# Off

## Litigation

#### Litigation is controlled now---the aff kills it

Emily S. Taylor Poppe 21, Assistant Professor of Law at the University of California, Irvine School of Law, “Institutional Design for Access to Justice”, UC Irvine Law Review, 11 U.C. Irvine L. Rev. 781, February 2021, Lexis

This law-centric orientation is strikingly different from that of most Americans, despite popular claims about their litigiousness. Most individuals never even identify the civil legal problems they experience as "legal." Only a tiny minority will ever seek legal advice in response to a problem, and most are more likely to do nothing than to file a lawsuit. Decades of empirical scholarship have confirmed that despite the prevalence of civil legal problems in everyday life, there is remarkably little recourse to formal law. [FOOTNOTE BEGINS] DAVID M. ENGEL, THE MYTH OF THE LITIGIOUS SOCIETY: WHY WE DON'T SUE 3 (2016) (noting that "specious claims of a litigation explosion have been made so often that they have rooted themselves in the national psyche"). [FOOTNOTE ENDS]

#### Antitrust litigation is uniquely complex and resource-intensive---a spike trades-off with judicial functioning in other areas

Daniel R. Warren 15, JD from the Boston University School of Law, BS from Ohio State University, “Stress Fractures: The Need to Stop and Repair the Growing Divide in Circuit Court Application of Summary Judgment in Antitrust Litigation”, Review of Banking and Financial Law, 35 Rev. Banking & Fin. L. 380, Lexis

A. Summary Judgment Can Cut Short Extreme Costs Antitrust litigation can involve enormous discovery costs, particularly when antitrust litigation overlaps with class action litigation. Due to the wide scope of many antitrust claims, discovery can implicate a broad range of documents, records, interrogatories, and depositions. In fact, "[s]trategically minded" plaintiffs can take advantage of antitrust law's "onerous discovery costs" by requiring the defendant "to respond to wide-ranging interrogatories, produce documents, and prepare for and defend depositions" with only a "facially plausible allegation" of an antitrust violation. These costs can take a very large toll on both large and small businesses. The legal hours necessary to answer and address discovery challenges can also impose extreme costs. Plaintiffs can often use discovery costs as a weapon against defendants in antitrust litigation. The Seventh Circuit Court of Appeals stated that "antitrust trials often encompass a great deal of expensive and time consuming discovery and trial work" in explaining that the "very nature" of antitrust litigation should encourage summary judgment. The court's language here supports [\*389] the idea that in antitrust litigation, summary judgment has a special value, greater even than its normal use in other areas of the law. Summary judgment can be used to cut short lengthy litigation where parties have already accrued extreme costs from discovery and one party still cannot produce a genuine issue of material fact. In antitrust litigation, the value of summary judgment to mitigate discovery costs through shortening litigation is elevated to a special importance even greater than normal for three reasons. First, antitrust litigation normally involves large organizations, which magnifies the costs of those firms going through the discovery process. Large firms have a great number of involved employees and departments, all of which would likely be subject to the broad discovery that is characteristic of antitrust litigation. Summary judgment, though normally considered after discovery, is a procedural weapon available at nearly any point in this process, as "a party may file a motion for summary judgment at any time until 30 days after the close of all discovery." The existence of a stay for extension of discovery shows that summary judgment need not automatically wait for discovery's completion, and thus can be an invaluable safeguard against otherwise incredibly costly discovery. This safeguard allows summary judgment to be a powerful tool to radically lower discovery time and costs without "railroad[ing]" the other party. Second, antitrust litigation is normally a slow process that takes a great deal of time. The amount of time necessary to process and review evidence produced by discovery leads to incredible legal costs, often disproportionately placed on the defendant firm. The plaintiff has the advantage over the defendant in deciding the scope of discovery costs, and may often tailor its claim in such a way as to avoid the discovery costs that a defendant's counterclaim may reflect [\*390] back on the plaintiff. These lengthy trials can be effectively truncated by summary judgment, and thus summary judgment's normal value is even greater in the world of antitrust litigation where protracted trials are the norm. Finally, the vast amount of evidence necessary to prove the elements of an antitrust claim contribute to the large discovery costs tied to antitrust litigation by overwhelming judges' ability to reign in discovery costs. Currently, we rely on judges to limit the range of discovery requested, but in the context of antitrust litigation, judges have difficulty dealing with the broad variety of evidence that may be called for. One analysis of the power of discovery described it as a costly and potentially abusive force, and determined judges' abilities to limit discovery costs on their own as "hollow" at best: A magistrate supervising discovery does not--cannot--know the expected productivity of a given request, because the nature of the requester's claim and the contents of the files (or head) of the adverse party are unknown. Judicial officers cannot measure the costs and benefits to the requester and so cannot isolate impositional requests. Requesters have no reason to disclose their own estimates because they gain from imposing costs on rivals (and may lose from an improvement in accuracy). The portions of the Rules of Civil Procedure calling on judges to trim back excessive demands, therefore, have been, and are doomed to be, hollow. We cannot prevent what we cannot detect; we cannot detect what we cannot define; we cannot define "abusive" discovery except in theory, because in practice we lack essential information. Even in retrospect it is hard to label requests as abusive. How can a judge distinguish a dry hole (common in litigation as well as in the oil business) from a request that was not justified at the time? [\*391] Summary judgment can also reduce costs to both parties by reducing time and discovery costs to the parties, and to the judicial system itself, by cutting short lengthy litigation. Both sides often incur costs from employing experts in various areas, researching and producing evidence necessary to prove or disprove elements of antitrust actions, and in the great many legal hours necessary for both plaintiffs and defendants--not to mention costs to the state--during lengthy litigation that is often fruitless due to an "incentive to file potentially equivocal claims." Antitrust law is structured in such a way as to have a "special temptation" for what would otherwise be frivolous litigation. As antitrust law is, by its very nature, between competitors, there is significant motivation to force costs on to other firms, perhaps even through frivolous legal claims or intentionally imposing other large legal costs. Costs can also multiply in antitrust litigation because antitrust actions are often combined with other particularly complex areas of law, such as patent law or class actions. Class actions particularly in the antitrust context can make trials "unmanageable." Combining two already complex areas of law is a recipe for large legal costs and prolonged litigation. The value of cutting costs short cannot be overstated, as antitrust litigation takes place in the arena of business competition. This means that firms are already engaged in close competition for antitrust cases to be relevant, and thus unnecessary costs can further distort the market.

#### Efficient court review underpins patent-led innovation---that stops nuclear war and a range of existential threats

Robert J. Rando 16, Founder and Lead Counsel of The Rando Law Firm P.C., Fellow of the Academy of Court-Appointed Masters, Treasurer for the New York Intellectual Property Law Association, Chair of the Federal Bar Association Intellectual Property Law Section, “America’s Need For Strong, Stable and Sound Intellectual Property Protection and Policies: Why It Really Matters”, IP Insight, June 2016, p. 12-14 [language modified] [abbreviations in brackets]

