies that then might be poised to capture a sizable share of the profits and revenues in this critical industry. Moreover, progress in standardization is important to facilitate interoperability, including the full leveraging of the potential of 5G to create related products and services. Meanwhile, there are efforts underway to formulate a new initiative, “China Standards 2035” (中国标准2035),76 which could formally launch in 2020 and is intended to contribute to China’s emergence as a “standards superpower” (标准强国).77 This focus on standardization, from high-speed rail to artificial intelligence, is intended to increase the overall quality of China’s economic development while facilitating the “going out” of Chinese companies and technologies.78 An oft-quoted saying emphasizes, “First-class companies make standards, second-class companies do services, and third-class companies make products.”79 This contestation of standards continues China’s quest to improve its “discourse power” (话语权) to exercise a “right to speak” and global influence commensurate with its growing economic and technological capabilities.80 In particular, promotion of the “Digital Silk Road” could place Chinese companies, standards, and infrastructure at the center of the international information technology ecosystem, while perhaps serving as a vector for Beijing’s global influence.81

Chinese advances in 5G also contribute to military innovation. The PLA aims to leverage emerging technologies to achieve an advantage in future military competition. In his capacity as as commander-in-chief, Xi Jinping has called upon the PLA to become a “world-class” military (世界一流军队) by midcentury.82 5G will be vital to the process of military “intelligentization” (智能化), which involves the realization of AI in support of a range of applications and capabilities.83 5G could be critical to information support,84 creating improvements in data sharing, new mechanisms for command and control, and enhanced system construction to fulfill future operational requirements,85 such as the military internet of things.86 5G is anticipated to enable machine-to-machine communication among sensors, drones,87 or even swarms on the battlefield, as well as improvements in human-machine interaction.88 The potential for rapid integration of information and improved communications could provide key advantages for situational awareness. As China looks to construct a more integrated information and communications architecture across space-and ground-based systems, 5G could be incorporated.89 For instance, there are plans to integrate 5G with BeiDou, China’s dual-purpose competitor to GPS, to improve position, navigation, and timing capabilities.90 Beyond the battlefield, deployment of 5G could facilitate China’s model of national defense mobilization, providing for more “intelligent” approaches to coordinate resources and logistical support to fulfill the demands of wartime contingencies.91 For instance, when Jilin Province carried out a drill for national defense mobilization, 5G was used to support emergency communications.92 Already, some units in Chinese military and paramilitary forces have started to employ 5G for pilot programs, such as border security.93

China’s development of 5G will be shaped by the implementation of a national strategy of military-civil fusion (军民融合).94 There are certain synergies between military and commercial technologies, including advanced electronics in which elements of the Chinese defense industry, such as the China Electronics Technology Group Corp. (CETC), have particular proficiency.95 Even some military academic institutions, such as the PLA Strategic Support Force’s Information Engineering University, have noteworthy proficiency in relevant technological components, especially chips and advanced antennas.96 The Information Engineering University, which contributes to the Chinese military’s education and capabilities for information operations, is engaged in research on 5G network security, seemingly in collaboration with Huawei.97 Increasingly, a growing number of companies, including Shenzhen Kingsignal (金信诺),98 are pursuing opportunities for expansion into the military 5G market, including working on military projects.99 In November 2018, a number of industry players established the 5G Technology Military-Civil Fusion Applications Industry Alliance (5G技术军民融合应用产业联盟), including ZTE, China Unicom, and the China Aerospace Science and Industry Corp. (CASIC), a major defense conglomerate.100 This new partnership aims to foster collaboration and integration in military and civilian development of 5G.101 Some Chinese telecom companies are already supporting 5G pilot projects that appear to be intended for dual-use or military employment.102

5G Risks and Security Concerns

The U.S. government has actively sounded the alarm over the risks that Huawei may present, urging allies and partners to impose a ban against it in order to mitigate the threats of disruption or espionage through 5G networks.103 Huawei has faced pushback and scrutiny, and a growing number of countries have considered — or undertaken in the case of Japan, Australia, and the United States, among others — a ban or de facto exclusion of Huawei on the basis of varying rationales and mechanisms, which have predated U.S. action in some cases.104 There are also valid concerns that the outright exclusion of Huawei may slow and increase the costs of 5G deployment.105 What has often been characterized as an American “campaign” targeting Huawei risks backfiring if continued on its current trajectory, in which U.S. rationales have been perceived as shifting and inconsistent.106 However, a growing number of concerning incidents involving Huawei, including indicators of the insecurity of its equipment, accusations regarding its theft of intellectual property, and its involvement in providing surveillance capabilities to governments, continue to be exposed.107

China’s quest for 5G dominance has played out within a complex technological and geopolitical landscape.108 Indeed, different countries have their own security concerns and considerations, but not all share American assessments of the severity of these risks. Insofar as American policymakers see China as a great power rival and strategic competitor, allowing Chinese companies to play a key role in American critical infrastructure, or that of U.S. allies and partners, presents grave threats that are untenable and unacceptable for the United States, not only espionage but also outright subversion of this critical infrastructure.109 Yet Huawei has continued to expand its global presence, and the U.S. government has yet to present a viable and attractive alternative to working with Huawei. Many countries may have sunk costs and be “locked in” already to this choice based on earlier decisions, which raises concerns about not only security but also fair competition.110 However, it is encouraging to see emerging consensus among like-minded countries about potential principles and shared approaches to 5G security, particularly through the progress of a recent conference on 5G security in Prague.111

The age of 5G will present new risks and novel threats of disruption or exploitation. 5G involves far more than just new and faster wireless networks; it will be a vital component of future critical infrastructure. Consequently, the cybersecurity of 5G networks could prove uniquely challenging, considering the high levels of complexity and much greater potential for damage in the case of an attack. Not only the confidentiality of data on 5G networks but also questions of integrity and assurance will become urgent challenges. Whereas most cyberattacks to date have involved only data theft, an attack against future 5G networks could cause massive damage that might threaten public safety and critical industries in future smart cities.112 The often subpar security of IoT devices, of which there are an estimated 20 billion globally and growing, also presents serious reasons for concern. A high proportion of devices on the U.S. market have been made in China by companies with very poor track records on security.113 While vulnerabilities have been and remain a major concern in the telecom industry for 3G and 4G, the stakes will be even higher for securing 5G networks at all stages of their life cycles.114 In some cases, supply chains could be weaponized deliberately by adversaries that may prefer to “win without fighting.”115 The exclusion of high-risk vendors is an important measure to mitigate risk but does not constitute a complete solution.

5G must be designed and implemented with a holistic approach to security in mind from the start. The development of secure networks must entail more than simply excluding high-risk vendors, requiring rigorous, ongoing testing and screening. Indeed, careful scrutiny should be extended to all aspects of the production, construction, and management of these networks, involving screening of the security of all vendors and carriers. If an end-to-end approach to security is effectively implemented, 5G could prove more secure than our existing networks and critical infrastructure, but the consequences of insecurity would be far graver. In public debates on 5G security, the call and search for a “smoking gun” has been problematic. This framing of the issue has often distracted policymakers from thinking about the greater challenge of mitigating vulnerabilities that tend to be pervasive. Bugs can be just as problematic as backdoors. It is inherently challenging to differentiate an accidental vulnerability from one that is deliberately introduced. The primary difference is intent, which cannot be discerned from code alone. It is encouraging that the 3GPP’s SA3 working group is focusing on security, seeking to ensure that such security concerns will shape the development of standards.116 However, industry and government are just starting to grapple with the full range of issues in play.

Given the gravity of these security challenges, the apparent centrality of Chinese companies in the global development of 5G has raised intense concerns. There is a very real risk that vulnerabilities in networks, whether the result of poor security practices or deliberate introduction of backdoors, could be weaponized for leverage or coercive purposes, particularly in a crisis or conflict scenario. Considering China’s history of IP theft and cyberespionage, there is also a real risk such networks could be exploited for purposes of espionage.117 As a Chinese company, Huawei also would be subject to a number of legal demands, regulatory requirements, and mechanisms of coercion that are often ambiguous and expansive.118 Regardless of whether Huawei’s leadership may wish to disregard an order from the Chinese government, China lacks an independent judiciary system for company leaders to plead their case against the government, as Apple did in the United States when it fought an FBI order to unlock an iPhone. Huawei’s claims that it would “say no” to the Chinese government are not credible without indications of the company’s actual ability to do so.

Even if Huawei is given the full benefit of the doubt, despite its history and apparent involvement with the Chinese military and intelligence organizations, Huawei’s products and services have been assessed to be highly insecure, with a much greater prevalence of vulnerabilities relative to their primary competitors.119 Moreover, there are reasons to question whether knowledge of any bugs in its equipment could be shared more readily with China’s Ministry of State Security (MSS). This risk may be heightened given the influence of MSS in China’s vulnerabilities database, not to mention Huawei’s historical and continued linkages to the Chinese People’s Liberation Army, including military intelligence.120 For the United States, these risks and security concerns are inextricable from today’s geopolitical exigencies, insofar as the U.S.-China rivalry encompasses scenarios for which there is a nonzero probability of conflict, including over Taiwan. Consistently, Chinese military writings have highlighted the potential for cyberattacks on critical infrastructure as a prelude to outright warfare.121 The presence of equipment from high-risk vendors, such as Huawei, even in rural telecoms is concerning, considering that some of these networks are near military bases, which raises risks of espionage or exploitation.

#### No reason China hasn’t already invaded Taiwan – not a reason 5G is key

#### China-Taiwan war is improbable – it’s too risky and pointless

Elliott 1-20 (Josh, Senior National Online Journalist and international online writer at Global News, “Why China isn’t ready to invade Taiwan – yet”, Global News, 1-20-19, <https://globalnews.ca/news/4837941/china-taiwan-invasion-attack/>)

Keeping the peace China has ramped up pressure on Taiwan since the pro-independence Democratic Progressive Party (DPP) took power in 2016, ending a 20-year run by the more China-friendly Kuomintang (KMT) party. Taiwan had been drifting closer to China under the KMT, so when the DPP took over, Beijing decided to punish the island. It cut ties with Taipei, poached its diplomatic partners and barred Taiwanese officials from international gatherings. Professor Chiu-Duke, of UBC, suspects China’s latest threats are aimed at pushing Taiwan back toward a more China-friendly government in its 2020 presidential election, by raising the possibility of war if the island re-elects the DPP. “Most of the people on the island are very realistic and pragmatic,” she said. “They know Taiwan is a very small area, and nobody wants war.” She adds that Xi is also likely using Taiwan to distract the Chinese people from the slowing economy, which is suffering from the effects of a trade war with the U.S. Despite China’s threats of violence, it probably won’t use force unless it loses all hope of reunification, according to Jie Daleil, an associate professor at Peking University’s School of International Studies. “Although Xi stressed that all options are on the table, unless Taipei makes radical moves to establish Taiwan independence or Washington rattles the ‘One China’ policy in a major way, Beijing will probably pursue its peaceful game plan for the foreseeable future,” he wrote in an analysis piece for The Washington Post. Chiu-Duke says China could simply blockade Taiwan and wage economic war against its government in order to bring it on side. She points out that Taiwan is likely riddled with Chinese agents already, and it wouldn’t be hard for China to co-opt Taiwanese officials into doing its bidding. “They can control Taiwan without using one missile, so why should they try to start a war?” Chiu-Duke said. “So far, Xi Jingping always talks big, but if you examine what he does… he’s not that aggressive.”

#### 5G is so 2020---it’s all about 6G, and the US is winning.

Shirley Zhao et al. 21. Reporter for Bloomberg, cites multiple experts, with Scott Moritz and Thomas Seal, 2/8/21. “Forget 5G, the U.S. and China Are Already Fighting for 6G Dominance.” https://www.bloomberg.com/news/features/2021-02-08/forget-5g-the-u-s-and-china-are-already-fighting-for-6g-dominance

Most of the world is yet to experience the benefits of a 5G network, but the geopolitical race for the next big thing in telecommunications technology is already heating up.

For companies and governments, the stakes couldn’t be higher. The first to develop and patent 6G will be the biggest winners in what some call the next industrial revolution. Though still at least a decade away from becoming reality, 6G — which could be up to 100 times faster than the peak speed of 5G — could deliver the kind of technology that’s long been the stuff of science fiction, from real-time holograms to flying taxis and internet-connected human bodies and brains.

The scrum for 6G is already intensifying even as it remains a theoretical proposition, and underscores how geopolitics is fueling technological rivalries, particularly between the U.S. and China.

“This endeavor is so important that it’s become an arms race to some extent,” said Peter Vetter, head of access and devices at Nokia Oyj’s research arm Bell Labs. “It will require an army of researchers on it to remain competitive.”

Years of acrimony under the Trump administration have hit Chinese technology companies hard, but that hasn’t stopped the country from emerging as the leader in 5G. It has the world’s largest 5G footprint, and — despite multiple attempts by the U.S. to take it on — Huawei Technologies Co. towers over rival 5G vendors globally, mostly by offering attractive prices.

The development of 6G could give the U.S. the opportunity to regain lost ground in wireless technology.

“Unlike 5G, North America will not let the opportunity for a generational leadership slide by so easily this time,” said Vikrant Gandhi, senior industry director of information and communications technologies at consultancy firm Frost & Sullivan in the U.S. “It is likely that the competition for 6G leadership will be fiercer than that for 5G.”

It’s clear that 6G is already on the minds of policy makers in both Washington and Beijing. Former President Donald Trump tweeted in early 2019, for example, that he wanted 6G “as soon as possible.”

China is already moving ahead. The country launched a satellite in November to test airwaves for potential 6G transmission, and Huawei has a 6G research center in Canada, according to Canadian media reports. Telecommunications equipment manufacturer ZTE Corp. has also teamed up with China Unicom Hong Kong Ltd. to develop the technology.

The U.S. has demonstrated that it has the ability to seriously handicap Chinese companies, as in the case of ZTE, which almost collapsed after the Commerce Department banned it for three months in 2018 from buying American technology. Similar moves could hamper Huawei’s 6G ambitions.