Robert F. Kennedy’s speech, which includes his reference to the oft-quoted “interesting times” curse, applies throughout history in many contexts and, indeed, with both negative and positive connotation. While he focused on the struggles for freedom and social justice, the requisite ascendancy of the individual over the state, and the institution and integration of those ideals for the greater good, he also promoted the goals of greater global unity, cooperation and communication, which were, and could be, achieved by advances in technology. And, as noted in the excerpt, he championed “the creative energy of men.” Intellectual Property in “Interesting Times” It is beyond question that starting with the last decade of the twentieth century and throughout the first two decades of the twenty-first century, when it comes to matters relating to intellectual property, we have been living in “interesting times.” Some may interpret these interesting times as defined by the curse and others may view it by the ordinary meaning of “interesting.” In either case, those of us that toil in the fields of patents, copyrights, trademarks, trade secrets, and privacy rights have experienced an unprecedented sea change in the way those rights are procured, protected and enforced. Likewise, and perhaps more importantly, even those of us that do not practice in these areas of law, as well as the general public, have been, and continue to be, impacted by the consequences of these changes (both positive and negative). The Changes In Intellectual Property Law Examples of some of the changes in intellectual property law are: the sweeping 2011 legislative changes to the patent laws under the America Invents Act (AIA), which impact is only beginning to be fully appreciated; the various proposals for patent law reform, on the heels of the AIA, beginning with the 113th and 114th Congress; the copyright laws Digital Millennium Copyright Act (DMCA) and numerous 114th Congressional proposed copyright law changes; the recently enacted federal trade secret law (Defend Trade Secrets Act of 2016 (DTSA))2; the impact of the internet, domain names and globalization on Trademark law; the intellectual property law harmonization requirements included in various global/regional trade agreements; and the proliferation of devices (both invasive and non-invasive) that defy any rational basis for believing we can still adhere to the republic’s libertarian understanding of the right to privacy. Without engaging in “chicken and egg” analysis, it is sufficient to observe that technological advancement, societal needs, globalization, existential threats, economic realities, and political imperatives (or what James Madison referred to in the Federalist Papers No. 10 as factious governance), have combined to create the “interesting times” for the United States [IP] intellectual property laws. What was said by Bobby Kennedy in 1966 remains true today. We live in dangerous and uncertain times. Many of the existential threats remain the same (nuclear war and proliferation, [genocides] ~~genocidal maniacs~~ and natural disease) and some are new ([hu]manmade disease, greater awareness of environmental changes and possibly human interrelationship factors, and the unintended consequences of genetic manipulation and robotic technologies). The danger and uncertainty that pervades changes in intellectual property laws, though not an existential threat of the same manner and kind, correlates with the threat and remains “more open to the creative energy of man than any other time in history.” Apropos the creative energy of man, there is a non-coincidental congruence and convergence of activity across and among the three branches of government, occurring almost simultaneously with the congruence and convergence of the rapid developments of technological innovation across various scientific disciplines and the information age, reflected in the transformation of the [IP] intellectual property laws in the United States. Patents The passage of the AIA was a culmination of efforts spanning several years of Congressional efforts; and the product of a push by the companies at the forefront of the twenty-first century new technology business titans. The legislation brought about monumental changes in the patent law in the way that patents are procured (first inventor to file instead of first to invent) and how they are enforced (quasi-judicial challenges to patent validity through inter-party reviews at the Patent Trial and Appeals Board (PTAB)). The 113th and 114th Congress grappled with newly proposed patent law reforms that, if enacted, may present additional tectonic shifts in the patent law. Major provisions of the proposals include: fee-shifting measures (requiring loser pays legal fees - counter to the American rule); strict detailed pleadings requirements, promulgated without the traditional Rules Enabling Act procedure, that exceed those of the Twombly/Iqbal standard applied to all other civil matters in federal courts, and the different standards applicable to patent claim interpretation in PTAB proceedings and district court litigation concerning patent validity. The Executive and administrative branch has also been active in the patent law arena. President Obama was a strong supporter of the AIA3 and in his 2014 State Of The Union Address, essentially stated that, with respect to the proposed patent law reforms aimed at patent troll issues, we must innovate rather than litigate.4 Additionally, the USPTO has embarked upon an energetic overhaul of its operations in terms of patent quality and PTO performance in granting patents, and the PTAB has expanded to almost 250 Administrative Law Judges in concert with the AIA post-grant proceedings’ strict timetable requirements. The Supreme Court, not to be outdone by the Articles I and II branches of the U.S. government, has raised the profile of patent cases to historical heights. From 1996 to the 2014-15 term there has been a steady increase in the number of patent cases decided by the SCOTUS5. The 2014-15 term occupied almost ten percent of the Court’s docket. Prior to the last two decades, the Supreme Court would rarely include more than one or two patent cases in a docket that was much larger than those we have become accustomed to from the Roberts’ Court6. While the SCOTUS activity in patent cases is viewed by some as a counter-balance to the perceived Federal Circuit’s pro-patent and bright line decisions, it can just as assuredly be viewed as decisions rendered by a Court of final resort which does not function in a vacuum devoid of the social, economic and political winds of the times. In recognition of the effect new technologies have on the patent law, the politicization of intellectual property law matters, especially patent law (through factious governing principles of the political branches of the government), and the maturation of the Federal Circuit patent law jurisprudence, the SCOTUS has rendered opinions in cases that impact, and perhaps are/were intended to mitigate the concerns regarding, some of the vexing issues confronting the patent community today (e.g., non-practicing entities or in the politicized parlance “patent trolls,” the intersection of patent and antitrust laws in Hatch-Waxman so called “pay-for-delay” settlements between Branded and Generic pharma companies, and the fundamental tenets that comprise the very heart of what is patent eligible subject matter). Copyrights The advent and ubiquity of the internet, social media and digital technologies (MP3s, Napster, Facebook, YouTube, and Twitter) represents the impetus for changes in the Copyright laws. The DMCA addressed the issues presented by these advances or changes in the differing media and forms of artistic impressions. The proliferation of digital photos, graphic designs and publishing alternatives, as well as adherence to globalization harmonization have given rise to changes in the statutory law and jurisprudence in this area of intellectual property law. Additionally, there is an overlap of patent rights and copyrights for software driven by the ebb and flow of the strength of each respective intellectual property protection. Notably, the Patent and Copyright Clause7, in addition to Author’s writings, has been viewed as discretely applying to two different types of creativity or innovation. When drafted the “sciences” referred not only to fields of modern scienctific inquiry but rather to all knowledge. And the “useful arts” does not refer to artistic endeavors, but rather to the work of artisans or people skilled in a manufacturing craft. Rather than result in ambiguity or confusion, perhaps the Framers were either quite prescient or, just coincidentally, these aspects of the Patent and Copyright Clause have converged. For example, none other than the famous Crooner, Bing Crosby, benefited from both protections. Well-known as a prolific and popular recording artist he also benefited from his investments in the, then innovative, recording technologies. Similarly, the Beatles, Beach Boys, as well as many other rock and roll artists, experimental efforts in music performance, recording and production, helped to transform the music industry in both copyrightable artistic expression and patentable inventions. Similarly, film, literary and digital arts reap benefits at the crossroads of both copyright and patent protections. Trademarks Trademark laws have been impacted by numerous changes in the business landscape. They include the internet, Domain names, international rights in a global economy, different venues and avenues for branding, marketing and merchandising, global knock-offs from nations that have a less than stellar respect for intellectual property rights, and international trade agreements. More recently, politicization (or perhaps political correctness) has creeped into the trademark law arena pitting branding rights and protections against first amendment rights. Trade Secrets As with Copyright and Trademark law, trade secrets law includes some of the same issues related to trade agreements. TRIPS required members to have trade secret protection in place. Initially, the United States compliance with this requirement has relied upon the trade secret law of the individual states. That compliance may be supplanted by the recently enacted DTSA. Similarly, the Trans Pacific Partnership (TPP) trade agreement contains intellectual property rights provisions that will trigger required changes to United States statutory Intellectual Property Laws. The proposed trade secret legislation also gives rise to several concerns. For instance, there is an absence of a specific definition for trade secret, as well as potential issues of federalism, conflict with state law precedent (despite no preemption), remedies, and the impact on employer/employee relations. There is also a real concern that the strengthening of trade secret protection in conjunction with the perceived weakening of patent protection (e.g., high rate of invalidating patents in post-grant proceedings before the PTAB and strict limitations on what is patent eligible subject matter) may very-well have the unintended consequence of contravening the purpose behind the Patent and Copyright Clause: “to promote the progress of the sciences and the useful arts.” Moreover, the incentive to innovate may very well be usurped by the advantage of withholding patent law disclosure of highly beneficial scientific advancements that directly affect the human condition, alter life expectancies and the evolution of the human species (rather than by mere “natural selection”), and what is the very essence of a human being (for better or worse). Thus, crippling innovation and the progress of the sciences and useful arts. Privacy Rights It is increasingly more difficult to function “off the grid.” The invasive and non-invasive attributes of the internet, the reliance upon the multitude of devices, social media, and information age technologies, and access to big data, all contribute to the decrease in and dilution of the right to privacy. Wittingly or otherwise, the strong libertarian roots of the republic have been replaced by dependence upon these modes of an information-age life. Commentary on the benefits and deficits of this reality are beyond the subject and purpose of this writing. Suffice to acknowledge that the right to privacy has been significantly reduced. The laws that protect these rights are in a constant struggle to maintain those rights while yielding to the demands of the lifestyle and security concerns. Laws that relate to cybersecurity in the global and domestic space create interplay with privacy rights. Legislation, trade agreements and jurisprudence all impact this area of intellectual property. Cross-border theft of trade secrets, competitor espionage, and loss of control over personal data are all implicated in the intellectual property law arena. America’s Need For Strong Intellectual Property Protection The need for strong protection of intellectual property rights is greater now than it was at the dawn of our republic. Our Forefathers and the Framers of the U.S. Constitution recognized the need to secure those rights in Article 1, Section 8, Clause 8. James Madison provides insight for its significance in the Federalist Papers No. 43 (the only reference to the clause). It is contained in the first Article section dedicated to the enumerated powers of Congress. The clause recognizes the need for: uniformity of the protection of IP rights, securing those rights for the individual rather than the state; and, incentivizing innovation and creative aspirations. Underlying this particular enumerated power of Congress is the same struggle that the Framers grappled with throughout the document for the new republic: how to promote a unified republic while protecting individual liberty. The fear of tyranny and protection of the “natural law” individual liberty is a driving theme for the Constitution and throughout the Federalist Papers. For example, in Federalist No. 10, James Madison articulated the important recognition of the “faction” impact on a democracy and a republic. In Federalist No. 51, Madison emphasized the importance of the separation of powers among the three branches of the republic. And in Federalist No. 78, Alexander Hamilton, provided his most significant essay, which described the judiciary as the weakest branch of government and sought the protection of its independence providing the underpinnings for judicial review as recognized thereafter in Marbury v. Madison. All of these related themes are relevant to the Patent and Copyright Clause and at the center of the intellectual property protections then and now. The Federalist Papers No. 10 recognition that a faction may influence the law has been playing itself out in the halls of congress in the period of time leading up to the AIA and in connection with the current patent law reform debate. The large tech companies of the past, new tech, new patent-based financial business model entities, and pharma factions have been the drivers, proponents and opponents of certain of these efforts. To be sure, some change is inevitable, and both beneficial and necessary in an environment of rapidly changing technology where the law needs to evolve or conform to new realities. However, changes not premised upon the founding principles of the Constitution and the Patent and Copyright Clause (i.e., uniformity, secured rights for the individual, incentivizing innovation and protecting individual liberty) run afoul of the intended purpose of the constitutional guarantee. Although the Sovereign does not benefit directly from the fruits of the innovator, enacting laws that empower the King, and enables the King to remain so, has the same effect as deprivation and diminishment of the individual’s rights and effectively confiscates them from him/her. Specifically, with respect to intellectual property rights, effecting change to the laws that do not adhere to these underlying principles, in favor of the faction that lobbies the most and the best in the quid pro quo of political gain to the governing body threatens to undermine the individual’s intellectual property rights and hinder the greatest economic driver and source of prosperity in the country. It is also important to recognize that the social, political and economic impact of strong protections for intellectual property cannot be overstated. In the social context, the incentive for disclosure and innovation is critical. Solutions for sustainability and climate change (whether natural, man-made or mutually/marginally intertwined) rely upon this premise. Likewise, as we are on the precipice of the ultimate convergence in technologies from the hi-tech digital world and life sciences space, capturing the ability to cure many diseases and fatal illnesses and providing the true promise of extended longevity in good health and well-being, that is meaningful, productive, and purposeful; this incentive must be preserved. In similar fashion, advancements in technologies related to the global economy and communications will enhance the possibilities for solutions to political and cultural conflicts that arise around the globe. Likewise, the United States economy has always benefited when it is at the forefront of innovation and achieves prosperity from its leadership role in technological advancements. Conclusion As was the case in 1966, how we move forward today, to solve the many problems facing our country and the broader global community in these “interesting times,” both within and without the laws affecting intellectual property rights, depends upon the “creative energy of man” which must prevail. An achievable goal, dependent on the strong, stable and sound protection of intellectual property rights.

## T-Congress

#### T-Congress

#### Expand requires a “change in the law”

Hatter 90 (HATTER, District Judge. Opinion in In re Eastport Associates, 114 BR 686 - Dist. Court, CD California 1990. Google scholar caselaw. Date accessed 7/12/21)

Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal.App.3d 202, 211, 221 Cal.Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "[t]he bill would expand the definition of development moratorium." Senate Bill 186, Stats.1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App.3d 15, 22, 239 Cal.Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### That’s change must be a material modification of the language of the statute

Iowa Supreme Court 4 (CADY, Justice. Opinion in State v. Truesdell, 679 NW 2d 611 - Iowa: Supreme Court 2004. Google scholar caselaw, date accessed 9/13/21)

Generally, a material modification of the language of a statute gives rise to "a presumption that a change in the law was intended." Midwest Auto. III, LLC v. Iowa Dep't of Transp., 646 N.W.2d 417, 425 (Iowa 2002); see 1A Norman J. Singer, Statutes and Statutory Construction § 22.1, at 240-41 (6th ed.2002). The existence of this presumption is enhanced "when the amendment follows a contrary... judicial interpretation of an unambiguous statute." Midwest Auto. III, LLC, 646 N.W.2d at 425.

#### Antitrust laws are statutes

Kalbfleisch 61(KALBFLEISCH, District Judge. Opinion in Paul M. Harrod Company v. AB Dick Company, 194 F. Supp. 502 - Dist. Court, ND Ohio 1961. Google scholar caselaw, date accessed 9/11/21)

Defendant asserts that the term "antitrust laws," as used in the above section and as defined in 15 U.S.C.A. § 12, does not include a judgment or decree entered in connection with an antitrust case filed by the Government. Plaintiff, on the other hand, asserts that "the violation of the earlier decree of this court in itself gives rise to an independent cause of action under Section 4 of the Clayton Act." 15 U.S.C.A. § 15. Plaintiff's Brief, p. 7. Plaintiff concedes that "as far as he has been able to ascertain, this contention raises issues which have never before been decided by any appellate court." Plaintiff's Brief, p. 5.

In Nashville Milk Co. v. Carnation Co., 1958, 355 U.S. 373, 78 S.Ct. 352, 2 L.Ed. 2d 340, the Supreme Court held that the Robinson-Patman Act, 15 U.S.C.A. §§ 13-13b, 21a, was not included among the "antitrust laws" defined in Section 1 of the Clayton Act (15 U.S.C.A. § 12) and that "the definition contained in § 1 of the Clayton Act is exclusive." Id., 355 U. S. at page 376, 78 S.Ct. at page 354.

The definition of "antitrust laws" in 15 U.S.C.A. § 12, clearly embraces only the statutes described therein. Even without such a definition the term "antitrust laws" could not be construed as pertaining to a judgment or decree entered by a court in connection with an antitrust case filed by the Government. Such decrees do not necessarily reflect the prohibitions of the antitrust laws but may, by their terms, seek to dissipate the effects of the past conduct of the parties and, to this end, frequently enjoin performance of acts lawful in themselves. To permit a private party to recover damages for violation of any provision of such a decree is so obviously beyond the scope of the term "antitrust laws," as used in the statute, as to require no further discussion.

#### Violation---the aff isn’t Congress.

#### VOTE NEG:

#### First---Ground---Congressional change guarantees core DAs like horse-trading and politics, and have link uniqueness because of decades of Congressional inertia.

#### Second---Functional Limits---forces aff to have a comparative solvency advocate, which constrains aff choice. It’s try-or-die for an agential constraint because the topic is bidirectional and unlimited.

## Private sector

#### ‘Private sector’ means all private entities—no subsets.

US Code 96—(codification by subject matter of the general and permanent laws of the United States). 2 U.S. Code § 658 - Definitions. <https://www.law.cornell.edu/uscode/text/2/658#9>. Section effective January 1, 1996. Accessed 9/23/21.

(9) Private sector

The term ``private sector'' means all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or tribal governments.

#### Vote NEG:

#### 1—Limits and ground—the AFF explodes the topic—hundreds of sectors and subsets of subsets is unsustainable for the NEG.

#### 2—Precision—our interpretation is in legislative context—gold standard for understanding the topic.

## Education CP

#### Text: States with Major League Baseball stadiums should eliminate their subsidies for professional sports stadiums and apply those fund towards subsidizing the tuition costs of students enrolled in the State’s public colleges and universities.

#### Solves the aff

1ac Gomer & Hille, 2017

Those who defend giving public dollars to privately owned businesses for stadiums insist that once completed the facilities bring economic benefits to a city that far exceed the public investment. However, study after study after study has found that this is simply not the case. There is very little evidence that new stadiums equate to increased jobs and revenue in a city. Virtually every analysis of the long-term economic effects of stadiums finds no evidence that cities receive anywhere near attractive returns on their investments. In fact, cities lose money on these investments. Most recently, a study done by the Federal Reserve Bank of St. Louis found that “86 percent of economists agreed that ‘local and state governments in the U.S. should eliminate subsidies to professional sports franchises.’” Quite simply, under no circumstances should state and local governments subsidize privately owned professional sports stadiums with taxpayer dollars. Sports stadiums are, in other words, bad investments—unlike education. With that in mind, the willingness of states like Nevada and Georgia to hand out billions of public dollars for privately owned sports stadiums while at the same time divesting from public education raises larger ethical questions about tax expenditures. If, for the sake of simplicity, one focuses on higher education, the cases of Nevada and Georgia are particularly illuminating. According to the Center on Budget and Policy Priorities, the state of Georgia cut total state funding, inflation-adjusted, per student by 16.5% between 2008 and 2016, fourth most in the country. This includes a 20% cut in per-pupil funding in the state’s public colleges and universities ($2151 per college student), which has led to a nearly 77% increase, almost $3700 per year, in tuition. During the same period, Nevada cut total state funding per student by 28%. This amounts to $3147 less per student in state support, which has resulted in a more than 47% increase—$2154 per year—in tuition. What if rather than hand multi-millionaire Mark Davis $750 million of Nevada taxpayer’s money, the state instead put those funds toward subsidizing the tuition costs of students enrolled in Nevada’s four-year public colleges and universities? Based on Nevada’s Full-Time Equivalent (FTE) enrollment, the $750 million amounts to $11,206 per student. That means the state could cover the full tuition for each of the roughly 67,000 students enrolled in the state’s six four-year public colleges and universities for the next 1.68 years. Beyond the unsound economics of this issue are the racialized implications of the social costs of the indirect relationship between public stadium financing and school spending. Given that low-income communities of color bear a disproportionate share of the educational austerity burden, placing public expenditures on sports stadiums alongside education budgets highlights that our education crisis is as much about state priorities and values as it is about the amount of money in public coffers. The willingness to divest from public education, overlook the vast racial inequities in our public education system, and give billions of dollars to billionaires is yet another example of how fiscal policy too often serves as a see-saw that impoverishes low-income communities of color while further enriching the wealthy. Publicly financed stadiums are also yet another reminder that although popular discourse characterizes the poor, and poor African Americans in particular, as the demographic most dependent on government subsidies, it is and has always been rich white men who receive the largest government handouts and benefit most from public subsidy.