Washington has already started to sketch out the 6G battle lines. The Alliance for Telecommunications Industry Solutions, a U.S. telecom standards developer known as ATIS, launched the Next G Alliance in October to “advance North American leadership in 6G.” The alliance’s members include technology giants like Apple Inc., AT&T Inc., Qualcomm Inc., Google and Samsung Electronics Co., but not Huawei.

The alliance mirrors the way that the world has been fractured into opposing camps as a result of 5G rivalry. Led by the U.S, which identified Huawei as an espionage risk — an allegation the Chinese giant denies — countries including Japan, Australia, Sweden and the U.K. have shut the firm out of their 5G networks. However, Huawei is welcomed in Russia, the Philippines, Thailand, and other countries in Africa and the Middle East.

The European Union in December also unveiled a 6G wireless project led by Nokia, which includes companies like Ericsson AB and Telefonica SA, as well as universities.

The lack of trust in Chinese companies like Huawei is unlikely to abate with 6G. Democracies are growing increasingly worried about how 5G technology is being used by authoritarian regimes, with fears that 6G could enable technologies such as mass drone surveillance. China is already using surveillance cameras, AI, facial recognition and biometrics such as voice samples and DNA to track and control citizens.

“Currently China seems to be doing everything in terms of surveillance and suppression to make sure that they lose future markets in the U.S. and Europe,” said Paul Timmers, a senior adviser at Brussels-based think tank European Policy Centre and former director of digital society and cybersecurity at the European Commission. “This indicates that the technical approach to 6G cannot be trusted to be decoupled from state ideological objectives.”

#### No reason anti-trust is key. Cards are about competitiveness generally and other barriers. 1AC ev says US is too far behind to catch up- Yellow

Kania ‘19 [Elsa; 11/7/19; Adjunct Senior Fellow with the Technology and National Security Program at the Center for a New American Security, research focuses on Chinese military innovation in emerging technologies, PhD student in Harvard University's Department of Government; CNAS; "Securing Our 5G Future: The Competitive Challenge and Considerations for U.S. Policy," <https://www.cnas.org/publications/reports/securing-our-5g-future>]

The Promise of 5G

Today’s advances in fifth-generation telecommunications (5G) promise a transformational technology critical to enabling the next industrial revolution. This new generation of mobile communications constitutes a vital platform and digital backbone for massive increases in connectivity that will have far-reaching implications.1 5G is far more than simply a faster iteration of 4G; it represents a paradigm change.2 The benefits of 5G include its very high speed, low latency, and high throughput. While the jump from 3G to 4G enabled the current mobile economy, the leap from 4G to 5G will open up entirely new economic opportunities and applications. 5G will enable data flows at vastly greater speed and volume than today’s 4G networks, perhaps 100 or more times faster.3 Future smart cities will rely on 5G, autonomous vehicles will depend on this increased connectivity, future manufacturing will leverage 5G for improved automation, and even agriculture could benefit from these advances.4 The development and deployment of 5G are rapidly progressing, with a growing number of 5G pilots worldwide, including 92 pilots expected to launch in the United States by the end of 2019.5 5G technologies are on track for widespread commercialization in the 2020s and could generate great value across multiple industries.6 American policymakers must recognize the imperative of leading in and embracing the potential of 5G to ensure future American competitiveness.

5G has emerged as a new frontier for U.S.-China rivalry. Today, China seems poised to become a global leader in 5G deployment and could succeed in seizing a key first-mover advantage in this industry.7 The United States may be situated in a position of relative disadvantage, by some assessments.8 However, the state of play in 5G is highly complex, and assessments of who is leading can vary,9 depending upon the metrics considered.10 The Trump administration has claimed, “America is now leading the global race to deploy secure and reliable 5G.”11 Typically, national competitiveness in 5G can be evaluated based on a number of factors, including the availability of spectrum, robustness of the overall industry players, investments in the construction of the requisite infrastructure for 5G, and commercial deployments of 5G networks.12 U.S. carriers are moving more quickly to deploy “nonstandalone” 5G networks that build upon existing 4G infrastructure.13 There has also been recent progress in making greater amounts of spectrum available in the United States, primarily in the high-band, namely mmWave, range.14 By contrast, China has invested more heavily in the fiber and physical infrastructure required for standalone 5G, which could require intense capital expenditures. Chinese companies are primarily pursuing options for 5G involving midband spectrum, which might prove more promising for large-scale realization of 5G.15 In 5G, the first movers and early adopters may benefit from being able to promote an industrial and commercial ecosystem designed to build upon their 5G networks.16

The question of who develops and controls the core technologies that are foundational for 5G has great significance for its future trajectory. Today, 5G remains at a fairly nascent stage in its development.17 5G is continuing to progress through groundbreaking research and inventions that resolve complex scientific issues involving speed, capacity, security, and reliability. The technical standards that will enable interoperability and facilitate the widespread commercialization of these technologies are still taking shape through the global standards-setting process known as the 3rd Generation Partnership Project (3GPP), a consortium of telecom associations and other organizations.18 When it comes to the foundation of critical technology standards through which 5G is being defined, only a small subset of companies can be considered among the leading contributors to these standards based on the capabilities of their technologies, which involve technical documents that establish new technology requirements and design solutions to meet those requirements. 5G standards establish the blueprint of this future communications infrastructure. Currently, in this process, key leaders include U.S.-based Qualcomm; China’s champion, Huawei;19 Nokia, headquartered in Finland; Ericsson, a Swedish company; and Samsung, a South Korean conglomerate, which are the major contributors to patents and standards. However, few American companies rank at present among the primary players in the construction of certain requisite equipment for 5G, particularly radio access networks.20 The current degree of consolidation exacerbates the risks of market failure.21 There are reasons for serious concern about the long-term viability and diversity of supply chains in this industry.

5G has the potential to provide benefits for future economic development. The advent of 5G may contribute trillions to the world economy over the next several decades,22 setting the stage for new advances in productivity and innovation.23 The hitherto unparalleled connectivity that 5G will provide is integral to realizing the full potential of the “internet of things” (IoT) and artificial intelligence (AI) technologies in the real world. 5G can enable new industries and contribute to a dynamic digital economy.24 Moreover, 5G networks also possess promising military applications.25 Such increases in speed and connectivity could facilitate data fusion and improved situational awareness to enhance command and control,26 providing significant operational advantages on the future battlefield.27 Given the importance of 5G for national competitiveness, it is hardly surprising that 5G is often characterized as a “race,” even an “arms race,” between China and the United States. However, 5G is more of a marathon, rather than a sprint, insofar as its operationalization will play out over at least a decade to come. In the process, security will be more important than speed in establishing a durable foundation for 5G’s future. While the development and deployment of 5G are endeavors that involve intense rivalries among countries and companies, the realization of 5G equally requires cooperation and interoperability. U.S. strategy should concentrate on promoting the security, collaboration, and healthy competition that are so vital to the future of 5G. The China Challenge in 5G The Chinese government has been actively mobilizing to contest global leadership in 5G, while rapidly progressing in the nationwide deployment of this foundational technology. While the U.S. government has only recently started to concentrate on 5G,28 the origins of China’s efforts can be traced to as early as 2007, when the State Council approved a “major special project” on next-generation telecommunications,29 pursuant to the National Medium-and Long-Term Science and Technology Plan Outline (2006-2020).30 The United States had been relatively dominant in 4G, and China initially lagged behind and struggled more in 3G and 4G. Chinese leaders have been determined to leapfrog ahead in 5G through pursuing, and since arguably achieving, a first-mover advantage.31 Concurrently, the Chinese government has undertaken significant investments in building up a more robust digital infrastructure of fiber optic networks that are important to facilitate the large-scale deployment of 5G.32 China’s science and technology plans and research initiatives, from the 863 Plan to “Internet Plus” and the National Strategic Emerging Industries Development Plan,33 have supported advances in 4G and 5G. In China today, robust activities in research, development, and commercialization extend across universities, companies, and even a number of defense industry conglomerates.34 Meanwhile, the IMT-2020 promotion group, established by the Chinese government in 2013, has coordinated efforts among state agencies and industry stakeholders to support research and development, as well as testing and standards, for 5G.35 The Chinese government has also undertaken a proactive and coordinated approach to spectrum management and reallocation, involving military and industry stakeholders, to prepare for widespread 5G deployment through licensing and deconfliction of the requisite spectrum.36 There are not only no comparable efforts in the United States but also no existing mechanisms to replicate and implement such a strategy.

China’s efforts in 5G are estimated to amount to hundreds of billions of dollars across a combination of government funding and commercial investments.37 Since 2015, China has outspent the United States by over $24 billion overall, according to one estimate.38 This massive mobilization of resources has enabled rapid construction of the requisite infrastructure for standalone 5G, such as base stations, in which China Tower has proved to be a key player.39 For 2019, China is planning to accelerate efforts in 5G and to dedicate 57 percent (or about $146 billion) of $256 billion planned spending on technology to 5G.40 China is also launching a number of pilot projects to explore its potential across various industries, such as smart transport, industrial internet, and health care. As of 2019, 5G is already entering widespread precommercial deployment in a number of cities, including Beijing and Shanghai. For instance, the city of Shenzhen, which is home to Huawei, has become a major center for 5G development, intending to fully deploy 5G by late 2019.41 By 2020, full commercial deployment is on track to launch.42 Seemingly in response to U.S. pressures on Huawei and seeking to bolster its progress in 5G, the Chinese government has accelerated its timetable for issuing official licenses to China Mobile, China Unicom, and China Telecom, as well as China Broadcasting Network Corp.,for mid-band spectrum.43 Moreover, the Chinese government has provided carriers with low-cost spectrum and cheap land to facilitate deployment.44

The Chinese government and leading Chinese enterprises are actively promoting commercial deployment and experimentation with new applications of 5G. By 2025, an estimated 430 million people in China will have access to 5G, accounting for one-third of the world’s total 5G users.45 China is also developing early applications of AI and 5G applications in health care. In March 2019, the People’s Liberation Army (PLA) General Hospital, in collaboration with China Mobile and Huawei, engaged in the world’s first remote brain surgery using 5G.46 The precise, real-time control that 5G provides can facilitate telemedicine at greater distances, which enables world-class surgeons to reach patients in rural or remote regions that lack the requisite medical services.47 The Chinese government is also concentrating on applications of AI in industrial internet, including for advanced manufacturing.48

China’s attempts to advance 5G still confront certain challenges, notably the discrepancy between the high expectations for 5G relative to the current maturity of the technology. For instance, despite the tremendous enthusiasm for its potential, 5G requires significant investments in the near term, but the future business models that will enable 5G to become profitable for operators remain unclear. For the 2020 to 2030 time frame, expenditures of Chinese network operators on 5G could reach $411 billion, according to an authoritative estimate from China’s Ministry of Industry and Information Technology.49 China’s 5G era may be well underway, but the long-term trajectory of this state-driven approach to 5G remains to be seen. These sizable investments may be inefficient but could prove effective in driving development and establishing market predominance nonetheless.50 The United States has yet to commit to any funding or national initiatives in 5G that are close to comparable in scope and scale.51

For China, Huawei is a national champion that has been at the heart of the 5G agenda from the start. Although it claims to be a private company, an assertion that has been challenged because its structure of ownership is opaque and contested,52 Huawei has a history of strong state support and apparent linkages to the Chinese military and intelligence that start with its founder and persist to the present.53 Since 2009, Huawei has invested massively in research and development of next-generation telecommunications.54 The company plans to sustain and increase its investments in 5G with an annual R&D budget that may exceed $15 billion and could reach $20 billion in the years to come.55 Huawei seems and claims to be on course to become dominant in 5G, establishing new pilots and partnerships around the world, from Asia to Africa and across much of Europe.56 The company is building upon its established presence in 4G networks, which already amounts to nearly a third of the global telecommunications market.57 Huawei is one of the few players for now that can provide mature, cost-effective equipment and systems integration for 5G, such as radio access networks and base stations. Huawei has shipped over 150,000 5G base stations worldwide as of June 2019.58 Despite persistent security concerns, Huawei has continued to expand its reach, currently boasting a total of 50 commercial 5G contracts that span at least 30 countries, particularly a significant proportion in Europe.59 Huawei has also signed a deal to develop 5G in Russia as of June 2019.60 In addition, Huawei commands the greatest number of patents in 5G,61 which amount to 1,529 in total as of late 2018, with the closest contender, Nokia, holding 1,397 patents.62 However, estimates vary.63 Of course, although these numbers are significant indicators of Huawei’s prominence in 5G, pure patent counts should not be interpreted as an indication that Huawei is the clear leader, despite the company’s claims to the contrary.64 In this regard, although Huawei should be recognized as a formidable contender, its apparent leadership is hardly unassailable.