## Subsidies CP

#### Text: The United States Federal Government should enact the ‘No Tax Subsidies for Stadiums Act of 2022.’

#### Solves the aff

Rob Ridley (staff) 2/23/2022 [“US LAWMAKERS SEEK TO END SUBSIDIES FOR STADIUM CONSTRUCTION” online @ <https://www.thestadiumbusiness.com/2022/02/23/us-lawmakers-seek-to-end-subsidies-for-stadium-construction/>, loghry]

The US Congress has seen the introduction of a bill which aims to eliminate subsidies for professional sports stadia. The bill was put forward yesterday (Tuesday) by Congresswoman Jackie Speier, along with Congressmen Earl Blumenauer and Don Beyer. Entitled the ‘No Tax Subsidies for Stadiums Act of 2022’, the bill is designed to end the tax-exempt status of municipal bonds that are used to finance pro sports stadiums. Since 2000, it is claimed that subsidies for financing professional sports stadiums have cost taxpayers $4.3bn (£3.17bn/€3.79bn) despite the billions of dollars in profits that NFL clubs and other professional sports team owners gain each year. The three politicians have cited the current situation surrounding NFL franchise the Washington Commanders as one of the reasons behind the introduction of the bill. The Commanders are currently in the midst of a probe into allegations of workplace impropriety lodged against the regime led by owner Daniel Snyder. Speier said: “The NFL has proven once again that it can’t play by the rules. As such, taxpayers-subsidised municipal bonds should no longer be a reward for the Washington Commanders and other teams that continue to operate workplaces that are dens of sexual harassment and sexual abuse. “There is no reason why these teams – the average of which went up in value to $3.48bn in 2021, according to Forbes – should have American taxpayers footing any of their bills. It doesn’t make economic sense, and it’s particularly galling given the league’s longstanding failure to address issues of sexual harassment and sexual assault as well as on-going racial and gender discrimination and domestic violence.” The NFL in July fined Washington $10m for its workplace culture following a nearly year-long investigation. However, further allegations have emerged leading to the League on Friday telling the House Committee on Oversight and Reform that Mary Jo White, a former chair of the U.S. Securities and Exchange Commission, will lead a probe into the new allegations surrounding Snyder. The NFL has said it will release a written report publicly, something that was not done after the initial investigation. These investigations, and the news of the new bill, come with the Commanders at the centre of talk concerning its stadium situation. The State of Virginia last week pressed forward with efforts to attract the Commanders to a proposed stadium complex valued at around $3bn. Washington currently plays at FedExField in Prince George’s County, Maryland but the team’s training base and headquarters are in Ashburn, Virginia. The Commanders have a contract to play at FedExField (pictured) until September 2027 and the team has been exploring options for a new home, with Virginia and Washington having been linked as potential locations. Commenting on the new bill, Blumenauer said: “This issue comes down to communities being held hostage. The NFL and these other sports leagues are a money-making machine that are rich enough to build their own facilities, and we don’t need to divert much-needed public funding to these projects. Let’s instead focus on spending our tax dollars on creating communities where all of our families can thrive.” Beyer added: “Super-rich sports team owners like Dan Snyder do not need federal support to build their stadiums, and taxpayers should not be forced to fund them. Billionaire owners who need cash can borrow from the market like any other business. “Arguments that stadiums boost job creation have been repeatedly discredited. In a time when there is a debate over whether the country can ‘afford’ investments in health care, child care, education, or fighting climate change, it is ridiculous to even contemplate such a radical misuse of publicly subsidised bonds.”

## FTC

#### Antitrust law enforcement has two areas of focus now: health care and big tech. Health care is under the radar.

Levine 8-25-2021, master’s degree from the Columbia University Graduate School of Journalism and a bachelor of arts in English from the University of Pennsylvania. She is also an alumna of the Fellowships at Auschwitz for the Study of Professional Ethics, a program in Germany and Poland that explores the ethics of reporting on politics, war and genocide (Alexandra, “How Biden's tech trustbuster could change health care,” *Politico*, <https://www.politico.com/newsletters/future-pulse/2021/08/25/how-bidens-tech-trustbuster-could-change-health-care-797333>)

Lina Khan’s Federal Trade Commission has its eyes on health care. The agency known for efforts to rein in Big Tech companies like Facebook and Amazon is also enmeshed in high-stakes health care and health tech battles that extend well beyond Silicon Valley. Case in point: The FTC trial that kicked off yesterday examining monopoly concerns in the market for cancer screening technology. (More on that below.) That closely watched antitrust case — involving the giant Illumina and startup Grail — predates Khan’s confirmation as FTC chair. But it underscores how health issues are looming over the agenda, particularly heading into the pandemic's second year. The way health care companies and consumer health apps handle sensitive data “is an area that I'm sure [Khan’s] very, very interested in,” said Jessica Rich, former director of the FTC’s consumer protection bureau, adding that the Biden administration's FTC will also be closely scrutinizing hospital mergers. “I expect her and the commission to take a very bold approach to what constitutes harm for both,” Rich said. “I expect her to pay close attention to algorithms and potential discrimination in health care, both denials and pricing issues which the FTC's laws can address.” The FTC’s jurisdiction touches nearly the entire health economy. While its competition bureau looks at health care mergers like the Illumina-Grail deal, its consumer protection side is focused on health privacy and data security issues, as well as fighting bogus medical claims on everything from weight loss to Covid cures. When Congress passed the Covid-19 Consumer Protection Act last year, the agency was granted new authority to police Covid scams. Although Khan hasn't spoken publicly about her health care agenda, she's likely to take issue with health apps and companies whose business models maximize, incentivize and monetize data collection. Of particular concern is how firms disclose what they’re doing with consumers’ data — and whether it may still be deceptive or unfair.

#### New enforcement priorities trigger a tradeoff from health care

Abbott 21, formerly served as general counsel of the Federal Trade Commission (Alden, “Lack of Resources and Lack of Authority Over Nonprofit Organizations Are the Biggest Hindrances to Antitrust Enforcement in Healthcare,” <https://www.mercatus.org/publications/antitrust-and-competition/lack-resources-and-lack-authority-over-nonprofit>)

Appropriate federal antitrust and consumer protection enforcement is good for the American economy. It promotes enhanced competition and consumer welfare. Regrettably, however, the effectiveness of federal enforcement in achieving these benefits is threatened by insufficient resources. As FTC Acting Chair Rebecca Kelly Slaughter explained in her April 20 testimony before the US Senate Committee on Commerce, Science, and Transportation, FTC employment has remained flat despite a growing workload, with merger filings doubling in recent years. Lauren Feiner reports on that testimony: “The absence of resources means that our enforcement decisions are harder,” [Slaughter] said. “If we think that we have a real case, a real law violation in front of us, but a settlement on the table that is maybe OK but doesn’t get the job done, we have to make difficult decisions about whether it’s worth spending a lot of taxpayer dollars to go sue the companies who are going to come in with many, many law firms worth of attorneys and expensive economic experts, versus taking that settlement.” I can attest to the accuracy of Slaughter’s observation, based on my experience as FTC general counsel in the Trump Administration. During my tenure, the FTC did indeed have to contend with resource limitations that adversely affected merger enforcement decision-making. The problem of resource constraints is particularly acute in the case of healthcare merger reviews, given the increasing consolidation of healthcare institutions. As one noted healthcare scholar stated in 2019, “The Affordable Care Act did not start the consolidation rapidly occurring with hospitals/health systems and medical groups, but it most definitely accelerated the movement to combine. In the last five years, the number and size of consolidations have been at an all-time high.”

#### Health consolidation collapses public health---specifically rural care

Numerof 20, PhD @ Bryn Mawr, internationally recognized consultant and author with over 25 years of experience in the field of strategy development and execution, business model design, and market analysis (Rita, “Covid-Induced Hospital Consolidation: What Are The Impacts On Consumers, And Potentially The President,” *Forbes*, <https://www.forbes.com/sites/ritanumerof/2020/11/11/covid-induced-hospital-consolidation-what-are-the-impacts-on-consumers-and-potentially-the-president/?sh=692d6fc94da0>)

Covid-19 has initiated yet another wave: A wave of hospital mergers and acquisitions that will have devastating consequences for public health if industry doesn’t soon execute an about-face. Whether because they’re on the brink of bankruptcy and have subscribed to the half-truth that size is protective, or because they think they can score some good deals and believe scale and success are synonymous, the financial fallout of Covid-19 has caused many hospital executives to make consolidation a core part of their future plans. With the intent of increasing care quality and decreasing consumer costs despite these challenging times, the merger between Shannon Medical Center and Community Hospital and partnership between Intermountain and Sanford Health are just two examples. There are multiple reasons why consumers absolutely cannot afford for industry to bulk up in an effort to weather this storm. The first is that the positive efforts executives claim consolidation will help them accomplish often prove to be futile. Research shows that wherever market concentration is high, there are also higher prices for both consumers and the employers who provide their healthcare coverage. In the absence of competition, costs increase and quality deteriorates. That’s the opposite of progress. Second, generally speaking, the union of two institutions with operational shortcomings only creates one larger institution with even more operational shortcomings! That’s not progress either. Third, Covid-induced consolidation will only make future progress many times more difficult. The larger an organization is, the more it will struggle to rapidly adapt to healthcare disruptions like we’re seeing today. Retail giants like Walmart, Walgreens, Amazon and CVS are pivoting to cater to healthcare consumer demands for affordability and accessibility. Right now, they’re still a blip on the radar relative to mainstream healthcare delivery, but they are looking to eventually corner the market and drive the industry forward. And as they continue down this path, consolidated healthcare systems will be left behind, potentially at the expense of the consumers in that area. The potential impact of continued consolidation on rural patients is especially concerning. Rural communities may have a limited number of the big-box retailers mentioned above. And the unfortunate fact of the matter is that when a larger hospital or health system purchases a smaller, rural hospital, it’s usually only a matter of time before the purchasing system realizes that unless they drastically pare down and reconfigure operations, the acquired hospital will never be profitable. Many eventually decide to close up shop, in some instances reducing or even eliminating rural patients’ options for care delivery. In the absolute worst-case scenario, this is exactly the reality all consumers could face if consolidation continues at its current pace. In theory and if left unchecked, all of the hospitals in the United States could be owned by only a handful of mammoth systems that then lack incentive to continually deliver quality services at lower total cost of care.