China may possess certain systemic advantages in 5G development and particularly deployment. The Chinese government has facilitated active and highly coordinated engagement in the establishment of global 5G standards, particularly through the IMT-2020 promotion group.65 Huawei has clearly exerted a strong influence in the adoption of standards for 5G,66 including those that benefit its own technologies. For example, Huawei particularly advocated for the adoption of Polar Code, a technique for the channel coding that is necessary to ensure accuracy, efficiency, and redundancy for data in digital communications.67 Huawei has made 11,423 contributions to 5G standards,68 while its wholly owned subsidiary HiSilicon has added 7,248 contributions, according to estimates from December 2018.69 This compares with 10,351 from Ericsson, 6,878 from Nokia, and 4,493 contributions from Qualcomm.70 It is important to remember that quantity is not always synonymous with quality or relative impact.71 However, these numbers are certainly indicative of very forceful Chinese participation in the process, which has involved high-level representation from Chinese companies, their involvement in positions of leadership, and apparent coordination in promoting certain options.72 By some accounts, Huawei is seen as a constructive contributor in a process that has been fairly collaborative.73 Yet there have also been persistent concerns that Huawei has been attempting to “flood” the process,74 including by taking on a high share of positions in decision-making on 3GPP panels, to establish unique sway.75

The Chinese government recognizes technical standards as a matter of strategic importance and has prioritized the promotion of Chinese intellectual property (IP) in the 3GPP 5G standards. This strong emphasis on shaping standards could facilitate successful deployment and commercialization of 5G technologies by Chinese companies that then might be poised to capture a sizable share of the profits and revenues in this critical industry. Moreover, progress in standardization is important to facilitate interoperability, including the full leveraging of the potential of 5G to create related products and services. Meanwhile, there are efforts underway to formulate a new initiative, “China Standards 2035” (中国标准2035),76 which could formally launch in 2020 and is intended to contribute to China’s emergence as a “standards superpower” (标准强国).77 This focus on standardization, from high-speed rail to artificial intelligence, is intended to increase the overall quality of China’s economic development while facilitating the “going out” of Chinese companies and technologies.78 An oft-quoted saying emphasizes, “First-class companies make standards, second-class companies do services, and third-class companies make products.”79 This contestation of standards continues China’s quest to improve its “discourse power” (话语权) to exercise a “right to speak” and global influence commensurate with its growing economic and technological capabilities.80 In particular, promotion of the “Digital Silk Road” could place Chinese companies, standards, and infrastructure at the center of the international information technology ecosystem, while perhaps serving as a vector for Beijing’s global influence.81

Chinese advances in 5G also contribute to military innovation. The PLA aims to leverage emerging technologies to achieve an advantage in future military competition. In his capacity as as commander-in-chief, Xi Jinping has called upon the PLA to become a “world-class” military (世界一流军队) by midcentury.82 5G will be vital to the process of military “intelligentization” (智能化), which involves the realization of AI in support of a range of applications and capabilities.83 5G could be critical to information support,84 creating improvements in data sharing, new mechanisms for command and control, and enhanced system construction to fulfill future operational requirements,85 such as the military internet of things.86 5G is anticipated to enable machine-to-machine communication among sensors, drones,87 or even swarms on the battlefield, as well as improvements in human-machine interaction.88 The potential for rapid integration of information and improved communications could provide key advantages for situational awareness. As China looks to construct a more integrated information and communications architecture across space-and ground-based systems, 5G could be incorporated.89 For instance, there are plans to integrate 5G with BeiDou, China’s dual-purpose competitor to GPS, to improve position, navigation, and timing capabilities.90 Beyond the battlefield, deployment of 5G could facilitate China’s model of national defense mobilization, providing for more “intelligent” approaches to coordinate resources and logistical support to fulfill the demands of wartime contingencies.91 For instance, when Jilin Province carried out a drill for national defense mobilization, 5G was used to support emergency communications.92 Already, some units in Chinese military and paramilitary forces have started to employ 5G for pilot programs, such as border security.93

China’s development of 5G will be shaped by the implementation of a national strategy of military-civil fusion (军民融合).94 There are certain synergies between military and commercial technologies, including advanced electronics in which elements of the Chinese defense industry, such as the China Electronics Technology Group Corp. (CETC), have particular proficiency.95 Even some military academic institutions, such as the PLA Strategic Support Force’s Information Engineering University, have noteworthy proficiency in relevant technological components, especially chips and advanced antennas.96 The Information Engineering University, which contributes to the Chinese military’s education and capabilities for information operations, is engaged in research on 5G network security, seemingly in collaboration with Huawei.97 Increasingly, a growing number of companies, including Shenzhen Kingsignal (金信诺),98 are pursuing opportunities for expansion into the military 5G market, including working on military projects.99 In November 2018, a number of industry players established the 5G Technology Military-Civil Fusion Applications Industry Alliance (5G技术军民融合应用产业联盟), including ZTE, China Unicom, and the China Aerospace Science and Industry Corp. (CASIC), a major defense conglomerate.100 This new partnership aims to foster collaboration and integration in military and civilian development of 5G.101 Some Chinese telecom companies are already supporting 5G pilot projects that appear to be intended for dual-use or military employment.102

5G Risks and Security Concerns

The U.S. government has actively sounded the alarm over the risks that Huawei may present, urging allies and partners to impose a ban against it in order to mitigate the threats of disruption or espionage through 5G networks.103 Huawei has faced pushback and scrutiny, and a growing number of countries have considered — or undertaken in the case of Japan, Australia, and the United States, among others — a ban or de facto exclusion of Huawei on the basis of varying rationales and mechanisms, which have predated U.S. action in some cases.104 There are also valid concerns that the outright exclusion of Huawei may slow and increase the costs of 5G deployment.105 What has often been characterized as an American “campaign” targeting Huawei risks backfiring if continued on its current trajectory, in which U.S. rationales have been perceived as shifting and inconsistent.106 However, a growing number of concerning incidents involving Huawei, including indicators of the insecurity of its equipment, accusations regarding its theft of intellectual property, and its involvement in providing surveillance capabilities to governments, continue to be exposed.107

China’s quest for 5G dominance has played out within a complex technological and geopolitical landscape.108 Indeed, different countries have their own security concerns and considerations, but not all share American assessments of the severity of these risks. Insofar as American policymakers see China as a great power rival and strategic competitor, allowing Chinese companies to play a key role in American critical infrastructure, or that of U.S. allies and partners, presents grave threats that are untenable and unacceptable for the United States, not only espionage but also outright subversion of this critical infrastructure.109 Yet Huawei has continued to expand its global presence, and the U.S. government has yet to present a viable and attractive alternative to working with Huawei. Many countries may have sunk costs and be “locked in” already to this choice based on earlier decisions, which raises concerns about not only security but also fair competition.110 However, it is encouraging to see emerging consensus among like-minded countries about potential principles and shared approaches to 5G security, particularly through the progress of a recent conference on 5G security in Prague.111

The age of 5G will present new risks and novel threats of disruption or exploitation. 5G involves far more than just new and faster wireless networks; it will be a vital component of future critical infrastructure. Consequently, the cybersecurity of 5G networks could prove uniquely challenging, considering the high levels of complexity and much greater potential for damage in the case of an attack. Not only the confidentiality of data on 5G networks but also questions of integrity and assurance will become urgent challenges. Whereas most cyberattacks to date have involved only data theft, an attack against future 5G networks could cause massive damage that might threaten public safety and critical industries in future smart cities.112 The often subpar security of IoT devices, of which there are an estimated 20 billion globally and growing, also presents serious reasons for concern. A high proportion of devices on the U.S. market have been made in China by companies with very poor track records on security.113 While vulnerabilities have been and remain a major concern in the telecom industry for 3G and 4G, the stakes will be even higher for securing 5G networks at all stages of their life cycles.114 In some cases, supply chains could be weaponized deliberately by adversaries that may prefer to “win without fighting.”115 The exclusion of high-risk vendors is an important measure to mitigate risk but does not constitute a complete solution.

5G must be designed and implemented with a holistic approach to security in mind from the start. The development of secure networks must entail more than simply excluding high-risk vendors, requiring rigorous, ongoing testing and screening. Indeed, careful scrutiny should be extended to all aspects of the production, construction, and management of these networks, involving screening of the security of all vendors and carriers. If an end-to-end approach to security is effectively implemented, 5G could prove more secure than our existing networks and critical infrastructure, but the consequences of insecurity would be far graver. In public debates on 5G security, the call and search for a “smoking gun” has been problematic. This framing of the issue has often distracted policymakers from thinking about the greater challenge of mitigating vulnerabilities that tend to be pervasive. Bugs can be just as problematic as backdoors. It is inherently challenging to differentiate an accidental vulnerability from one that is deliberately introduced. The primary difference is intent, which cannot be discerned from code alone. It is encouraging that the 3GPP’s SA3 working group is focusing on security, seeking to ensure that such security concerns will shape the development of standards.116 However, industry and government are just starting to grapple with the full range of issues in play.

Given the gravity of these security challenges, the apparent centrality of Chinese companies in the global development of 5G has raised intense concerns. There is a very real risk that vulnerabilities in networks, whether the result of poor security practices or deliberate introduction of backdoors, could be weaponized for leverage or coercive purposes, particularly in a crisis or conflict scenario. Considering China’s history of IP theft and cyberespionage, there is also a real risk such networks could be exploited for purposes of espionage.117 As a Chinese company, Huawei also would be subject to a number of legal demands, regulatory requirements, and mechanisms of coercion that are often ambiguous and expansive.118 Regardless of whether Huawei’s leadership may wish to disregard an order from the Chinese government, China lacks an independent judiciary system for company leaders to plead their case against the government, as Apple did in the United States when it fought an FBI order to unlock an iPhone. Huawei’s claims that it would “say no” to the Chinese government are not credible without indications of the company’s actual ability to do so.

Even if Huawei is given the full benefit of the doubt, despite its history and apparent involvement with the Chinese military and intelligence organizations, Huawei’s products and services have been assessed to be highly insecure, with a much greater prevalence of vulnerabilities relative to their primary competitors.119 Moreover, there are reasons to question whether knowledge of any bugs in its equipment could be shared more readily with China’s Ministry of State Security (MSS). This risk may be heightened given the influence of MSS in China’s vulnerabilities database, not to mention Huawei’s historical and continued linkages to the Chinese People’s Liberation Army, including military intelligence.120 For the United States, these risks and security concerns are inextricable from today’s geopolitical exigencies, insofar as the U.S.-China rivalry encompasses scenarios for which there is a nonzero probability of conflict, including over Taiwan. Consistently, Chinese military writings have highlighted the potential for cyberattacks on critical infrastructure as a prelude to outright warfare.121 The presence of equipment from high-risk vendors, such as Huawei, even in rural telecoms is concerning, considering that some of these networks are near military bases, which raises risks of espionage or exploitation.

### Solvency

#### 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.

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#### 2 – Causes geopolitical tensions with China – the aff is insufficient to solve

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.

#### 3 – feasibility concerns are capitalist propaganda – imagination and testing of alternatives are key to break out of squo repression

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.

#### 7 - 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

#### Alt solves war – changes calculi that enable conflict

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.

#### COVID made mutual aid persuasive and global – buy-in solves cooption

Nelson 20. [Anitra, Honorary Associate Professor in the School of Global Studies, Social Science and Planning at RMIT University (Australia), Melbourne Sustainable Society Institute, University of Melbourne. COVID-19: Capitalist and postcapitalist perspectives. Human Geography 2020, Vol. 13(3): 308]

Postcapitalist imaginaries Organised pandemic solidarity and mutual aid groups involve local production and local distribution oriented around needs, calculated in terms of use values. Such activities prefigure postcapitalist relations, replacing global relations of trade and exchange value with direct democracy and local autonomy in ‘glocal’ formations. One strategy for defying the ‘capitalist law of value’ is to go beyond money, that is, monetary relations and private property (Nelson, 2016). Such formations centre on commoning, local autonomy and collective sufficiency, sharing universal social and environmental principles. They cogovern with one another across landscapes, regions and, ultimately, the globe via horizontal, networked governance, ‘open relocalisation’ in degrowth parlance versus insular protectionism (Liegey and Nelson, 2020). The Covid-19 pandemic has proved a unifying and dividing experience. States have taken a lead after years of humble restraint within market-driven neo-liberalism. Yet they have regulated in authoritarian, even if seemingly benign, ways both citizens and workers, not only owners and managers of capital. Moreover, if their initial and main aim was to protect lives, they are now more strongly driven to support a resurgence of capitalism that threatens to erode workers’ wages and conditions as well as environmental reforms and progress. While most movements call for transformation with the refrain ‘we can’t return to business as usual’, there is no reason to believe that a real showdown between hard-nosed neo-liberalism and postcapitalist currents can be avoided. Certainly citizens have had experiences that make radical critiques and claims for postcapitalist futures more persuasive and attractive (Mason, 2020). They are seeing benefits of local economies and slower, self-organised work. People have been challenged to be more creative and self-reliant. The slow food to slow everything, permaculture and agroecology, food sovereignty and commons movements, incorporated in localising practices and visions, all seem more reasonable and feasible. They and mutual aid groups are set on prolonging and formalising their influence, entrenching as postcapitalist advocates and practitioners. Yet the flip-side to the pandemic and forced isolation might well be a mainstream yearning for a romanticised capitalist past; a strong desire for the security of work to pay the rent or mortgage even as terms and conditions of work deteriorate; and submerging concerns to address climate change as the pandemic and a return to normal is pursued by capitalist interests and states. Mutual aid and postcapitalist advocates of various hues must address such tendencies. Writing from Australia, where unprecedented bushfires ravaging ecosystems over the 2019–2020 Summer were followed by a global health emergency – closing international and interstate borders, restricting households, locking families out from loved ones in aged care facilities and dying in hospital – the cracks in the wall of capitalist ‘civilisation’ and its rapacious ecological impacts seem all too clear. Re-appropriating the economy seems necessary to decide what we produce, how we produce it, who produces it and for whom – for a safer, more secure, healthier and enjoyable way of life. Postcapitalism has a new platform. But if movements aligned with postcapitalism are global and networked, its realisation will be local and material. If the human geography of the Capitalocene has been standardisation, genocide, species extinction and globalisation, the human geographies of postcapitalism will be diverse, localised, multiple and dynamic.

#### The 1AC’s competition with China is a diversionary tactic that funnels all resources into the military-industrial complex to prop up a regime of worker exploitation that paints Chinas as the enemy – that guarantees escalation

Qiao Collective 20. Adiaspora Chinese media collective challenging U.S. aggression on China. Sinophobia Inc: Understanding the Anti-China Industrial Complex. Qiao Collective. 09-13-2020. https://www.qiaocollective.com/en/articles/sinophobia-inc

ENEMY NUMBER ONE

The cogs of the military-industrial-information complex have ensured that the debate on China is all but nonexistent. Anti-China posturing has become a defining issue of the November presidential election. But there is effectively zero policy distinction between the approaches espoused by the Biden and Trump camps—only a rhetorical competition playing out in campaign ads and stump speeches to prove who can really be ‘tougher on China.’

The revolving door of Sinophobia Inc. makes certain that whether Republicans or Democrats come out on top in November, the weapons contracts will continue to flow.

Despite incessant fear mongering over the looming threat of ‘Chinese aggression,’ China has been explicitly clear that it does not want conflict with the U.S., let alone hot war. In August meetings with the European Union, Chinese foreign minister Wang Yi called for renewed cooperation, proclaiming that “a Cold War would be a step backwards.” Where the U.S. pursues unilateralism, sanctions, and the threat of military intervention to get its way, China has invested in international organizations, stepped up to fund the World Health Organization in the absence of the U.S., and promoted pandemic aid, cooperative vaccine development, and helped nations suffering under U.S. sanctions fight COVID-19.

Make no mistake: there is no supposed “mutual escalation” or “inter-imperial rivalry” here—U.S. aggression in military buildup, propaganda and economic sanctions is a one-sided push for conflict and war in spite of China’s repeated calls for mutual respect, win-win cooperation, and continued engagement premised on recognition of China’s national sovereignty and dignity.

U.S. political elites have turned to Sinophobia as a bogeyman to distract from the failures of capitalism, neoliberalism, and a violent U.S. empire that invests more in perpetual war than in basic health care and infrastructure for the American people. That’s what makes Sinophobia Inc. so effective: mass discontent fomented by an unresolved pandemic, rising unemployment, and American anxieties over the future can all be shunted onto the ‘real’ threat: China.

Sinophobia Inc. is working overtime to convince average Americans that China—and not white supremacy, capitalism, and militarism—is the ‘real enemy.’ It’s working: 78% of Americans blame China for the spread of COVID-19—more than blame the Trump administration itself for its handling of the pandemic. That’s why Congress has rubber-stamped a record defense budget for 2021 while declining to pass pandemic aid, eviction moratoriums, or other protections for American workers.

As Sinophobia Inc. draws us closer to war on China every day, it’s up to all of us to jam the gears of this war machine. That means a critical eye to the information apparatus busy manufacturing consent for a war that will only serve the bottom line of the American empire and the corporations that it serves.

The self-fueling war machine of think tanks, governments, and weapons corporations is chugging along, convincing the masses that conflict with China is in the national interest. But it’s clearer than ever that it’s the CEOs of Raytheon and Lockheed Martin that stand to profit—at the expense of the rest of us.

#### A – 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.

#### B – 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

#### C – Mineral cycles – that’s Allinson – copper, lithium, manganese hit bottlenecks

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

Endless growth will generate minerals scarcity within decades

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

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

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

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

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

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

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

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

#### Capitalism hinders meaningful innovation – only a risk the alt solves

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> ]

The profit motive and exclusive proprietary rights are central to capitalist innovation. By law, private firms must prioritize the interest of their shareholders, which tends to be interchangeable with making as much money as possible. Accordingly, investments in any stage of the innovative process must eventually produce profits. To maximize profit, private firms jealously guard the value of their invention through regulations and restrictive contracts. Statutes and regulations help protect their trade secrets. The U.S. Patent and Trademarks Office routinely grants them utility and design patents that “exclude others from making, using, offering for sale, or selling … or importing the invention” for 20 years after the patent is issued. They enforce licensing agreements that can limit the uses and dissemination of all or part of their inventions. To further frustrate efforts to innovate on the back of their inventions, private firms subject their former employees to non-compete agreements that can severely limit them from using their knowledge and skills on competing projects for a period following their departure. Breaches carry dire consequences like expensive lawsuits, big money judgments, and other enormous hassles.

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

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

#### Fails – no tech, OST ban, no infinite resources in space

Marx 20. Paris Marx is a socialist writer and host of the left-wing tech podcast Tech Won't Save Us. They have a Master’s degree in Geography from McGill University, and write for NBC News, CBC News, Jacobin, Tribune, OneZero, Passage, and many others. “Billionaire Space Colonialism Is a Dead End”. Tribune. 12/22/2020. https://tribunemag.co.uk/2020/12/billionaire-space-colonialism-is-a-dead-end-for-humanity

The world is in the grips of a global pandemic that has altered the daily lives of billions and killed more than 1.7 million people. You might think that that would refocus our attentions on ensuring the health and wellness of people around the globe, but as billionaires’ fortunes have soared, some of their number have kept their focus trained on the stars. On 9 December, SpaceX launched its Starship SN8, a prototype of the spaceship it hopes will one day perform regular trips between Earth and Mars. The test flight ended in flames, but that didn’t stop space enthusiasts from declaring it a success — an important milestone in CEO Elon Musk’s ultimate plan to colonise the red planet. Earlier in the month, after receiving the Axel Springer Award in Berlin (since border restrictions don’t stop billionaires), Musk explained that he expected SpaceX to send a spacecraft to Mars in 2022, followed by humans in 2024 or 2026. Those timelines should be taken with a large pinch of salt, given Musk previously said he planned to send an unmanned spacecraft to Mars in 2018, but that doesn’t mean there aren’t bigger problems for this vision of humanity’s future. The Sci-Fi Space Fantasy Many of the space capitalists who champion space colonisation do so because they were inspired by science fiction. There are countless creatives who inform their visions, but one whose work is frequently cited is author Kim Stanley Robinson, who has published several well-researched novels that imagine various scenarios for human life in space. After all that research into the science of space travel and settlement, though, Robinson has little time for the colonisation visions being advanced by billionaires like Musk and Amazon CEO Jeff Bezos. In 2016, he compared Musk’s plan for Mars colonisation to ‘the 1920s science-fiction cliché of the boy who builds a rocket to the moon in his back yard.’ More recently, in a conversation with Jacobin, he declared that the capitalist visions for space colonisation ‘are fantasies, and billionaire fantasy trips are not going anywhere.’ He called asteroid and Helium-3 mining ‘bullshit’, and even acknowledged his own role when explaining ‘There is no profit in space. It’s just a fantasy of our culture right now, because everybody’s been convinced by science fiction writers, and they’re not paying attention to the numbers game.’ But that fantasy hasn’t only gripped billionaires who have effectively unlimited money to throw after their passion projects. Governments increasingly buy in, too, thereby constructing a barrier to addressing the bigger challenges that humanity actually faces in this moment. State-Monopoly Capitalism in Space On 30 May, while the pandemic was raging and Black Lives Matter protesters were marching in streets around the United States, President Donald Trump joined Elon Musk in Florida to celebrate a dual milestone: one, the first time astronauts had been launched from US soil since NASA stopped using its Space Shuttle; and two, the first time a private company had launched a crewed spacecraft. As Trump declared that ‘a new age of American ambition has now begun’, he further fused Musk’s vision for space exploration to his white nationalist movement to ‘Make America Great Again’, and to the larger effort of projecting American power in an increasingly multipolar world. Even before Trump started the Space Force and signed an executive order to promote space mining, President Barack Obama had begun the process of privatising space exploration and adopting the vision for an American trip to Mars — and it’s sure to continue under President Joe Biden. These moves must be placed in their historical contexts. As Dr. Gabrielle Cornish explained in the Washington Post, the Cold War space race was justified by its presentation as ‘a utopian dream to domestic, civilian audiences, framing it through art, music and pop culture as a romantic escape or glorious future’; the real goal was the projection of military and economic power by competing countries. We see this pattern repeated today. The billionaires driving the modern space race sell it as essential to the future of humanity, either to maintain capitalist ‘growth and dynamism’ or to give humanity a second home in the event of climate apocalypse. The latter is a suggestion that Robinson considers ‘wrong, in both a practical and a moral sense’, because ‘it’s very likely that we require the conditions here on earth for our long-term health’. Indeed, if humans actually lived on Mars they’d probably get cancer. It doesn’t really matter, though, because these justifications only exist to obscure the real incentives behind these projects: increasing American power beyond our home planet, extending capitalist property relations to other celestial bodies, and enabling US corporations to exploit extraterrestrial resources for the mutual benefit of those capitalists and the state — assuming the economics even work. Salon senior editor Keith Spencer compared the ambitions of SpaceX to the history of the East India Company, which ruled colonised areas for the benefit of its shareholders, and in this way it could also be seen as another example of the state-monopoly capitalism observed by Tribune’s Grace Blakeley. These private space companies, despite being funded in part through billionaires’ fortunes, are still highly dependent on public subsidies and contracts – which is why getting the state to buy into their vision is so important. There might not be people to colonise in space, but the consequences go beyond capitalist enclosure. Since 1967, the Outer Space Treaty has recognised that space is a global commons, where ‘national appropriation by claim of sovereignty, by means of use or occupation, or by any other means’ is prohibited. Haris Durani explained in the Nation that while this agreement is often seen as a compromise between the United States and Soviet Union, it’s better to understand it as a product of decolonisation which sought to ensure that ‘all states would collectively govern extraterritorial domains’, instead of allowing major powers to deplete resources because of their technological superiority. The spirit of that agreement is already being breached by the efforts of powerful states to create a legal foundation for the plunder of space resources. Instead of powerful countries enclosing these resources for the benefit of their people, though—which would be bad enough—present trajectory suggests that the riches will be captured by billionaires, whose wealth allows them to ignore the problems of the rest of humanity while directing vast attention and resources away from much more pressing issues. Refocusing on Real Problems Between the climate crisis, various accelerating social crises, and the ongoing pandemic, humanity faces immense challenges that must be tackled in the coming decade. State power will be required to direct resources into building a sustainable economy, reconstructing the crumbling social infrastructure, and ensuring a good standard of living for all — but billionaires have no stake in any of those projects. Space colonisation will do nothing to address these crises, regardless of the promises of billionaires and luxury communists alike. When they talk about how asteroid mining will bring great wealth to be shared with all or to power the green technologies that are heralded as climate solutions free of sacrifice for Western consumers, they’re simply distracting us from the difficult work that must be done if we’re to truly address the social and environmental challenges of our time. We already know that emissions need to be cut in half by 2030. That means our societies need to be radically overhauled long before asteroid mining becomes feasible — if it ever does. Green capitalists like Musk are happy to sell us a false future of electric cars and solar-powered suburbia that allow them to profit in the short-term because they can simply seal themselves off from the rest of the population when the effects of a warming climate accelerate. The capitalist logic of infinite growth that’s driving the desire for space colonisation is the same one that’s created the very problems we so desperately need to solve in the first place, and doubling down on it would be a terrible mistake. We should be particularly wary of aligning ourselves with a coalition that includes billionaires and right-wing politicians who make explicit comparisons to past colonisation projects, too: Ted Cruz, for example, has promoted space as ‘as vast and promising a frontier as the New World was some centuries ago’. That’s not to say that humanity should turn away from the stars. We should continue funding space science, but the expansion of capitalism into space and the exploitation of extraterrestrial resources do not serve those goals. Justifying space colonisation through the need for a second planet is a self-fulfilling prophecy created by people who have little regard for the lives and wellbeing of the global working class — as the pandemic has demonstrated. Capitalism is driving billionaires toward space as it drives the rest of us toward extinction. They must be stopped before it is too late.

#### Warming isn’t irreversible yet, but it will be without a transition in the next 4 years – only the commons solves

Juan Bordera et al 8-23. journalist, screenwriter and activist, and Fernando Valladares, doctor of biological sciences, a research professor at the CSIC, and recipient of the Rey Jaime I Award (for environmental protection), and Antonio Turiel, has degrees in theoretical physics in mathematics, a scientific researcher at CSIC and an expert in energy. He is the author of the recent book, Petrocalipsis: Crisis energética global y cómo (no) la vamos a solucionar, and Ferran Puig Vilar, doctor in Ecology and director of the Sustainability Observatory, and Fernando Prieto, doctor in Ecology and director of the Sustainability Observatory, and Tim Hewlett, doctor of astrophysics and a member of the Scientist Rebellion collective. “Leaked report of the IPCC reveals that the growth model of capitalism is unsustainable.” MROnline. 8/23/2021. <https://mronline.org/2021/08/23/leaked-report-of-the-ipcc-reveals-that-the-growth-model-of-capitalism-is-unsustainable/>