#### Strong public health infrastructure prevents bioterror attacks

Kosal 14, Adjunct Scholar to the Modern War Institute at the US Military Academy/West Point, Ph.D. in Chemistry from the University of Illinois at Urbana Champaign, Associate Professor at The Sam Nunn School of International Affairs at Georgia Tech (Margaret E. Kosal, “A New Role For Public Health in Bioterrorism Defense,” Frontiers in Public Health, Volume 2, Article 278)

In thinking about public health infrastructure as an active or passive part of new deterrence strategies, it is useful to think about the role of missile defense. As the presence of a ballistic missile defense system is supposed to be an existential deterrent itself, so could be a strong public health system. Missile defense is both a passive deterrent and, if used, an active deterrent, as it stops something from occurring. A strong public health infrastructure is likely to be the key in reducing the vulnerability to bioterrorism attack, as well as having a potential role in deterring a foreign terrorist group from even considering such an attack. If a biological weapon launched by a terrorist group will have little or no effect on the target country because of a known robust public health sector, then a foreign terrorist may be discouraged from launching a biological weapons attack in the first place. If foreign terrorists are also aware of the weak public health infrastructure with their own borders, and the increased risks to them and their publics in the event of an accident in developing biological weapons and/or spread of an infectious disease that they might launch, this may also deter them from pursuing this work. In addition, even the accidental release of a dangerous pathogen or the spread of an infectious disease via attack will most likely cause disproportional negative effects to nations with limited public health infrastructures and affect tacit and explicit supporters in those states. The role of a robust public healthcare system for its deterrence capacity can be explored through empirically driven case study methods against predominant theories of deterrence in political science (14, 15) and in comparison to other works considering the possibility of deterring bioterrorism (16–20). For example, the re-emergence of polio offers a potentially useful example to think about the effects of a potential bioterrorist attack on the developed and the developing world. Polio is both a contagious infectious disease and transmissible from human-to-human (like smallpox and plague). The poliovirus is highly transmissible with a basic reproductive rate or secondary transmission rate (R0) exceeding most suspected biological agents, e.g., standard estimates of R0 for polio range from 5 to 7 (21, 22), whereas R0 for suspected bioterrorist agents like smallpox (1.8–3.2) (23–25); pneumonic plague (0.8–3.0) (26, 27); and even Ebola (1.34–2.0) (28, 29) are lower. It is not a likely biological terrorism agent, however, due to the low-mortality associated with infection. It is, however, a useful model for thinking about the spread of infectious disease and the importance of a robust public health infrastructure as a deterrence strategy. At the beginning of 2003, the complete eradication of polio appeared to be within the grasp of the World Health Association and its many partners. In 1998, the World Health Organization estimated there were over 365,000 new cases of polio; by early 2003, the rate of infection had declined to <1,000 new cases worldwide due to a vigilant vaccination effort (30). That trend was interrupted, however, when Nigerian citizens refused to be vaccinated after hearing unfounded allegations of contaminated vaccines that would lead to sterility or cause HIV/AIDs. Before 2003, polio had largely been confined to only a handful of countries; Nigeria, India, Pakistan, and Afghanistan accounted for 93% of the world’s cases (31). What started with the refusal of local clerics to allow vaccination led to the reestablishment or importation of the poliovirus to 14 countries that were previously disease-free. Transport of the contagious virus was not limited to neighboring African states. The poliovirus moved through Sudan to Ethiopia crossing the Red Sea to Lebanon and Yemen. The latter was been particularly severely affected, witnessing more than 500 new cases in the first half of 2005. The poliovirus spread as far as Indonesia, where it afflicted more than 150 people in a single year in 2 provinces, predominantly children (32). Prior to this outbreak, Indonesia had been polio free for nine years. Genetic fingerprinting confirmed that the strain imported to Indonesia came from northern Nigeria through Sudan, most closely resembling an isolate recovered in Saudi Arabia in December 2004. A pilgrim returning from Mecca or a returning foreign worker is suspected to have brought the virus to the island of Java, across an ocean and thousands of miles from its source. The polio virus continues to persist in a limited number of states in the developing world, specifically in Nigeria, Afghanistan, and Pakistan, where a ban on vaccination by Islamist leaders in Waziristan remains in place. Since 2013, polio (linked genetically to the strain in Pakistan) has spread from Syria to Iraq (33). Countries that have witnessed the re-emergence of poliovirus outbreaks have some crucial links: social and political challenges that have impeded the development and implementation of appropriate public health infrastructures and measures. Not unexpectedly, there is an inverse relationship between government health expenditure in health and number of polio cases. Looking at the spread of polio can provide us with a lens to think about the impacts of bioterrorism in states with developed public health infrastructures and those who do not. A bioterrorist attack, especially one with a contagious agent like smallpox or pneumonic plague, will likely impact the developing parts of the world substantially more than the US. One only has to look as far as polio’s re-emergence (or more recently the outbreak of Ebola virus disease in West Africa) to see the very real repercussions of a contagious virus and how the most dire causes and effects of infection and spread stem from poor public health infrastructures (34). Creating a new deterrence strategy for bioterrorism is needed. Credibly, communicating the differential capacities to respond and the comparative likely outcomes will require diplomacy, coordination with civil affairs, specialized knowledge of individual states, and regions of the developing world. These are fundamentally interdisciplinary efforts that should leverage small teams from diplomatic, development, public health, and defense communities. One single parochial voice will be inadequate. Further improving the US domestic public health infrastructure would be beneficial and cost effective regardless of whether an outbreak is intentional or natural. The devastating Ebola outbreaks serve as a call for urgent investment in public health infrastructures worldwide, to provide both responsive and proactive actions to deter bioterrorism and to deal with natural disease outbreaks. Public health remains a powerful and often underutilized asset for bioweapons defense through vulnerability reduction; leveraging public health may also enable new approaches to deterring bioterrorism threats. International security scholars would benefit from better understanding of and leveraging the knowledge of the public health community.

#### Extinction without early response

Farmer 17 (“Bioterrorism could kill more people than nuclear war, Bill Gates to warn world leaders” http://www.telegraph.co.uk/news/2017/02/17/biological-terrorism-could-kill-people-nuclear-attacks-bill/)

Bioterrorists could one day kill hundreds of millions of people in an attack more deadly than nuclear war, Bill Gates will warn world leaders. Rapid advances in genetic engineering have opened the door for small terrorism groups to tailor and easily turn biological viruses into weapons. A resulting disease pandemic is currently one of the most deadly threats faced by the world, he believes, yet governments are complacent about the scale of the risk. Speaking ahead of an address to the Munich Security Conference, the richest man in the world said that while governments are concerned with the proliferation of nuclear and chemical weapons, they are overlooking the threat of biological warfare. Mr Gates, whose charitable foundationis funding research into quickly spotting outbreaks and speeding up vaccine production, said the defence and security establishment “have not been following biology and I’m here to bring them a little bit of bad news”. Mr Gates will today (Saturday) tell an audience of international leaders and senior officers that the world’s next deadly pandemic “could originate on the computer screen of a terrorist”. He told the Telegraph: “Natural epidemics can be extremely large. Intentionally caused epidemics, bioterrorism, would be the largest of all. “With nuclear weapons, you’d think you would probably stop after killing 100million. Smallpox won’t stop. Because the population is naïve, and there are no real preparations. That, if it got out and spread, would be a larger number.” He said developments in genetic engineering were proceeding at a “mind-blowing rate”. Biological warfare ambitions once limited to a handful of nation states are now open to small groups with limited resources and skills. He said: “They make it much easier for a non-state person. It doesn’t take much biology expertise nowadays to assemble a smallpox virus. Biology is making it way easier to create these things.” The increasingly common use of gene editing technology would make it difficult to spot any potential terrorist conspiracy. Technologies which have made it easy to read DNA sequences and tinker with them to rewrite or tweak genes have many legitimate uses. He said: “It’s not like when someone says, ‘Hey I’d like some Plutonium’ and you start saying ‘Hmmm.. I wonder why he wants Plutonium?’” Mr Gates said the potential death toll from a disease outbreak could be higher than other threats such as climate change or nuclear war. He said: “This is like earthquakes, you should think in order of magnitudes. If you can kill 10 people that’s a one, 100 people that’s a two... Bioterrorism is the thing that can give you not just sixes, but sevens, eights and nines. “With nuclear war, once you have got a six, or a seven, or eight, you’d think it would probably stop. [With bioterrorism] it’s just unbounded if you are not there to stop the spread of it.” By tailoring the genes of a virus, it would be possible to manipulate its ability to spread and its ability to harm people. Mr Gates said one of the most potentially deadly outbreaks could involve the humble flu virus. It would be relatively easy to engineer a new flu strain combining qualities from varieties that spread like wildfire with varieties that were deadly. The last time that happened naturally was the 1918 Spanish Influenza pandemic, which went on to kill more than 50 million people – or nearly three times the death toll from the First World War. By comparison, the recent Ebola outbreak in West Africa which killed just over 11,000 was “a Richter Scale three, it’s a nothing,” he said. But despite the potential, the founder of Microsoft said that world leaders and their militaries could not see beyond the more recognised risks. He said: “Should the world be serious about this? It is somewhat serious about normal classic warfare and nuclear warfare, but today it is not very serious about bio-defence or natural epidemics.” He went on: “They do tend to say ‘How easy is it to get fissile material and how accurate are the plans out on the internet for dirty bombs, plutonium bombs and hydrogen bombs?’ “They have some people that do that. What I am suggesting is that the number of people that look at bio-defence is worth increasing.” Whether naturally occurring, or deliberately started, it is almost certain that a highly lethal global pandemic will occur within our lifetimes, he believes. But the good news for those contemplating the potential damage is that the same biotechnology can prevent epidemics spreading out of control. Mr Gates will say in his speech that most of the things needed to protect against a naturally occurring pandemic are the same things needed to prepare for an intentional biological attack. Nations must amass an arsenal of new weapons to fight such a disease outbreak, including vaccines, drugs and diagnostic techniques. Being able to develop a vaccine as soon as possible against a new outbreak is particularly important and could save huge numbers of lives, scientists working at his foundation believe.