The second draft of the IPCC Group III report, focused on mitigation strategies, states that we must move away from the current capitalist model to avoid surpassing planetary boundaries and climate and ecological catastrophe). It also confirms our previous reports, covered by CTXT and The Guardian, that “greenhouse gas emissions must peak in the next four years”. The new leak acknowledges that there is little or no room for further economic growth. The undersigned scientists and journalists have analyzed a new part of the Sixth Assessment Report, which has been leaked to us by the same sources as last time—Scientist Rebellion and Extinction Rebellion Spain. In this leak the usual more timid positions can be found, but also prominent statements that would have been unthinkable not long ago. To contextualize, let’s just remember: In 1990, the First IPCC Report stated that, “the observed increase [in temperature] could be largely due to natural variability”, and although subsequent reports put this position to rest, this Sixth Report eliminates any possibility of doubt, and leaves no room for the climate denial arguments which have been historically and amply financed by those who had the most to benefit from maintaining this narrative: the fossil fuel lobbies. The leaked report mentions that indefinite growth must be renounced. Since radical transition is required, the key question is how can a shift away from models of perpetual growth be understood as a benefit and not merely relinquishment? Any transition must take into account historic differences in emissions between countries, differences between rural and urban worlds, and above all, the tremendous growing economic inequalities between the poor and increasingly obscenely rich. If these three dichotomies are not addressed, any transition will have more opposition than support, as the draft literally sets out: Lessons from experimental economics show that people may not accept measures that are considered unfair, even if the cost of not accepting them is higher. Even if a change of course is achieved, the scientists warn: “transitions are not usually smooth and gradual, they can be sudden and disruptive.” They also note “the pace of transition can be impeded by ‘lock-in’ from existing capital, institutions, and social norms”. The report emphasizes how important it is to understand these sources of inertia, stating that “the centrality of fossil energy in economic development in the past 200 years raises obvious questions about the possibility of decarbonisation”. Policies favoring fossil fuel companies have extracted the common wealth—our air, forests, land…—and put that wealth in the hands of a small minority. Therefore, green policies must be redistributive at a time when inequality is spiraling. One of the measures proposed to reduce the regressivity of carbon prices is the redistribution of tax revenues in favor of low and middle incomes. But as anthropologist Jason Hickel states: anything short of a binding cap on fossil fuel extraction, with declining annual targets that will wind down the industry to zero, is just hand-waving. Significantly, although many have made similar comments before, the report gives prominence to the view that not only is climate change caused by industrial development, but that “the character of economic development produced by the nature of capitalist society … [is] ultimately unsustainable”. We can have good lives while consuming less, but capitalism is unlikely to sustain itself without growth. The report comes to conclude that “current emissions are incompatible with the Paris Agreement, so it is absolutely mandatory to reduce them in an immediate and forceful way.” [figure 1 omitted] The drastic decrease in emissions which are essential, are impossible to achieve in the short term with the current model, with its assumptions about growth in energy consumption and material use. Moreover, the report links emissions reduction with the achievement of the 17 Sustainable Development Goals, agreed in 2015 for the UN, to be met by 2030. Despite the existing contradictions amongst the 17 SDG, we also find unquestionable aims, such as reducing inequality and protection of biodiversity, mixed with a more controversial one within the same report: to promote sustainable economic growth. If in 1990 the debate was still about the causes of climate change, 30 fruitless years later the debate is centered between those who believe that we can continue to grow and reduce emissions at the necessary pace, and those who see this as another type of denialism, more subtle, but which in the end benefits and is defended by the same people who once questioned the origin of global heating. The question is, as usual: who stands to gain? The report states that “mitigation and development goals cannot be met through incremental change”. Some argue that you can continue to focus on growth, because technologies could be developed to reduce concentrations of greenhouse gases in the atmosphere. But such technologies (e.g. Carbon Capture and Sequestration) are not materializing as promised. To continue to rely on unproven technologies while arguing for unconstrained growth—while ecosystem carbon sinks are in decline, climate tipping points are being breached, and the climate is heating and destabilizing—is at best folly and at worst criminal. Why has so little changed? The report highlights an “organized hypocrisy”, in which agreements and statements do not match actions, presenting one of the most dangerous barriers to genuine mitigation. The report argues that Covid-19 could teach the world many lessons, with the costs of prevention and preparatory actions being minimal compared to the costs of unmitigated impacts. The analogies with the climate crisis are clear. Delaying measures will have increasing costs that will be very difficult to bear. [figure 2 omitted] If action is not taken soon, the challenges will increase in a non-linear fashion and with unforeseeable consequences. What are the implications of all this? First, given the evident contradictions in the concept of sustainable growth, it will only be possible to speak of any form of development if GDP as a measure of wealth is abandoned. The only sustainable growth is horizontal, not vertical, with the goal of reducing inequality. Second, communicating the immense magnitude of the problem to both the public and those in power is essential. Only if there is a perception that the majority benefits from transformational change can the required measures be successful. Without transformational change, no one will ultimately benefit. Third, cooperation rather than competition is the key to explaining the great evolutionary leaps, as the microbiologist Lynn Margulis demonstrated. We now face a precipice caused by the intersection of ecological and climate crises. Only if we cooperate, if we understand that we share so many things—among them the atmosphere—will we be able to avoid the fall.

#### 1 – Leaks cause extinction

Ash 15 [Kyle Ash, Greenpeace’s Senior Legislative Representative. One of the most quoted sources during the Copenhagen Climate Conference] “Carbon Capture SCAM” July 23, 2015 (http://www.greenpeace.org/usa/research/carbon-capture-scam/)

In order for CCS to deliver a lasting benefit to the climate, the vast majority of sequestered CO2 must remain underground permanently. Geological formations proposed are sub-seabed and saline aquifers. The IEA says that depleted oil and gas reservoirs would be the most likely candidates for initial storage operations because of both their geology and proximity to industrial development.

The problem with IEA’s assertion is it is too convenient for expanding CO2-EOR operations. In addition, the multiple bore holes and wells drilled in them to find and extract oil and gas further increase the risk of leakage. The IEA also admits that, “[t] he long-term storage integrity of oil fields that have been exploited with multiple wells has yet to receive serious scientific investigation.”108

The prominent Sleipner project, a CCS storage testing site off the coast of Norway injecting CO2 scrubbed from raw gas after extraction, was found in 2012 to have many nearby fractures, warranting increased expense toward surveying the geology of such sites.109 Some scientists say it’s not a matter of if the site will leak, it’s just a question of when.110 Researchers devoted to the promise of CCS remain unconcerned.111

However, undue confidence in understanding of the geology at Sleipner is not new.112 While offshore injection may be easier for the public to accept, deepsea sites will be more difficult to monitor. There are few studies to ascertain potential effects of undersea CO2 leakage, but scientists have concluded that it may be detrimental across the ocean food web.113 CO2 leakage from sequestration could exacerbate already rising ocean acidification, since the ocean absorbs about 25% of anthropogenic CO2 pollution. This is threatening a different type of planetary disaster altogether.114

#### 2 – Profit motive means it won’t be adopted – and drives coal use

McDonnell 20 [Tim, reporter covering global climate change and energy issues, 8-13-2020, “The business model for carbon capture is broken,” <https://qz.com/1891765/the-uss-only-clean-coal-system-got-shuttered-by-covid-19/>]

In the months since the pandemic cratered the price of oil, the financial fallout has spread from drilling companies to refineries and oilfield maintenance companies. Now the crash has claimed another, more unlikely victim: The only system built to capture carbon emissions from a coal plant in the US, one of only two worldwide.

The $1 billion system, known as Petra Nova, was built in 2017 to catch CO2 from one unit of a coal plant near Houston. That plant is one of the dirtiest in Texas, both in terms of climate and air quality impacts, according to a Rice University study. Petra Nova was meant to cut the unit’s carbon footprint by about a third—roughly the equivalent of taking 300,000 cars off the road each year.

But on July 28, E&E News broke the story that the facility has been shuttered since May. And while the plant’s owners have said they plan to get it running again once the economy improves, Petra Nova’s shutdown exposes the weird market dynamics that could threaten the sustainability of carbon capture facilities in progress around the world.

The case for carbon capture

Capturing the carbon emissions from power plants and other industrial facilities is widely considered a key part of any successful climate strategy. The trouble is, there’s not a whole lot you can do with the CO2 after you capture it. That makes the economic case for installing a big, expensive piece of equipment a bit shaky. Some companies are helping create a market for CO2 by using it to make mattresses, cement, and other manufactured products. But the use with the greatest market potential today is, ironically for a climate project, oil drilling. That’s what Petra Nova went after.

So-called “enhanced oil recovery” (EOR) projects inject CO2 into oil wells to shake loose the dregs stuck in subterranean rocky pores. The technology is decades old, but has traditionally relied on CO2 pulled from natural sources underground. If the CO2 comes from a power plant’s emissions, though, it can reduce the climate impact of drilling. A barrel of oil produced with EOR using captured CO2 is, on net, about 37% less carbon-intensive than a normal barrel, according to the International Energy Agency. “EOR is a stepping stone,” said John Thompson, technology and markets director at the Clean Air Task Force, a research group. “If you have to choose between oil produced the conventional way or one that’s reduced, you’d like all your oil to come from that.”

The coal plant conundrum

Large-scale carbon capture and storage (CCS) systems, many of which rely on EOR, have been rolled out at nearly two dozen facilities worldwide, from chemical and fertilizer factories to natural gas processing plants. But they’ve remained elusive for power plants. In large part, that’s because the CO2 in power plant emissions is relatively diffuse. And that means it’s more expensive to capture.

One groundbreaking coal plant CCS project in Mississippi turned into an infamous $8 billion boondoggle before it was scrapped in 2018. The world’s only other power plant CCS project, in Canada, has fared better: It claims to have captured 3 million tons of CO2 since 2014, and has managed to stay open despite the low oil price because the country’s strict limits on coal pollution make the economics more favorable. The $1 billion Petra Nova project was supposed to top them all. But according to a report the plant’s owners filed to the Department of Energy in March, the results have been mixed. The technology itself appears to be working: It managed to capture 92.4% of the CO2 that passed through it since 2017. It experienced outages on 367 days, but a majority were either planned for routine maintenance or the result of something outside the system—for example, the entire coal plant being switched off for weeks following Hurricane Harvey.

But in part because of those outages, the system fell 17% short of its capture goal. Ultimately, it only captured about 7% of the plant’s total carbon emissions, according to the Energy and Policy Institute. Then the pandemic tossed the project’s whole business model on its head. In order to operate, the system requires oil prices of at least $75 per barrel. Otherwise, it’s not worth the oil company’s money to bother purchasing CO2 for EOR. Even before the pandemic, the oil price was around $60; after briefly dipping below zero in April, it’s now around $40. Few experts expect the price to return to pre-pandemic levels anytime soon, if ever.

“Petra Nova was a success in terms of technology,” said Daniel Cohan, a civil engineering professor at Rice who co-authored the power plant study. “But the premise behind it no longer makes sense environmentally or financially.” Petra Nova’s portent Arij van Berkel, director of research for the consulting firm Lux Research, agrees: The chances of an economical EOR model of carbon capture get smaller every year, he said. It’s not just coal plants feeling the pinch: A solar power farm in Oman that produced concentrated steam for oil drilling was liquidated in May because of the low oil price. Some of the oil price issues could be smoothed out with a new carbon capture tax credit, known as 45Q, that Petra Nova was just filing paperwork to tap before the pandemic struck. That credit is even higher if a company chooses to inject the CO2 directly into underground reservoirs, rather than sell it for EOR.

But oil prices aren’t the only vulnerability for other coal CCS projects coming down the pike, including one in New Mexico and another in North Dakota. The pandemic also crushed demand for electricity—and coal plants, which are expensive to run, are often the first to get switched off. Decreased demand means fewer emissions, and therefore fewer tax credits to keep an operation afloat.

It’s a Catch-22: A promising technology for reducing emissions from coal requires both high oil prices (aka, more oil being produced) and a lot of coal consumption. “Proponents of these projects are selling an unproven dream that in all likelihood will become a nightmare for unsuspecting investors,” Dennis Wamsted, an analyst at the Institute for Energy Economics and Financial Analysis, said in a recent report on Petra Nova. “Investors would do well to conduct their due diligence before investing in any coal-fired carbon capture project anywhere.”

### Relations

#### No US-China war – despite rising tensions, relative stability and low hostility check against escalation

**Heath & Thompson 17** (Timothy R., senior international defense research analyst at the nonprofit, nonpartisan RAND Corporation and member of the Pardee RAND Graduate School faculty, William R., Distinguished and Rogers Professor at Indiana University and an adjunct researcher at RAND, “U.S.-China Tensions Are Unlikely to Lead to War”, The National Interest, 4-30-2017, <https://nationalinterest.org/feature/us-china-tensions-are-unlikely-lead-war-20411?page=0%2C1>)

Graham Allison's April 12 article, “How America and China Could Stumble to War,” explores how misperceptions and bureaucratic dysfunction could accelerate a militarized crisis involving the United States and China into an unwanted war. However, the article fails to persuade because it neglects the key political and geostrategic conditions that make war plausible in the first place. Without those conditions in place, the risk that a crisis could accidentally escalate into war becomes far lower. The U.S.-China relationship today may be trending towards greater tension, but the relative stability and overall low level of hostility make the prospect of an accidental escalation to war extremely unlikely. In a series of scenarios centered around the South China Sea, Taiwan and the East China Sea, Allison explored how well-established flashpoints involving China and the United States and its allies could spiral into unwanted war. Allison’s article argues that given the context of strategic rivalry between a rising power and a status-quo power, organizational and bureaucratic misjudgments increase the likelihood of unintended escalation. According to Allison, “the underlying stress created by China’s disruptive rise creates conditions in which accidental, otherwise inconsequential events could trigger a large-scale conflict.” This argument appears persuasive on its surface, in no small part because it evokes insights from some of Allison’s groundbreaking work on the organizational pathologies that made the Cuban Missile Crisis so dangerous. However, Allison ultimately fails to persuade because he fails to specify the political and strategic conditions that make war plausible in the first place. Allison’s analysis implies that the United States and China are in a situation analogous to that of the Soviet Union and the United States in the early 1960s. In the Cold War example, the two countries faced each other on a near-war footing and engaged in a bitter geostrategic and ideological struggle for supremacy. The two countries experienced a series of militarized crises and fought each other repeatedly through proxy wars. It was this broader context that made issues of misjudgment so dangerous in a crisis. By contrast, the U.S.-China relationship today operates at a much lower level of hostility and threat. China and the United States may be experiencing an increase in tensions, but the two countries remain far from the bitter, acrimonious rivalry that defined the U.S.-Soviet relationship in the early 1960s. Neither Washington nor Beijing regards the other as its principal enemy. Today’s rivals may view each other warily as competitors and threats on some issues, but they also view each other as important trade partners and partners on some shared concerns, such as North Korea, as the recent summit between President Donald Trump and Chinese president Xi Jinping illustrated. The behavior of their respective militaries underscores the relatively restrained rivalry. The military competition between China and the United States may be growing, but it operates at a far lower level of intensity than the relentless arms racing that typified the U.S.-Soviet standoff. And unlike their Cold War counterparts, U.S. and Chinese militaries are not postured to fight each other in major wars. Moreover, polls show that the people of the two countries regard each other with mixed views —a considerable contrast from the hostile sentiment expressed by the U.S. and Soviet publics for each other. Lacking both preparations for major war and a constituency for conflict, leaders and bureaucracies in both countries have less incentive to misjudge crisis situations in favor of unwarranted escalation.

### Competition

#### No reason anti-trust is key. Cards are about competitiveness generally and other barriers. 1AC ev says US is too far behind to catch up- Yellow

Kania ‘19 [Elsa; 11/7/19; Adjunct Senior Fellow with the Technology and National Security Program at the Center for a New American Security, research focuses on Chinese military innovation in emerging technologies, PhD student in Harvard University's Department of Government; CNAS; "Securing Our 5G Future: The Competitive Challenge and Considerations for U.S. Policy," <https://www.cnas.org/publications/reports/securing-our-5g-future>]

The Promise of 5G

Today’s advances in fifth-generation telecommunications (5G) promise a transformational technology critical to enabling the next industrial revolution. This new generation of mobile communications constitutes a vital platform and digital backbone for massive increases in connectivity that will have far-reaching implications.1 5G is far more than simply a faster iteration of 4G; it represents a paradigm change.2 The benefits of 5G include its very high speed, low latency, and high throughput. While the jump from 3G to 4G enabled the current mobile economy, the leap from 4G to 5G will open up entirely new economic opportunities and applications. 5G will enable data flows at vastly greater speed and volume than today’s 4G networks, perhaps 100 or more times faster.3 Future smart cities will rely on 5G, autonomous vehicles will depend on this increased connectivity, future manufacturing will leverage 5G for improved automation, and even agriculture could benefit from these advances.4 The development and deployment of 5G are rapidly progressing, with a growing number of 5G pilots worldwide, including 92 pilots expected to launch in the United States by the end of 2019.5 5G technologies are on track for widespread commercialization in the 2020s and could generate great value across multiple industries.6 American policymakers must recognize the imperative of leading in and embracing the potential of 5G to ensure future American competitiveness.

5G has emerged as a new frontier for U.S.-China rivalry. Today, China seems poised to become a global leader in 5G deployment and could succeed in seizing a key first-mover advantage in this industry.7 The United States may be situated in a position of relative disadvantage, by some assessments.8 However, the state of play in 5G is highly complex, and assessments of who is leading can vary,9 depending upon the metrics considered.10 The Trump administration has claimed, “America is now leading the global race to deploy secure and reliable 5G.”11 Typically, national competitiveness in 5G can be evaluated based on a number of factors, including the availability of spectrum, robustness of the overall industry players, investments in the construction of the requisite infrastructure for 5G, and commercial deployments of 5G networks.12 U.S. carriers are moving more quickly to deploy “nonstandalone” 5G networks that build upon existing 4G infrastructure.13 There has also been recent progress in making greater amounts of spectrum available in the United States, primarily in the high-band, namely mmWave, range.14 By contrast, China has invested more heavily in the fiber and physical infrastructure required for standalone 5G, which could require intense capital expenditures. Chinese companies are primarily pursuing options for 5G involving midband spectrum, which might prove more promising for large-scale realization of 5G.15 In 5G, the first movers and early adopters may benefit from being able to promote an industrial and commercial ecosystem designed to build upon their 5G networks.16

The question of who develops and controls the core technologies that are foundational for 5G has great significance for its future trajectory. Today, 5G remains at a fairly nascent stage in its development.17 5G is continuing to progress through groundbreaking research and inventions that resolve complex scientific issues involving speed, capacity, security, and reliability. The technical standards that will enable interoperability and facilitate the widespread commercialization of these technologies are still taking shape through the global standards-setting process known as the 3rd Generation Partnership Project (3GPP), a consortium of telecom associations and other organizations.18 When it comes to the foundation of critical technology standards through which 5G is being defined, only a small subset of companies can be considered among the leading contributors to these standards based on the capabilities of their technologies, which involve technical documents that establish new technology requirements and design solutions to meet those requirements. 5G standards establish the blueprint of this future communications infrastructure. Currently, in this process, key leaders include U.S.-based Qualcomm; China’s champion, Huawei;19 Nokia, headquartered in Finland; Ericsson, a Swedish company; and Samsung, a South Korean conglomerate, which are the major contributors to patents and standards. However, few American companies rank at present among the primary players in the construction of certain requisite equipment for 5G, particularly radio access networks.20 The current degree of consolidation exacerbates the risks of market failure.21 There are reasons for serious concern about the long-term viability and diversity of supply chains in this industry.

5G has the potential to provide benefits for future economic development. The advent of 5G may contribute trillions to the world economy over the next several decades,22 setting the stage for new advances in productivity and innovation.23 The hitherto unparalleled connectivity that 5G will provide is integral to realizing the full potential of the “internet of things” (IoT) and artificial intelligence (AI) technologies in the real world. 5G can enable new industries and contribute to a dynamic digital economy.24 Moreover, 5G networks also possess promising military applications.25 Such increases in speed and connectivity could facilitate data fusion and improved situational awareness to enhance command and control,26 providing significant operational advantages on the future battlefield.27 Given the importance of 5G for national competitiveness, it is hardly surprising that 5G is often characterized as a “race,” even an “arms race,” between China and the United States. However, 5G is more of a marathon, rather than a sprint, insofar as its operationalization will play out over at least a decade to come. In the process, security will be more important than speed in establishing a durable foundation for 5G’s future. While the development and deployment of 5G are endeavors that involve intense rivalries among countries and companies, the realization of 5G equally requires cooperation and interoperability. U.S. strategy should concentrate on promoting the security, collaboration, and healthy competition that are so vital to the future of 5G. The China Challenge in 5G The Chinese government has been actively mobilizing to contest global leadership in 5G, while rapidly progressing in the nationwide deployment of this foundational technology. While the U.S. government has only recently started to concentrate on 5G,28 the origins of China’s efforts can be traced to as early as 2007, when the State Council approved a “major special project” on next-generation telecommunications,29 pursuant to the National Medium-and Long-Term Science and Technology Plan Outline (2006-2020).30 The United States had been relatively dominant in 4G, and China initially lagged behind and struggled more in 3G and 4G. Chinese leaders have been determined to leapfrog ahead in 5G through pursuing, and since arguably achieving, a first-mover advantage.31 Concurrently, the Chinese government has undertaken significant investments in building up a more robust digital infrastructure of fiber optic networks that are important to facilitate the large-scale deployment of 5G.32 China’s science and technology plans and research initiatives, from the 863 Plan to “Internet Plus” and the National Strategic Emerging Industries Development Plan,33 have supported advances in 4G and 5G. In China today, robust activities in research, development, and commercialization extend across universities, companies, and even a number of defense industry conglomerates.34 Meanwhile, the IMT-2020 promotion group, established by the Chinese government in 2013, has coordinated efforts among state agencies and industry stakeholders to support research and development, as well as testing and standards, for 5G.35 The Chinese government has also undertaken a proactive and coordinated approach to spectrum management and reallocation, involving military and industry stakeholders, to prepare for widespread 5G deployment through licensing and deconfliction of the requisite spectrum.36 There are not only no comparable efforts in the United States but also no existing mechanisms to replicate and implement such a strategy.

China’s efforts in 5G are estimated to amount to hundreds of billions of dollars across a combination of government funding and commercial investments.37 Since 2015, China has outspent the United States by over $24 billion overall, according to one estimate.38 This massive mobilization of resources has enabled rapid construction of the requisite infrastructure for standalone 5G, such as base stations, in which China Tower has proved to be a key player.39 For 2019, China is planning to accelerate efforts in 5G and to dedicate 57 percent (or about $146 billion) of $256 billion planned spending on technology to 5G.40 China is also launching a number of pilot projects to explore its potential across various industries, such as smart transport, industrial internet, and health care. As of 2019, 5G is already entering widespread precommercial deployment in a number of cities, including Beijing and Shanghai. For instance, the city of Shenzhen, which is home to Huawei, has become a major center for 5G development, intending to fully deploy 5G by late 2019.41 By 2020, full commercial deployment is on track to launch.42 Seemingly in response to U.S. pressures on Huawei and seeking to bolster its progress in 5G, the Chinese government has accelerated its timetable for issuing official licenses to China Mobile, China Unicom, and China Telecom, as well as China Broadcasting Network Corp.,for mid-band spectrum.43 Moreover, the Chinese government has provided carriers with low-cost spectrum and cheap land to facilitate deployment.44

The Chinese government and leading Chinese enterprises are actively promoting commercial deployment and experimentation with new applications of 5G. By 2025, an estimated 430 million people in China will have access to 5G, accounting for one-third of the world’s total 5G users.45 China is also developing early applications of AI and 5G applications in health care. In March 2019, the People’s Liberation Army (PLA) General Hospital, in collaboration with China Mobile and Huawei, engaged in the world’s first remote brain surgery using 5G.46 The precise, real-time control that 5G provides can facilitate telemedicine at greater distances, which enables world-class surgeons to reach patients in rural or remote regions that lack the requisite medical services.47 The Chinese government is also concentrating on applications of AI in industrial internet, including for advanced manufacturing.48

China’s attempts to advance 5G still confront certain challenges, notably the discrepancy between the high expectations for 5G relative to the current maturity of the technology. For instance, despite the tremendous enthusiasm for its potential, 5G requires significant investments in the near term, but the future business models that will enable 5G to become profitable for operators remain unclear. For the 2020 to 2030 time frame, expenditures of Chinese network operators on 5G could reach $411 billion, according to an authoritative estimate from China’s Ministry of Industry and Information Technology.49 China’s 5G era may be well underway, but the long-term trajectory of this state-driven approach to 5G remains to be seen. These sizable investments may be inefficient but could prove effective in driving development and establishing market predominance nonetheless.50 The United States has yet to commit to any funding or national initiatives in 5G that are close to comparable in scope and scale.51

For China, Huawei is a national champion that has been at the heart of the 5G agenda from the start. Although it claims to be a private company, an assertion that has been challenged because its structure of ownership is opaque and contested,52 Huawei has a history of strong state support and apparent linkages to the Chinese military and intelligence that start with its founder and persist to the present.53 Since 2009, Huawei has invested massively in research and development of next-generation telecommunications.54 The company plans to sustain and increase its investments in 5G with an annual R&D budget that may exceed $15 billion and could reach $20 billion in the years to come.55 Huawei seems and claims to be on course to become dominant in 5G, establishing new pilots and partnerships around the world, from Asia to Africa and across much of Europe.56 The company is building upon its established presence in 4G networks, which already amounts to nearly a third of the global telecommunications market.57 Huawei is one of the few players for now that can provide mature, cost-effective equipment and systems integration for 5G, such as radio access networks and base stations. Huawei has shipped over 150,000 5G base stations worldwide as of June 2019.58 Despite persistent security concerns, Huawei has continued to expand its reach, currently boasting a total of 50 commercial 5G contracts that span at least 30 countries, particularly a significant proportion in Europe.59 Huawei has also signed a deal to develop 5G in Russia as of June 2019.60 In addition, Huawei commands the greatest number of patents in 5G,61 which amount to 1,529 in total as of late 2018, with the closest contender, Nokia, holding 1,397 patents.62 However, estimates vary.63 Of course, although these numbers are significant indicators of Huawei’s prominence in 5G, pure patent counts should not be interpreted as an indication that Huawei is the clear leader, despite the company’s claims to the contrary.64 In this regard, although Huawei should be recognized as a formidable contender, its apparent leadership is hardly unassailable.

China may possess certain systemic advantages in 5G development and particularly deployment. The Chinese government has facilitated active and highly coordinated engagement in the establishment of global 5G standards, particularly through the IMT-2020 promotion group.65 Huawei has clearly exerted a strong influence in the adoption of standards for 5G,66 including those that benefit its own technologies. For example, Huawei particularly advocated for the adoption of Polar Code, a technique for the channel coding that is necessary to ensure accuracy, efficiency, and redundancy for data in digital communications.67 Huawei has made 11,423 contributions to 5G standards,68 while its wholly owned subsidiary HiSilicon has added 7,248 contributions, according to estimates from December 2018.69 This compares with 10,351 from Ericsson, 6,878 from Nokia, and 4,493 contributions from Qualcomm.70 It is important to remember that quantity is not always synonymous with quality or relative impact.71 However, these numbers are certainly indicative of very forceful Chinese participation in the process, which has involved high-level representation from Chinese companies, their involvement in positions of leadership, and apparent coordination in promoting certain options.72 By some accounts, Huawei is seen as a constructive contributor in a process that has been fairly collaborative.73 Yet there have also been persistent concerns that Huawei has been attempting to “flood” the process,74 including by taking on a high share of positions in decision-making on 3GPP panels, to establish unique sway.75

The Chinese government recognizes technical standards as a matter of strategic importance and has prioritized the promotion of Chinese intellectual property (IP) in the 3GPP 5G standards. This strong emphasis on shaping standards could facilitate successful deployment and commercialization of 5G technologies by Chinese companies that then might be poised to capture a sizable share of the profits and revenues in this critical industry. Moreover, progress in standardization is important to facilitate interoperability, including the full leveraging of the potential of 5G to create related products and services. Meanwhile, there are efforts underway to formulate a new initiative, “China Standards 2035” (中国标准2035),76 which could formally launch in 2020 and is intended to contribute to China’s emergence as a “standards superpower” (标准强国).77 This focus on standardization, from high-speed rail to artificial intelligence, is intended to increase the overall quality of China’s economic development while facilitating the “going out” of Chinese companies and technologies.78 An oft-quoted saying emphasizes, “First-class companies make standards, second-class companies do services, and third-class companies make products.”79 This contestation of standards continues China’s quest to improve its “discourse power” (话语权) to exercise a “right to speak” and global influence commensurate with its growing economic and technological capabilities.80 In particular, promotion of the “Digital Silk Road” could place Chinese companies, standards, and infrastructure at the center of the international information technology ecosystem, while perhaps serving as a vector for Beijing’s global influence.81

Chinese advances in 5G also contribute to military innovation. The PLA aims to leverage emerging technologies to achieve an advantage in future military competition. In his capacity as as commander-in-chief, Xi Jinping has called upon the PLA to become a “world-class” military (世界一流军队) by midcentury.82 5G will be vital to the process of military “intelligentization” (智能化), which involves the realization of AI in support of a range of applications and capabilities.83 5G could be critical to information support,84 creating improvements in data sharing, new mechanisms for command and control, and enhanced system construction to fulfill future operational requirements,85 such as the military internet of things.86 5G is anticipated to enable machine-to-machine communication among sensors, drones,87 or even swarms on the battlefield, as well as improvements in human-machine interaction.88 The potential for rapid integration of information and improved communications could provide key advantages for situational awareness. As China looks to construct a more integrated information and communications architecture across space-and ground-based systems, 5G could be incorporated.89 For instance, there are plans to integrate 5G with BeiDou, China’s dual-purpose competitor to GPS, to improve position, navigation, and timing capabilities.90 Beyond the battlefield, deployment of 5G could facilitate China’s model of national defense mobilization, providing for more “intelligent” approaches to coordinate resources and logistical support to fulfill the demands of wartime contingencies.91 For instance, when Jilin Province carried out a drill for national defense mobilization, 5G was used to support emergency communications.92 Already, some units in Chinese military and paramilitary forces have started to employ 5G for pilot programs, such as border security.93