# On

## Solvency

### Card

**Extinction first, have to look at magnitude 1st**

**Barratt et al 17** (Owen Cotton-Barratt – University of Oxford Research Fellow, Director of Research at the Centre for Effective Altruism, Research Fellow at the University of Southampton, and Lecturer in Mathematics at Oxford, Sebastian Farquhar – Project Manager at the Future of Humanity Institute, Director of the Global Priorities Project, and Executive Director at The Centre for Effective Altruism, Stefan Schubert - Swedish Network for Evidence-Based Policy Founder, Haydn Belfield - Academic Project Administrator for the Centre for the Study of Existential Risk and Policy Associate to the University of Oxford’s Global Priorities Project, and a Senior Parliamentary Researcher to a British Shadow Cabinet Minister, Andrew Snyder-Beattie - Director of Research at the Future of Humanity Institute, University of Oxford, 1/23/2017, Global Priorities Project, “Existential Risk: Diplomacy and Governance”, <https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf>, accessed 9/2/17, DL)

In this argument, it seems that Parfit is assuming that the survivors of a nuclear war that kills 99% of the population would eventually be able to recover civilisation without long-term effect. As we have seen, this may not be a safe assumption – but for the purposes of this thought experiment, the point stands. **What makes existential catastrophes especially bad is that they would “destroy the future,” as** another Oxford philosopher, Nick ***Bostrom*, puts it**.66 **This future could potentially be extremely long and full of flourishing**, **and would therefore have extremely large value**. **In standard risk analysis, when working out how to respond to risk, we work out** the **expected value** of risk reduction, **by weighing** the **probability** that an action will prevent an adverse event **against** the **severity** of the event. **Because** the **value of preventing existential catastrophe is so vast, even a tiny probability of prevention has huge expected value**.67 Of course, there is persisting reasonable disagreement about ethics and there are a number of ways one might resist this conclusion.68 Therefore, it would be unjustified to be overconfident in Parfit and Bostrom’s argument. In some areas, government policy does give significant weight to future generations. For example, in assessing the risks of nuclear waste storage, governments have considered timeframes of thousands, hundreds of thousands, and even a million years.69 **Justifications** for this policy usually **appeal to principles of intergenerational equity according to which future generations ought to get as much protection as current generations**.70 Similarly, **widely accepted norms of sustainable development require development that meets the needs of the current generation without compromising the ability of future generations to meet their own needs**.71 However, when it comes to existential risk, it would seem that **we fail to live up to principles of intergenerational equity**. **Existential catastrophe would not only give future generations less than the current generations; it would give them nothing**. Indeed, **reducing existential risk plausibly has a quite low cost for us in comparison with the huge expected value it has for future generations**. In spite of this, relatively **little is done to reduce existential risk.** Unless we give up on norms of intergenerational equity, they give us a strong case for significantly increasing our efforts to reduce existential risks. 1.3. WHY EXISTENTIAL RISKS MAY BE SYSTEMATICALLY UNDERINVESTED IN, AND THE ROLE OF THE INTERNATIONAL COMMUNITY In spite of the importance of existential risk reduction, it probably receives less attention than is warranted. As a result, concerted international cooperation is required if we are to receive adequate protection from existential risks. 1.3.1. **Why existential risks are likely to be underinvested in** **There are several reasons why existential risk reduction is** likely to be **underinvested in**. Firstly, **it is a global public good**. Economic **theory predicts that such goods tend to be underprovided**. The **benefits of existential risk reduction are widely and indivisibly dispersed around the globe from the countries responsible for taking action**. **Consequently, a country which reduces existential risk gains only a small portion of the benefits but bears** the **full brunt of the costs**. **Countries thus have strong incentives to free ride**, receiving the benefits of risk reduction without contributing. As a result, too **few do what is in the common interest**. **Secondly**, as already suggested above, **existential risk reduction is an intergenerational public good: most of the benefits are enjoyed by future generations who have no say in the political process.** **For these goods, the problem is temporal free riding: the current generation enjoys the benefits of inaction while future generations bear the costs. Thirdly**, many **existential risks,** such as machine superintelligence, engineered pandemics, and solar geoengineering, **pose an unprecedented and uncertain future threat**. **Consequently, it is hard to develop a satisfactory governance regime for them**: there are few existing governance instruments which can be applied to these risks, **and it is unclear** what shape new instruments should take. In this way, **our position with regard to these emerging risks is comparable to the one we faced when nuclear weapons first became available**. **Cognitive biases** also **lead people to underestimate existential risks**. **Since there have not been any catastrophes of this magnitude, these risks are not salient to politicians and the public**.72 **This is an example of the misapplication of the availability heuristic, a mental shortcut which assumes that something is important only if it can be readily recalled.** **Another cognitive bias affecting perceptions** of existential risk **is scope neglect**. **In a seminal** 1992 **study, three groups were asked how much they would be willing to pay to save 2,000, 20,000 or 200,000 birds** from drowning in uncovered oil ponds. **The groups answered $80, $78, and $88**, respectively.73 **In this case, the size of the benefits had little effect on the scale of the preferred response.** **People become numbed to the effect of saving lives when the numbers get too large**. 74 **Scope neglect is a particularly acute** problem **for existential risk because the numbers at stake are so large**. Due to scope neglect, **decision-makers are prone to treat existential risks** in a **similar** way **to problems which are less severe by many orders of magnitude.** **A wide range of other cognitive biases are likely to affect the evaluation of existential risks**.75

### Explan

#### This is a contradiction- the aff actively endorses soft power which relies on structures which both prioritize existential threats and actively avoid discussion of marginalized bodies. The aff attempts to save large scale institutions, regardless of exsistential impacts that’s what their ev says is bad.

## Stadiums

#### Stadiums have already been built, funds already used. No claims that new stadiums are coming to trigger their impacts. Aff isn’t reverse causal.

#### Covid nuked state and city budgets

Siripurapu and Master 21, are writers at CFR. (Anshu and Jonathan, 3-19-2021, “How COVID-19 Is Harming State and City Budgets,” https://www.cfr.org/backgrounder/how-covid-19-harming-state-and-city-budgets)

Many U.S. state and local governments, on the front lines of the response to the coronavirus pandemic, are facing severe budget shortfalls. A distressing combination of dwindling tax revenues, record unemployment, and rising health costs have pushed them to cut back on spending for infrastructure and education—of which states and cities are by far the primary funders. Some still bear the scars of the 2008 financial crisis, which forced painful spending cuts to public services. Even before the pandemic, subnational governments were grappling with ballooning costs, including health care and pensions for public employees. Some had already sought bankruptcy protection. In response to COVID-19, states and municipalities have made cuts, frozen spending and hiring, laid off workers, and drawn down rainy day funds. Some states have seen revenues rise due to the uneven nature of this recession, but by and large the pandemic has drained state and local coffers. The federal government has stepped in to provide substantial aid.

## Minor Leagues

#### MLB has implemented wage increases and housing – squo solves

**Passan 10/17 –** (Jeff Passan journalist for ESPN and the author of "The Arm: Inside the Billion-Dollar Mystery of the Most Valuable Commodity in Sports." ESPN. [https://www.espn.com/mlb/story/\_/id/32419545/major-league-baseball-require-teams-provide-housing-minor-league-players-starting-2022-sources-say D.A](https://www.espn.com/mlb/story/_/id/32419545/major-league-baseball-require-teams-provide-housing-minor-league-players-starting-2022-sources-say%20D.A). 11/12/2021)//MW

Amid mounting pressure from players and advocacy groups, **Major League Baseball said on Sunday it will require teams to provide housing for minor league players starting in 2022.** While MLB has yet to outline its plan formally, six team officials told ESPN they are starting to prepare to help house players across each of their four minor league affiliates. In mid-September, owners from the league's 30 teams agreed unanimously to a plan that would provide housing for certain minor league players, the league said in a statement. Whether they will offer stipends that fully cover housing or provide the lodging itself has yet to be decided, sources said. Minor league players have grown increasingly outspoken about their working conditions, criticizing teams for salaries that leave some below the poverty line, and the financial issues that stem from having to provide their own housing for home games. The emergence of groups Advocates for Minor Leaguers and More Than Baseball, their use of social media to highlight the living conditions of minor league players and the willingness of players to talk on the record about their experiences illuminated issues about which players have spoken privately for years. "**This is a historic victory for minor league baseball players**," Harry Marino, executive director of Advocates of Minor Leaguers and a former minor league player, told ESPN. "When we started talking to players this season about the difficulties they face, finding and paying for in-season housing was **at the top of almost every player's list**. As a result, addressing that issue became our top priority." In a statement, the league said in part: "MLB is engaged in a multi-year effort to modernize the minor league system and better assist players as they pursue their dreams of playing in the Major Leagues. In 2021, we increased the salaries for minor league players by 38-72%, depending on level, and significantly reduced travel requirements during the season. In addition, hundreds of millions of dollars worth of improvements to minor league ballparks around the country are already underway, including substantial renovations to player-facing facilities like locker rooms and training rooms." Momentum toward providing housing at the team level already was increasing behind the scenes, sources told ESPN. Multiple teams were discussing following the lead of the Houston Astros, who this season covered lodging for all their minor league players at home and on the road. Other teams offered rooms or stipends at certain affiliates. The total cost for a team to house all minor league players at home for one season, according to two executives whose teams had explored doing so before the league pursued its mandate, is less than $1 million. Though the minor leagues especially are populated with small towns and lower rents, they also include some of the most expensive cities in the country, such as Brooklyn, the High-A affiliate of the New York Mets, and San Jose, the Low-A affiliate of the San Francisco Giants.