China’s development of 5G will be shaped by the implementation of a national strategy of military-civil fusion (军民融合).94 There are certain synergies between military and commercial technologies, including advanced electronics in which elements of the Chinese defense industry, such as the China Electronics Technology Group Corp. (CETC), have particular proficiency.95 Even some military academic institutions, such as the PLA Strategic Support Force’s Information Engineering University, have noteworthy proficiency in relevant technological components, especially chips and advanced antennas.96 The Information Engineering University, which contributes to the Chinese military’s education and capabilities for information operations, is engaged in research on 5G network security, seemingly in collaboration with Huawei.97 Increasingly, a growing number of companies, including Shenzhen Kingsignal (金信诺),98 are pursuing opportunities for expansion into the military 5G market, including working on military projects.99 In November 2018, a number of industry players established the 5G Technology Military-Civil Fusion Applications Industry Alliance (5G技术军民融合应用产业联盟), including ZTE, China Unicom, and the China Aerospace Science and Industry Corp. (CASIC), a major defense conglomerate.100 This new partnership aims to foster collaboration and integration in military and civilian development of 5G.101 Some Chinese telecom companies are already supporting 5G pilot projects that appear to be intended for dual-use or military employment.102

5G Risks and Security Concerns

The U.S. government has actively sounded the alarm over the risks that Huawei may present, urging allies and partners to impose a ban against it in order to mitigate the threats of disruption or espionage through 5G networks.103 Huawei has faced pushback and scrutiny, and a growing number of countries have considered — or undertaken in the case of Japan, Australia, and the United States, among others — a ban or de facto exclusion of Huawei on the basis of varying rationales and mechanisms, which have predated U.S. action in some cases.104 There are also valid concerns that the outright exclusion of Huawei may slow and increase the costs of 5G deployment.105 What has often been characterized as an American “campaign” targeting Huawei risks backfiring if continued on its current trajectory, in which U.S. rationales have been perceived as shifting and inconsistent.106 However, a growing number of concerning incidents involving Huawei, including indicators of the insecurity of its equipment, accusations regarding its theft of intellectual property, and its involvement in providing surveillance capabilities to governments, continue to be exposed.107

China’s quest for 5G dominance has played out within a complex technological and geopolitical landscape.108 Indeed, different countries have their own security concerns and considerations, but not all share American assessments of the severity of these risks. Insofar as American policymakers see China as a great power rival and strategic competitor, allowing Chinese companies to play a key role in American critical infrastructure, or that of U.S. allies and partners, presents grave threats that are untenable and unacceptable for the United States, not only espionage but also outright subversion of this critical infrastructure.109 Yet Huawei has continued to expand its global presence, and the U.S. government has yet to present a viable and attractive alternative to working with Huawei. Many countries may have sunk costs and be “locked in” already to this choice based on earlier decisions, which raises concerns about not only security but also fair competition.110 However, it is encouraging to see emerging consensus among like-minded countries about potential principles and shared approaches to 5G security, particularly through the progress of a recent conference on 5G security in Prague.111

The age of 5G will present new risks and novel threats of disruption or exploitation. 5G involves far more than just new and faster wireless networks; it will be a vital component of future critical infrastructure. Consequently, the cybersecurity of 5G networks could prove uniquely challenging, considering the high levels of complexity and much greater potential for damage in the case of an attack. Not only the confidentiality of data on 5G networks but also questions of integrity and assurance will become urgent challenges. Whereas most cyberattacks to date have involved only data theft, an attack against future 5G networks could cause massive damage that might threaten public safety and critical industries in future smart cities.112 The often subpar security of IoT devices, of which there are an estimated 20 billion globally and growing, also presents serious reasons for concern. A high proportion of devices on the U.S. market have been made in China by companies with very poor track records on security.113 While vulnerabilities have been and remain a major concern in the telecom industry for 3G and 4G, the stakes will be even higher for securing 5G networks at all stages of their life cycles.114 In some cases, supply chains could be weaponized deliberately by adversaries that may prefer to “win without fighting.”115 The exclusion of high-risk vendors is an important measure to mitigate risk but does not constitute a complete solution.

5G must be designed and implemented with a holistic approach to security in mind from the start. The development of secure networks must entail more than simply excluding high-risk vendors, requiring rigorous, ongoing testing and screening. Indeed, careful scrutiny should be extended to all aspects of the production, construction, and management of these networks, involving screening of the security of all vendors and carriers. If an end-to-end approach to security is effectively implemented, 5G could prove more secure than our existing networks and critical infrastructure, but the consequences of insecurity would be far graver. In public debates on 5G security, the call and search for a “smoking gun” has been problematic. This framing of the issue has often distracted policymakers from thinking about the greater challenge of mitigating vulnerabilities that tend to be pervasive. Bugs can be just as problematic as backdoors. It is inherently challenging to differentiate an accidental vulnerability from one that is deliberately introduced. The primary difference is intent, which cannot be discerned from code alone. It is encouraging that the 3GPP’s SA3 working group is focusing on security, seeking to ensure that such security concerns will shape the development of standards.116 However, industry and government are just starting to grapple with the full range of issues in play.

Given the gravity of these security challenges, the apparent centrality of Chinese companies in the global development of 5G has raised intense concerns. There is a very real risk that vulnerabilities in networks, whether the result of poor security practices or deliberate introduction of backdoors, could be weaponized for leverage or coercive purposes, particularly in a crisis or conflict scenario. Considering China’s history of IP theft and cyberespionage, there is also a real risk such networks could be exploited for purposes of espionage.117 As a Chinese company, Huawei also would be subject to a number of legal demands, regulatory requirements, and mechanisms of coercion that are often ambiguous and expansive.118 Regardless of whether Huawei’s leadership may wish to disregard an order from the Chinese government, China lacks an independent judiciary system for company leaders to plead their case against the government, as Apple did in the United States when it fought an FBI order to unlock an iPhone. Huawei’s claims that it would “say no” to the Chinese government are not credible without indications of the company’s actual ability to do so.

Even if Huawei is given the full benefit of the doubt, despite its history and apparent involvement with the Chinese military and intelligence organizations, Huawei’s products and services have been assessed to be highly insecure, with a much greater prevalence of vulnerabilities relative to their primary competitors.119 Moreover, there are reasons to question whether knowledge of any bugs in its equipment could be shared more readily with China’s Ministry of State Security (MSS). This risk may be heightened given the influence of MSS in China’s vulnerabilities database, not to mention Huawei’s historical and continued linkages to the Chinese People’s Liberation Army, including military intelligence.120 For the United States, these risks and security concerns are inextricable from today’s geopolitical exigencies, insofar as the U.S.-China rivalry encompasses scenarios for which there is a nonzero probability of conflict, including over Taiwan. Consistently, Chinese military writings have highlighted the potential for cyberattacks on critical infrastructure as a prelude to outright warfare.121 The presence of equipment from high-risk vendors, such as Huawei, even in rural telecoms is concerning, considering that some of these networks are near military bases, which raises risks of espionage or exploitation.

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### Notice + Comment CP

#### 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.

#### 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.

#### 2AC 2- Perms sever the mandate of the plan---counterplan doesn’t fiat antitrust law but recommends a rule---process could result in no change---makes the affirmative conditional and a moving target.

[IF NOT READ YET]

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.

#### Severs certainty and immediacy

#### 1---“Resolved”---means certain.

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

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

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record.[16](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn16)  [CONTINUES – TO FOOTNOTE] [13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) *In praesenti* means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or *immediately effective*, as opposed to something that *will* or *would* become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### 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---“Anticompetitive”---competition policy doesn’t go through notice and comment.

Spencer Weber Waller 19. John Paul Stevens Chair in Competition Law and Director, Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law. “Antitrust and Democracy”, 46 FLA. St. U. L. REV. 807 (2019).

The question of judicial deference to a FTC decision is a more complicated matter. The FTC is an independent regulatory agency established by Congress with powers over both consumer protection and competition matters. 2 00 The FTC Act prohibits both unfair methods of competition, and unfair and deceptive acts and practices. 2 0 1 The FTC also enforces a wide variety of other statutes that relate to consumer protection and privacy.202 The FTC engages in notice and comment rulemaking in consumer protection, but not in competition matters. 2 03

#### 6---“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.

|  |  |
| --- | --- |
| 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. |

#### 7---“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.

#### The first plank of the counterplan creates deference.

Justin Hurwitz 14. Assistant Professor of Law, University of Nebraska College of Law. “Chevron and the Limits of Administrative Antitrust.” 76 U. PITT. L. REV. 209.

The argument for deference is even stronger when we consider outside references. The statutory history has consistently demonstrated a congressional intent to grant the FTC broad discretion to define the scope of Section 5 and, in particular, that the scope of Section 5 is broader than that of the antitrust laws. 7 E Section 5 was enacted in response to concerns that the courts had interpreted the antitrust laws too narrowly;' 73 it was deliberately drafted with language that had not previously been considered by the courts.174 When the Court imposed an overly narrow construction on the statute in the 1950s, Congress amended the statute to overcome that narrowing interpretation. 1 75

#### Means the courts must defer

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

A change in the FTC's statutory authority could change this. Congress could mandate Chevron deference for the agency's interpretation of antitrust norms by amending the Sherman Act to confer primary authority over its interpretation to the FTC. The shift in legal regime might seem subtle since the FTC already has antitrust rulemaking authority (if weak and interstitial) under a different statute. But giving the FTC dominion over the Sherman Act, American antitrust's constitution, would mean taking the task of largescale policy making out of the hands of an inexpert Court whose best access to economic arguments are amicus briefs and placing it in the hands of an institution designed to deal with technical scientific matters thoroughly and transparently.

#### 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.

#### No re- litigation- 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---Overwhelmingly support the plan---public, thinkers, scholars, and activists will vote yes. [We’ll concede the plan is popular from politics]

David Dayen 20. Prospect’s executive editor. "It’s Not a Big Tech Crackdown, It’s an Anti-Monopoly Revolution". American Prospect. 12-18-2020. https://prospect.org/power/its-not-a-big-tech-crackdown-its-an-anti-monopoly-revolution/

Just look at what’s happening across the spectrum. The Federal Trade Commission is seeking information about data collection from nine social media companies. California Attorney General Xavier Becerra, who’s about to join the Biden Cabinet, is suing to compel Amazon’s compliance with an investigation into the company’s workplace protocols and level of coronavirus cases. Amazon warehouse workers in Alabama are voting on unionization with the Trump Labor Board’s blessing. App seller Cydia is suing Apple for creating a monopoly with its App Store. Researcher Zack Maril single-handedly implanted the notion of Google’s web-crawler monopoly in the public consciousness with one report. Northeastern University professor John Kwoka and Imperial College London’s Tommaso Valenti revised the history on firm breakups, showing them to be far superior to behavioral or conduct remedies. And across the pond, the European Union’s new rules on digital services and markets reflect a stronger and more confident challenge to tech firms, which feels like a direct consequence of the flurry of lawsuits.

This rethinking of antitrust policy and the actions it has spawned couldn’t come at a more critical time. As the pandemic consolidates markets, new mergers—from regional banks to big pharmaceutical firms to the world’s largest cannabis company—are being announced every day. The level of mergers and acquisitions is “extraordinary,” says Goldman Sachs’s top M&A banker Stephan Feldgoise, and he expects those mergers to come with job loss, as is typical with concentration.

The lawsuits against Google and Facebook will last for years. Big Tech’s defenders and lobbyists will defame them and bargain for a settlement of the anti-monopoly strife. The cases might even fail. It doesn’t matter. The policy center of America has now been convinced that the situation in corporate America has grown out of control. Public opinion supports that perspective. The network of anti-monopoly thinkers and scholars and activists has grown. The arguments for enabling monopoly power have been revealed as weak. Nothing is going to stop this evolution away from the laissez-faire of the Chicago school and toward the preservation of liberty and democracy.

#### 2---Notice and comment is consensus building---their ev doesn’t assume the process.

William E. Kovacic 21. Global Competition Professor of Law and Policy, George Washington University Law School; Visiting Professor, Dickson Poon School of Law, King’s College London; Non-Executive Director, United Kingdom Competition and Markets Authority. “The future adaptation of the per se rule of illegality in U.S. Antitrust law”. Columbia Business Law Review.

The public antitrust agencies—the DOJ, the FTC, and the state attorneys general—from time to time have convened public gatherings to examine developments in antitrust law.175 The agencies could apply their capability as convenors to conduct periodic assessments of the operation of per se rules of illegality and to build a consensus about what types of behavior are appropriate subjects for categorical prohibition.176 They could host proceedings in which academics, business officials, judges, policymakers, and practitioners analyze the existing set of per se prohibitions and discuss possibilities for expanding or reducing the set. One could imagine that such proceedings might take place on a regular basis—perhaps every five years. As a recent example, the FTC in 2020 held a public workshop on noncompete covenants as part of a larger set of deliberations on modern competition law and policy.177

An important aim of the periodic reassessment would be to take stock of ongoing advances in economic theory and in learning about business practices. This stock-taking would help illuminate the impact of existing per se rules and help interpret the experience that courts use as a basis for adjusting the class of conduct subject to per se condemnation. The agencies could prepare reports that distill the results of the reassessment proceedings and thus provide accessible means for courts to consider future adaptions to the per se rule.

#### Democratic decision-making is key for long-term sustainability.

Kevin **Casas-Zamora 21**. Non-resident senior fellow with the Peter D. Bell Rule of Law Program at the Inter-American Dialogue, Secretary-General of the International Institute for Democracy and Electoral Assistance. “Why democracy is the key ingredient to battling climate change.” 6/29/21. <https://www.euronews.com/green/2021/06/29/why-democracy-is-the-key-ingredient-to-battling-climate-change>

What are the vices to democracy?