## Courts

#### Gut check- the 1AC reads a laundry list of internal links with zero terminal impact. No solvency- there is nothing TO solve for. Soft power may be good, climate may be bad but at what point do they become the key to the future? The 2AC is too late, all strategy is predicated on the 1AC.

#### Baseball stadiums not perceived, no impact

#### Soft power fails – russia proves

Cecire 14 {Michael, Black Sea regional analyst and an associate scholar at the Foreign Policy Research Institute's Project on Democratic Transitions, former visiting scholar Columbia University's Harriman Institute, MPA (Penn), bachelors in cultural anthropology (VCU), “The Limits of Soft Power,” 4/1, <http://nationalinterest.org/commentary/the-limits-soft-power-10163?page=2#THUR>}

The Russian invasion of Ukraine has already punctured much of the prevailing foreign-policy thinking that had become pro forma in Washington and Europe. In particular, the notion that Western unilateral disarmament can somehow be balanced or compensated for with less tangible forms of influence—soft power—has much to answer for in this ongoing crisis. By now, it is clear that Moscow’s actions in Crimea strongly demonstrate the sharp limits of soft power, especially one that appears to have been decoupled from hard power, the traditional final arbiter of interstate relations. Ukraine is not merely a geopolitical setback, but a symptom of a misplaced faith in the potency of postmodern soft power as foreign policy plan A through Z. Ukraine’s rapid transformation from homo Sovieticus–ruled kleptocracy to inspiring popular revolution to the latest victim of Russian imperialism has been astonishing. In the span of mere weeks, Ukraine’s political cleavages have been magnified as the faultline of a tense geopolitical contest between the Euro-Atlantic community and a revanchist, increasingly militant Russia. In the Western scramble to come to terms with the new threat landscape—let alone formulating an effective, unified response—Crimea has almost certainly already been lost. Meanwhile, Russia seems poised to expand its writ into other areas of eastern Ukraine just as it aggressively probes Euro-Atlantic readiness in the Baltic, Turkey, and the Caucasus. In Washington, defense and administration officials appear resigned—if only unofficially—to Russian control over Crimea (if not eastern Ukraine) and are digging in for the long haul. How did we get here? Among the ideologues, the answer lies in the foreign policies of the current or previous administrations. On the right, President Obama’s “reset” and subordination of foreign policy to domestic issues is the obvious cause. And on the left, President Bush’s wars have given the Kremlin the perfect moral justification. But the reality, like many things, is hardly one sided. Partisans decrying President Obama’s “weakness” appear to ignore that the administration's response to Russia’s occupation of Crimea is already far more muscular than President Bush’s reaction to the Russian invasion of Georgia 2008. And conversely, some of the left’s bizarre use of a war they supposedly opposed to equivocate on the invasion of a sovereign state by corrupt autocracy is as self-contradictory as it is troubling. The likelier culprit is not so intimately tethered to the tribalisms of American politics, though ideology inevitably has played a role. Instead, the Western political class has become intoxicated with the notion that soft power, now the highly fashionable foreign-policy instrument of first resort, can compensate for—or in some ways replace altogether—diminished hard power. If the late 1990s was the heyday for liberal internationalism by airpower, the late 2000s saw an analogous consensus congregate around soft power. Soft power is supposed to describe the latent factors—values, economy, culture and the like—of a state, entity or idea to persuade or attract. This contrasts with its more recognizable counterpart, hard power, which is based on the more traditional principle of coercion. There is little doubt that soft power is a real and fundamentally important phenomenon in the conduct of international relations. Contributions from scholars like Joseph Nye and Giulio Gallarotti have made a compelling case that soft power is a powerful geopolitical signifier; but what began as a keen observation had morphed into a cottage industry looking to leverage soft power into a foreign-policy panacea. In an illuminating 2011 paper published by the Strategic Studies Institute at the U.S. Army War College, University of Reading (U.K.) political scientist Colin S. Gray rightly acknowledges the merits of the soft-power thesis while articulating its practical limitations, particularly in the policy arena. “While it is sensible to seek influence abroad as cost-effectively as possible, it is only prudent to be modest in one's expectations of the soft power to be secured by cultural influence,” cautions Gray. Indeed, soft power’s attraction and subsequent embrace by the foreign policy elite had as much to do with its usefulness as a substitute for “hard power” as its salience as an idea. But while hard and soft power can be complementary, Gray observes that soft power can in no way compensate for military power. “Sad to say,” laments Gray, “there is no convincing evidence suggesting an absence of demand for the threat and use of military force.” Sad, indeed. However, events in Ukraine have exposed the stark limits of soft power in a way that no analysis ever could. There is no small irony in the fact that Russia’s forceful military intervention into Ukraine was preceded by a grinding, if superficially velveted, tug of war between Moscow and the West over Ukraine’s integration with two competing soft-power “vehicles”—the EU and the Moscow-led Customs Union-cum-Eurasian Union. It was Yanukovych’s abandonment of Ukraine’s pledge to sign an Association Agreement with the EU—following intense Russian coercion—that protests began again in earnest. Yanukovych’s turn to brutality eventually precipitated his toppling, Russia’s military intervention, and now Crimea’s annexation. The idea of soft power as operational policy should be buried. While there is some government role in propagating and wielding soft power—public affairs, policy making, and, yes, sometimes psychological operations—the real business of soft power is exists well outside of the domain of the state. In reality, the track record of operationalizing soft power has been, to date, abysmal. Russia is a case in point. Moscow repeatedly sought to revise the post-Cold War order through a variety of projects that might normally be filed as soft-power initiatives: then president Dmitry Medvedev’s repeated attempts to reorient the European security architecture; the Kremlin obsession with making the ruble an international reserve currency; the formation of the Russia-led Customs Union in 2010; and the (now likely stillborn) plans to establish the Eurasian Union. And yet, in the end, Crimea was forcibly seized by men with guns. Indeed, the truer currency of power remains the ability to coerce. Fatigue from disastrous wars in Iraq and Afghanistan elevated expectations that soft power could supplant a beleaguered and overstretched U.S. military. Why, indeed, would the U.S. opt for coercion when civilizational persuasion could do the trick? Pro-West people power in Eurasia seemed to bolster the case for operationalized soft power after the “color revolutions” in Georgia, Ukraine and Kyrgyzstan. Yet the longer-term results were unpredictable at best and disastrous at worst. Over time, it has become increasingly apparent that soft power is perhaps less an instrument to wield than a favorable wind at our backs. The crisis with Russia has laid bare the limits of soft power as well as the continued relevance of hard power—even in “postmodern” Europe. While the Obama administration should be credited with being among the few Western governments to offer a relatively serious response to the Ukraine crisis, the White House overall still seems uncomfortable with the difficult but very real role that hard power necessarily plays in establishing and policing a U.S.-led, liberal normative order. This must change with the new circumstances established by Russian revanchism. Western values can only be propagated and upheld with the ultimate guarantee of hard power. And if the West is not prepared to enforce its values with tangible consequences, then perhaps we should abandon the pretense of a rules-based international system and cease the cruel practice of giving hope where there is none to be had. Soft power is here to stay, but its moment as a diplomatic instrument has long since gone. Because, in reality, it was never really much more than an illusion of what we wished the world to be rather than the one that exists.

#### Terminally wrecked: Drones, War on Terror, Trump

#### No legitimacy crisis—Support for the court is moderate

Schmidt 2/22/22, professor at the Chicago-Kent College of Law. (Charles, Interviewed by Graham Vyse assoc Editor of Signal, ‘Zero Legitimacy’, <https://www.thesgnl.com/2022/02/us-supreme-court-legitimacy-christopher-schmidt/>