This narrative is not concocted out of thin air. Democracies do suffer from vices when it comes to slow-burning crises like global warming.

Voters and politicians have short attention spans. Balances of power mean reforms can be held hostage to obstinate US Senators or oil lobbyists. Science can play second fiddle to voters if it entails higher taxes - France’s yellow vest protests, sparked by fuel price rises, are a case in point.

And yet, despite all this, the facts are clear - 9 out of the 10 top performers in the 2021 Climate Change Performance Index are democracies.

Sweden tops the list of 57 countries. China is 30th.

The reasons for this are not hard to fathom. Democracies allow for the free flow of information that enables policy makers to debate and find solutions, and for civil society to mobilise.

It is no coincidence that youth campaigner Greta Thunberg helped spark a global movement from a lone street demonstration in Sweden, one of the world’s top performing democracies.

Democracies are more effective against climate change for the same reasons that they don’t experience famines, as Nobel Laureate Indian economist Amartya Sen suggested long ago - because in allowing freedom of expression, a vibrant civil society, regular elections and the workings of checks and balances, they **increase the likelihood that crises will be met and destructive policies corrected.**

Democracy is not simply elections - it is the often chaotic workings of myriad institutions and groups as well as a culture of open debate, where climate reform is nudged along by courts, free media, parliaments, and public protests. Democracy’s most powerful weapon against the challenges of this century is **its ability to self-correct.**

And then there is the capacity of democratic systems to forge the social consensus required for long-term transformations to be sustainable. We know this story - participatory decision-making may be slower than executive decrees, but almost always yields outcomes that are **more legitimate and accepted by society, and hence more durable.**

This is vital for climate change. Decarbonisation is not something governments do by fiat, though act they must - it is something societies as a whole must do by conviction. Consumer habits will need to change, from reducing air travel to adjusting diets. Trillions of dollars will have to be invested in transforming the sources of energy that fuel economies.

#### Authoritarianism causes global wars---multiple flashpoints escalate.

Shashank **Joshi 18**. Senior Policy Fellow for International Affairs. “Renewing the Centre Authoritarian Challenges to the Liberal Order”. 6-21-2018. <https://institute.global/insight/renewing-centre/authoritarian-challenges-liberal-order>

What does this mean for democracies? Autocracies present a series of individual challenges to their local rivals: Russia to the Baltic states, China to Taiwan and North Korea to South Korea, for instance. But the problem they pose to world order is larger than the sum of these issues. It is, rather, an ideological and systemic challenge that will **reshape** the norms of **i**nternational **r**elations. Will these norms reflect liberal principles such as openness, rule following and individual rights or competing authoritarian ones such as secrecy, arbitrariness and state power?

This competition over norms will influence not only Western liberal democracies but also the wider multipolar order that is emerging. In regions with weak political institutions or nascent democracies—parts of Africa, South and Southeast Asia, and East and Southeast Europe—the regional order is especially malleable. If authoritarian states can shape these regions in their own image, thisbolsters their global standing and puts liberal democracy further on the back foot. This argument does not require an acceptance that democracies always act in liberal ways or adhere to a single and consistent set of norms. Authoritarian states also differ widely in levels of openness and repression, the balance between civilian and military authority, and civil versus political freedoms.11 Yet despite this variety, there remain systematic differences between democratic and authoritarian states in attitude, inclination and values—and this has important foreign policy implications.

TYPES OF AUTHORITARIAN CHALLENGE

The authoritarian challenge to liberal democracy can be broken down into six categories.

The Military Challenge

Authoritarian states represent the **most serious military threat** to the democracies of Europe and Asia. Russia has dissolved existing norms regarding the use of force, conducting in Europe the first annexation of territory and the first use of chemical weapons since the Second World War.12 Russia’s use of hybrid warfare, which prioritises secrecy, deception and political warfare, presents a particular danger to rule-bound open societies.13 China, though more cautious, has also demonstrated increasingly assertive behaviour in the South China Sea, including the militarisation of reclaimed islands, the rejection of arbitration efforts and an escalation of the country’s border dispute with India.14

The military challenge posed by authoritarian states is not a quirk of the past few years. Russian and Chinese behaviour is rooted in their resentment of the Western order, ambition for great power status and fear of Western power.15 All three of these drivers are shaped by these countries’ authoritarian political systems. The best available scholarship continues to show that democracies enjoy more peaceful relations with other democracies than with autocracies, suggesting that authoritarian states are intrinsically more likely to be threatening.16 Among states that ratify treaties governing the laws of war, democracies are also more likely to comply with these rules than autocracies are.17

The Coercion Challenge

Military threats are the most serious form of coercion, but more common is the use of broader, often more subtle, political and economic pressure to intimidate and cajole liberal democracies into changing their behaviour. Authoritarian countries use coercion to secure specific interests, such as China’s successful embargo and isolation of Norway after the Nobel Peace Prize was awarded to a dissident in 2010, or to influence a country’s strategic orientation, such as Russia’s use of intimidation to scare neutral countries, such as Sweden and Finland, away from the North Atlantic Treaty Organisation (NATO). All countries use coercion; consider Western sanctions on Iran and Russia. But autocrats typically do so to counter threats to their rule or to uphold spheres of influence abroad, both of which require confronting and undercutting democracy in other states.18

For instance, China’s use of its market power to coerce academic publishers into curbing access to scholarship and technology firms into censoring their products points to a gradual and insidious encroachment on free speech; so does the increasing frequency with which international firms feel compelled to apologise to China for ideological infractions, such as acknowledging Taiwan’s nationhood or publishing noncompliant maps.19 The growth of China’s strategic investments and Russia’s deepening control over energy supplies represent particular European vulnerabilities, both of which could be used for future coercion for a variety of purposes.20

Other examples of authoritarian coercion include Turkey’s campaign to put pressure on dissident groups abroad, Iran’s efforts to target the Iran-based families of critical foreign media outlets and Russia’s assassinations in Europe.21 Turkey has even threatened to conduct operations against Western rating agencies that have done as little as downgrade the country’s credit score.22 Such actions will all have similar long-term chilling effects, unless these campaigns are blunted.

The Influence Challenge

In addition to overt coercion, authoritarian states deploy more subtle means to reshape the intellectual climate of democracies in their favour. One tactic is to cultivate sympathetic intellectual and political networks through open or clandestine means, including the funding of educational or research institutes, and the intensive use of political lobbying to influence political leaders.23 Another is to suppress negative press while rewarding and encouraging more pliant coverage, through selective access and other means. Yet another is the development of alternative media channels to spread propaganda and sow confusion.24

Liberal democratic states are by definition open. This makes them especially vulnerable to authoritarian influence campaigns, which not only distort national debates about how to respond to that very challenge but also undermine the respect for information and faith in objective truth on which the proper functioning of democracy depends. Influence operations exploit and compound the problem of declining trust in news media, with levels of trust well below 50 per cent in the United Kingdom (UK), below 40 per cent in the United States (US) and at 30 per cent in France.25 Russia’s use of state-controlled print and broadcast media to spread disinformation around its military and covert actions is the starkest example.26 At times, Russia has leveraged its influence into direct intervention, notably in its attempted coup in Montenegro in 2016, demonstrating how these different types of challenges—physical and ideological—can meld together.27

China has pursued a less provocative, if no less troubling, approach.28 Beijing’s state-controlled media outlets are growing rapidly and increasing their footprint in Western democracies.29 There is mounting evidence of the growing propaganda and influence activity of China’s United Front Work Department, the large role of Beijing’s state-controlled Confucius Institutes on foreign university campuses, and the increasing penetration of paid-for pro-Chinese content such as editorial partnerships or advertorials in respectable print outlets in Europe and the United States.30 Authoritarian states in the Middle East have used similar strategies, through overt channels like Qatar’s Al Jazeera and more clandestine means.31Smaller regimes typically have fewer resources and narrower ambition, but can still have region-wide impact: allies of Hungarian President Viktor Orbán have invested in media outlets of nearby countries, like Slovenia, supporting like-minded candidates there.32

The Disruption Challenge

Military threats, coercion and influence tend to be aimed at changing behaviour in specific ways, often through particular policies. But authoritarian states also target liberal democracies in a broader, less purposeful way. Authoritarian powers seek to weaken democratic rivals and alliances to undermine the ideological appeal of open societies, in turn consolidating their own power.

This interference occurs on a spectrum ranging from broad propaganda to cyberattacks to full-blown political subversion.33 Russia’s assault on the 2016 US presidential election and support for extremist political movements in Europe are the most egregious examples of this challenge.34 This approach was in keeping with Russia’s long-standing practice of active measures—the deliberate effort to widen cracks in an adversary’s society.35 The purpose of these interventions is not only to elevate individual candidates or parties, or to bargain over a particular policy, but also to sap confidence in the health of democracy as a whole.

The Spread of Authoritarian Norms

The competition between authoritarian states and liberal democracies plays out not only through their direct interactions but also with respect to wider international norms.

This challenge to norms has two dimensions. One is negative, with authoritarian states arguing that the political and economic difficulties of the West, and the relatively slower growth of non-Western democracies like India, demonstrate the failure of the entire political model. They associate liberal democracy with stagnation, unpredictability and even chaos.

Alongside this attempt to discredit liberal democracy is a parallel effort to displace liberal norms—ones that hinder authoritarian states’ freedom of action, or even threaten their own legitimacy—with alternative ones. As authoritarian states grow more powerful, prosperous and confident, their principles are reflected in their broader foreign policy. These principles include majoritarianism, absolute sovereignty, boundless executive power, historical revisionism and personal rule.36 Authoritarian states become more comfortable with supporting repressive regimes, even in periods of intense violence, less willing to make cooperation conditional on human rights and rule-of-law concerns, and more likely to export the authoritarian behaviours and ideas they practise at home.

These norms can take hold across large areas. Authoritarian-led regional blocs, such as the Shanghai Cooperation Organisation (SCO) or the Eurasian Economic Union (EEU), create space for illiberal cooperation, for instance allowing the extradition of suspects on political grounds that would never be accepted in groupings such as the European Union (EU).37 The Russian-dominated Commonwealth of Independent States (CIS) and the Chinese-led SCO have both created spurious election-monitoring bodies “that endorse fraudulent elections with the aim of clouding the assessments made by established monitoring organizations”—a quintessential example of authoritarian norm setting.38

Authoritarian norm setting can spread through both political and economic projects. China’s Belt and Road Initiative, a flagship set of infrastructure and connectivity projects stretching from Asia to Europe, has empowered strongmen leaders, tilted the civil-military balance in Pakistan away from civilians, saddled low-capacity countries with unsustainable debt, favoured Chinese over local firms or transparent international tendering and paved the way for an expansion of China’s military footprint into new areas.39 The scheme has provoked a backlash from the US, Europe, India and Japan, among others, not only because it embodies unfair economic practices, but also because it squeezes liberal norms—such as transparency and multilateralism—in key regions like the Indian Ocean.

Internationally, at the United Nations (UN), Russia and China have systematically targeted human-rights advocacy by attempting to cut spending for human-rights posts on UN peacekeeping missions, attacking a human-rights cell in the office of the secretary general, and blocking a UN human-rights commissioner from addressing the UN Security Council on Syria.40 More broadly, authoritarian states export their norms not only by selling or transferring individual tools of surveillance, such as cameras and software, but also through entire systems of repression.41

Finally, authoritarian states offer the world an alternative political model to liberal democracy, capitalising on what they portray as the congenital shortcomings of open societies. At the 19th Party Congress of the Chinese Community Party, President Xi Jinping notably presented China as “a new option for nations who want to speed up their development while preserving their independence”.42 China’s model of authoritarian capitalism, contrasted to the low growth and political instability of its Western competitors, makes it harder for democracies to sell their norms to developing countries and can even reinforce disillusionment in the West. Russia’s model of personal rule, ultranationalism and purported defence of traditional Western civilisation appeals to would-be strongmen in Europe and beyond.43

The Cohesion Challenge

Democratic backsliding in the democratic congregation, or among its aspiring members, presents a different sort of challenge. In recent years, Poland and Hungary have exemplified this problem. Their governments have undermined the rule of law, weakened the free press, removed checks and balances, and vilified minorities.44 Among countries queuing up to join the EU, the trends are also worrying. In the Western Balkans, for instance, media freedom and governance have both been eroding.45 This is partly linked to the challenges described above, in the form of Russian disruption, such as a Russian-backed coup attempt in Montenegro, and influence operations, including the spread of Russian propaganda channels.46

This political regression has three major consequences for liberal democracies. First, it undercuts the EU’s claim—to its own citizens, to aspiring members and to the wider world—to embody liberal democratic values. Europe has less credibility in speaking to backsliding states in Asia, Africa or South America when its own members can violate core European values with impunity.

Second, democratic backsliders—particularly those of the populist-nationalist variety—are more likely to advance a view of international relations that prioritises competition and bargaining over liberal solidarity. This cuts at the ideological heart of the European project.

Third, illiberal-minded leaders in Poland and Hungary, as well as in Italy, Austria and even the United States, are more likely to demonstrate affinity for authoritarian powers like Russia.47 This frustrates a common European and Western response. Hungary, for instance, was the lone abstention from a European rebuke of China’s Belt and Road Initiative in late 2017, and blocked a statement on China’s conduct in the South China Sea in 2016.48

Summarising the Challenge

What can we draw from this breakdown of the authoritarian challenge?

First, this is not just a story of Russia and China. While Russian revanchism and China’s extraordinary economic ascendance make them two of the most significant authoritarian powers, it would be a mistake to consider the challenge in these narrow terms. Authoritarian middle powers can exert a larger influence on their region than more distant great powers; Turkey’s impact on the Western Balkans, the Levant and the Persian Gulfis in many respects larger than that of China.49

Second, while it is useful to disaggregate these challenges, they can also flow into one another. Influence operations that spread propaganda and false claims can disrupt national politics, undermine cohesion between allies and function as a coercive threat of more to come.

#### Democracy solves great power war.

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

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