A growing number of Americans disapprove of the U.S. Supreme Court, which is returning to the center of their national politics this year as President Joe Biden chooses a nominee to fill retiring liberal Justice Stephen Breyer’s seat and the Court’s 6-3 conservative majority is poised to overturn the landmark abortion-rights decision Roe v. Wade. Earlier this month, the Pew Research Center reported that Americans’ view of the Supreme Court is “as negative as it has been in many years.” (The Pew survey, conducted before Breyer announced his retirement, found that 54 percent of U.S. adults still had a favorable view of the Court, but a Gallup poll last September showed just 40 percent—a low point since 2000.) The Court is facing perceptions of partisanship, with even a member of the Court, the liberal Justice Sonia Sotomayor, herself recently asking whether the institution would survive “the public perception that the Constitution and its reading are just political acts.” All of this has led to a growing public debate in America about the Court’s legitimacy—even talk of a “legitimacy crisis.” Is there one? Christopher W. Schmidt is a professor at the Chicago-Kent College of Law, a co-director of the school’s Institute on the Supreme Court of the United States, and the author of an upcoming book about the Court’s relationship with the American public over the last century. As Schmidt sees it, the institution isn’t anywhere near a real legitimacy crisis, because he sees a real legitimacy crisis as meaning mass defiance of the Court’s rulings. While overturning Roe would be controversial and consequential, Schmidt says, he won’t expect it to change the American public’s fundamental sense of the Court’s legitimacy—though the impact of such a ruling might be magnified by big victories for conservative opinion in upcoming cases on affirmative action, guns, and voting rights. At the same time, he says, the Court has become a more prominent political issue in U.S. elections than it was a decade ago—or than it’s been through most of U.S. history. This shift might make the Court more divisive, Schmidt says, but it will also help prevent it from seeming irrelevant to people’s lives. Graham Vyse: To start with, what does it mean for the Court to have legitimacy in America? Christopher W. Schmidt: The default meaning of legitimacy, as people tend to use the word in the media and most popular discussions—particularly with these concerns about a crisis—has to do with public opinion: Do people approve of or have faith in the Supreme Court? The Court has typically had an approval rating of 50 or 60 percent during the past two decades. You may have seen a lot of references to polling last fall, showing Court’s approval rating as being historically low—down to about 40 percent in some polling—if still nowhere near as bad as approval ratings for Congress. There are also legal and moral definitions of legitimacy. A lot of people on the political left are attacking the Court in strong terms right now, saying it’s acting in an illegitimate way. They’re not just saying it’s hurt its opinion polling; they’re saying it’s doing things wrong—abandoning legal precedent, using inappropriate legal interpretation, being too influenced by partisanship. Vyse: Do you think the Court is facing a legitimacy crisis? Schmidt: No—and I realize that’s a little against the grain. A lot of people in America think the Court is either in a legitimacy crisis or on the cusp of one. There’s some ideological division on that question. Liberals are more likely to say it’s facing a legitimacy crisis than conservatives are. Library of Congress Part of my thinking is, I’m not sure what public opinion of the Court ought to be. There’s an assumption that really high public-opinion polling is good for the Court as an institution. I’m not sure. If the Court wanted to increase its approval ratings, it could issue some patriotic rulings here and there, try to split differences, and not be in the public consciousness as much. But we don’t want a U.S. Supreme Court that would do what’s needed to have an 80 percent approval rating. We want a one that can intervene on certain issues in ways that may be very unpopular at the time.

#### Moderate legitimacy is constraining the agenda of the conservative court

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[\*40] This legitimacy deficit may lead the Supreme Court to make strategic calculations that balance preserving public confidence in the Court and the Justices' judicial independence against their desire, and even commitment, 164 to realize their legal worldviews. As Professor Grove puts it: "In cases of conflict between sociological and legal legitimacy, the Justices face a challenging (and unappealing) normative choice." 165 [\*41] In light of the empirical findings regarding the influence of public opinion on the Supreme Court, 166a decline in public confidence in the Court can erode judicial independence. The recent decline in public confidence in the Supreme Court has contributed to the erosion of the Court's independence during the Chief Justice Roberts' tenure. 167 In an essay written shortly before the November 2020 election, in which a Democratic candidate won the presidential election and the Democratic Party won a majority in both the Senate and the House of Representatives, Professor Keith Wittington wrote: If Republicans continue to win electoral victories, the still-narrow conservative majority on the Roberts Court will be joined by reinforcements and will be able to count on support in the political branches. If not, then an aggressive conservative majority on the Court might find itself in political hot water and emboldening the growing chorus of activists and politicians on the left who are calling for Courtpacking. 168 Professor Wittington further claims that in an era of polarized politics, even judges deliberating in good faith may come to be perceived as illegitimate if they reach the "wrong" conclusions about high-profile, contentious constitutional issues. 169 [\*42] At the same time, the Supreme Court Justices enjoy full judicial independence, 170which can also be viewed as an obligation. 171They are obviously not obliged to rule in accordance with the ideology of the President who appointed them. As Professor Donald Alexander Downs puts it, "[m]embers of the US Supreme Court are obligated to follow the evident dictates of law regardless of judicial predisposition." 172However, the Justices are generally appointed on the basis of the views expressed in their previous positions. 173 [\*43] IV. TYPES OF JUDICIAL TACTICS FOR ADDRESSING THE DILEMMAS The difficulty that Supreme Court Justices' face when asked to decide controversial cases not in accordance with their constitutional views on the substance of the matter, does not mean that "it would be impossible to construct a theory -- perhaps a 'meta theory' of legitimacy that would guide judges in resolving trade-offs among types of legitimacy." 174Thus, the dual ambivalence, which we have described in previous Parts, may lead the Supreme Court--and, in practice, seems to have led it--to adopt tactics to cope with the two dilemmas we describe. Over the years, the Supreme Court has developed various avoidance doctrines. Some avoidance doctrines, such as standing requirements, are based on the Case or Controversy Clause, 175while others are based on judge-made doctrines that reflect judicial [\*44] minimalism. 176Avoidance doctrines of the second category include, inter alia, the last resort doctrine, according to which a federal court should refuse to rule on a constitutional issue if the case can be resolved on a non-constitutional basis, 177and the measured steps doctrine, whereby federal judges have to decide constitutional issues, when necessary, as narrowly as possible. 178 Special relevance to the scope of the Supreme Court's judicial review of state court decisions based on the state constitution has the well-established adequate and independent state ground doctrine. According to this doctrine, when reviewing decisions of state courts, the U.S. Supreme Court will decline to hear a case--as a matter of judicial restraint 179 --if an adequate and independent state ground supports the state court decision. 180 It can be assumed that the two dilemmas discussed above will lead the Roberts Court to expand the application of general avoidance doctrines as far as possible, and especially when the implementation of those avoidance doctrines relate specifically to [\*45] reviewing state court rulings based on the state constitution. But as we will illustrate in Part V, the Court may also cope with these dilemmas by means of additional judicial tactics. The control of the Supreme Court by conservative Justices may also oblige liberal judges to make tactical choices. 181However, the main dilemmas of this type plague the conservative Justices, who are in the majority. This is because the conservative Justices have to balance their federalist view with their material constitutional views, and deal with the Court's current legitimacy problems. In this Part we point out further Supreme Court tactics for addressing the dilemmas we have described in the previous Parts. The judicial tactics we describe are of two types: substantive and procedural. Substantive Tactics: In terms of substantive law, the Court may try to seek judicial compromise in order to reach a broad common denominator among the Justices. The power of the Justices to form compromises was described as "legitimate if limited" 182and in some [\*46] cases even as a "constitutional imperative." 183Indeed, Supreme Court decisions based on judicial compromises do form and "presidents [that] will not be in a very strong position to challenge the Court, . . . may find ways to support the Court in the name of consensus or moderation." 184Indeed, a series of examples of compromise between Justices can be found, with a view to reaching a consensus--among all the Justices, or at least between the majority Justices. 185In a different context, it has been argued that [\*47] the Supreme Court may "respond to both sides of the . . . dispute by fashioning a constitutional law in which each side can find recognition." 186And it has been argued that considerations of public legitimacy of the Supreme Court influenced the vote of Chief Justice Roberts in a number of recent cases. 187A further tactic on the [\*48] substantive law level is to prevent or delay Supreme Court rulings regarding the constitutionality of state court decisions based on the state constitution, narrowly ruling on a technical jurisprudence issue. 188 Procedural Tactics: In terms of procedural policy, the Roberts Court may further develop the "Babysitter Model," which the Court has already implemented in Zubik v. Burwell 189and Trump v. International Refugee Assistance Project. 190According to this model, the Supreme Court does not provide a well-founded resolution, but rather accompanies, attends, and encourages other branches to carry out their constitutional obligations. The case is ongoing until the dispute is reasonably resolved. 191 Another procedural tactic is delaying the Court's decision as much as possible. The Supreme Court has already adopted this tactic in certain cases, and it has been argued that the delay was beneficial both to the court and the parties. 192Indeed, normally, "[i]f the Justices knew that there always would be an even sharing of power, they could not delay their rulings in the hope that they would later be able to secure a majority for their views." 193However, the Supreme Court may delay a polarizing decision as long as the Court [\*49] is in a legitimacy deficit. Furthermore, federal courts can delay decisions by requiring the litigants to pursue unclear state law issues in state courts before seeking a federal constitutional ruling. 194 However, excessive use by the Supreme Court of procedural tactics may be perceived by the public as procrastination, and may undermine the sociological legitimacy of the Court. We therefore anticipate that the Supreme Court will not make frequent use of such tactics.

#### A more conservative court ultimately collapses legitimacy, turns soft power

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One obvious criticism of the empirical evidence adduced in this study is that it is static: it represents a snapshot of public opinion at only a single point in time. In the longer term, one could spin a story from these data that spells danger and peril for the Court. At the present, evaluations of the Court are connected to ideology; as partisan sorting in all phases of American politics takes place, it may not take much time for ideological differences to bleed into partisan differences. More important, performance evaluations today, which are indeed grounded in ideological differences, may ultimately [\*88] contaminate attitudes toward the institution itself. No theory of legitimacy suggests that a badly performing institution can maintain its institutional support ad infinitum. Adding fuel to this argument is that, although the Court today appears to some scholars to be moderate in its policy making, it is quite likely, given the Trump presidency, to become more ideologically extreme in the near future, which can, it seems, erode the institution's basic support. How long this might take, no social scientist can say. That there may be danger for the Court in the near future, however, seems reasonably likely.